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105th Congress, 2nd Session

Senate Report 105-306

105 S. Rpt. 306

GLACIER BAY NATIONAL PARK BOUNDARY ADJUSTMENT ACT OF 1998

DATE: September 8, 1998. Ordered to be printed

SPONSOR: Mr. Murkowski submitted the following

COMMITTEE: from the Committee on Energy and Natural Resources

R E P O R T

(To accompany S. 2109)

TEXT:

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2109) to provide for an exchange of lands located near Gustavus, Alaska, and for other purposes, 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. 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 (2) in exchange for the lands identified in paragraph (4), 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 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 one year after a license is issued, title of land having an 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, 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. 2, NW 1/4 NE 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 the 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 from 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 FERCs 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, relicense the project, or amend the project license unless it determines, with the Secretarys 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 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 adjustments 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 payments under section 10(e) of the Federal Power Act (16 U.S.C. 803(c)) 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 Measure

The purpose of S. 2109, as ordered reported, is to authorize a land exchange between the State of Alaska and the United States to facilitate the construction of a hydroelectric power project within the boundaries of Glacier Bay National Park and Preserve.

background and need

S. 2109 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. 2.77 million acres of the park and preserve are designated as **wilderness**. Currently, Gustavus and the parks headquarters rely on separate sets of diesel engines for power generation. Residents of Gustavus as well as the Gustavus Electric Company desire the use of hydroelectric power as a cheaper and cleaner alternative power source to diesel generation.

A location near Gustavus, at Falls Creek, has been identified as a feasible site for an 800 kW project. However, this site is located within the park in a designated **wilderness** area, where construction of hydroelectric facilities is prohibited by law.

The purpose of S. 2109 is to make development of the hydro facility possible by exchanging the Falls Creek site from the Park and **wilderness** boundaries through an

equal value exchange between the United States and the State of Alaska. Under the bill, this exchange and the construction of the hydro project are subject to certain conditions. These conditions include a finding by the Federal Energy Regulatory Commission (FERC), with the concurrence of the Secretary of the Interior, that the proposed project will have no adverse impact to the purpose and values for which Glacier Bay National Park and Preserve was established, and FERC issuance of a license for the facility. In addition, FERC, the Secretary of the Interior and the State of Alaska shall determine the minimum amount of land necessary to construct and operate the hydro facility.

After the above conditions are met, a land exchange is authorized whereby the State of Alaska may acquire the land necessary to construct a hydro facility of Falls Creek. In exchange, the United States will acquire State land of equal value through mutual agreement with the State of Alaska; if no agreement is made, the United States shall accept land of equal value as specified in the bill.

The legislation also designates certain lands in Glacier Bay National Park as **wilderness** to ensue that there would be no net loss of **wilderness** acreage in the park as a result of removing the Falls Creek area from the park boundary.

legislative history

S. 2109 was introduced by Senator Murkowski and Senator Stevens on May 21, 1998 and referred to the Committee on Energy and Natural Resources. The Subcommittee on National Parks, Historic Preservation, and Recreation held a hearing on S. 2109 on July 23, 1998.

At its business meeting on July 29, 1998, the Committee on Energy and Natural Resources ordered S. 2109, as amended, favorably reported.

committee recommendation and tabulation of votes

The Committee on Energy and Natural Resources, in open business session on July 29, 1998, by a unanimous voice vote of a quorum present, recommends that the Senate pass S. 2109, if amended, as described herein.

committee amendment

During the consideration of S. 2109, the Committee adopted an amendment in the nature of a substitute, which made several technical and clarifying changes to the bill as introduced. The amendment is described in detail in the section-by-section analysis, below.

section-by-section analysis

Section 1 designates the short title as the "Glacier Bay National Park Boundary Adjustment Act of 1998."

Section 2(a) requires the Secretary of the Interior to convey to the State of Alaska certain land in Glacier Bay National Park and Preserve near Falls Creek, in exchange for State land that will become part of the National Park System in the State of Alaska.

The land to be conveyed to the State by the Secretary of the Interior is to be the minimum needed for the proposed hydroelectric project, as determined by the Federal Energy and Regulatory Commission (FERC) in accordance with the National Environmental Policy Act (NEPA) process.

Section 2(a)(1) authorizes the United States and the State of Alaska (the "State") to enter into a land exchange, subject to the conditions of this Act. Upon the States offer to transfer lands identified in paragraph (2) to the United States, the Secretary of the Interior (the "Secretary") is directed to transfer lands located in Glacier Bay National Park to the State. The exchange is to be completed no later than 6 months after the Gustavus Electric Company receives a license from the Federal Energy Regulatory Commission (FERC) for the Hydroelectric project.

Paragraph (2) provides that the State lands to be conveyed to the United States are to be identified by mutual agreement of the Secretary and the State.

Paragraph (3) states that if, within 6 months after a license is issued to the Gustavus Electric Company, the Secretary and the State are unable to agree on the specific State lands to be conveyed, the United States shall accept clear title to State lands having sufficiently equal value of the Federal lands conveyed to the State. The paragraph specifically identifies State lands located in Wrangell-St. Elias National Park and Preserve that are to be conveyed to the United States.

Paragraph (4) identifies the Federal lands that are to be conveyed to the State. The Federal lands are located in the Falls Creek area of Glacier Bay National Park. The lands to be conveyed are to be designated by the Secretary and the State, consistent with sound land management principles, that the FERC determines, in concurrence with the Secretary and the State, to be the minimum amount of land necessary for the construction and operation of the hydroelectric project.

Paragraph (5) authorizes the Secretary to extend the time periods set forth in this section if processes of Federal or State law delay the completion of the exchange.

Subsection (b) provides for no net loss of **wilderness** acreage within Glacier Bay National Park and preserve. To the extent that land is taken out of **wilderness** and conveyed to the State of Alaska pursuant to the process described in the previous section, an equal amount of lands currently within Glacier Bay National Park and Preserve but not yet designated as **wilderness** is designated as **wilderness**.

Subsection (c) provides that any exchange of lands under this Act may occur only if the following conditions are met:

(1) FERC must conduct economic and environmental analysis under the Federal Power Act, National Environmental Policy Act, and the Fish and Wildlife Coordination Act which determine that the construction and operation of the hydroelectric project will not adversely impact the purposes and values for which Glacier Bay National Park and Preserve was established; the project will meet the requirements of the National Historic Preservation Act; and that the project can be accomplished in an economically feasible manner. The Secretary of the Interior must concur in this determination;

(2) FERC must hold one public meeting in Gustavus;

(3) FERC must determine the minimum amount of land necessary to operate the proposed hydro project; and

(4) Gustavus Electric Company must obtain a license from FERC.

Section 3(a) provides that the FERC licensing process shall apply to any application submitted by Gustavus Electric Company for the right to construct and operate a hydro project in the Falls Creek area and FERC is authorized to accept such an application notwithstanding Section 3(2) of the Federal Power Act. Gustavus Electric Company must

submit its application within three years from the date of enactment of this Act.

Subsection (b) describes the location of the Falls Creek lands and requires that FERC, with the concurrence of the Secretary and the State, to determine the minimum amount of lands necessary for construction and the operation of the hydroelectric project.

In addition, the section requires the National Park Service to participate as the joint lead agency in the development of any environmental documentation under NEPA in the licensing of the project.

Subsection (c) provides that Gustavus Electric Company must submit a financial plan that is approved by FERC and that the National Park Service waives its right to impose mandatory conditions on the project lands as might otherwise be allowed under Section 4(e) of the Federal Power Act.

FERC shall not license the project unless it determines, with the Secretary's concurrence, that the project will not adversely impact the purposes and values for which Glacier Bay National Park and Preserve was established. Additionally, the license shall require the licensee to mitigate any adverse effects identified by the Secretary after the initial licensing.

Section 4 provides that the Gustavus Electric Company shall be granted a special use permit to perform NEPA work required for an environmental analysis under NEPA.

In addition, the section provides that the lands acquired from the State of Alaska under this Act shall be added to and administered as part of the National Park System. The boundaries of Glacier Bay National Park and Preserve are modified to reflect the exclusion of the lands transferred to the State. In addition, the boundaries of Glacier Bay National Park and Preserve and Wrangell-St. Elias National Park and Preserve are adjusted, where necessary, to reflect the addition of the lands conveyed by the State. Any such adjustment to the boundaries of the National Park System unit shall not be considered in applying any acreage limitations under Section 102(b) of the Alaska National Interest Lands Conservation Act.

Gustavus Electric Company shall not be required to make federal land payments under the Federal Power Act with respect to the lands exchanged under this Act.

Section 5 provides that the authorities and jurisdiction provided in this Act shall remain in effect until expressed and modified or repealed by Congress.

cost and budgetary considerations

The following cost estimate of this measure has been provided by the Congressional Budget Office: U.S. Congress, Congressional Budget Office, Washington, DC, August 14, 1998. Hon. Frank H. Murkowski, Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2109, 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 Majorie Miller (for the state and local impact).

Sincerely, June E. O'Neill, Director.

Enclosure.

S. 2109 Glacier Bay National Park Boundary Adjustment Act of 1998

CBO estimates that implementing S. 2109 would cost the federal government less than \$500,000 over the 1999-2003 period, assuming the availability of appropriated funds. Because S. 2109 would not affect direct spending or receipts, pay-as-you-go procedures would not apply to the bill. S. 2109 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.

S. 2109 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 Service (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 negotiations between the state and federal government, the state would convey to the federal government land to be selected from acreage 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.

S. 2109 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 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 conveyance, 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 no 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 to 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.

On July 30, 1998, CBO prepared a cost estimate for H.R. 3903 as ordered reported by the House Committee on Resources on July 22, 1998. S. 2109 is similar to H.R. 3903, and the estimated costs are the same.

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.

regulatory impact evaluation

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 2109. The bill is not a regulatory measure in the sense of imposing Government-established standards of significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from enactment of S. 2109, as ordered reported.

executive communication

The testimony of the Department of the Interior at the Subcommittee hearing follows:

STATEMENT OF MAUREEN FINNERTY, ASSOCIATE DIRECTOR, OPERATIONS, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

I appreciate the opportunity to appear before you to present the position of the Department of the Interior on S. 2109, a bill to authorize an exchange of lands in Glacier Bay National Park and Preserve. The Department of the Interior has worked with the proponents of this bill to secure language intended to protect park, **wilderness**, and environmental values associated with the area affected by this bill and we believe that much progress has been made. However, the administration does not yet have a position on this bill. It would be extremely unusual to remove land, especially land that has been designated by Congress as **wilderness**, from a park. It would be even more unusual to remove such land in order to facilitate a development project that could have adverse environmental impacts and for which there could well be reasonable alternatives. Such an extraordinary proposal is of great importance not only with respect to the nationally significant lands and waters that are involved but also with respect to any precedents that may or may not be set for other situations in the future. This proposal, therefore, requires the most careful review within the administration.

S. 2109 is intended to allow for a land exchange to take place between the Department of the Interior and the State of Alaska if certain environmentally protective conditions are met. In that case, the Department of the Interior would transfer to the State of Alaska an amount of designated **wilderness** that would not exceed 1,100 acres, in an equal value exchange for state land that would be included in the national park system. The state would seek to allow a hydroelectric facility to be developed on the former park land.

The proposal is driven by the desire of the remote town of Gustavus, Alaska, for energy that is based on a renewable resource. The town presently relies on a fossil fuel-burning diesel generator to meet its energy needs. As a neighbor of Gustavus, and a diesel power consumer itself, Glacier Bay National Park supports the towns desire to end its dependency on fossil fuel-fired power and to switch to a less polluting form of power production. However, the administration would not consider supporting any such proposal that lacked all appropriate measures to ensure the protection of Glacier Bay National Park and Preserve, the national park system, and the national **wilderness** preservation system, or that otherwise shortchanged the American people.

Several provisions in the bill are useful in addressing these issues. First, the bill does not compel or endorse either the hydropower project or the land exchange. The land

exchange itself would be triggered only if several environmentally protective conditions were met.

The bill would require the proponent of this project to obtain from the Federal Energy Regulatory Commission (FERC) a license to operate and construct the hydroelectric plant. During the license application process, FERC will have to conduct various environmental and economic analyses specified by the bill. The project and all reasonable alternatives would have to be considered, including different forms of power generation and alternative locations of any facilities, and the need for this project will have to be determined.

A license would not be issued unless an environmental analysis conducted jointly by FERC and the National Park Service, with public involvement, determined, among other things, that the project (including the land exchange) would not adversely impact the purposes and values of Glacier Bay National Park and Preserve, and that the acreage removed from the park is the minimum amount necessary to construct and operate this project. The analysis would also have to determine that the proposed action would comply with the requirements of the National Historic Preservation Act, and could be accomplished in an economically feasible manner before the land exchange could be consummated. Furthermore, the process would have to consider environmental impacts on the lands proposed for deletion. The Secretary would assure protection for bears and other park wildlife that use this area for foraging and migration. The Secretary of the Interior, and the Secretary of Commerce, would have prescription authority under the federal Power Act (18 U.S.C. 811) to protect the salmon and its habitat.

Even after these analyses are performed and these steps are taken, the exchange could not be completed without the Secretary's concurrence with the conclusions of the analyses. Finally, if the exchange goes forward, the bill would designate as **wilderness** the same amount of land in Glacier Bay National Park that is removed from the park through the land exchange.

The bill would also provide the National Park Service and FERC with an ongoing role in the monitoring of the plant. The bill provides that FERC would retain jurisdiction over the operation of this plant and in the exercise of this jurisdiction FERC would not be able to relicense this project unless it determined, with the Secretary's concurrence, that the project would not adversely impact the values and purposes of Glacier Bay National Park and Preserve.

The bill further provides that the Department of the Interior would receive in exchange for the land transferred to the State lands that are worthy of inclusion in the national park system and are equal in value to the transferred lands. These lands are to be identified through an agreement between the Secretary and the State of Alaska. If the State and the Secretary cannot reach an agreement within 6 months of the issuance of the license to construct the plant, then state-owned lands specifically identified in the bill in the Long Lake area of Wrangell St. Elias National Park would be transferred to the National Park Service. These lands have high scenic and natural resource values and their protection is important to public use along the Chitina to McCarthy Road. As written, the bill does not include a particular parcel of state land along the eastern end of Long Lake that we believe the state has agreed to include in this proposal. This parcel of land should be included in the bill and we understand that this omission is merely a technical error that will be corrected.

We appreciate the work of the sponsors of this bill and look forward to continuing to work with you through the legislative process. This concludes my statement. I would be happy to answer any of your questions.

changes in existing law

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by S. 2109, as ordered reported.