

EXCHANGE OF CERTAIN LANDS IN GILPIN COUNTY,  
COLORADO

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NOVEMBER 6, 1995.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

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Mr. YOUNG of Alaska, from the Committee on Resources,  
submitted the following

R E P O R T

[To accompany H.R. 2437]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 2437) to provide for the exchange of certain lands in Gilpin County, Colorado, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

**SECTION 1. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress finds and declares that—

(1) certain scattered parcels of Federal land located within Gilpin County, Colorado, are currently administered by the Secretary of the Interior as part of the Royal Gorge Resource Area, Canon City District, United States Bureau of Land Management;

(2) these land parcels, which comprise approximately 133 separate tracts of land, and range in size from approximately 38 acres to much less than an acre have been identified as suitable for disposal by the Bureau of Land Management through its resource management planning process and are appropriate for disposal; and

(3) even though the Federal land parcels in Gilpin County, Colorado, are scattered and small in size, they nevertheless by virtue of their proximity to existing communities appear to have a fair market value which may be used by the Federal Government to exchange for lands which will better lend themselves to Federal management and have higher values for future public access, use and enjoyment, recreation, the protection and enhancement of fish and wildlife and

fish and wildlife habitat, and the protection of riparian lands, wetlands, scenic beauty and other public values.

(b) PURPOSE.—It is the purpose of this Act to authorize, direct, facilitate and expedite the land exchange set forth herein in order to further the public interest by disposing of Federal lands with limited public utility and acquire in exchange therefor lands with important values for permanent public management and protection.

#### SEC. 2. LAND EXCHANGE.

(a) IN GENERAL.—The exchange directed by this Act shall be consummated if within 90 days after enactment of this Act, Lake Gulch, Inc., a Colorado Corporation (as defined in section 4 of this Act) offers to transfer to the United States pursuant to the provisions of this Act the offered lands or interests in land described herein.

(b) CONVEYANCE BY LAKE GULCH.—Subject to the provisions of section 3 of this Act, Lake Gulch shall convey to the Secretary of the Interior all right, title, and interest in and to the following offered lands—

(1) certain lands comprising approximately 40 acres with improvements thereon located in Larimer County, Colorado, and lying within the boundaries of Rocky Mountain National Park as generally depicted on a map entitled “Circle C Church Camp”, dated August 1994, which shall upon their acquisition by the United States and without further action by the Secretary of the Interior be incorporated into Rocky Mountain National Park and thereafter be administered in accordance with the laws, rules and regulations generally applicable to the National Park System and Rocky Mountain National Park;

(2) certain lands located within and adjacent to the United States Bureau of Land Management San Luis Resource Area in Conejos County, Colorado, which comprise approximately 3,993 acres and are generally depicted on a map entitled “Quinlan Ranches Tract”, dated August 1994; and

(3) certain lands located within the United States Bureau of Land Management Royal Gorge Resource Area in Huerfano County, Colorado, which comprise approximately 4,700 acres and are generally depicted on a map entitled “Bonham Ranch-Cucharas Canyon”, dated June 1995: *Provided, however*, That it is the intention of Congress that such lands may remain available for the grazing of livestock as determined appropriate by the Secretary in accordance with applicable laws, rules, and regulations: *Provided further*, That if the Secretary determines that certain of the lands acquired adjacent to Cucharas Canyon hereunder are not needed for public purposes they may be sold in accordance with the provisions of section 203 of the Federal Land Policy and Management Act of 1976 and other applicable law.

(c) SUBSTITUTION OF LANDS.—If one or more of the precise offered land parcels identified above is unable to be conveyed to the United States due to appraisal or other problems, Lake Gulch and the Secretary may mutually agree to substitute therefor alternative offered lands acceptable to the Secretary.

(d) CONVEYANCE BY THE UNITED STATES.—(1) Upon receipt of title to the lands identified in subsection (a) the Secretary shall simultaneously convey to Lake Gulch all right, title, and interest of the United States, subject to valid existing rights, in and to the following selected lands—

(A) certain surveyed lands located in Gilpin County, Colorado, Township 3 South, Range 72 West, Sixth Principal Meridian, Section 18, Lots 118–220, which comprise approximately 195 acres and are intended to include all federally owned lands in section 18, as generally depicted on a map entitled “Lake Gulch Selected Lands”, dated July 1994;

(B) certain surveyed lands located in Gilpin County, Colorado, Township 3 South, Range 72 West, Sixth Principal Meridian, Section 17, Lots 37, 38, 39, 40, 52, 53, and 54, which comprise approximately 96 acres, as generally depicted on a map entitled “Lake Gulch Selected Lands”, dated July 1994; and

(C) certain unsurveyed lands located in Gilpin County, Colorado, Township 3 South, Range 73 West, Sixth Principal Meridian, Section 13, which comprise approximately 11 acres, and are generally depicted as parcels 302–304, 306 and 308–326 on a map entitled “Lake Gulch Selected Lands”, dated July 1994: *Provided, however*, That a parcel or parcels of land in section 13 shall not be transferred to Lake Gulch if at the time of the proposed transfer the parcel or parcels are under formal application for transfer to a qualified unit of local government. Due to the small and unsurveyed nature of such parcels proposed for transfer to Lake Gulch in section 13, and the high cost of surveying such small parcels, the Secretary is authorized to transfer such section 13 lands to Lake Gulch without survey based on such legal or other description as the Secretary determines appropriate to carry out the basic intent of the map cited in this subparagraph.

(2) If the Secretary and Lake Gulch mutually agree, and the Secretary determines it is in the public interest, the Secretary may utilize the authority and direction of this Act to transfer to Lake Gulch lands in sections 17 and 13 that are in addition to those precise selected lands shown on the map cited herein, and which are not under formal application for transfer to a qualified unit of local government, upon transfer to the Secretary of additional offered lands acceptable to the Secretary or upon payment to the Secretary by Lake Gulch of cash equalization money amounting to the full appraised fair market value of any such additional lands. If any such additional lands are located in section 13 they may be transferred to Lake Gulch without survey based on such legal or other description as the Secretary determines appropriate as long as the Secretary determines that the boundaries of any adjacent lands not owned by Lake Gulch can be properly identified so as to avoid possible future boundary conflicts or disputes. If the Secretary determines surveys are necessary to convey any such additional lands to Lake Gulch, the costs of such surveys shall be paid by Lake Gulch but shall not be eligible for any adjustment in the value of such additional lands pursuant to section 206(f)(2) of the Federal Land Policy and Management Act of 1976 (as amended by the Federal Land Exchange Facilitation Act of 1988) (43 U.S.C. 1716(f)(2)).

(3) Prior to transferring out of public ownership pursuant to this Act or other authority of law any lands which are contiguous to North Clear Creek southeast of the City of Black Hawk, Colorado in the County of Gilpin, Colorado, the Secretary shall notify and consult with the County and City and afford such units of local government an opportunity to acquire or reserve pursuant to the Federal Land Policy and Management Act of 1976 or other applicable law, such easements or rights-of-way parallel to North Clear Creek as may be necessary to serve public utility line or recreation path needs: *Provided, however,* That any survey or other costs associated with the acquisition or reservation of such easements or rights-of-way shall be paid for by the unit or units of local government concerned.

### SEC. 3. TERMS AND CONDITIONS OF EXCHANGE.

(a) EQUALIZATION OF VALUES.—(1) The values of the lands to be exchanged pursuant to this Act shall be equal as determined by the Secretary of the Interior utilizing comparable sales of surface and subsurface property and nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Standards for Federal Land Acquisition, the Uniform Standards of Professional Appraisal Practice, the provisions of section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)), and other applicable law.

(2) In the event any cash equalization or land sale moneys are received by the United States pursuant to this Act, any such moneys shall be retained by the Secretary of the Interior and may be utilized by the Secretary until fully expended to purchase from willing sellers land or water rights, or a combination thereof, to augment wildlife habitat and protect and restore wetlands in the Bureau of Land Management's Blanca Wetlands, Alamosa County, Colorado.

(3) Any water rights acquired by the United States pursuant to this section shall be obtained by the Secretary of the Interior in accordance with all applicable provisions of Colorado law, including the requirement to change the time, place, and type of use of said water rights through the appropriate State legal proceedings and to comply with any terms, conditions, or other provisions contained in an applicable decree of the Colorado Water Court. The use of any water rights acquired pursuant to this section shall be limited to water that can be used or exchanged for water that can be used on the Blanca Wetlands. Any requirement or proposal to utilize facilities of the San Luis Valley Project, Closed Basin Diversion, in order to effectuate the use of any such water rights shall be subject to prior approval of the Rio Grande Water Conservation District.

(b) RESTRICTIONS ON SELECTED LANDS.—(1) Conveyance of the selected lands to Lake Gulch pursuant to this Act shall be contingent upon Lake Gulch executing an agreement with the United States prior to such conveyance, the terms of which are acceptable to the Secretary of the Interior, and which—

(A) grant the United States a covenant that none of the selected lands (which currently lie outside the legally approved gaming area) shall ever be used for purposes of gaming should the current legal gaming area ever be expanded by the State of Colorado; and

(B) permanently hold the United States harmless for liability and indemnify the United States against all costs arising from any activities, operations (including the storing, handling, and dumping of hazardous materials or substances) or other acts conducted by Lake Gulch or its employees, agents, successors or assigns on the selected lands after their transfer to Lake Gulch: *Provided, however,* That nothing in this Act shall be construed as either diminish-

ing or increasing any responsibility or liability of the United States based on the condition of the selected lands prior to or on the date of their transfer to Lake Gulch.

(2) Conveyance of the selected lands to Lake Gulch pursuant to this Act shall be subject to the existing easement for Gilpin County Road 6.

(3) The above terms and restrictions of this subsection shall not be considered in determining, or result in any diminution in, the fair market value of the selected land for purposes of the appraisals of the selected land required pursuant to section 3 of this Act.

(c) REVOCATION OF WITHDRAWAL.—The Public Water Reserve established by Executive order dated April 17, 1926 (Public Water Reserve 107), Serial Number Colorado 17321, is hereby revoked insofar as it affects the NW<sup>1</sup>/<sub>4</sub> SW<sup>1</sup>/<sub>4</sub> of Section 17, Township 3 South, Range 72 West, Sixth Principal Meridian, which covers a portion of the selected lands identified in this Act.

#### SEC. 4. MISCELLANEOUS PROVISIONS.

(a) DEFINITIONS.—As used in this Act:

(1) The term “Secretary” means the Secretary of the Interior.

(2) The term “Lake Gulch” means Lake Gulch, Inc., a Colorado corporation, or its successors, heirs or assigns.

(3) The term “offered land” means lands to be conveyed to the United States pursuant to this Act.

(4) The term “selected land” means lands to be transferred to Lake Gulch, Inc., or its successors, heirs or assigns pursuant to this Act.

(5) The term “Blanca Wetlands” means an area of land comprising approximately 9,290 acres, as generally depicted on a map entitled “Blanca Wetlands”, dated August 1994, or such land as the Secretary may add thereto by purchase from willing sellers after the date of enactment of this Act utilizing funds provided by this Act or such other moneys as Congress may appropriate.

(b) TIME REQUIREMENT FOR COMPLETING TRANSFER.—It is the intent of Congress that unless the Secretary and Lake Gulch mutually agree otherwise the exchange of lands authorized and directed by this Act shall be completed not later than 6 months after the date of enactment of this Act. In the event the exchange cannot be consummated within such 6-month-time period, the Secretary, upon application by Lake Gulch, is directed to sell to Lake Gulch at appraised fair market value any or all of the parcels (comprising a total of approximately 11 acres) identified in section 2(d)(1)(C) of this Act as long as the parcel or parcels applied for are not under formal application for transfer to a qualified unit of local government.

(c) ADMINISTRATION OF LANDS ACQUIRED BY UNITED STATES.—In accordance with the provisions of section 206(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(c)), all lands acquired by the United States pursuant to this Act shall upon acceptance of title by the United States and without further action by the Secretary concerned become part of and be managed as part of the administrative unit or area within which they are located.

#### PURPOSE OF THE BILL

The purpose of H.R. 2437 is to provide for the exchange of certain lands in Gilpin County, Colorado.

#### BACKGROUND AND NEED FOR LEGISLATION

H.R. 2437 would authorize an equal-value exchange under which the United States would transfer approximately 300 acres of Bureau of Land Management (BLM) managed public lands near the city of Black Hawk, in Gilpin County, Colorado, to a named company, which would transfer to the United States specified lands, amounting to approximately 8,739 acres, elsewhere in Colorado.

The Gilpin County lands are 133 parcels, ranging from 38 acres to 0.01 acre; 90 are less than one acre. They were originally acquired by the United States from France in the Louisiana Purchase. From extensive gold discoveries, the area is crisscrossed with patented mining claims; the 133 parcels are intermingled fragments that are essentially unmanageable, and have been identified as suitable for disposal by BLM. However, the United States

cannot readily realize their fair-market value through normal BLM disposal procedures because of the high costs of surveys and other necessary administrative expenses. H.R. 2437 is intended to enable the United States to realize the fair market value by the acquisition of designated lands.

The lands identified for acquisition by the United States include about 40 acres within the Rocky Mountain National Park, nearly 4,000 acres in Conejos County, and about 4,700 acres (known as Bonham Ranch) intermingled with BLM-managed lands along Cucharas Canyon in Huerfano County, Colorado.

#### COMMITTEE ACTION

Congressman Scott McInnis introduced H.R. 2423 on September 29, 1995. The bill was referred to the Committee on Resources, and within the Committee, to the Subcommittee on National Parks, Forests and Lands. On July 20, 1995, the Subcommittee held a hearing on various lands exchange bills, including H.R. 1922, whose text is identical to H.R. 2437.

Consideration and mark-up of H.R. 2437 was held in the Subcommittee on October 17, 1995. During Subcommittee consideration, Congressman James V. Hansen offered an amendment to H.R. 2437 that was accepted by unanimous consent. The amendment was requested by BLM to insure that appraisal of the selected lands shall be based on comparable sales of surface and subsurface lands. H.R. 2437, as amended, was ordered favorably reported to the Full Committee by voice vote.

Full Committee consideration and mark-up was held on October 25, 1995. The bill, as amended, was ordered reported to the House of Representatives by unanimous consent.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Findings and purposes*

This section contains the findings and purposes of the bill.

##### *Sec. 2. Land exchange*

The exchange directed in H.R. 2437 shall be consummated within 90 days after enactment. Lake Gulch shall convey to the Secretary of the Interior all right, title, and interest in all lands described in H.R. 2437. If one or more of the lands offered is unable to be conveyed to the United States due to appraisal or other problems, Lake Gulch and the Secretary may mutually agree to substitute alternative lands. Upon receipt of title to the lands identified in H.R. 2437, the Secretary shall simultaneously convey to Lake Gulch all right, title and interest of the United States to the selected lands described in the bill.

##### *Sec. 3. Terms and conditions of exchange*

The values of the lands to be exchanged pursuant to this bill shall be equal. The mineral values of the selected lands should not be separately appraised. Mineral values on such small tracts of land would be nearly impossible to appraise separately from the land itself, and comparable sales of surface and subsurface lands are therefore the appropriate barometer of fair market value. Fur-

ther, there are many comparable sales of land in the Central City/Black Hawk area on which to base an appraisal. Any cash received by the United States under this bill may be used by the Secretary of the Interior to purchase from willing sellers land or water rights to benefit Blanca Wetlands, Alamosa County, Colorado. Any water rights must be acquired under Colorado State law.

Conveyance of the selected lands to Lake Gulch shall be contingent upon Lake Gulch executing an agreement with the United States which: (1) grants the United States a covenant that none of the selected lands shall ever be used for gambling; and (2) holds the United States harmless for liability and indemnifies the United States for costs arising from any activities, operations or acts conducted by Lake Gulch or its employees on lands transferred to the company. In addition, the conveyance is subject to an existing road easement.

Under subsection (c), the Public Water Reserve established by Executive order dated April 17, 1926, Serial Number Colorado 17321, is revoked as it affects selected lands covered by the bill.

#### *Sec. 4. Miscellaneous provisions*

Subsection (a) defines terms used in the bill.

Subsection (b) expresses the intent of Congress that the land exchange be completed no later than six months after the date of enactment of this bill. If the exchange cannot be completed by that time, the Secretary is directed to sell a portion of the lands identified in the bill, to Lake Gulch for fair market value.

Under subsection (c), the acquired lands shall be managed as part of the administrative unit or area which they are located after acceptance of title by the United States.

#### COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 2(l)(3) of rule XI of the Rules of the House of Representatives, and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Subcommittee on National Parks, Forests and Lands held a hearing on July 20, 1995, on H.R. 1922 (an identical bill to H.R. 2437), and Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

#### INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment of H.R. 2437 will have no significant inflationary impact on prices and costs in the operation of the national economy.

#### COST OF THE LEGISLATION

Clause 7(a) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out H.R. 2437. However, clause 7(d) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the

Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirements of clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 2437 does not contain any new budget authority, spending authority, credit authority, or a decrease in revenues or tax expenditures.

2. With respect to the requirement of clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 2437.

3. With respect to the requirement of clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 2437 from the Director of the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, November 2, 1995.*

Hon. DON YOUNG,  
*Chairman, Committee on Resources,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 2437, a bill to provide for the exchange of certain lands in Gilpin County, Colorado, as ordered reported by the House Committee on Resources on October 25, 1995. CBO estimates that enacting H.R. 2437 would not significantly affect the federal budget. Since the bill could affect offsetting receipts, pay-as-you-go procedures would apply. However, we estimate that any increase in offsetting receipts would be less than \$500,000 annually. Enacting H.R. 2437 also would have no significant effect on the budgets of state and local governments.

H.R. 2437 would authorize the Department of the Interior's Bureau of Land Management (BLM) to transfer approximately 300 acres of land in Gilpin County in exchange for about 8,730 acres in Larimer County, Conejos County, and Huerfano County, Colorado. The exchanges are to be of equal value. According to BLM, the parcels of federal land to be transferred are intermingled with private property and have no significant value for grazing, mineral development, or recreation. In exchange, BLM would receive parcels located within the Rocky Mountain National Park, within and adjacent to BLM's San Luis Resource Area, and within BLM's Royal Gorge Resource Area. The agency expects no significant increase in offsetting receipts as a result of acquiring this land.

Based on information from BLM, we estimate no significant increase in discretionary costs to manage the additional acreage after the transfer because the currently held land has incurred significant costs from occupancy trespasses on the parcels. Thus, the

agency expects lower per acre management costs on the land to be acquired with no significant effect overall on discretionary spending. The bill could affect payments in lieu of taxes, which are discretionary costs based in part on the number of federally owned acres in a county, but we expect no significant impact on such payments as a result of enacting this bill.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Victoria V. Heid.

Sincerely,

JAMES L. BLUM  
(For June E. O'Neill, Director).

CHANGES IN EXISTING LAW

If enacted, H.R. 2437 would make no changes in existing law.

DEPARTMENTAL REPORTS

The Committee has received no departmental reports on H.R. 2437.

