

105th Congress; 1st Session

House Rpt. 105-261

105 H. Rpt. 261

HOOD BAY LAND EXCHANGE ACT OF 1997

DATE: September 23, 1997. Ordered to be printed

SPONSOR: Mr. Young of Alaska submitted the following Report

COMMITTEE: from the Committee on Resources

(To accompany H.R. 1948)

(Including cost estimate of the Congressional Budget Office)

TEXT:

The Committee on Resources, to whom was referred the bill (H.R. 1948) to provide for the exchange of lands within Admiralty Island National Monument, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hood Bay Land Exchange Act of 1997".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The Alaska National Interest Lands Conservation Act established the Admiralty Island National Monument which is managed by the Secretary of Agriculture, by and through the Forest Service.

(2) The Forest Service has established a policy of encouraging the acquisition of private land

inholdings within Admiralty Island National Monument on a willing buyer/willing seller basis. Congress has supported this policy, for example by passage of the Greens Creek Land Exchange Act of 1996 which provided for a land exchange of certain public and private lands in Admiralty Island National Monument.

(3) Lands owned by Alaska Pulp Corporation, consisting of 54 acres, more or less, located in Hood Bay on Admiralty Island within the boundaries of the Kootznoowoo **Wilderness** are available for transfer to Federal ownership on a willing seller/willing buyer basis. The acquisition of these lands would provide Federal ownership of this valuable land in a critical area of Admiralty Island National Monument.

(4) The United States is the owner of certain reversionary interests to 143.87 acres, more or less, located adjacent to Silver Bay near Sitka, Alaska, which interests were reserved in patent No. 1213671 issued to the Alaska Pulp Corporation on October 18, 1960. The transfer of the reversionary interests of the United States in such lands adjacent to Silver Bay to the Alaska Pulp Corporation would facilitate future use and development of that land.

(5) The future acquisition by the United States of the Chaik Bay property on Admiralty Island to be incorporated into the Kootznoowoo **Wilderness** would be in the public interest.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) The term "ANILCA" means the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.).

(2) The term "Company" means the Alaska Pulp Corporation, an Alaska corporation, its successors, and assigns.

(3) The term "Company Property" means the property depicted on United States Survey Plat 1058 approved March 20, 1917, consisting of approximately 54 acres of land.

(4) The term "Federal Property" means the reversionary interest of the United States described in paragraphs (6) and (7) of the patent dated October 18, 1960, granted by the Bureau of Land Management to Alaska Lumber & Pulp Co., which was recorded at Book 15, Pages 271-273, Sitka Recording District on November 9, 1960. The term "Federal Property" does not include the interests described in paragraphs (1) through (5) of the said patent.

(5) The term "Monument" means the Admiralty Island National Monument, which was established by section 503 of ANILCA and which is managed by the Secretary of Agriculture as a unit of the National Forest System.

(6) The term "Secretary" means the Secretary of Agriculture.

(7) The term "Sitka" means the city and borough of Sitka, Alaska, a home-rule borough formed in accordance with the laws of the State of Alaska.

(8) The term "Sitka Property" means the property depicted on the map entitled "Sitka Lands", dated August 7XX, 1997, consisting of approximately 49 acres of land.

SEC. 4. LAND EXCHANGE, TRANSFER, RELINQUISHMENT.

(a) Exchange of Company and Federal Property. After the Company conveys to the United States, by general warranty deed, all right, title, and interest of the Company in and to the Company Property, the Secretary shall within 60 days of acceptance of delivery of said deed, unconditionally and without limitation except as provided herein, relinquish to the Company all right, title, and interest of the United States in and to the Federal Property and shall evidence that relinquishment by conveying to the Company a quitclaim deed to the Federal Property.

(b) Relinquishment of Property to Sitka. Upon relinquishment of the Federal Property to the Company under subsection (a), the Company shall transfer all right, title, and interest of the Company in the Sitka Property to Sitka.

(c) Availability of Maps. The map referred to in section 3(8) depicting the Sitka Property shall be on file and available for public inspection in the office of the Manager of the City and Borough of Sitka until the conveyance described in subsection (b), at which time the map shall be recorded along with the deed.

SEC. 5. PROCESSING OF AND TERMS AND CONDITIONS RELATING TO LAND EXCHANGE.

(a) Surveys. Notwithstanding any other provision of law, the Secretary of the Interior may conduct and approve all cadastral surveys that are necessary for completion of the exchange. The cost of any surveys shall be borne by the Company.

(b) Equal Value Exchange. The values of the Federal Property and the Company Property are

deemed to be of equal value.

(c) Administration. The Secretary is directed to implement and administer the rights and obligations of the United States under this Act.

(d) Cleanup Obligations. Nothing in this Act shall impact or alter the Companys rights, duties, and obligations regarding investigation, remediation, cleanup, and restoration under its September 10, 1995, Commitment Agreement with the State of Alaska or other applicable law. The Company shall utilize its property consistent with that restrictive covenant recorded on September 7XX, 1997.

(e) Title Standards. Title to the Company Property to be conveyed to the United States shall be acceptable to the Secretary consistent with the title review standard of the Attorney General of the United States.

SEC. 6. GENERAL PROVISIONS.

(a) Management of Company Property. Upon acquisition of the Company Property by the United States pursuant to this Act, said property shall be managed as a part of the Admiralty Island National Monument and the Kootznoowoo **Wilderness**.

(b) Authorization to Negotiate for Acquisition of Property. In furtherance of the purposes of the Kootznoowoo **Wilderness**, the Secretary, acting through the Forest Service, is authorized to enter into negotiations with the owners of private property in Chaik Bay on Admiralty Island, with the objective of acquiring such property. The Secretary is authorized to enter into an option to purchase or an exchange agreement with the owners of such property to be effected either through existing administrative mechanisms provided by law and regulation, or by subsequent ratification by Act of Congress.

PURPOSE OF THE BILL

The purpose of H.R. 1948 is to provide for the exchange of lands within Admiralty Island National Monument and near Sitka, Alaska.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 1948 provides for an exchange of land and interests between the U.S. Forest Service and the Alaska Pulp Corporation (APC), to benefit the City of Sitka, Alaska. In exchange for the

relinquishment of the federal reversionary interest in about 144 acres of land owned by APC, the United States acquires a 54-acre inholding owned by APC, and incorporates it into the Kootznoowoo **Wilderness** of Admiralty Island National Monument. In addition, the City acquires ownership from APC of certain land containing its hydro-electric and water utilities.

APC constructed a pulp mill on about 144 acres of land it was granted by the federal government in 1960. The site was the major economic force in Sitka, a community on Baranof Island in Southeast Alaska, and employed hundreds of workers. The City has an easement to use some of these lands for its water supply and hydro-electric power. Under a reverter clause in the original patent, ownership of the land granted to APC (including land occupied by the City), reverts to the federal government if the mill site is not used for timber processing for five consecutive years.

The pulp mill shut down in September 1993, causing economic hardship in the City. The closure has raised the question of whether the federal government can or should claim ownership of these industrial lands through its reversionary interest. Sitka's Mayor and Assembly want to put the land back into productive use; however, the reverter interest clouds the status of these lands.

To resolve this problem, H.R. 1948 provides for an exchange in which the federal government relinquishes its reversionary interest in the mill site land, and property owned by APC on Admiralty Island is conveyed to the United States. Acquisition of this land is a priority for the Forest Service.

The bill was reported with an amendment authorizing the U.S. Forest Service to enter into negotiations for the acquisition of a private inholding in Chaik Bay through purchase or exchange. Such negotiations would be in accordance with current administrative mechanisms. This inholding would become part of the Kootznoowoo **Wilderness**.

COMMITTEE ACTION

H.R. 1948 was introduced on June 17, 1997, by Congressman Don Young (R-AK). The bill was referred to the Committee on Resources. The Committee held a hearing on H.R. 1948 on July 30, 1997, where testimony was received from the U.S. Forest Service, the Mayor of Sitka, and representatives of the Alaska Pulp Corporation and of the Southeast Alaska Conservation Council. On September 10, 1997, the Committee met to mark up H.R. 1948. An amendment in the nature of a substitute to address major concerns raised by the Administration was offered by Congressman Young, and adopted by voice vote. The bill as amended was then ordered favorably reported to the House of Representatives by voice vote.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 2(l)(3) of rule XI of the Rules of the House of Representatives, and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee on Resources oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact H.R. 1948.

COST OF THE LEGISLATION

Clause 7(a) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out H.R. 1948. However, clause 7(d) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirement of clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 1948 does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

2. With respect to the requirement of clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 1948.

3. With respect to the requirement of clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 1948 from the Director of the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE
U.S. Congress

Congressional Budget Office,
Washington, DC, September 18, 1997.
Hon. Don Young,
Charman, Committee on Resources,
House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1948, the Hood Bay Land Exchange Act of 1997.

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

Sincerely,
James L. Blum
(For June E. O'Neill, Director).

Enclosure.

H.R. 1948 Hood Bay Land Exchange Act of 1997

CBO estimates that enacting this bill would not have a significant impact on the federal budget. Because H.R. 1948 would not affect direct spending or receipts, pay-as-you-go procedures would not apply.

H.R. 1948 provides that if the Alaska Pulp Corporation (APC) conveys to the United States about 54 acres of land owned by APC on Admiralty Island National Monument in southeast Alaska, then the Secretary of Agriculture would be directed to relinquish to APC certain federal reversionary interests in about 144 acres of land at the APC pulp mill site near Sitka, Alaska. The bill provides that the APC property acquired by the federal government would be managed as part of the Admiralty Island National Monument and Kootznoowoo **Wilderness**, which are within the boundaries of the Tongass National Forest. H.R. 1948 also provides that once the federal government relinquishes to APC certain of its reversionary interests in the pulp mill site, APC would then transfer ownership of about 49 acres of the land to the city and borough of Sitka, Alaska. That acreage is currently being used by the city and borough of Sitka for hydroelectric operations under a Federal Power Act license.

H.R. 1948 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995. The city and borough of Sitka would benefit from enactment of this bill because they would receive, without compensation, title to property as described above. Further, by clearing title to the mill site, the bill would facilitate future economic development in

Sitka. The bill would have no other significant impact on the budgets of state, local, or tribal governments.

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

COMPLIANCE WITH PUBLIC LAW 104-4

H.R. 1948 contains no unfunded mandates.

CHANGES IN EXISTING LAW

If enacted, H.R. 1948 would make no changes in existing law.