

105TH CONGRESS
2D SESSION

H. R. 3903

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

IN THE HOUSE OF REPRESENTATIVES

MAY 19, 1998

Mr. YOUNG of Alaska introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

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

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

7 (a) IN GENERAL.—(1) Subject to conditions set forth
8 in subsection (c), if the State of Alaska, in a manner con-
9 sistent with this Act, offers to transfer to the United

1 States the lands identified in paragraph (2) in exchange
2 for the lands identified in paragraph (3), selected from
3 the area described in section 3(b)(1), the Secretary of the
4 Interior (in this Act referred to as the “Secretary”) shall
5 complete such exchange no later than 6 months after the
6 issuance of a license to Gustavus Electric Company by the
7 Federal Energy Regulatory Commission (in this Act re-
8 ferred to as “FERC”), in accordance with this Act. This
9 land exchange shall be subject to the laws applicable to
10 exchanges involving lands managed by the Secretary as
11 part of the National Park System in Alaska and the ap-
12 propriate process for the exchange of State lands required
13 by State law.

14 (2) The lands to be conveyed to the United States
15 by the State of Alaska shall be determined by mutual
16 agreement of the Secretary and the State of Alaska.
17 Lands that will be considered for conveyance to the United
18 States pursuant to the process required by State law are
19 lands owned by the State of Alaska in the Long Lake area
20 within Wrangell-St. Elias National Park and Preserve, or
21 other lands owned by the State of Alaska.

22 (3) If the Secretary and the State of Alaska have not
23 agreed on which lands the State of Alaska will convey by
24 a date not later than 6 months after a license is issued
25 pursuant to this Act, the State of Alaska shall convey

1 (subject to the approval of the appropriate official of the
2 State of Alaska), and the United States shall accept, with-
3 in 1 year after a license is issued, title to land having a
4 sufficiently equal value to satisfy State and Federal law,
5 subject to clear title and valid existing rights, and absence
6 of environmental contamination, and as provided by the
7 laws applicable to exchanges involving lands managed by
8 the Secretary as part of the National Park System in Alas-
9 ka and the appropriate process for the exchange of State
10 lands required by State law. Such land shall be conveyed
11 to the United States from among the following State lands
12 in the priority listed:

13 COPPER RIVER MERIDIAN

14 (A) T.6 S., R. 11 E., partially surveyed, Sec.
15 11, lots 1 and 2, NE¹/₄, S¹/₂NW¹/₄, SW¹/₄, and
16 N¹/₂SE¹/₄; Sec. 12, NW¹/₄; Sec. 14, lots 1 and 2,
17 NW¹/₄NW¹/₄. Containing 838.66 acres, as shown on
18 the plat of survey accepted June 9, 1922.

19 (B) T.5 S., R. 11 E., partially surveyed, T.6 S.,
20 R. 11 E., partially surveyed, Sec. 2, NW¹/₄NE¹/₄
21 and NW¹/₄. Containing 200.00 acres, as shown on
22 the plat of survey accepted June 9, 1922.

23 (C) T.6 S., R. 12 E., partially surveyed, Sec. 6.
24 lots 1 through 10, E¹/₂SW¹/₄ and SE¹/₄. Containing
25 approximately 529.94 acres, as shown on the plat of
26 survey accepted June 9, 1922.

1 (4) The lands to be conveyed to the State of Alaska
2 by the United States under paragraph (1) are lands to
3 be designated by the Secretary and the State of Alaska,
4 consistent with sound land management principles, based
5 on those lands determined by FERC with the concurrence
6 of the Secretary and the State of Alaska, in accordance
7 with section 3(b), to be the minimum amount of land nec-
8 essary for the construction and operation of a hydro-
9 electric project.

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

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

16 (b) WILDERNESS.—(1) To ensure that this trans-
17 action maintains, within the National Wilderness Preser-
18 vation System, approximately the same amount of area of
19 designated wilderness as currently exists, the following
20 lands in Alaska shall be designated as wilderness in the
21 priority listed, upon consummation of the land exchange
22 authorized by this Act and shall be administered according
23 to the laws governing national wilderness areas in Alaska:

24 (A) An unnamed island in Glacier Bay National
25 Park lying southeasterly of Blue Mouse Cove in sec-

1 tions 5, 6, 7, and 8, T. 36 S., R. 54 E., CRM, and
2 shown on United States Geological Survey quad-
3 rangle Mt. Fairweather (D-2), Alaska, containing
4 approximately 789 acres.

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

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

15 (2) The specific boundaries and acreage of these wil-
16 derness designations may be reasonably adjusted by the
17 Secretary, consistent with sound land management prin-
18 ciples, to approximately equal, in sum, the total wilderness
19 acreage deleted from Glacier Bay National Park and Pre-
20 serve pursuant to the land exchange authorized by this
21 Act.

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

24 (1) following the submission of a complete li-
25 cense application, FERC has conducted economic

1 and environmental analyses under the Federal
2 Power Act (16 U.S.C. 791–828) (notwithstanding
3 provisions of that Act and the Federal regulations
4 that otherwise exempt this project from economic
5 analyses), the National Environmental Policy Act of
6 1969 (42 U.S.C. 4321–4370), and the Fish and
7 Wildlife Coordination Act (16 U.S.C. 661–666), that
8 conclude, with the concurrence of the Secretary of
9 the Interior with respect to subparagraphs (A) and
10 (B), that the construction and operation of a hydro-
11 electric power project on the lands described in sec-
12 tion 3(b)—

13 (A) will not adversely impact the purposes
14 and values of Glacier Bay National Park and
15 Preserve (as constituted after the consumma-
16 tion of the land exchange authorized by this
17 section);

18 (B) will comply with the requirements of
19 the National Historic Preservation Act (16
20 U.S.C. 470–470w); and

21 (C) can be accomplished in an economically
22 feasible manner;

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

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

5 (4) Gustavus Electric Company has been grant-
6 ed a license by FERC that requires Gustavus Elec-
7 tric Company to submit an acceptable financing plan
8 to FERC before project construction may commence,
9 and the FERC has approved such plan.

10 **SEC. 3. ROLE OF FERC.**

11 (a) LICENSE APPLICATION.—(1) The FERC licens-
12 ing process shall apply to any application submitted by
13 Gustavus Electric Company to the FERC for the right
14 to construct and operate a hydropower project on the
15 lands described in subsection (b).

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

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

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

4 COPPER RIVER MERIDIAN

5 Township 39 South, Range 59 East, partially sur-
 6 veyed, Section 36 (unsurveyed), $SE\frac{1}{4}SW\frac{1}{4}$,
 7 $S\frac{1}{2}SW\frac{1}{4}SW\frac{1}{4}$, $NE\frac{1}{4}SW\frac{1}{4}$, $W\frac{1}{2}W\frac{1}{2}NW\frac{1}{4}SE\frac{1}{4}$, and
 8 $S\frac{1}{2}SE\frac{1}{4}NW\frac{1}{4}$. Containing approximately 130 acres.

9 Township 40 South, Range 59 East, partially sur-
 10 veyed, Section 1 (unsurveyed), $NW\frac{1}{4}$, $SW\frac{1}{4}$, $W\frac{1}{2}SE\frac{1}{4}$,
 11 and $SW\frac{1}{4}SW\frac{1}{4}NE\frac{1}{4}$, excluding U.S. Survey 944 and
 12 Native allotment A-442; Section 2 (unsurveyed), frac-
 13 tional, that portion lying above the mean high tide line
 14 of Icy Passage, excluding U.S. Survey 944 and U.S. Sur-
 15 vey 945; Section 11 (unsurveyed), fractional, that portion
 16 lying above the mean high tide line of Icy Passage, exclud-
 17 ing U.S. Survey 944; Section 12 (unsurveyed), fractional,
 18 $NW\frac{1}{4}NE\frac{1}{4}$, $W\frac{1}{2}NW\frac{1}{4}SW\frac{1}{4}NE\frac{1}{4}$, and those portions
 19 of $NW\frac{1}{4}$ and $SW\frac{1}{4}$ lying above the mean high tide line
 20 of Icy Passage, excluding U.S. Survey 944 and Native al-
 21 lotment A-442. Containing approximately 1,015 acres.

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

25 (3) With the concurrence of the Secretary and the
 26 State of Alaska, the FERC shall determine the minimum

1 amount of lands necessary for construction and operation
2 of such project.

3 (4) The National Park Service shall participate as a
4 joint lead agency in the development of any environmental
5 document under the National Environmental Policy Act
6 of 1969 in the licensing of such project. Such environ-
7 mental document shall consider both the impacts resulting
8 from licensing and any land exchange necessary to author-
9 ize such project.

10 (c) ISSUANCE OF LICENSE.—(1) A condition of the
11 license to construct and operate any portion of the hydro-
12 electric power project shall be FERC's approval, prior to
13 any commencement of construction, of a finance plan sub-
14 mitted by Gustavus Electric Company.

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

21 (3) FERC shall not license, relicense, the project, or
22 amend the project license unless it determines, with the
23 Secretary's concurrence, that the project will not adversely
24 impact the purposes and values of Glacier Bay National
25 Park and Preserve (as constituted after the consummation

1 of the land exchange authorized by this Act). Additionally,
2 a condition of the license, or any succeeding license, to
3 construct and operate any portion of the hydroelectric
4 power project shall require the licensee to mitigate any
5 adverse effects of the project on the purposes and values
6 of Glacier Bay National Park and Preserve identified by
7 the Secretary after the initial licensing.

8 (4) A condition of the license to construct and operate
9 any portion of the hydroelectric power project shall be the
10 completion, prior to any commencement of construction,
11 of the land exchange described in this Act.

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

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

20 (b) PARK SYSTEM.—The lands acquired from the
21 State of Alaska under this Act shall be added to and ad-
22 ministered as part of the National Park System, subject
23 to valid existing rights. Upon completion of the exchange
24 of lands under this Act, the Secretary shall adjust, as nec-
25 essary, the boundaries of the affected National Park Sys-

1 tem units to include the lands acquired from the State
2 of Alaska; and adjust the boundary of Glacier Bay Na-
3 tional Park and Preserve to exclude the lands transferred
4 to the State of Alaska under this Act. Any such adjust-
5 ments to the boundaries of National Park System units
6 shall have no effect upon acreage determinations under
7 section 103(b) of Public Law 96–487.

8 (c) WILDERNESS AREA BOUNDARIES.—The Sec-
9 retary shall make any necessary modifications or adjust-
10 ments of boundaries of wilderness areas as a result of the
11 additions and deletions caused by the land exchange ref-
12 erenced in section 2. Any such adjustments to the bound-
13 aries of wilderness area shall have no effect upon acreage
14 determinations under section 103(b) of Public Law 96–
15 487.

16 (d) PAYMENTS.—Gustavus Electric Company shall
17 not be required to make Federal land use payments under
18 section 10(e) of the Federal Power Act (16 U.S.C. 803(e))
19 with respect to the lands exchanged under this Act.

20 (e) CONCURRENCE OF THE SECRETARY.—Whenever
21 in this Act the concurrence of the Secretary is required,
22 it shall not be unlawfully withheld or unreasonably de-
23 layed.

1 **SEC. 5. APPLICABLE LAW.**

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

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