

GLACIER BAY NATIONAL PARK BOUNDARY ADJUSTMENT
ACT OF 1998

SEPTEMBER 11, 1998.—Ordered to be printed

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

R E P O R T

[To accompany H.R. 3903]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 3903) to provide for an exchange of lands located near Gustavus, Alaska, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend 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. SHORT TITLE.

This Act may be cited as the “Glacier Bay National Park Boundary Adjustment Act of 1998”.

SEC. 2. LAND EXCHANGE AND WILDERNESS DESIGNATION.

(a) **IN GENERAL.**—(1) Subject to conditions set forth in subsection (c), if the State of Alaska, in a manner consistent with this Act, offers to transfer to the United States the lands identified in paragraph (4) in exchange for the lands identified in paragraph (3), selected from the area described in section 3(b)(1), the Secretary of the Interior (in this Act referred to as the “Secretary”) shall complete such exchange no later than 6 months after the issuance of a license to Gustavus Electric Company by the Federal Energy Regulatory Commission (in this Act referred to as “FERC”), in accordance with this Act. This land exchange shall be subject to the laws applicable to exchanges involving lands managed by the Secretary as part of the National Park System in Alaska and the appropriate process for the exchange of State lands required by State law.

(2) The lands to be conveyed to the United States by the State of Alaska shall be determined by mutual agreement of the Secretary and the State of Alaska. Lands that will be considered for conveyance to the United States pursuant to the process required by State law are lands owned by the State of Alaska in the Long Lake area within Wrangell-St. Elias National Park and Preserve, or other lands owned by the State of Alaska.

(3) If the Secretary and the State of Alaska have not agreed on which lands the State of Alaska will convey by a date not later than 6 months after a license is issued pursuant to this Act, the United States shall accept, within 1 year after a license is issued, title to land having a sufficiently equal value to satisfy State and Federal law, subject to clear title and valid existing rights, and absence of environmental contamination, and as provided by the laws applicable to exchanges involving lands managed by the Secretary as part of the National Park System in Alaska and the appropriate process for the exchange of State lands required by State law. Such land shall be accepted by the United States, subject to the other provisions of this Act, from among the following State lands in the priority listed:

COPPER RIVER MERIDIAN

(A) T. 6 S., R. 12 E., partially surveyed, Sec. 5, lots 1, 2, and 3, NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, and S $\frac{1}{2}$. Containing 617.68 acres, as shown on the plat of survey accepted June 9, 1922.

(B) T. 6 S., R. 11 E., partially surveyed, Sec. 11, lots 1 and 2, NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$; Sec. 12; Sec. 14, lots 1 and 2, NW $\frac{1}{4}$ NW $\frac{1}{4}$. Containing 838.66 acres, as shown on the plat of survey accepted June 9, 1922.

(C) T. 6 S., R. 11 E., partially surveyed, Sec. 2, NW $\frac{1}{4}$ NE $\frac{1}{4}$ and NW $\frac{1}{4}$. Containing 200.00 acres, as shown on the plat of survey accepted June 9, 1922.

(D) T. 6 S., R. 12 E., partially surveyed, Sec. 6, lots 1 through 10, E $\frac{1}{2}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$. Containing approximately 529.94 acres, as shown on the plat of survey accepted June 9, 1922.

(4) The lands to be conveyed to the State of Alaska by the United States under paragraph (1) are lands to be designated by the Secretary and the State of Alaska, consistent with sound land management principles, based on those lands determined by FERC with the concurrence of the Secretary and the State of Alaska, in accordance with section 3(b), to be the minimum amount of land necessary for the construction and operation of a hydroelectric project.

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

(6) For purposes of this Act, the term "land" means lands, waters, and interests therein.

(b) WILDERNESS.—(1) To ensure that this transaction maintains, within the National Wilderness Preservation System, approximately the same amount of area of designated wilderness as currently exists, the following lands in Alaska shall be designated as wilderness in the priority listed, upon consummation of the land exchange authorized by this Act and shall be administered according to the laws governing national wilderness areas in Alaska:

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

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

(C) An area of Glacier Bay National Park lying in T. 31. S., R. 43 E. and T. 32 S., R. 43 E., CRM, that is not currently designated wilderness, containing approximately 2,270 acres.

(2) The specific boundaries and acreage of these wilderness designations may be reasonably adjusted by the Secretary, consistent with sound land management principles, to approximately equal, in sum, the total wilderness acreage deleted from Glacier Bay National Park and Preserve pursuant to the land exchange authorized by this Act.

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

(1) following the submission of a complete license application, FERC has conducted economic and environmental analyses under the Federal Power Act (16 U.S.C. 791-828) (notwithstanding provisions of that Act and the Federal regulations that otherwise exempt this project from economic analyses), the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370), and the Fish and Wildlife Coordination Act (16 U.S.C. 661-666), that conclude, with the concurrence of the Secretary of the Interior with respect to subparagraphs (A) and (B), that the construction and operation of a hydroelectric power project on the lands described in section 3(b)—

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

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

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

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

(3) FERC has determined, with the concurrence of the Secretary and the State of Alaska, the minimum amount of land necessary to construct and operate this hydroelectric power project; and

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

SEC. 3. ROLE OF FERC.

(a) LICENSE APPLICATION.—(1) The FERC licensing process shall apply to any application submitted by Gustavus Electric Company to the FERC for the right to construct and operate a hydropower project on the lands described in subsection (b).

(2) FERC is authorized to accept and consider an application filed by Gustavus Electric Company for the construction and operation of a hydropower plant to be located on lands within the area described in subsection (b), notwithstanding section 3(2) of the Federal Power Act (16 U.S.C. 796(2)). Such application must be submitted within 3 years after the date of the enactment of this Act.

(3) FERC will retain jurisdiction over any hydropower project constructed on this site.

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

COPPER RIVER MERIDIAN

Township 39 South, Range 59 East, partially surveyed, Section 36 (unsurveyed), SE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ W $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$. Containing approximately 130 acres.

Township 40 South, Range 59 East, partially surveyed, Section 1 (unsurveyed), NW $\frac{1}{4}$, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, and SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, excluding U.S. Survey 944 and Native allotment A–442; Section 2 (unsurveyed), fractional, that portion lying above the mean high tide line of Icy Passage, excluding U.S. Survey 944 and U.S. Survey 945; Section 11 (unsurveyed), fractional, that portion lying above the mean high tide line of Icy Passage, excluding U.S. Survey 944; Section 12 (unsurveyed), fractional, NW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, and those portions of NW $\frac{1}{4}$ and SW $\frac{1}{4}$ lying above the mean high tide line of Icy Passage, excluding U.S. Survey 944 and Native allotment A–442. Containing approximately 1,015 acres.

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

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

(4) The National Park Service shall participate as a joint lead agency in the development of any environmental document under the National Environmental Policy Act of 1969 in the licensing of such project. Such environmental document shall consider both the impacts resulting from licensing and any land exchange necessary to authorize such project.

(c) ISSUANCE OF LICENSE.—(1) A condition of the license to construct and operate any portion of the hydroelectric power project shall be FERC's approval, prior to any commencement of construction, of a finance plan submitted by Gustavus Electric Company.

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

(3) FERC shall not license or relicense the project, or amend the project license unless it determines, with the Secretary's concurrence, that the project will not adversely impact the purposes and values of Glacier Bay National Park and Preserve (as constituted after the consummation of the land exchange authorized by this Act). Additionally, a condition of the license, or any succeeding license, to construct and operate any portion of the hydroelectric power project shall require the licensee to

mitigate any adverse effects of the project on the purposes and values of Glacier Bay National Park and Preserve identified by the Secretary after the initial licensing.

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

SEC. 4. ROLE OF SECRETARY OF THE INTERIOR.

(a) SPECIAL USE PERMIT.—Notwithstanding the provisions of the Wilderness Act (16 U.S.C. 1133–1136), the Secretary shall issue a special use permit to Gustavus Electric Company to allow the completion of the analyses referred to in section 3. The Secretary shall impose conditions in the permit as needed to protect the purposes and values of Glacier Bay National Park and Preserve.

(b) PARK SYSTEM.—The lands acquired from the State of Alaska under this Act shall be added to and administered as part of the National Park System, subject to valid existing rights. Upon completion of the exchange of lands under this Act, the Secretary shall adjust, as necessary, the boundaries of the affected National Park System units to include the lands acquired from the State of Alaska; and adjust the boundary of Glacier Bay National Park and Preserve to exclude the lands transferred to the State of Alaska under this Act. Any such adjustment to the boundaries of National Park System units shall not be considered in applying any acreage limitations under section 103(b) of Public Law 96–487.

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

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

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

SEC. 5. APPLICABLE LAW.

The authorities and jurisdiction provided in this Act shall continue in effect until such time as this Act is expressly modified or repealed by Congress.

PURPOSE OF THE BILL

The purpose of H.R. 3903 is to provide for an exchange of lands located near Gustavus, Alaska, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 3903 authorizes a land exchange between the State of Alaska and the United States to facilitate the construction and operation of a small hydroelectric project near Gustavus, Alaska.

Gustavus is a community surrounded by the 3.3 million-acre Glacier Bay National Park and Preserve in the southeast panhandle of Alaska. Of this total acreage, 2.77 million acres of the Park and Preserve are designated as wilderness. At present, Gustavus and the Park's headquarters rely on separate sets of diesel engines for power generation. Residents of Gustavus as well as Gustavus Electric Company desire the use of hydroelectric power as a cheaper and cleaner alternative to diesel generation.

A location near Gustavus, at Fall Creek, has been identified as a feasible site for an 800 kilowatt project. However, this site is located within the boundary of designated Park wilderness, where construction of hydroelectric facilities is prohibited by law.

The purpose of H.R. 3903 is to make development of the hydroelectric facility possible by taking the Fall Creek site out of the Park wilderness through an equal value land exchange between the United States and the State of Alaska. Under the bill, this ex-

change (and construction of the hydroelectric project) is subject to certain conditions. These conditions include a finding by the Federal Energy Regulatory Commission (FERC) that the proposed project will have no adverse impact to the purposes and values of Glacier Bay National Park, and FERC issuance of a license for the facility. In addition, FERC, Secretary of the Interior, and State of Alaska will determine the minimum amount of land necessary to construct and operate the hydroelectric facility.

After these conditions are met, the State of Alaska may acquire the land necessary to construct a hydroelectric facility at Fall Creek. In exchange, the United States will acquire State land of equal value through mutual agreement with State of Alaska; if no agreement is made, the United States shall accept land of equal value as specified in the bill. The bill additionally designates certain lands in Glacier Bay National Park as wilderness to ensure there is no net loss of wilderness.

COMMITTEE ACTION

H.R. 3903 was introduced on May 19, 1998, by Congressman Don Young (R-AK). The bill was referred to the Committee on Resources and in addition to the Committee on Commerce. On June 10, 1998, the Committee on Resources held a hearing on H.R. 3903, where testimony was received from the National Park Service, the Gustavus Electric Company, and the Sierra Club; the Administration testified it did not have a position. On July 22, 1998, the Full Resources Committee met to consider H.R. 3903. Congressman Don Young offered an amendment in the nature of a substitute to make technical and clarifying changes to the bill as introduced. The amendment was adopted by voice vote. The bill as amended was then ordered favorably reported to the House of Representatives by voice vote.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 2(1)(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 Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 and Article IV, section 8 of the Constitution of the United States grant Congress the authority to enact H.R. 3903.

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. 3903. 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 requirement of clause 2(1)(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. 3903 does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

2. With respect to the requirement of clause 2(1)(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. 3903.

3. With respect to the requirement of clause 2(1)(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. 3903 from the Director of the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 30, 1998.

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

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3903, the Glacier Bay National Park Boundary Adjustment Act of 1998.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Victoria V. Heid (for federal costs) and Marjorie Miller (for the state and local impact).

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

H.R. 3903—Glacier Bay National Park Boundary Adjustment Act of 1998

CBO estimates that implementing H.R. 3903 would cost the federal government less than \$500,000 over the 1999–2003 period, assuming the availability of appropriated funds. Because H.R. 3903 would not affect direct spending or receipts, pay-as-you-go procedures would not apply to the bill. H.R. 3903 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

H.R. 3903 would direct the Secretary of the Interior to convey to the state of Alaska sufficient federal land within the wilderness boundaries of Glacier Bay National Park and Preserve (GBNPP) to allow the Gustavus Electric Company (GEC) to construct and operate a hydroelectric project there. According to the National Park (NPS) and the state of Alaska, roughly 1,000 acres of federal land could be conveyed to the state, depending on the outcome of analysis by federal agencies and the state as to the minimum amount of land necessary for the project. In exchange, based on negotiation

between the state and federal government, the state would convey to the federal government land to be selected from about 1,145 acres specified in the bill. Land acquired from Alaska would be added to the National Park System. Upon completion of the exchange, the bill would designate as wilderness enough federal land in Alaska to avoid any net loss of wilderness acreage relative to current law.

H.R. 3903 would make the land exchange contingent on several items, including an analysis of the impact of the proposed hydroelectric project on GBNPP and an action by the Federal Energy Regulatory Commission (FERC) to grant GEC a license for the project. The bill would allow GEC three years from enactment to apply for a license from FERC. The Secretary of the Interior would have six months from the date on which FERC issues GEC a license to complete the land exchange. If the Secretary and the state do not agree within six months as to the state land to be conveyed to the federal government, the bill would require the Department of the Interior to accept state land of sufficient equal value to complete the exchange.

Based on information from the NPS, CBO estimates that conveying the federal land required for the hydroelectric project and designating additional federal land as wilderness would not result in any loss of receipts to the U.S. Treasury. We estimate that conducting the environmental analyses, implementing the conveyances, and adjusting park boundaries would cost the NPS less than \$500,000 over the 1999–2003 period, assuming the availability of appropriated funds. Furthermore, CBO estimates that any additional work by FERC to implement this bill would have net budgetary impact. If FERC receives additional appropriated funds to cover the cost of analyses and licensing, then the agency would offset those costs by collecting additional fees, as required under current law. In any case, we estimate that such FERC costs would be negligible.

The state of Alaska currently pays subsidies to individuals in the community of Gustavus to reduce their cost for electric power. Should the land exchange authorized by this bill lead to the construction and operation of a hydroelectric power project, these costs would be reduced and the payments by the state would decrease.

The CBO staff contacts for this estimate are Victoria V. Heid (for federal costs) and Marjorie Miller (for the state and local impact). This estimate was approved by Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

H.R. 3903 contains no unfunded mandates.

CHANGES IN EXISTING LAW

If enacted, H.R. 3903 would make no changes in existing law.

APPENDIX

HOUSE OF REPRESENTATIVES,
 COMMITTEE ON COMMERCE,
 Washington, DC, September 8, 1998.

Hon. DON YOUNG,
 Chairman, House Committee on Resources, Longworth House Office
 Building, Washington, DC.

DEAR DON: On July 22, 1998 the Committee on Resources ordered reported H.R. 3903, the Glacier Bay National Park Boundary Adjustment Act of 1998. H.R. 3903, as ordered reported by the Committee on Resources, details the role of the Federal Energy Regulatory Commission ("FERC") and Gustavus Electric Company in a land exchange between the United States and the State of Alaska. As you know, the Committee on Commerce was granted an additional referral upon its introduction pursuant to the Committee's jurisdiction over the generation and marketing of power under Rule X of the Rules of the House of Representatives.

Because of the importance of this matter, I recognize your desire to bring this legislation before the House in an expeditious manner. I also understand that you have agreed to address this Committee's concern over section 4(d) of the bill as ordered reported in a manager's amendment to be offered on the Floor. Therefore, with that understanding, I will waive consideration of the bill by the Commerce Committee. By agreeing to waive its consideration of the bill, the Commerce Committee does not waive its jurisdiction over H.R. 3903. In addition, the Commerce Committee reserves its authority to seek conferees on any provisions of the bill that are within the Commerce Committee's jurisdiction during any House-Senate conference that may be convened on this legislation. I would seek your commitment to support any request by the Commerce Committee for conferees on H.R. 3903 or related legislation.

I would appreciate your including this letter as a part of the Committee's report on H.R. 3903 and as part of the record during consideration of this bill by the House.

Sincerely,

TOM BLILEY, *Chairman.*

HOUSE OF REPRESENTATIVES,
 COMMITTEE ON RESOURCES,
 Washington, DC, September 9, 1998.

Hon. TOM BLILEY,
 Chairman, Committee on Commerce, Rayburn HOB, Washington,
 DC.

DEAR MR. CHAIRMAN: Thank you for your letter regarding H.R. 3903, the Glacier Bay National Park Boundary Adjustment Act of 1998, a land exchange bill I introduced to help Gustavus, Alaska, construct a small hydroelectric project to provide clean, lower-cost power for the community and for the operation of Glacier Bay National Park.

I appreciate you waiving your additional referral of this bill to allow it to be considered before the House of Representatives adjourns for the year. As your letter states, I plan to offer a man-

ager's amendment which addresses the concerns you raised regarding subsection 4(d) of the bill as reported by striking that subsection. In addition, I will include your letter in the report on the bill and in the Congressional Record during consideration of H.R. 3903 on the Floor. Finally, I will support your request to be represented on any conference on H.R. 3903 in the unlikely event that one becomes necessary.

Thank you again for your cooperation and that of Hugh Halpern of your staff. I look forward to seeing H.R. 3903 enacted into law soon.

Sincerely,

DON YOUNG, *Chairman.*

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