

110TH CONGRESS
2D SESSION

S. 3340

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

IN THE SENATE OF THE UNITED STATES

JULY 26, 2008

Mr. MARTINEZ (for himself and Mr. NELSON of Florida) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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-

1 versely affected by external factors that have altered
2 the natural hydrological conditions within the bound-
3 ary of the National Park;

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

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

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

1 (5) the success of the Project, the Plan, and the
2 future ecological health of the Everglades of the
3 State depends in part on the resolution of several
4 land ownership issues relating to parcels of land lo-
5 cated in the National Park;

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

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

10 (B) is contingent on the approval of Con-
11 gress;

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

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

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

24 (b) PURPOSE.—The purpose of this Act is to direct,
25 facilitate, and expedite the exchange of certain Federal

1 land and non-Federal land in the State to further the pub-
2 lic interest by—

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

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

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

18 **SEC. 3. DEFINITIONS.**

19 In this Act:

20 (1) AGREEMENT.—The term “Agreement”
21 means the agreement described in the document—

22 (A) entitled “Contingent Agreement Be-
23 tween the United States of America and Flor-
24 ida Power & Light Company for Exchange and
25 Relocation of Florida Power & Light Company’s

1 Property Located In or Adjacent to the Ever-
2 glades National Park Expansion Area”; and

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

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

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

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

12 (A) owned by the United States;

13 (B) administered by the Secretary;

14 (C) located within the National Park; and

15 (D) generally depicted on the map as—

16 (i) Tract [____], which is adjacent
17 to the Tamiami Trail, U.S. Rt. 41, in ex-
18 istence as of the date of enactment of this
19 Act; and

20 (ii) Tract [____], which is lo-
21 cated on the eastern boundary of the Na-
22 tional Park.

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

1 (A) commonly known as the “William
2 McKinley Osceola Hammock”; and

3 (B) generally depicted on the map as Tract
4 **【_____】**.

5 (6) MAP.—The term “map” means the map
6 prepared by the National Park Service, entitled
7 “**【_____】**”, numbered **【_____】**, and dated
8 **【_____】**.

9 (7) MODIFIED WATER DELIVERIES PROJECT.—
10 The term “modified water deliveries project” means
11 the modifications to the 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)).

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

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

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

24 (B) is owned by the Company—

1 (i) the area of which comprises ap-
 2 proximately 320 acres; and

3 (ii) the location of which is within the
 4 East Everglades Acquisition Area, as gen-
 5 erally depicted on the map as Tract
 6 **[_____]**.

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

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

13 (B) approved under section 601(b) of the
 14 Water Resources Development Act of 2000
 15 (114 Stat. 2680).

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

18 (12) SECRETARY.—The term “Secretary”
 19 means the Secretary of the Interior.

20 (13) STATE.—The term “State” means the
 21 State of Florida.

22 **SEC. 4. LAND EXCHANGE.**

23 (a) LAND EXCHANGE AUTHORIZED.—If the State of-
 24 fers to convey to the Secretary all right, title, and interest
 25 of the State in and to the non-Federal land, and the offer

1 is acceptable to the Secretary, the Secretary shall, subject
2 to valid existing rights—

3 (1) accept the offer; and

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

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

10 (c) APPRAISALS; EQUALIZATION.—

11 (1) APPRAISALS.—

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

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

18 (i) the Uniform Appraisal Standards
19 for Federal Land Acquisitions; and

20 (ii) the Uniform Standards of Profes-
21 sional Appraisal Practice.

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

1 (A) donation;

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

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

6 (d) DEADLINE FOR COMPLETION OF EXCHANGE.—

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

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

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

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

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

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

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

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

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

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

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

20 (b) EXECUTION OF AGREEMENT.—

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

25 (2) TECHNICAL CORRECTIONS.—

1 (A) IN GENERAL.—In accordance with
2 subparagraph (B), the Secretary, subject to the
3 agreement of the Company, may make minor
4 corrections to correct technical and clerical er-
5 rors with respect to any land description or in-
6 strument of conveyance contained in the Agree-
7 ment.

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

13 (i) the Committee on Energy and
14 Natural Resources of the Senate; and

15 (ii) the Committee on Natural Re-
16 sources of the House of Representatives.

17 (c) ENVIRONMENTAL ASSESSMENT.—

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

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

1 (A) identify any—

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

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

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

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

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

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

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

25 (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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