

Union Calendar No. 401

105TH CONGRESS
2^D SESSION

H. R. 3903

[Report No. 105-706, Part I]

A BILL

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

SEPTEMBER 11, 1998

Committee on Commerce discharged; committed to the
Committee of the Whole House on the State of the
Union and ordered to be printed

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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

SEPTEMBER 11, 1998

Reported from the Committee on Resources with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

SEPTEMBER 11, 1998

Referral to the Committee on Commerce extended for a period ending not later than September 11, 1998

SEPTEMBER 11, 1998

Committee on Commerce discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on May 19, 1998]

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 States*
10 *the lands identified in paragraph (4) in exchange for the*
11 *lands identified in paragraph (3), selected from the area*
12 *described in section 3(b)(1), the Secretary of the Interior*
13 *(in this Act referred to as the “Secretary”) shall complete*
14 *such exchange no later than 6 months after the issuance*
15 *of a license to Gustavus Electric Company by the Federal*
16 *Energy Regulatory Commission (in this Act referred to as*
17 *“FERC”), in accordance with this Act. This land exchange*
18 *shall be subject to the laws applicable to exchanges involving*
19 *lands managed by the Secretary as part of the National*
20 *Park System in Alaska and the appropriate process for the*
21 *exchange of State lands required by State law.*

22 *(2) The lands to be conveyed to the United States by*
23 *the State of Alaska shall be determined by mutual agree-*
24 *ment of the Secretary and the State of Alaska. Lands that*
25 *will be considered for conveyance to the United States pur-*

1 *suant to the process required by State law are lands owned*
 2 *by the State of Alaska in the Long Lake area within*
 3 *Wrangell-St. Elias National Park and Preserve, or other*
 4 *lands owned by the State of Alaska.*

5 *(3) If the Secretary and the State of Alaska have not*
 6 *agreed on which lands the State of Alaska will convey by*
 7 *a date not later than 6 months after a license is issued pur-*
 8 *suant to this Act, the United States shall accept, within*
 9 *1 year after a license is issued, title to land having a suffi-*
 10 *ciently equal value to satisfy State and Federal law, subject*
 11 *to clear title and valid existing rights, and absence of envi-*
 12 *ronmental contamination, and as provided by the laws ap-*
 13 *plicable to exchanges involving lands managed by the Sec-*
 14 *retary as part of the National Park System in Alaska and*
 15 *the appropriate process for the exchange of State lands re-*
 16 *quired by State law. Such land shall be accepted by the*
 17 *United States, subject to the other provisions of this Act,*
 18 *from among the following State lands in the priority listed:*

19 *COPPER RIVER MERIDIAN*

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

24 *(B) T. 6 S., R. 11 E., partially surveyed, Sec.*
 25 *11, lots 1 and 2, NE^{1/4}, S^{1/2}NW^{1/4}, SW^{1/4}, and*
 26 *N^{1/2}SE^{1/4}; Sec. 12; Sec. 14, lots 1 and 2, NW^{1/4}NW^{1/4}.*

1 *Containing 838.66 acres, as shown on the plat of sur-*
2 *vey accepted June 9, 1922.*

3 *(C) T. 6 S., R. 11 E., partially surveyed, Sec.*
4 *2, NW¹/₄NE¹/₄ and NW¹/₄. Containing 200.00 acres,*
5 *as 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, E¹/₂SW¹/₄ and SE¹/₄. Containing*
8 *approximately 529.94 acres, as shown on the plat of*
9 *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 be*
12 *designated by the Secretary and the State of Alaska, consist-*
13 *ent with sound land management principles, based on those*
14 *lands determined by FERC with the concurrence of the Sec-*
15 *retary and the State of Alaska, in accordance with section*
16 *3(b), to be the minimum amount of land necessary for the*
17 *construction and operation of a hydroelectric project.*

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

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

24 *(b) WILDERNESS.—(1) To ensure that this transaction*
25 *maintains, within the National Wilderness Preservation*

1 *System, approximately the same amount of area of des-*
2 *ignated wilderness as currently exists, the following lands*
3 *in Alaska shall be designated as wilderness in the priority*
4 *listed, upon consummation of the land exchange authorized*
5 *by this Act and shall be administered according to the laws*
6 *governing national wilderness areas in Alaska:*

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

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

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

23 (2) *The specific boundaries and acreage of these wil-*
24 *derness designations may be reasonably adjusted by the Sec-*
25 *retary, consistent with sound land management principles,*

1 *to approximately equal, in sum, the total wilderness acreage*
2 *deleted from Glacier Bay National Park and Preserve pur-*
3 *suant to the land exchange authorized by this Act.*

4 (c) *CONDITIONS.—Any exchange of lands under this*
5 *Act may occur only if—*

6 (1) *following the submission of a complete license*
7 *application, FERC has conducted economic and envi-*
8 *ronmental analyses under the Federal Power Act (16*
9 *U.S.C. 791–828) (notwithstanding provisions of that*
10 *Act and the Federal regulations that otherwise exempt*
11 *this project from economic analyses), the National*
12 *Environmental Policy Act of 1969 (42 U.S.C. 4321–*
13 *4370), and the Fish and Wildlife Coordination Act*
14 *(16 U.S.C. 661–666), that conclude, with the concur-*
15 *rence of the Secretary of the Interior with respect to*
16 *subparagraphs (A) and (B), that the construction and*
17 *operation of a hydroelectric power project on the*
18 *lands described in section 3(b)—*

19 (A) *will not adversely impact the purposes*
20 *and values of Glacier Bay National Park and*
21 *Preserve (as constituted after the consummation*
22 *of the land exchange authorized by this section);*

23 (B) *will comply with the requirements of*
24 *the National Historic Preservation Act (16*
25 *U.S.C. 470–470w); and*

1 (C) can be accomplished in an economically
2 feasible manner;

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

6 (3) FERC has determined, with the concurrence
7 of the Secretary and the State of Alaska, the mini-
8 mum amount of land necessary to construct and oper-
9 ate this hydroelectric power project; and

10 (4) Gustavus Electric Company has been granted
11 a license by FERC that requires Gustavus Electric
12 Company to submit an acceptable financing plan to
13 FERC before project construction may commence, and
14 the FERC has approved such plan.

15 **SEC. 3. ROLE OF FERC.**

16 (a) LICENSE APPLICATION.—(1) The FERC licensing
17 process shall apply to any application submitted by Gusta-
18 vus Electric Company to the FERC for the right to con-
19 struct and operate a hydropower project on the lands de-
20 scribed in subsection (b).

21 (2) FERC is authorized to accept and consider an ap-
22 plication filed by Gustavus Electric Company for the con-
23 struction and operation of a hydropower plant to be located
24 on lands within the area described in subsection (b), not-
25 withstanding section 3(2) of the Federal Power Act (16

1 U.S.C. 796(2)). Such application must be submitted within
 2 3 years after the date of the enactment of this Act.

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

5 (b) ANALYSES.—(1) The lands referred to in subsection
 6 (a) of this section are lands in the State of Alaska described
 7 as follows:

8 COPPER RIVER MERIDIAN

9 Township 39 South, Range 59 East, partially sur-
 10 veyed, Section 36 (unsurveyed), $SE^{1/4}SW^{1/4}$,
 11 $S^{1/2}SW^{1/4}SW^{1/4}$, $NE^{1/4}SW^{1/4}$, $W^{1/2}W^{1/2}NW^{1/4}SE^{1/4}$, and
 12 $S^{1/2}SE^{1/4}NW^{1/4}$. Containing approximately 130 acres.

13 Township 40 South, Range 59 East, partially sur-
 14 veyed, Section 1 (unsurveyed), $NW^{1/4}$, $SW^{1/4}$, $W^{1/2}SE^{1/4}$,
 15 and $SW^{1/4}SW^{1/4}NE^{1/4}$, excluding U.S. Survey 944 and Na-
 16 tive allotment A-442; Section 2 (unsurveyed), fractional,
 17 that portion lying above the mean high tide line of Icy Pas-
 18 sage, excluding U.S. Survey 944 and U.S. Survey 945; Sec-
 19 tion 11 (unsurveyed), fractional, that portion lying above
 20 the mean high tide line of Icy Passage, excluding U.S. Sur-
 21 vey 944; Section 12 (unsurveyed), fractional, $NW^{1/4}NE^{1/4}$,
 22 $W^{1/2}NW^{1/4}SW^{1/4}NE^{1/4}$, and those portions of $NW^{1/4}$ and
 23 $SW^{1/4}$ lying above the mean high tide line of Icy Passage,
 24 excluding U.S. Survey 944 and Native allotment A-442.
 25 Containing approximately 1,015 acres.

1 (2) *Additional lands and acreage will be included as*
2 *needed in the study area described in paragraph (1) to ac-*
3 *count for accretion to these lands from natural forces.*

4 (3) *With the concurrence of the Secretary and the State*
5 *of Alaska, the FERC shall determine the minimum amount*
6 *of lands necessary for construction and operation of such*
7 *project.*

8 (4) *The National Park Service shall participate as a*
9 *joint lead agency in the development of any environmental*
10 *document under the National Environmental Policy Act of*
11 *1969 in the licensing of such project. Such environmental*
12 *document shall consider both the impacts resulting from li-*
13 *ensing and any land exchange necessary to authorize such*
14 *project.*

15 (c) *ISSUANCE OF LICENSE.—(1) A condition of the li-*
16 *cense to construct and operate any portion of the hydro-*
17 *electric power project shall be FERC's approval, prior to*
18 *any commencement of construction, of a finance plan sub-*
19 *mitted by Gustavus Electric Company.*

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

1 (3) *FERC shall not license or relicense the project, or*
2 *amend the project license unless it determines, with the Sec-*
3 *retary's concurrence, that the project will not adversely im-*
4 *pect the purposes and values of Glacier Bay National Park*
5 *and Preserve (as constituted after the consummation of the*
6 *land exchange authorized by this Act). Additionally, a con-*
7 *dition of the license, or any succeeding license, to construct*
8 *and operate any portion of the hydroelectric power project*
9 *shall require the licensee to mitigate any adverse effects of*
10 *the project on the purposes and values of Glacier Bay Na-*
11 *tional Park and Preserve identified by the Secretary after*
12 *the initial licensing.*

13 (4) *A condition of the license to construct and operate*
14 *any portion of the hydroelectric power project shall be the*
15 *completion, prior to any commencement of construction, of*
16 *the land exchange described in this Act.*

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

18 (a) *SPECIAL USE PERMIT.*—*Notwithstanding the pro-*
19 *visions of the Wilderness Act (16 U.S.C. 1133–1136), the*
20 *Secretary shall issue a special use permit to Gustavus Elec-*
21 *tric Company to allow the completion of the analyses re-*
22 *ferred to in section 3. The Secretary shall impose conditions*
23 *in the permit as needed to protect the purposes and values*
24 *of Glacier Bay National Park and Preserve.*

1 **(b) PARK SYSTEM.**—*The lands acquired from the State*
2 *of Alaska under this Act shall be added to and administered*
3 *as part of the National Park System, subject to valid exist-*
4 *ing rights. Upon completion of the exchange of lands under*
5 *this Act, the Secretary shall adjust, as necessary, the bound-*
6 *aries of the affected National Park System units to include*
7 *the lands acquired from the State of Alaska; and adjust the*
8 *boundary of Glacier Bay National Park and Preserve to*
9 *exclude the lands transferred to the State of Alaska under*
10 *this Act. Any such adjustment to the boundaries of National*
11 *Park System units shall not be considered in applying any*
12 *acreage limitations under section 103(b) of Public Law 96–*
13 *487.*

14 **(c) WILDERNESS AREA BOUNDARIES.**—*The Secretary*
15 *shall make any necessary modifications or adjustments of*
16 *boundaries of wilderness areas as a result of the additions*
17 *and deletions caused by the land exchange referenced in sec-*
18 *tion 2. Any such adjustment to the boundaries of National*
19 *Park System units shall not be considered in applying any*
20 *acreage limitations under section 103(b) of Public Law 96–*
21 *487.*

22 **(d) PAYMENTS.**—*Gustavus Electric Company shall not*
23 *be required to make Federal land use payments under sec-*
24 *tion 10(e) of the Federal Power Act (16 U.S.C. 803(e)) with*
25 *respect to the lands exchanged under this Act.*

1 (e) *CONCURRENCE OF THE SECRETARY.*—Whenever in
2 *this Act the concurrence of the Secretary is required, it shall*
3 *not be unlawfully withheld or unreasonably delayed.*

4 **SEC. 5. APPLICABLE LAW.**

5 *The authorities and jurisdiction provided in this Act*
6 *shall continue in effect until such time as this Act is ex-*
7 *pressly modified or repealed by Congress.*