

105TH CONGRESS  
2D SESSION

# S. 2136

To provide for the exchange of certain land in the State of Washington.

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IN THE SENATE OF THE UNITED STATES

JUNE 5, 1998

Mr. GORTON introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To provide for the exchange of certain land in the State of Washington.

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 “Interstate 90 Land  
5       Exchange Act of 1998”.

6       **SEC. 2. FINDINGS AND PURPOSES.**

7       (a) FINDINGS.—Congress finds that—

8               (1) certain parcels of private land located in  
9       central and southwest Washington are intermingled  
10       with National Forest System land owned by the  
11       United States and administered by the Secretary of

1 Agriculture as parts of the Mt. Baker-Snoqualmie  
2 National Forest, Wenatchee National Forest, and  
3 Gifford Pinchot National Forest;

4 (2) the private land is owned by the Plum  
5 Creek Timber Company, L.P. in an intermingled  
6 checkerboard pattern, with the United States or  
7 Plum Creek owning alternate square mile sections of  
8 land or fractions of square mile sections;

9 (3) the checkerboard land ownership pattern in  
10 the area has frustrated sound and efficient land  
11 management on both private land and national for-  
12 est land by complicating fish and wildlife habitat  
13 management, watershed protection, recreation use,  
14 road construction and timber harvest, boundary ad-  
15 ministration, and protection and management of  
16 threatened and endangered species and old growth  
17 forest habitat;

18 (4) acquisition by the United States of certain  
19 parcels of land that have been offered by Plum  
20 Creek for addition to the Mt. Baker-Snoqualmie Na-  
21 tional Forest, Wenatchee National Forest, and Gif-  
22 ford Pinchot National Forest would serve important  
23 public objectives, including—

24 (A) enhancement of public access, aesthet-  
25 ics, and recreation opportunities within or near

1 areas of very heavy public recreational use, in-  
2 cluding—

3 (i) the Alpine Lakes Wilderness Area;

4 (ii) the Pacific Crest Trail;

5 (iii) Snoqualmie Pass;

6 (iv) Cle Elum Lake, Kachess Lake,  
7 and Keechulus Lake; and

8 (v) other popular recreation areas  
9 along the Interstate 90 corridor east of the  
10 Seattle-Tacoma metropolitan area;

11 (B) protection and enhancement of old  
12 growth forests and habitat for threatened, en-  
13 dangered, and sensitive species, including a net  
14 gain of approximately 22,000 acres of critical  
15 habitat for the northern spotted owl;

16 (C) consolidation of national forest hold-  
17 ings for more efficient administration and to  
18 meet a broad array of ecosystem protection and  
19 other public land management goals, including  
20 net public gains of approximately 173 miles of  
21 stream ownership, 14 miles of the route of the  
22 Pacific Crest Trail, 12,800 acres of unroaded  
23 land, and 4,000 acres of riparian land; and

24 (D) a significant reduction in administra-  
25 tive costs to the United States through—

1 (i) consolidation of Federal land hold-  
2 ings for more efficient land management  
3 and planning;

4 (ii) elimination of approximately 300  
5 miles of boundary identification and post-  
6 ing;

7 (iii) reduced right-of-way, special use,  
8 and other permit processing and issuance  
9 for roads and other facilities on National  
10 Forest System land; and

11 (iv) other administrative cost savings;

12 (5) Plum Creek has selected certain parcels of  
13 National Forest System land that are logical for  
14 consolidation into Plum Creek ownership via a land  
15 exchange because the parcels—

16 (A) are intermingled with parcels owned by  
17 Plum Creek; and

18 (B)(i) are generally located in less environ-  
19 mentally sensitive areas than the Plum Creek  
20 offered land; and

21 (ii) have lower public recreation and other  
22 public values than the Plum Creek offered land;

23 (6) time is of the essence in consummating a  
24 land exchange because delays may force Plum Creek  
25 to road or log the offered land and thereby diminish

1 the public values for which the offered land is to be  
2 acquired; and

3 (7) it is in the public interest to complete the  
4 land exchange at the earliest practicable date so that  
5 the offered land can be acquired and preserved by  
6 the United States for permanent public manage-  
7 ment, use, and enjoyment.

8 (b) PURPOSE.—The purpose of this Act is to further  
9 the public interest by authorizing, directing, facilitating,  
10 and expediting the consummation of the Interstate  
11 land exchange so as to ensure that the offered land is ex-  
12 peditiously acquired for permanent public use and enjoy-  
13 ment.

14 **SEC. 3. DEFINITIONS.**

15 In this Act:

16 (1) OFFERED LAND.—The term “offered land”  
17 means the land described in section 4(b) to be con-  
18 veyed into the public ownership of the United States  
19 under this Act.

20 (2) PLUM CREEK.—The term “Plum Creek”  
21 means the Plum Creek Timber Company, L.P., a  
22 Delaware Limited Partnership, or its successors,  
23 heirs, or assigns.

24 (3) SECRETARY.—The term “Secretary” means  
25 the Secretary of Agriculture.

1           (4) **SELECTED LAND.**—The term “selected  
2 land” means the land described in section 4(c) to be  
3 conveyed into the private ownership of Plum Creek  
4 under this Act.

5 **SEC. 4. LAND EXCHANGE.**

6           (a) **CONDITION.**—The exchange directed by this sec-  
7 tion shall be consummated if, not later than 180 days  
8 after the date of enactment of this Act, Plum Creek offers  
9 to transfer to the United States the offered land.

10          (b) **CONVEYANCE OF OFFERED LAND BY PLUM**  
11 **CREEK.**—In accordance with this Act, Plum Creek shall  
12 convey to the United States by deed acceptable to the Sec-  
13 retary all right, title, and interest of Plum Creek in and  
14 to the following offered land:

15           (1) Certain land comprising approximately  
16 6,460 acres and located within the exterior bound-  
17 aries of the Mt. Baker-Snoqualmie National Forest,  
18 Washington, as generally depicted on a map entitled  
19 “Interstate 90 Land Exchange”, dated April 1998.

20           (2) Certain land comprising approximately  
21 53,530 acres and located within or adjacent to the  
22 exterior boundaries of the Wenatchee National For-  
23 est, Washington, as generally depicted on a map en-  
24 titled “Interstate 90 Land Exchange”, dated April  
25 1998.

1           (3) Certain land comprising approximately 400  
2           acres and located within the exterior boundaries of  
3           the Gifford Pinchot National Forest, Washington, as  
4           generally depicted on a map entitled “Interstate 90  
5           Land Exchange”, dated April 1998.

6           (c) CONVEYANCE OF SELECTED LAND BY THE  
7           UNITED STATES.—On receipt of title to the offered land,  
8           the Secretary shall simultaneously convey to Plum Creek  
9           all right, title and interest of the United States, subject  
10          to valid existing rights, in and to the following selected  
11          land:

12           (1) Certain land administered, as of the date of  
13           enactment of this Act, by the Secretary of Agri-  
14           culture as part of the Mt. Baker-Snoqualmie Na-  
15           tional Forest, Washington, and comprising approxi-  
16           mately 12,305 acres, as generally depicted on a map  
17           entitled “Interstate 90 Land Exchange”, dated April  
18           1998.

19           (2) Certain land administered, as of the date of  
20           enactment of this Act, by the Secretary of Agri-  
21           culture as part of the Wenatchee National Forest,  
22           Washington, and comprising approximately 14,665  
23           acres, as generally depicted on a map entitled  
24           “Interstate 90 Land Exchange”, dated April 1998.



1           (3) APPROVAL BY THE SECRETARY.—The ap-  
2           praisals, if not completed by the date of enactment  
3           of this Act, shall be completed and submitted to the  
4           Secretary for approval not later than 90 days after  
5           the date of enactment of this Act.

6           (4) RESOLUTION OF DISAGREEMENT.—If the  
7           Secretary and Plum Creek are unable to agree on  
8           the appraised value of a parcel of land, the appraisal  
9           or the appraisal issue in dispute shall be resolved in  
10          accordance with section 206(d) of the Federal Land  
11          Policy and Management Act of 1976 (43 U.S.C.  
12          1716(d)).

13          (b) APPRAISAL ASSUMPTION.—

14           (1) FINDINGS.—Congress finds that—

15           (A) many of the parcels of offered land  
16           and selected land are located in areas that have  
17           been or may be designated as critical habitat  
18           for species determined to be threatened or en-  
19           dangered under the Endangered Species Act of  
20           1973 (16 U.S.C. 1531 et seq.); and

21           (B) such a designation can make tradi-  
22           tional appraisals of land difficult absent specific  
23           guidance from Congress due to present and fu-  
24           ture uncertainties relating to the duration,  
25           scope, and nature of restrictions that may be

1           imposed on the offered land or selected land as  
2           a result of such a designation with respect to  
3           future timber harvest and other development  
4           activities.

5           (2) APPRAISAL AT HIGHEST AND BEST USE  
6           VALUE.—In order to ensure the equitable and uni-  
7           form appraisal of both the offered and selected lands  
8           directed for exchange by this Act, all appraisals  
9           under subsection (a) shall determine the highest and  
10          best use of the offered land and selected land in ac-  
11          cordance with applicable provisions of the Washing-  
12          ton State Forest Practices Act, including alternative  
13          measures for protecting critical habitat under Wash-  
14          ington Administrative Code 222-16-080-(6).

15          (c) APPRAISAL PERIOD.—After the final appraised  
16          values of the offered land and selected land or any portion  
17          of the land has been approved by the Secretary or other-  
18          wise determined under section 206(d) of the Federal Land  
19          Policy and Management Act (43 U.S.C. 1716(d)), the  
20          value shall not be reappraised or updated before con-  
21          summation of the land exchange under section 4, except  
22          for any adjustments in value as may be required under  
23          subsection (d).

24          (d) INTERIM TIMBER HARVEST.—The fair market  
25          value of any timber harvested on the offered land or se-

1 lected land (as determined by the appraisal required under  
 2 subsection (a)) shall be deducted from the final approved  
 3 appraised value of the land for purposes of value equali-  
 4 zation under subsection (a).

5 (e) EQUALIZATION IF SURPLUS OF OFFERED  
 6 LAND.—

7 (1) IN GENERAL.—If the final appraised value  
 8 of the offered land exceeds the final appraised value  
 9 of the selected land—

10 (A) the Secretary shall make a cash equali-  
 11 zation payment to Plum Creek subject to the 25  
 12 percent limitation under section 206(b) of the  
 13 Federal Land Policy and Management Act of  
 14 1976 (43 U.S.C. 1716(d)); or

15 (B) if the Secretary does not have suffi-  
 16 cient funds available to make the required cash  
 17 equalization payment, Plum Creek shall delete  
 18 offered land from the exchange in the order  
 19 stated in paragraph (2) until the values are ap-  
 20 proximately equal.

21 (2) ORDER OF DELETION.—Deletions under  
 22 paragraph (1) shall be made in the following order:

23 (A) Township \_\_\_\_ North, Range \_\_\_\_  
 24 East, Section \_\_\_\_, Willamette Meridian.

1 (B) Township \_\_\_\_ North, Range \_\_\_\_  
2 East, Section \_\_\_\_, Willamette Meridian.

3 (C) Township \_\_\_\_ North, Range \_\_\_\_  
4 East, Section \_\_\_\_, Willamette Meridian.

5 (D) Township \_\_\_\_ North, Range \_\_\_\_  
6 East, Section \_\_\_\_, Willamette Meridian.

7 (f) EQUALIZATION IF SURPLUS OF SELECTED  
8 LAND.—

9 (1) IN GENERAL.—If the final appraised value  
10 of the selected land exceeds the final appraised value  
11 of the offered land—

12 (A) the Secretary shall delete selected land  
13 from the exchange in the order stated in para-  
14 graph (2) until the values are approximately  
15 equal; or

16 (B) at the election of Plum Creek, Plum  
17 Creek shall receive conveyance of the land that  
18 the Secretary proposes to delete under subpara-  
19 graph (A) and equalize the exchange values by  
20 making a cash equalization payment to the  
21 United States, subject to the 25 percent limita-  
22 tion of section 206(b) under the Federal Land  
23 Policy and Management Act of 1976 (43 U.S.C.  
24 1716(d)).

1           (2) ORDER OF DELETION.—Deletions under  
2 paragraph (1) shall be made in the following order:

3           (A) Township \_\_\_\_ North, Range \_\_\_\_  
4 East, Section \_\_\_\_; Willamette Meridian.

5           (B) Township \_\_\_\_ North, Range \_\_\_\_  
6 East, Section \_\_\_\_; Willamette Meridian.

7           (C) Township \_\_\_\_ North, Range \_\_\_\_  
8 East, Section \_\_\_\_; Willamette Meridian.

9           (g) USE OF PROCEEDS BY THE SECRETARY.—The  
10 amount of any cash equalization payment received by the  
11 Secretary under this section shall be retained by the Sec-  
12 retary and may be used by the Secretary to purchase land  
13 from willing sellers in the State of Washington for addi-  
14 tion to the National Forest System.

15 **SEC. 6. MISCELLANEOUS PROVISIONS.**

16           (a) STATUS OF LAND AFTER EXCHANGE.—

17           (1) LAND ACQUIRED BY THE SECRETARY.—

18           (A) IN GENERAL.—Land acquired by the  
19 Secretary under this Act shall become part of  
20 the Mt. Baker-Snoqualmie Forest, Wenatchee  
21 Forest, or Gifford Pinchot National Forests, as  
22 determined by the Secretary.

23           (B) MODIFICATION OF BOUNDARIES.—If  
24 any land acquired by the Secretary lies outside  
25 the exterior boundaries of the national forests

1 identified in subparagraph (A), the Secretary  
2 shall modify the boundaries of the appropriate  
3 forest to include the land.

4 (C) MANAGEMENT.—Land acquired by the  
5 Secretary under this Act shall be managed in  
6 accordance with the Act of March 1, 1911  
7 (commonly known as the “Weeks Law”), and  
8 with the other laws (including regulations) ap-  
9 plicable to the National Forest System.

10 (2) LAND ACQUIRED BY PLUM CREEK.—Land  
11 acquired by Plum Creek under this Act shall become  
12 private land for all purposes of law, unless the pat-  
13 ent by which conveyance is made to Plum Creek con-  
14 tains a specific reservation.

15 (b) ACCESS TO LAND ACQUIRED BY PLUM CREEK.—

16 (1) PARCELS TO WHICH EXISTING ACCESS IS  
17 ADEQUATE.—

18 (A) FINDING.—Except with respect to par-  
19 cels of land described in paragraph (2), Con-  
20 gress finds that Plum Creek will have adequate  
21 post-exchange access to the selected land over  
22 existing primary, secondary, or other national  
23 forest routes or over existing Plum Creek roads.

24 (B) ROAD CLOSING.—If the Secretary de-  
25 termines to close any such existing national for-

1 est road to general public use, the Secretary  
2 shall, if requested by Plum Creek—

3 (i) keep the road open for use by  
4 Plum Creek; or

5 (ii) if the road is closed, shall, before  
6 the road is closed, provide Plum Creek  
7 with an alternative access road that is ac-  
8 ceptable to Plum Creek.

9 (2) PARCELS NEEDING ADDITIONAL ACCESS.—

10 (A) FINDING.—Congress finds that with  
11 respect to the following parcels of selected land,  
12 the Secretary should grant post-exchange road  
13 access to Plum Creek through the following ad-  
14 jacent or nearby identified parcels of National  
15 Forest System land that will remain in Federal  
16 ownership:

17 (i) SELECTED LAND SECTION.—  
18 T\_\_\_\_N, R\_\_\_\_E, Sec. \_\_\_\_\_, Willamette  
19 Meridian.

20 (ii) ADJACENT OR NEARBY NFS SEC-  
21 TION.—T\_\_\_\_N, R\_\_\_\_E, Sec. \_\_\_\_\_, Wil-  
22 lamette Meridian.

23 (B) EASEMENT.—Simultaneously with the  
24 conveyance of the land sections described in  
25 subparagraph (A)(i) to Plum Creek, the Sec-

1           retary shall, without consideration, grant Plum  
2           Creek a permanent road access easement and  
3           preapproved road route through the adjacent or  
4           nearby National Forest System land section or  
5           sections described in subparagraph (A)(ii).

6           (C) EFFECT ON APPRAISALS.—For pur-  
7           poses of the appraisals under section 5, the se-  
8           lected land sections described in subparagraph  
9           (A)(i) shall be appraised as having available,  
10          but unbuilt, road access.

11          (D) CONSTRUCTION STANDARD.—Unless  
12          the Secretary requests otherwise or Plum Creek  
13          uses its adjacent lands for other than commer-  
14          cial timber purposes, roads constructed by  
15          Plum Creek on easements granted under this  
16          subsection—

17                 (i) shall be built to a minimum stand-  
18                 ard necessary to accommodate ingress and  
19                 egress for purposes of commercial timber  
20                 harvest on the adjacent Plum Creek lands;  
21                 and

22                 (ii) shall be closed to public use.

23          (e) ACCESS TO LAND ACQUIRED BY UNITED  
24          STATES.—

1           (1) IN GENERAL.—Simultaneously with the  
2 transfer of the offered land to the United States,  
3 Plum Creek shall grant the United States, without  
4 consideration, such permanent easements as may be  
5 necessary to secure to the United States access for  
6 reasonable public use and enjoyment of the offered  
7 lands acquired by the United States.

8           (2) LOCATION.—Unless the Secretary and Plum  
9 Creek agree otherwise, an easement under this sec-  
10 tion shall be located to the extent practicable along  
11 roads that are in existence as of the date of enact-  
12 ment of this Act.

13          (d) TIMING.—It is the intent of Congress that the  
14 land exchange under this Act be consummated not later  
15 than 120 days after the date on which Plum Creek makes  
16 the Secretary an offer to exchange under section 3(a), un-  
17 less the Secretary and Plum Creek agree to extend the  
18 consummation date.

19          (e) WITHDRAWAL OF SELECTED LAND.—

20           (1) IN GENERAL.—Effective until the date de-  
21 scribed in paragraph (2), Congress withdraws from  
22 all forms of entry and appropriation under the pub-  
23 lic land laws (including the mining laws) any parcel  
24 of selected land—

1           (A) with respect to which such a with-  
2           drawal by the Secretary of the Interior has not  
3           been made before the date of enactment of this  
4           Act; or

5           (B) with respect to which such a with-  
6           drawal that the Secretary of the Interior has  
7           made expires before the date described in para-  
8           graph (2).

9           (2) DATE DESCRIBED.—With respect to any  
10          parcel of land described in paragraph (1), the date  
11          described in this paragraph is the date on which—

12                 (A) the parcel is deleted from the exchange  
13                 under section 4(d) or 5(b)(2); or

14                 (B) the land exchange under this Act is  
15                 consummated.

○