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REFERENCE: Vol. 144, No. 122

TITLE: GLACIER BAY NATIONAL PARK BOUNDARY ADJUSTMENT ACT OF 1998

SPEAKER: Mr. YOUNG OF ALASKA; Mr. FALEOMAVAEGA; Mr. DAN SCHAEFER OF COLORADO

BILL NUMBER:

H.R. 3903

TEXT: [*H7750]

Mr. YOUNG of Alaska. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3903) to provide for an exchange of lands near Gustavus, Alaska, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3903

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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 1/4 , S 1/2 NW 1/4 , and S 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 1/4 , S 1/2 NW 1/4 , SW 1/4 , and N 1/2 SE 1/4 ; Sec. 12; Sec. 14, lots 1 and 2, NW 1/4 NW 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 1/4 NE 1/4 and NW 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 1/2 SW 1/4 and SE 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).

[*H7751]

(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 1/4 SW 1/4 , S 1/2 SW 1/4 SW 1/4 , NE 1/4 SW 1/4 , W 1/2 W 1/2 NW 1/4 SE 1/4 , and S 1/2 SE 1/4 NW 1/4 . Containing approximately 130 acres.

Township 40 South, Range 59 East, partially surveyed, Section 1 (unsurveyed), NW 1/4 , SW 1/4 , W 1/2 SE 1/4 , and SW 1/4 SW 1/4 NE 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 1/4 NE 1/4 , W 1/2 NW 1/4 SW 1/4 NE 1/4 , and those portions of NW 1/4 and SW 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) 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.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Alaska (Mr. Young) and the gentleman from American Samoa (Mr. Faleomavaega) each will control 20 minutes.

The Chair recognizes the gentleman from Alaska (Mr. Young).

(Mr. YOUNG of Alaska asked and was given permission to revise and extend his remarks.)

Mr. YOUNG of Alaska. Mr. Speaker, H.R. 3903 authorizes a conditional land exchange between the State of Alaska and the United States.

The purpose of the exchange is to enable the construction and operation of a small, 800 kilowatt hydroelectric project for the community of Gustavus, which is located in Southeast Alaska on the edge of Glacier Bay National Park. If feasible, the project would also provide low-cost, clean power to the National Park Service.

The committee held a hearing on H.R. 3903 on June 10, 1998. By a voice vote, the bill was ordered reported, with an amendment, on July 22.

This legislation completes several years of negotiation with the Gustavus Electric Company, the State of Alaska, the National Park Service, and local environmental groups. I would like to thank the gentleman from Virginia (Mr. Bliley) and the work of the Committee on Commerce in expediting House consideration of H.R. 3903.

The need from the bill arises from Gustavus's reliance on diesel generation for its power, which presents air emission considerations, high energy costs, and risks of fuel spills during shipment. To avoid the drawbacks of using diesel fuel, Gustavus Electric Company studied alternative power sources. Hydroelectricity generating at a nearby area called Falls Creek was identified as the city's best option. I believe it also make sense for the National Park Service, too, because the agency relies on a separate set of diesel generations there.

The problem with constructing a hydro-facility is that Falls Creek, the proposed site, is currently located inside the boundary of designated **wilderness** of Glacier Bay National Park, where such a project is not allowed. To solve this problem, H.R. 3903 authorizes a land exchange that will put the site in State ownership, redraw the park and **wilderness** boundary, and enable the United States to acquire lands of equal value in Alaska.

When this land exchange was originally proposed, there was concern expressed by the administration and some Alaskans over the potential environmental impact of a hydro project in Glacier Bay National Park. I have never understood why anyone would object to hydropower when the alternative is to continue burning diesel fuel at a national park.

Regardless, these concerns have been put to rest.

In the interest of moving forward, I agreed to make the land exchange conditional on a determination by the Federal Energy Regulatory Commission that a hydro facility will have no adverse impact on the Park. In other words, there will be no land exchange, and therefore, no project, if FERC finds there will be any harm.

The bill under consideration today has a minor amendment to the reported bill. The amendment strikes section 4(d) of the reported bill. This action is technical in nature only.

Mr. Speaker, at this time I include for the Record correspondence relative to this bill.

House of Representatives,

Committee on Commerce,

Washington, DC, September 8, 1998.

Hon. Don Young,
Chairman, House Committee on Resources, 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

[*H7752]

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,
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 manager'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.

time 1530

Crafting this bill has taken some time, but the final project advances a sensible local solution to a serious local problem and should be enacted into law without further delay.

Mr. Speaker, I reserve the balance of my time.

(Mr. FALEOMAVAEGA asked and was given permission to revise and extend his remarks.)

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentleman from Alaska (Mr. Young), the chairman of the Committee on Resources for bringing this piece of legislation for consideration by this body.

Mr. Speaker, I rise in strong support of this legislation as it was sponsored and authored by the gentleman from Alaska, also chairman of the Committee on Resources.

It may strike some as unusual for a bill that can lead to a hydro project in what is now a national park **wilderness** to be acceptable to the National Park Service. But this is a unique case, Mr. Speaker. Both the community of Gustavus, Alaska and the Park Service facilities at Glacier Bay National Park are dependent upon diesel generation facilities for their electrical power. Barging oil poses a threat of spills in park waters. Diesel power generates emissions and is expensive.

Mr. Speaker, the basic purpose of this bill is to authorize a review of whether there are more economical and environmentally benign alternative sources of power for the community of Gustavus. We are not

endorsing any specific project in this legislation. Rather, we are empowering the Park Service, as partners with the Federal Energy Regulatory Commission, to study this matter in depth prior to making any decision of whether a small hydroelectric project is either economically feasible or environmentally desirable.

Mr. Speaker, as an additional safeguard for the best interest of the park's resources, we have extended what in effect is veto power for the National Park Service, making any land exchange and FERC license subject to their consent. Many questions remain to be addressed in this process, including concerns raised by the environmental witnesses in hearing testimony before the committee.

But on the balance, Mr. Speaker, I think it is worth determining in a comprehensive public process whether there is a better way to produce power for the community of Gustavus. In this regard, I would note for the record a comment made by the Governor of Alaska, Tony Knowles in a letter to the chairman of the committee, quote, "The State has worked closely with your staff, the National Park Service staff, and the Gustavus Electric Company in the development of this bill; and we believe it is in the public interest to enact such legislation. Most notably, this land exchange would facilitate the development of the Fall Creek hydroelectric project near Gustavus. This project, as you know, has the potential to provide long-term affordable electricity to the people of Gustavus and to the National Park Service facilities. It will reduce State subsidies and replace diesel fuel with a clean, local, and renewable energy source."

Mr. Speaker, a small-scale hydro project and land exchange as contemplated in this legislation may well be in the public interest. However, that will be determined only after a joint environmental Impact Statement conducted by the Park Service and FERC and only if a license is issued by FERC with the consent of the Park Service.

In light of these safeguards, Mr. Speaker, I submit this to my colleagues in the House, and I ask them for their support. Support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. DAN SCHAEFER of Colorado. Mr. Speaker, I rise in support of H.R. 3903, the "Glacier Bay National Park Boundary Adjustment Act of 1998." This bill provides for a land exchange in Alaska in anticipation of future development of a hydroelectric project in a remote area of the State. Development of this project will sharply lower the cost of electricity paid by customers in this rural area, which currently relies on high-cost diesel generation.

H.R. 3903 provides a role for the Federal Energy Regulatory

Commission in the land exchange. Under the bill, the Commission determines the minimum amount of land necessary for the construction and operation of a hydroelectric project. In addition, the land exchange may occur only if the Commission has conducted economic and environmental analyses that conclude the construction and operation of a hydroelectric project on the exchanged land will not adversely impact the Glacier Bay National Park and Preserve, will comply with the National Historic Preservation Act, and can be accomplished in an economically feasible manner.

Significantly, the bill does not circumscribe the Commission's hydroelectric licensing process. Any hydroelectric project on the exchanged lands must be licensed by the Commission, and the Commission retains jurisdiction over the operation of any such facility. H.R. 3903 does not limit the application of the Federal Power act to the licensing of a hydroelectric project on the exchanged lands. The bill does impose additional conditions beyond those in the Act. For example, the Commission is directed to determine the minimum amount of lands necessary for construction and operation of a hydroelectric project. H.R. 3903 also conditions the license on Commission approval of a finance plan submitted by the applicant, the Gustavus Electric Company. In addition, the bill bars the Commission from licensing or relicensing the hydroelectric project unless it determines the project will not adversely impact the purposes and values of Glacier Bay National Park and Preserve. Finally, H.R. 3903 requires that the licensee mitigate any adverse effects of the project on the purposes and values of Glacier Bay National Park and Preserve as a condition of the license.

The Committee on Commerce has jurisdiction over all functions of the Federal Energy Regulatory Commission, including its hydroelectric licensing process. The Committee was pleased to work with the Committee on Resources on this legislation. As indicated in the exchange of correspondence in the report filed by the Committee on Resources, the Committee on Commerce waived referral of H.R. 3903 in order to expedite floor consideration. However, that does not constitute a waiver of jurisdiction.

As reflected in the exchange of letters between the Committee on Commerce and the Committee on Resources, the Committee on Resources has agreed to an amendment to strike section 4(d) from the bill. This amendment clarifies that the licensee must pay all Federal land use fees required under section 10(e) of the Federal Power Act. This exchange of letters also commemorates that the Committee on Resources would support a request by the Committee on Commerce in the event there is a conference on H.R. 3903.

[*H7753]

I urge support for the legislation.

Mr. YOUNG of Alaska. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I do not have any additional speakers as well, and I yield back the balance of time.

The SPEAKER pro tempore (Mr. Shimkus). The question is on the motion offered by the gentleman from Alaska (Mr. Young) that the House suspend the rules and pass the bill, H.R. 3903, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.