

Calendar No. 297

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**H. R. 2437**

[Report No. 104-196]

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**AN ACT**

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

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DECEMBER 21, 1995

Reported without amendment

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104TH CONGRESS  
1ST SESSION**H. R. 2437****[Report No. 104-196]**

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IN THE SENATE OF THE UNITED STATES

NOVEMBER 8, 1995

Received; read twice and referred to the Committee on Energy and Natural  
Resources

DECEMBER 21, 1995

Reported by Mr. MURKOWSKI, without amendment

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**AN ACT**

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—

5 (1) certain scattered parcels of Federal land lo-  
6 cated within Gilpin County, Colorado, are currently

1 administered by the Secretary of the Interior as part  
2 of the Royal Gorge Resource Area, Canon City Dis-  
3 trict, United States Bureau of Land Management;

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

11 (3) even though the Federal land parcels in Gil-  
12 pin County, Colorado, are scattered and small in  
13 size, they nevertheless by virtue of their proximity to  
14 existing communities appear to have a fair market  
15 value which may be used by the Federal Government  
16 to exchange for lands which will better lend them-  
17 selves to Federal management and have higher val-  
18 ues for future public access, use and enjoyment,  
19 recreation, the protection and enhancement of fish  
20 and wildlife and fish and wildlife habitat, and the  
21 protection of riparian lands, wetlands, scenic beauty  
22 and other public values.

23 (b) PURPOSE.—It is the purpose of this Act to au-  
24 thorize, direct, facilitate and expedite the land exchange  
25 set forth herein in order to further the public interest by

1 disposing of Federal lands with limited public utility and  
2 acquire in exchange therefor lands with important values  
3 for permanent public management and protection.

4 **SEC. 2. LAND EXCHANGE.**

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

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

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

1 tions generally applicable to the National Park Sys-  
2 tem and Rocky Mountain National Park;

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

9 (3) certain lands located within the United  
10 States Bureau of Land Management Royal Gorge  
11 Resource Area in Huerfano County, Colorado, which  
12 comprise approximately 4,700 acres and are gen-  
13 erally depicted on a map entitled “Bonham Ranch-  
14 Cucharas Canyon”, dated June 1995: *Provided, how-*  
15 *ever*, That it is the intention of Congress that such  
16 lands may remain available for the grazing of live-  
17 stock as determined appropriate by the Secretary in  
18 accordance with applicable laws, rules, and regula-  
19 tions: *Provided further*, That if the Secretary deter-  
20 mines that certain of the lands acquired adjacent to  
21 Cucharas Canyon hereunder are not needed for pub-  
22 lic purposes they may be sold in accordance with the  
23 provisions of section 203 of the Federal Land Policy  
24 and Management Act of 1976 and other applicable  
25 law.

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

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

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

20           (B) certain surveyed lands located in Gilpin  
21 County, Colorado, Township 3 South, Range 72  
22 West, Sixth Principal Meridian, Section 17, Lots 37,  
23 38, 39, 40, 52, 53, and 54, which comprise approxi-  
24 mately 96 acres, as generally depicted on a map en-

1 titled “Lake Gulch Selected Lands”, dated July  
2 1994; and

3 (C) certain unsurveyed lands located in Gilpin  
4 County, Colorado, Township 3 South, Range 73  
5 West, Sixth Principal Meridian, Section 13, which  
6 comprise approximately 11 acres, and are generally  
7 depicted as parcels 302–304, 306 and 308–326 on  
8 a 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  
12 the parcel or parcels are under formal application  
13 for transfer to a qualified unit of local government.  
14 Due to the small and unsurveyed nature of such  
15 parcels proposed for transfer to Lake Gulch in sec-  
16 tion 13, and the high cost of surveying such small  
17 parcels, the Secretary is authorized to transfer such  
18 section 13 lands to Lake Gulch without survey based  
19 on such legal or other description as the Secretary  
20 determines appropriate to carry out the basic intent  
21 of the map 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  
25 this Act to transfer to Lake Gulch lands in sections 17

1 and 13 that are in addition to those precise selected lands  
2 shown on the map cited herein, and which are not under  
3 formal application for transfer to a qualified unit of local  
4 government, upon transfer to the Secretary of additional  
5 offered lands acceptable to the Secretary or upon payment  
6 to the 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  
11 as the Secretary determines appropriate as long as the  
12 Secretary determines that the boundaries of any adjacent  
13 lands not owned by Lake Gulch can be properly identified  
14 so as to avoid possible future boundary conflicts or dis-  
15 putes. If the Secretary determines surveys are necessary  
16 to convey any such additional lands to Lake Gulch, the  
17 costs of such surveys shall be paid by Lake Gulch but shall  
18 not be eligible for any adjustment in the value of such  
19 additional lands pursuant to section 206(f)(2) of the Fed-  
20 eral Land Policy and Management Act of 1976 (as amend-  
21 ed by the Federal Land Exchange Facilitation Act of  
22 1988) (43 U.S.C. 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, Colo-  
2 rado, the Secretary shall notify and consult with the Coun-  
3 ty and City and afford such units of local government an  
4 opportunity to acquire or reserve pursuant to the Federal  
5 Land Policy and Management Act of 1976 or other appli-  
6 cable law, such easements or rights-of-way parallel to  
7 North Clear Creek as may be necessary to serve public  
8 utility line or recreation path needs: *Provided, however,*  
9 That any survey or other costs associated with the acquisi-  
10 tion or reservation of such easements or rights-of-way  
11 shall be paid for by the unit or units of local government  
12 concerned.

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

14 (a) EQUALIZATION OF VALUES.—(1) The values of  
15 the lands to be exchanged pursuant to this Act shall be  
16 equal as determined by the Secretary of the Interior utiliz-  
17 ing comparable sales of surface and subsurface property  
18 and nationally recognized appraisal standards, including,  
19 to the extent appropriate, the Uniform Standards for Fed-  
20 eral Land Acquisition, the Uniform Standards of Profes-  
21 sional Appraisal Practice, the provisions of section 206(d)  
22 of the Federal Land Policy and Management Act of 1976  
23 (43 U.S.C. 1716(d)), and other applicable law.

24 (2) In the event any cash equalization or land sale  
25 moneys are received by the United States pursuant to this

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

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

24 (b) RESTRICTIONS ON SELECTED LANDS.—(1) Con-  
25 veyance of the selected lands to Lake Gulch pursuant to

1 this Act shall be contingent upon Lake Gulch executing  
2 an agreement with the United States prior to such convey-  
3 ance, the terms of which are acceptable to the Secretary  
4 of the Interior, and which—

5           (A) grant the United States a covenant that  
6           none of the selected lands (which currently lie out-  
7           side the legally approved gaming area) shall ever be  
8           used for purposes of gaming should the current legal  
9           gaming area ever be expanded by the State of Colo-  
10          rado; and

11          (B) permanently hold the United States harm-  
12          less for liability and indemnify the United States  
13          against all costs arising from any activities, oper-  
14          ations (including the storing, handling, and dumping  
15          of hazardous materials or substances) or other acts  
16          conducted by Lake Gulch or its employees, agents,  
17          successors or assigns on the selected lands after  
18          their transfer to Lake Gulch: *Provided, however,*  
19          That nothing in this Act shall be construed as either  
20          diminishing or increasing any responsibility or liabil-  
21          ity of the United States based on the condition of  
22          the selected lands prior to or on the date of their  
23          transfer to Lake Gulch.

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

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

9           (c) REVOCATION OF WITHDRAWAL.—The Public  
10 Water Reserve established by Executive order dated April  
11 17, 1926 (Public Water Reserve 107), Serial Number Col-  
12 orado 17321, is hereby revoked insofar as it affects the  
13 NW<sup>1</sup>/<sub>4</sub> SW<sup>1</sup>/<sub>4</sub> of Section 17, Township 3 South, Range 72  
14 West, Sixth Principal Meridian, which covers a portion of  
15 the selected lands identified in this Act.

16 **SEC. 4. MISCELLANEOUS PROVISIONS.**

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

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

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

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

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

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

12       (b) TIME REQUIREMENT FOR COMPLETING TRANS-  
13 FER.—It is the intent of Congress that unless the Sec-  
14 retary and Lake Gulch mutually agree otherwise the ex-  
15 change of lands authorized and directed by this Act shall  
16 be completed not later than 6 months after the date of  
17 enactment of this Act. In the event the exchange cannot  
18 be consummated within such 6-month-time period, the  
19 Secretary, upon application by Lake Gulch, is directed to  
20 sell to Lake Gulch at appraised fair market value any or  
21 all of the parcels (comprising a total of approximately 11  
22 acres) identified in section 2(d)(1)(C) of this Act as long  
23 as the parcel or parcels applied for are not under formal  
24 application for transfer to a qualified unit of local govern-  
25 ment.

1           (c) ADMINISTRATION OF LANDS ACQUIRED BY UNIT-  
2 ED STATES.—In accordance with the provisions of section  
3 206(c) of the Federal Land Policy and Management Act  
4 of 1976 (43 U.S.C. 1716(c)), all lands acquired by the  
5 United States pursuant to this Act shall upon acceptance  
6 of title by the United States and without further action  
7 by the Secretary concerned become part of and be man-  
8 aged as part of the administrative unit or area within  
9 which they are located.

          Passed the House of Representatives November 7,  
1995.

Attest:

ROBIN H. CARLE,

*Clerk.*