

105<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# **H. R. 3903**

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## **AN ACT**

To provide for an exchange of lands located near  
Gustavus, Alaska, and for other purposes.

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## AN ACT

To provide for an exchange of lands located near Gustavus,  
Alaska, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Glacier Bay National  
3 Park Boundary Adjustment Act of 1998”.

4 **SEC. 2. LAND EXCHANGE AND WILDERNESS DESIGNATION.**

5 (a) IN GENERAL.—(1) Subject to conditions set forth  
6 in subsection (c), if the State of Alaska, in a manner con-  
7 sistent with this Act, offers to transfer to the United  
8 States the lands identified in paragraph (4) in exchange  
9 for the lands identified in paragraph (3), selected from  
10 the area described in section 3(b)(1), the Secretary of the  
11 Interior (in this Act referred to as the “Secretary”) shall  
12 complete such exchange no later than 6 months after the  
13 issuance of a license to Gustavus Electric Company by the  
14 Federal Energy Regulatory Commission (in this Act re-  
15 ferred to as “FERC”), in accordance with this Act. This  
16 land exchange shall be subject to the laws applicable to  
17 exchanges involving lands managed by the Secretary as  
18 part of the National Park System in Alaska and the ap-  
19 propriate process for the exchange of State lands required  
20 by State law.

21 (2) The lands to be conveyed to the United States  
22 by the State of Alaska shall be determined by mutual  
23 agreement of the Secretary and the State of Alaska.  
24 Lands that will be considered for conveyance to the United  
25 States pursuant to the process required by State law are  
26 lands owned by the State of Alaska in the Long Lake area

1 within Wrangell-St. Elias National Park and Preserve, or  
2 other lands owned by the State of Alaska.

3 (3) If the Secretary and the State of Alaska have not  
4 agreed on which lands the State of Alaska will convey by  
5 a date not later than 6 months after a license is issued  
6 pursuant to this Act, the United States shall accept, with-  
7 in 1 year after a license is issued, title to land having a  
8 sufficiently equal value to satisfy State and Federal law,  
9 subject to clear title and valid existing rights, and absence  
10 of environmental contamination, and as provided by the  
11 laws applicable to exchanges involving lands managed by  
12 the Secretary as part of the National Park System in Alas-  
13 ka and the appropriate process for the exchange of State  
14 lands required by State law. Such land shall be accepted  
15 by the United States, subject to the other provisions of  
16 this Act, from among the following State lands in the pri-  
17 ority listed:

18 COPPER RIVER MERIDIAN

19 (A) T.6 S., R. 12 E., partially surveyed, Sec. 5,  
20 lots 1, 2, and 3, NE $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ , and S $\frac{1}{2}$ . Con-  
21 taining 617.68 acres, as shown on the plat of survey  
22 accepted June 9, 1922.

23 (B) T.6 S., R. 11 E., partially surveyed, Sec.  
24 11, lots 1 and 2, NE $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ , and  
25 N $\frac{1}{2}$ SE $\frac{1}{4}$ ; Sec. 12; Sec. 14, lots 1 and 2,

1       NW<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>. Containing 838.66 acres, as shown on  
2       the plat of survey accepted June 9, 1922.

3               (C) T.6 S., R. 11 E., partially surveyed, Sec. 2,  
4       NW<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub> and NW<sup>1</sup>/<sub>4</sub>. Containing 200.00 acres, as  
5       shown on the plat of survey accepted June 9, 1922.

6               (D) T.6 S., R. 12 E., partially surveyed, Sec.  
7       6. lots 1 through 10, E<sup>1</sup>/<sub>2</sub>SW<sup>1</sup>/<sub>4</sub> and SE<sup>1</sup>/<sub>4</sub>. Contain-  
8       ing approximately 529.94 acres, as shown on the  
9       plat of survey accepted June 9, 1922.

10       (4) The lands to be conveyed to the State of Alaska  
11 by the United States under paragraph (1) are lands to  
12 be designated by the Secretary and the State of Alaska,  
13 consistent with sound land management principles, based  
14 on those lands determined by FERC with the concurrence  
15 of the Secretary and the State of Alaska, in accordance  
16 with section 3(b), to be the minimum amount of land nec-  
17 essary for the construction and operation of a hydro-  
18 electric project.

19       (5) The time periods set forth for the completion of  
20 the land exchanges described in this Act may be extended  
21 as necessary by the Secretary should the processes of  
22 State law or Federal law delay completion of an exchange.

23       (6) For purposes of this Act, the term “land” means  
24 lands, waters, and interests therein.

1 (b) WILDERNESS.—(1) To ensure that this trans-  
2 action maintains, within the National Wilderness Preser-  
3 vation System, approximately the same amount of area of  
4 designated wilderness as currently exists, the following  
5 lands in Alaska shall be designated as wilderness in the  
6 priority listed, upon consummation of the land exchange  
7 authorized by this Act and shall be administered according  
8 to the laws governing national wilderness areas in Alaska:

9 (A) An unnamed island in Glacier Bay National  
10 Park lying southeasterly of Blue Mouse Cove in sec-  
11 tions 5, 6, 7, and 8, T. 36 S., R. 54 E., CRM, and  
12 shown on United States Geological Survey quad-  
13 rangle Mt. Fairweather (D-2), Alaska, containing  
14 approximately 789 acres.

15 (B) Cenotaph Island of Glacier Bay National  
16 Park lying within Lituya Bay in sections 23, 24, 25,  
17 and 26, T. 37 S., R. 47 E., CRM, and shown on  
18 United States Geological Survey quadrangle Mt.  
19 Fairweather (C-5), Alaska, containing approxi-  
20 mately 280 acres.

21 (C) An area of Glacier Bay National Park lying  
22 in T. 31. S., R. 43 E and T. 32 S., R. 43 E., CRM,  
23 that is not currently designated wilderness, contain-  
24 ing approximately 2,270 acres.

1           (2) The specific boundaries and acreage of these wil-  
2 derness designations may be reasonably adjusted by the  
3 Secretary, consistent with sound land management prin-  
4 ciples, to approximately equal, in sum, the total wilderness  
5 acreage deleted from Glacier Bay National Park and Pre-  
6 serve pursuant to the land exchange authorized by this  
7 Act.

8           (c) CONDITIONS.—Any exchange of lands under this  
9 Act may occur only if—

10           (1) following the submission of a complete li-  
11 cense application, FERC has conducted economic  
12 and environmental analyses under the Federal  
13 Power Act (16 U.S.C. 791–828) (notwithstanding  
14 provisions of that Act and the Federal regulations  
15 that otherwise exempt this project from economic  
16 analyses), the National Environmental Policy Act of  
17 1969 (42 U.S.C. 4321–4370), and the Fish and  
18 Wildlife Coordination Act (16 U.S.C. 661–666), that  
19 conclude, with the concurrence of the Secretary of  
20 the Interior with respect to subparagraphs (A) and  
21 (B), that the construction and operation of a hydro-  
22 electric power project on the lands described in sec-  
23 tion 3(b)—

24                   (A) will not adversely impact the purposes  
25                   and values of Glacier Bay National Park and

1 Preserve (as constituted after the consumma-  
2 tion of the land exchange authorized by this  
3 section);

4 (B) will comply with the requirements of  
5 the National Historic Preservation Act (16  
6 U.S.C. 470–470w); and

7 (C) can be accomplished in an economically  
8 feasible manner;

9 (2) FERC held at least one public meeting in  
10 Gustavus, Alaska, allowing the citizens of Gustavus  
11 to express their views on the proposed project;

12 (3) FERC has determined, with the concur-  
13 rence of the Secretary and the State of Alaska, the  
14 minimum amount of land necessary to construct and  
15 operate this hydroelectric power project; and

16 (4) Gustavus Electric Company has been grant-  
17 ed a license by FERC that requires Gustavus Elec-  
18 tric Company to submit an acceptable financing plan  
19 to FERC before project construction may commence,  
20 and the FERC has approved such plan.

21 **SEC. 3. ROLE OF FERC.**

22 (a) LICENSE APPLICATION.—(1) The FERC licens-  
23 ing process shall apply to any application submitted by  
24 Gustavus Electric Company to the FERC for the right

1 to construct and operate a hydropower project on the  
2 lands described in subsection (b).

3 (2) FERC is authorized to accept and consider an  
4 application filed by Gustavus Electric Company for the  
5 construction and operation of a hydropower plant to be  
6 located on lands within the area described in subsection  
7 (b), notwithstanding section 3(2) of the Federal Power  
8 Act (16 U.S.C. 796(2)). Such application must be submit-  
9 ted within 3 years after the date of the enactment of this  
10 Act.

11 (3) FERC will retain jurisdiction over any hydro-  
12 power project constructed on this site.

13 (b) ANALYSES.—(1) The lands referred to in sub-  
14 section (a) of this section are lands in the State of Alaska  
15 described as follows:

16 COPPER RIVER MERIDIAN

17 Township 39 South, Range 59 East, partially sur-  
18 veyed, Section 36 (unsurveyed),  $SE\frac{1}{4}SW\frac{1}{4}$ ,  
19  $S\frac{1}{2}SW\frac{1}{4}SW\frac{1}{4}$ ,  $NE\frac{1}{4}SW\frac{1}{4}$ ,  $W\frac{1}{2}W\frac{1}{2}NW\frac{1}{4}SE\frac{1}{4}$ , and  
20  $S\frac{1}{2}SE\frac{1}{4}NW\frac{1}{4}$ . Containing approximately 130 acres.

21 Township 40 South, Range 59 East, partially sur-  
22 veyed, Section 1 (unsurveyed),  $NW\frac{1}{4}$ ,  $SW\frac{1}{4}$ ,  $W\frac{1}{2}SE\frac{1}{4}$ ,  
23 and  $SW\frac{1}{4}SW\frac{1}{4}NE\frac{1}{4}$ , excluding U.S. Survey 944 and  
24 Native allotment A-442; Section 2 (unsurveyed), frac-  
25 tional, that portion lying above the mean high tide line  
26 of Icy Passage, excluding U.S. Survey 944 and U.S. Sur-

1 vey 945; Section 11 (unsurveyed), fractional, that portion  
2 lying above the mean high tide line of Icy Passage, exclud-  
3 ing U.S. Survey 944; Section 12 (unsurveyed), fractional,  
4  $NW^{1/4}NE^{1/4}$ ,  $W^{1/2}NW^{1/4}SW^{1/4}NE^{1/4}$ , and those portions  
5 of  $NW^{1/4}$  and  $SW^{1/4}$  lying above the mean high tide line  
6 of Icy Passage, excluding U.S. Survey 944 and Native al-  
7 lotment A-442. Containing approximately 1,015 acres.

8       (2) Additional lands and acreage will be included as  
9 needed in the study area described in paragraph (1) to  
10 account for accretion to these lands from natural forces.

11       (3) With the concurrence of the Secretary and the  
12 State of Alaska, the FERC shall determine the minimum  
13 amount of lands necessary for construction and operation  
14 of such project.

15       (4) The National Park Service shall participate as a  
16 joint lead agency in the development of any environmental  
17 document under the National Environmental Policy Act  
18 of 1969 in the licensing of such project. Such environ-  
19 mental document shall consider both the impacts resulting  
20 from licensing and any land exchange necessary to author-  
21 ize such project.

22       (c) ISSUANCE OF LICENSE.—(1) A condition of the  
23 license to construct and operate any portion of the hydro-  
24 electric power project shall be FERC's approval, prior to

1 any commencement of construction, of a finance plan sub-  
2 mitted by Gustavus Electric Company.

3 (2) The National Park Service, as the existing super-  
4 visor of potential project lands ultimately to be deleted  
5 from the Federal reservation in accordance with this Act,  
6 waives its right to impose mandatory conditions on such  
7 project lands pursuant to section 4(e) of the Federal  
8 Power Act (16 U.S.C. 797(e)).

9 (3) FERC shall not license or relicense the project,  
10 or amend the project license unless it determines, with the  
11 Secretary's concurrence, that the project will not adversely  
12 impact the purposes and values of Glacier Bay National  
13 Park and Preserve (as constituted after the consummation  
14 of the land exchange authorized by this Act). Additionally,  
15 a condition of the license, or any succeeding license, to  
16 construct and operate any portion of the hydroelectric  
17 power project shall require the licensee to mitigate any  
18 adverse effects of the project on the purposes and values  
19 of Glacier Bay National Park and Preserve identified by  
20 the Secretary after the initial licensing.

21 (4) A condition of the license to construct and operate  
22 any portion of the hydroelectric power project shall be the  
23 completion, prior to any commencement of construction,  
24 of the land exchange described in this Act.

1 **SEC. 4. ROLE OF SECRETARY OF THE INTERIOR.**

2 (a) SPECIAL USE PERMIT.—Notwithstanding the  
3 provisions of the Wilderness Act (16 U.S.C. 1133–1136),  
4 the Secretary shall issue a special use permit to Gustavus  
5 Electric Company to allow the completion of the analyses  
6 referred to in section 3. The Secretary shall impose condi-  
7 tions in the permit as needed to protect the purposes and  
8 values of Glacier Bay National Park and Preserve.

9 (b) PARK SYSTEM.—The lands acquired from the  
10 State of Alaska under this Act shall be added to and ad-  
11 ministered as part of the National Park System, subject  
12 to valid existing rights. Upon completion of the exchange  
13 of lands under this Act, the Secretary shall adjust, as nec-  
14 essary, the boundaries of the affected National Park Sys-  
15 tem units to include the lands acquired from the State  
16 of Alaska; and adjust the boundary of Glacier Bay Na-  
17 tional Park and Preserve to exclude the lands transferred  
18 to the State of Alaska under this Act. Any such adjust-  
19 ment to the boundaries of National Park System units  
20 shall not be considered in applying any acreage limitations  
21 under section 103(b) of Public Law 96–487.

22 (c) WILDERNESS AREA BOUNDARIES.—The Sec-  
23 retary shall make any necessary modifications or adjust-  
24 ments of boundaries of wilderness areas as a result of the  
25 additions and deletions caused by the land exchange ref-  
26 erenced in section 2. Any such adjustment to the bound-

1 aries of National Park System units shall not be consid-  
2 ered in applying any acreage limitations under section  
3 103(b) of Public Law 96–487.

4 (d) CONCURRENCE OF THE SECRETARY.—Whenever  
5 in this Act the concurrence of the Secretary is required,  
6 it shall not be unlawfully withheld or unreasonably de-  
7 layed.

8 **SEC. 5. APPLICABLE LAW.**

9 The authorities and jurisdiction provided in this Act  
10 shall continue in effect until such time as this Act is ex-  
11 pressly modified or repealed by Congress.

Passed the House of Representatives September 15,  
1998.

Attest:

*Clerk.*