

110TH CONGRESS  
2D SESSION

# H. R. 6728

To provide for the resolution of several land ownership and related issues with respect to parcels of land located within the Everglades National Park.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 31, 2008

Mr. MARIO DIAZ-BALART of Florida introduced the following bill; which was referred to the Committee on Natural Resources

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## A BILL

To provide for the resolution of several land ownership and related issues with respect to parcels of land located within the Everglades National Park.

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 “Everglades National  
5       Park Land Exchange Act of 2008”.

6       **SEC. 2. FINDINGS; PURPOSE.**

7       (a) FINDINGS.—Congress finds that—

8               (1) the Everglades National Park is a nation-  
9       ally and internationally significant resource ad-  
10      versely affected by external factors that have altered

1 the natural hydrological conditions within the bound-  
2 ary of the National Park;

3 (2) section 102(a) of the Everglades National  
4 Park Protection and Expansion Act of 1989 (16  
5 U.S.C. 410r-6(a)) modified the boundary of the Na-  
6 tional Park to include 107,600 acres of land located  
7 in the Northeast Shark River Slough and the East  
8 Everglades, each area of which is critical to the hy-  
9 drology of the National Park;

10 (3) the construction of modifications to the  
11 Central and South Florida Project authorized under  
12 section 104(a) of the Everglades National Park Pro-  
13 tection and Expansion Act of 1989 (16 U.S.C.  
14 410r-8(a)) is designed to improve water deliveries to  
15 the National Park through physical and operational  
16 modifications to the Project;

17 (4) the Comprehensive Everglades Restoration  
18 Plan approved by section 601(b) of the Water Re-  
19 sources Development Act of 2000 (114 Stat. 2680)  
20 provides guidance for the implementation of numer-  
21 ous restoration projects located in the Everglades of  
22 the State of Florida, including projects that would  
23 ultimately benefit the National Park;

24 (5) the success of the Project, the Plan, and the  
25 future ecological health of the Everglades of the

1 State depends in part on the resolution of several  
2 land ownership issues relating to parcels of land lo-  
3 cated in the National Park;

4 (6) the United States has entered into a contin-  
5 gent agreement that—

6 (A) provides for the exchange of land with  
7 the Florida Power & Light Company; and

8 (B) is contingent on the approval of Con-  
9 gress;

10 (7) the land exchange proposed in the Agree-  
11 ment is critical to the success of the Project;

12 (8) the Osceola family of Roy Cypress has occu-  
13 pied the area of the National Park commonly known  
14 as the “William McKinley Osceola Hammock” since  
15 before the date on which the National Park was es-  
16 tablished; and

17 (9) the interests of the Family and the United  
18 States would be enhanced by a further delineation of  
19 the rights and obligations of each party because the  
20 Hammock may be impacted by construction of im-  
21 provements relating to the Project.

22 (b) PURPOSE.—The purpose of this Act is to direct,  
23 facilitate, and expedite the exchange of certain Federal  
24 land and non-Federal land in the State to further the pub-  
25 lic interest by—

1           (1) authorizing an exchange of land held by the  
2 United States that is affected by the construction,  
3 operation, and maintenance of a relocated and raised  
4 section of the Tamiami Trail, U.S. Rt. 41 roadway,  
5 pursuant to the Project;

6           (2) ratifying and executing a contingent agree-  
7 ment between the United States and the Company  
8 to exchange and relocate certain property interests  
9 of the Company (including the provision of ease-  
10 ments and other actions); and

11           (3) authorizing the Secretary to enter into an  
12 agreement with the Family to allow the Family to  
13 occupy and use certain parcels of land located in the  
14 National Park for purposes consistent with the pur-  
15 poses and resource values of the National Park.

16 **SEC. 3. DEFINITIONS.**

17 In this Act:

18           (1) **AGREEMENT.**—The term “Agreement”  
19 means the agreement described in the document—

20                   (A) entitled “Contingent Agreement Be-  
21 tween the United States of America and Flor-  
22 ida Power & Light Company for Exchange and  
23 Relocation of Florida Power & Light Company’s  
24 Property Located In or Adjacent to the Ever-  
25 glades National Park Expansion Area”; and

1 (B) executed by the United States and the  
2 Company on July 24, 2008, including any sub-  
3 sequent amendments to the document.

4 (2) COMPANY.—The term “Company” means  
5 the Florida Power & Light Company.

6 (3) FAMILY.—The term “Family” means the  
7 Osceola family of Roy Cypress.

8 (4) FEDERAL LAND.—The term “Federal land”  
9 means the parcels of land that are—

10 (A) owned by the United States;

11 (B) administered by the Secretary;

12 (C) located within the National Park; and

13 (D) generally depicted on the map as—

14 (i) Tract \_\_\_\_\_, which is adja-  
15 cent to the Tamiami Trail, U.S. Rt. 41, in  
16 existence as of the date of enactment of  
17 this Act; and

18 (ii) Tract \_\_\_\_\_, which is lo-  
19 cated on the eastern boundary of the Na-  
20 tional Park.

21 (5) HAMMOCK.—The term “Hammock” means  
22 the parcel of land that is—

23 (A) commonly known as the “William  
24 McKinley Osceola Hammock”; and

1 (B) generally depicted on the map as Tract  
2 \_\_\_\_\_.

3 (6) MAP.—The term “map” means the map  
4 prepared by the National Park Service, titled  
5 “\_\_\_\_\_”, numbered \_\_\_\_\_, and dated  
6 \_\_\_\_\_.

7 (7) MODIFIED WATER DELIVERIES PROJECT.—  
8 The term “modified water deliveries project” means  
9 the modifications to the Project authorized under  
10 section 104(a) of the Everglades National Park Pro-  
11 tection and Expansion Act of 1989 (16 U.S.C.  
12 410r–8(a)).

13 (8) NATIONAL PARK.—The term “National  
14 Park” means the Everglades National Park located  
15 in the State.

16 (9) NON-FEDERAL LAND.—The term “non-Fed-  
17 eral land” means the area of land located in the  
18 State that is comprised of land that—

19 (A) is owned by the State, the specific area  
20 and location of which shall be determined by  
21 the State; and

22 (B) is owned by the Company—

23 (i) the area of which comprises ap-  
24 proximately 320 acres; and

1 (ii) the location of which is within the  
2 East Everglades Acquisition Area, as gen-  
3 erally depicted on the map as Tract  
4 \_\_\_\_\_.

5 (10) PLAN.—The term “Plan” means the Com-  
6 prehensive Everglades Restoration Plan—

7 (A) contained in the Final Integrated Fea-  
8 sibility Report and Programmatic Environ-  
9 mental Impact Statement, dated April 1, 1999;  
10 and

11 (B) approved under section 601(b) of the  
12 Water Resources Development Act of 2000  
13 (114 Stat. 2680).

14 (11) PROJECT.—The term “Project” means the  
15 Central and Southern Florida Project.

16 (12) SECRETARY.—The term “Secretary”  
17 means the Secretary of the Interior.

18 (13) STATE.—The term “State” means the  
19 State of Florida.

20 **SEC. 4. LAND EXCHANGE.**

21 (a) LAND EXCHANGE AUTHORIZED.—If the State of-  
22 fers to convey to the Secretary all right, title, and interest  
23 of the State in and to the non-Federal land, and the offer  
24 is acceptable to the Secretary, the Secretary shall, subject  
25 to valid existing rights—

1 (1) accept the offer; and

2 (2) convey to the State all right, title, and in-  
3 terest of the United States in and to the Federal  
4 land.

5 (b) TERMS AND CONDITIONS.—The land exchange  
6 under subsection (a) shall be subject to such terms and  
7 conditions as the Secretary may require.

8 (c) APPRAISALS; EQUALIZATION.—

9 (1) APPRAISALS.—

10 (A) IN GENERAL.—The Federal land and  
11 non-Federal land shall be appraised by an inde-  
12 pendent appraiser selected by the Secretary.

13 (B) STANDARDS.—An appraisal conducted  
14 under subparagraph (A) shall be conducted in  
15 accordance with—

16 (i) the Uniform Appraisal Standards  
17 for Federal Land Acquisitions; and

18 (ii) the Uniform Standards of Profes-  
19 sional Appraisal Practice.

20 (2) EQUALIZATION.—If the values of the Fed-  
21 eral land and the non-Federal land to be conveyed  
22 in the land exchange under subsection (a) are not  
23 equal, the values may be equalized by—

24 (A) donation;

1 (B) payment using donated or appro-  
2 priated funds; or

3 (C) the conveyance of additional parcels of  
4 land.

5 (d) DEADLINE FOR COMPLETION OF EXCHANGE.—

6 (1) IN GENERAL.—Except as provided in para-  
7 graph (2), the land exchange under subsection (a)  
8 shall be completed by not later than the date that  
9 is 90 days after the date on which the results of  
10 each appraisal conducted under subsection (c)(1) are  
11 received by the Secretary and the State.

12 (2) EXCEPTION.—In a case in which the Sec-  
13 retary or the State disputes the results of any ap-  
14 praisal conducted under subsection (c)(1), the land  
15 exchange under subsection (a) shall be completed by  
16 not later than the date that is 90 days after the date  
17 on which the Secretary and the State resolve the dis-  
18 pute.

19 (e) TECHNICAL CORRECTIONS.—Subject to the  
20 agreement of the State, the Secretary may make—

21 (1) minor corrections to correct technical and  
22 clerical errors in the legal descriptions of the Fed-  
23 eral and non-Federal land; and

24 (2) minor adjustments to the boundaries of the  
25 Federal and non-Federal land.

1 (f) ADMINISTRATION OF LAND ACQUIRED BY SEC-  
2 RETARY.—Land acquired by the Secretary through the  
3 land exchange under subsection (a) shall—

4 (1) become part of the National Park; and

5 (2) be administered in accordance with the laws  
6 (including regulations) applicable to the National  
7 Forest System.

8 (g) AVAILABILITY OF MAP.—The map shall be on file  
9 and available for public inspection in the appropriate of-  
10 fices of the National Park Service.

11 **SEC. 5. RATIFICATION OF CONTINGENT AGREEMENT BE-**  
12 **TWEEN THE UNITED STATES AND THE COM-**  
13 **PANY.**

14 (a) RATIFICATION OF AGREEMENT.—The Agreement  
15 (including each term, condition, procedure, covenant, res-  
16 ervation, and other provision contained in the Agreement)  
17 is ratified.

18 (b) EXECUTION OF AGREEMENT.—

19 (1) IN GENERAL.—Not later than 90 days after  
20 the date of enactment of this Act, the Secretary  
21 shall execute the Agreement (including the land ex-  
22 change under section 4(a)).

23 (2) TECHNICAL CORRECTIONS.—

24 (A) IN GENERAL.—In accordance with  
25 subparagraph (B), the Secretary, subject to the

1 agreement of the Company, may make minor  
2 corrections to correct technical and clerical er-  
3 rors with respect to any land description or in-  
4 strument of conveyance contained in the Agree-  
5 ment.

6 (B) WRITTEN NOTICE REQUIREMENT.—To  
7 make a minor correction under subparagraph  
8 (A), the Secretary shall provide written notice,  
9 the duration of which shall be not less than 30  
10 days, to—

11 (i) the Committee on Energy and  
12 Natural Resources of the Senate; and

13 (ii) the Committee on Natural Re-  
14 sources of the House of Representatives.

15 (c) ENVIRONMENTAL ASSESSMENT.—

16 (1) IN GENERAL.—Not later than 90 days after  
17 the date of enactment of this Act, in accordance  
18 with paragraph (2), the Secretary may prepare an  
19 environmental assessment regarding the land ex-  
20 change under section 4(a).

21 (2) REQUIREMENTS.—In preparing the environ-  
22 mental assessment under paragraph (1), the Sec-  
23 retary shall—

24 (A) identify any—

1 (i) immediate and proximate effect  
2 that may arise from the land exchange  
3 under section 4(a); and

4 (ii) potential mitigation measure that  
5 the Secretary determines to be appropriate  
6 for each immediate and proximate effect  
7 identified under clause (i); and

8 (B) provide for a period of public notice  
9 and comment with respect to the land exchange  
10 under section 4(a).

11 **SEC. 6. OSCEOLA FAMILY PERPETUAL USE AND OCCU-**  
12 **PANCY AGREEMENT.**

13 (a) PERPETUAL USE AND OCCUPANCY AGREE-  
14 MENT.—In accordance with subsection (b), and subject to  
15 subsection (c), the Secretary may enter into an agreement  
16 with the Family to allow the Family to occupy and use  
17 the Hammock in perpetuity for the purpose of a domestic  
18 residence.

19 (b) PROTECTION OF NATIONAL PARK.—An agree-  
20 ment entered into by the Secretary under subsection (a)  
21 shall ensure that the occupancy and use of the Hammock  
22 by the Family—

23 (1) is carried out in a manner consistent with—

24 (A) this Act;

1 (B) the purposes and resources of the Na-  
2 tional Park; and

3 (C) all applicable laws (including regula-  
4 tions), including laws governing commercial ac-  
5 tivities within the National Park (including reg-  
6 ulations); and

7 (2) does not prevent the Secretary from con-  
8 structing any improvements necessary to allow for  
9 the completion of the Project.

10 (c) PRESERVATION OF HAMMOCK.—Subject to the  
11 written approval of the Secretary, the area of the Ham-  
12 mock shall not be enlarged—

13 (1) through the addition of fill; or

14 (2) by any other means.

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