

Union Calendar No. 157

104TH CONGRESS
1ST SESSION

H. R. 2437

[Report No. 104-305]

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To provide for the exchange of certain lands in
Gilpin County, Colorado.

NOVEMBER 6, 1995

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 29, 1995

Mr. McINNIS introduced the following bill; which was referred to the
Committee on Resources

NOVEMBER 6, 1995

Reported with an amendment, committed to the Committee of the Whole
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[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on September 29, 1995]

A BILL

To provide for the exchange of certain lands in Gilpin
County, Colorado.

- 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. FINDINGS AND PURPOSES.**
4 *(a) FINDINGS.—Congress finds and declares that—*

1 (1) *certain scattered parcels of Federal land lo-*
2 *cated within Gilpin County, Colorado, are currently*
3 *administered by the Secretary of the Interior as part*
4 *of the Royal Gorge Resource Area, Canon City Dis-*
5 *trict, United States Bureau of Land Management;*

6 (2) *these land parcels, which comprises approxi-*
7 *mately 133 separate tracts of land, and range in size*
8 *from approximately 38 acres to much less than an*
9 *acre have been identified as suitable for disposal by*
10 *the Bureau of Land Management through its resource*
11 *management planning process and are appropriate*
12 *for disposal; and*

13 (3) *even though the Federal land parcels in Gil-*
14 *pin County, Colorado, are scattered and small in size,*
15 *they nevertheless by virtue of their proximity to exist-*
16 *ing communities appear to have a fair market value*
17 *which may be used by the Federal Government to ex-*
18 *change for lands which will better lend themselves to*
19 *Federal management and have higher values for fu-*
20 *ture public access, use and enjoyment, recreation, the*
21 *protection and enhancement of fish and wildlife and*
22 *fish and wildlife habitat, and the protection of ripar-*
23 *ian lands, wetlands, scenic beauty and other public*
24 *values.*

1 (b) *PURPOSE.*—It is the purpose of this Act to author-
2 ize, direct, facilitate and expedite the land exchange set
3 forth herein in order to further the public interest by dispos-
4 ing of Federal lands with limited public utility and acquire
5 in exchange therefor lands with important values for per-
6 manent public management and protection.

7 **SEC. 2. LAND EXCHANGE.**

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

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

18 (1) *certain lands comprising approximately 40*
19 *acres with improvements thereon located in Larimer*
20 *County, Colorado, and lying within the boundaries of*
21 *Rocky Mountain National Park as generally depicted*
22 *on a map entitled “Circle C Church Camp”, dated*
23 *August 1994, which shall upon their acquisition by*
24 *the United States and without further action by the*
25 *Secretary of the Interior be incorporated into Rocky*

1 *Mountain National Park and thereafter be adminis-*
2 *tered in accordance with the laws, rules and regula-*
3 *tions generally applicable to the National Park Sys-*
4 *tem and Rocky Mountain National Park;*

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

11 *(3) certain lands located within the United*
12 *States Bureau of Land Management Royal Gorge Re-*
13 *source Area in Huerfano County, Colorado, which*
14 *comprise approximately 4,700 acres and are generally*
15 *depicted on a map entitled "Bonham Ranch-Cucharas*
16 *Canyon", dated June 1995: Provided, however, That*
17 *it is the intention of Congress that such lands may*
18 *remain available for the grazing of livestock as deter-*
19 *mined appropriate by the Secretary in accordance*
20 *with applicable laws, rules, and regulations: Provided*
21 *further, That if the Secretary determines that certain*
22 *of the lands acquired adjacent to Cucharas Canyon*
23 *hereunder are not needed for public purposes they*
24 *may be sold in accordance with the provisions of sec-*

1 *tion 203 of the Federal Land Policy and Management*
2 *Act of 1976 and other applicable law.*

3 *(c) SUBSTITUTION OF LANDS.—If one or more of the*
4 *precise offered land parcels identified above is unable to be*
5 *conveyed to the United States due to appraisal or other*
6 *problems, Lake Gulch and the Secretary may mutually*
7 *agree to substitute therefor alternative offered lands accept-*
8 *able to the Secretary.*

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

15 *(A) certain surveyed lands located in Gilpin*
16 *County, Colorado, Township 3 South, Range 72 West,*
17 *Sixth Principal Meridian, Section 18, Lots 118–220,*
18 *which comprise approximately 195 acres and are in-*
19 *tended to include all federally owned lands in section*
20 *18, as generally depicted on a map entitled “Lake*
21 *Gulch Selected Lands”, dated July 1994;*

22 *(B) certain surveyed lands located in Gilpin*
23 *County, Colorado, Township 3 South, Range 72 West,*
24 *Sixth Principal Meridian, Section 17, Lots 37, 38,*
25 *39, 40, 52, 53, and 54, which comprise approximately*

1 96 acres, as generally depicted on a map entitled
2 “Lake Gulch Selected Lands”, dated July 1994; and
3 (C) certain unsurveyed lands located in Gilpin
4 County, Colorado, Township 3 South, Range 73 West,
5 Sixth Principal Meridian, Section 13, which com-
6 prise approximately 11 acres, and are generally de-
7 picted as parcels 302–304, 306 and 308–326 on a
8 map entitled “Lake Gulch Selected Lands”, dated
9 July 1994: Provided, however, That a parcel or par-
10 cels of land in section 13 shall not be transferred to
11 Lake Gulch if at the time of the proposed transfer the
12 parcel or parcels are under formal application for
13 transfer to a qualified unit of local government. Due
14 to the small and unsurveyed nature of such parcels
15 proposed for transfer to Lake Gulch in section 13,
16 and the high cost of surveying such small parcels, the
17 Secretary is authorized to transfer such section 13
18 lands to Lake Gulch without survey based on such
19 legal or other description as the Secretary determines
20 appropriate to carry out the basic intent of the map
21 cited in this subparagraph.

22 (2) If the Secretary and Lake Gulch mutually agree,
23 and the Secretary determines it is in the public interest,
24 the Secretary may utilize the authority and direction of this
25 Act to transfer to Lake Gulch lands in sections 17 and 13

1 *that are in addition to those precise selected lands shown*
2 *on the map cited herein, and which are not under formal*
3 *application for transfer to a qualified unit of local govern-*
4 *ment, upon transfer to the Secretary of additional offered*
5 *lands acceptable to the Secretary or upon payment to the*
6 *Secretary by Lake Gulch of cash equalization money*
7 *amounting to the full appraised fair market value of any*
8 *such additional lands. If any such additional lands are lo-*
9 *cated in section 13 they may be transferred to Lake Gulch*
10 *without survey based on such legal or other description as*
11 *the Secretary determines appropriate as long as the Sec-*
12 *retary determines that the boundaries of any adjacent lands*
13 *not owned by Lake Gulch can be properly identified so as*
14 *to avoid possible future boundary conflicts or disputes. If*
15 *the Secretary determines surveys are necessary to convey*
16 *any such additional lands to Lake Gulch, the costs of such*
17 *surveys shall be paid by Lake Gulch but shall not be eligible*
18 *for any adjustment in the value of such additional lands*
19 *pursuant to section 206(f)(2) of the Federal Land Policy*
20 *and Management Act of 1976 (as amended by the Federal*
21 *Land Exchange Facilitation Act of 1988) (43 U.S.C.*
22 *1716(f)(2)).*

23 *(3) Prior to transferring out of public ownership pur-*
24 *suant to this Act or other authority of law any lands which*
25 *are contiguous to North Clear Creek southeast of the City*

1 of Black Hawk, Colorado in the County of Gilpin, Colorado,
2 the Secretary shall notify and consult with the County and
3 City and afford such units of local government an oppor-
4 tunity to acquire or reserve pursuant to the Federal Land
5 Policy and Management Act of 1976 or other applicable
6 law, such easements or rights-of-way parallel to North Clear
7 Creek as may be necessary to serve public utility line or
8 recreation path needs: Provided, however, That any survey
9 or other costs associated with the acquisition or reservation
10 of such easements or rights-of-way shall be paid for by the
11 unit or units of local government concerned.

12 **SEC. 3. TERMS AND CONDITIONS OF EXCHANGE.**

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

23 (2) In the event any cash equalization or land sale
24 moneys are received by the United States pursuant to this
25 Act, any such moneys shall be retained by the Secretary

1 *of the Interior and may be utilized by the Secretary until*
2 *fully expended to purchase from willing sellers land or*
3 *water rights, or a combination thereof, to augment wildlife*
4 *habitat and protect and restore wetlands in the Bureau of*
5 *Land Management's Blanca Wetlands, Alamosa County,*
6 *Colorado.*

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

22 (b) *RESTRICTIONS ON SELECTED LANDS.—(1) Con-*
23 *veyance of the selected lands to Lake Gulch pursuant to this*
24 *Act shall be contingent upon Lake Gulch executing an*
25 *agreement with the United States prior to such conveyance,*

1 *the terms of which are acceptable to the Secretary of the*
2 *Interior, and which—*

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

8 (B) *permanently hold the United States harmless*
9 *for liability and indemnify the United States against*
10 *all costs arising from any activities, operations (in-*
11 *cluding the storing, handling, and dumping of haz-*
12 *ardous materials or substances) or other acts con-*
13 *ducted by Lake Gulch or its employees, agents, succes-*
14 *sors or assigns on the selected lands after their trans-*
15 *fer to Lake Gulch: Provided, however, That nothing in*
16 *this Act shall be construed as either diminishing or*
17 *increasing any responsibility or liability of the*
18 *United States based on the condition of the selected*
19 *lands prior to or on the date of their transfer to Lake*
20 *Gulch.*

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

24 (3) *The above terms and restrictions of this subsection*
25 *shall not be considered in determining, or result in any*

1 *diminution in, the fair market value of the selected land*
2 *for purposes of the appraisals of the selected land required*
3 *pursuant to section 3 of this Act.*

4 (c) *REVOCATION OF WITHDRAWAL.—The Public Water*
5 *Reserve established by Executive order dated April 17, 1926*
6 *(Public Water Reserve 107), Serial Number Colorado*
7 *17321, is hereby revoked insofar as it affects the NW¹/₄*
8 *SW¹/₄ of Section 17, Township 3 South, Range 72 West,*
9 *Sixth Principal Meridian, which covers a portion of the se-*
10 *lected lands identified in this Act.*

11 **SEC. 4. MISCELLANEOUS PROVISIONS.**

12 (a) *DEFINITIONS.—As used in this Act:*

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

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

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

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

23 (5) *The term “Blanca Wetlands” means an area*
24 *of land comprising approximately 9,290 acres, as*
25 *generally depicted on a map entitled “Blanca Wet-*

1 *lands”, dated August 1994, or such land as the Sec-*
2 *retary may add thereto by purchase from willing sell-*
3 *ers after the date of enactment of this Act utilizing*
4 *funds provided by this Act or such other moneys as*
5 *Congress may appropriate.*

6 *(b) TIME REQUIREMENT FOR COMPLETING TRANS-*
7 *FER.—It is the intent of Congress that unless the Secretary*
8 *and Lake Gulch mutually agree otherwise the exchange of*
9 *lands authorized and directed by this Act shall be completed*
10 *not later than 6 months after the date of enactment of this*
11 *Act. In the event the exchange cannot be consummated with-*
12 *in such 6-month-time period, the Secretary, upon applica-*
13 *tion by Lake Gulch, is directed to sell to Lake Gulch at*
14 *appraised fair market value any or all of the parcels (com-*
15 *prising a total of approximately 11 acres) identified in sec-*
16 *tion 2(d)(1)(C) of this Act as long as the parcel or parcels*
17 *applied for are not under formal application for transfer*
18 *to a qualified unit of local government.*

19 *(c) ADMINISTRATION OF LANDS ACQUIRED BY UNITED*
20 *STATES.—In accordance with the provisions of section*
21 *206(c) of the Federal Land Policy and Management Act of*
22 *1976 (43 U.S.C. 1716(c)), all lands acquired by the United*
23 *States pursuant to this Act shall upon acceptance of title*
24 *by the United States and without further action by the Sec-*
25 *retary concerned become part of and be managed as part*

- 1 *of the administrative unit or area within which they are*
- 2 *located.*