

Calendar No. 600

108TH CONGRESS
2D SESSION

S. 2180

[Report No. 108–285]

To direct the Secretary of Agriculture to exchange certain lands in the Arapaho and Roosevelt National Forests in the State of Colorado.

IN THE SENATE OF THE UNITED STATES

MARCH 9, 2004

Mr. CAMPBELL (for himself and Mr. ALLARD) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

JUNE 25, 2004

Reported by Mr. DOMENICI, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To direct the Secretary of Agriculture to exchange certain lands in the Arapaho and Roosevelt National Forests in the State of Colorado.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Arapaho and Roosevelt
3 National Forests Land Exchange Act of 2004”.

4 **SEC. 2. LAND EXCHANGE, ARAPAHO AND ROOSEVELT NA-
5 TIONAL FORESTS, COLORADO.**

6 (a) CONVEYANCE BY THE CITY OF GOLDEN.—

7 (1) LANDS DESCRIBED.—The land exchange di-
8 rected by this section shall proceed if, within 30
9 days after the date of the enactment of this Act, the
10 City of Golden, Colorado (in the section referred to
11 as the “City”), offers to convey title acceptable to
12 the United States to the following non-Federal
13 lands:

14 (A) Certain lands located near the commu-
15 nity of Evergreen in Park County, Colorado,
16 comprising approximately 80 acres, as generally
17 depicted on a map entitled “Non-Federal
18 Lands—Cub Creek Parcel”, dated June, 2003.

19 (B) Certain lands located near Argentine
20 Pass in Clear Creek and Summit Counties, Col-
21 orado, comprising approximately 55.909 acres
22 in 14 patented mining claims, as generally de-
23 picted on a map entitled “Argentine Pass/Con-
24 tinental Divide Trail Lands”, dated September
25 2003.

1 (2) CONDITIONS OF CONVEYANCE.—The con-
 2 veyance of lands under paragraph (1)(B) to the
 3 United States shall be subject to the absolute right
 4 of the City to permanently enter upon, utilize, and
 5 occupy so much of the surface and subsurface of the
 6 lands as may be reasonably necessary to access,
 7 maintain, repair, modify, make improvements in, or
 8 otherwise utilize the Vidler Tunnel to the same ex-
 9 tent that the City would have had such right if the
 10 lands had not been conveyed to the United States
 11 and remained in City ownership. The exercise of
 12 such right shall not require the City to secure any
 13 permit or other advance approval from the United
 14 States. Upon acquisition by the United States, such
 15 lands are hereby permanently withdrawn from all
 16 forms of entry and appropriation under the public
 17 land laws, including the mining and mineral leasing
 18 laws, and the Geothermal Steam Act of 1970 (30
 19 U.S.C. 1001 et seq.).

20 (b) CONVEYANCE BY UNITED STATES.—Upon re-
 21 ceipt of acceptable title to the non-Federal lands identified
 22 in subsection (a), the Secretary of Agriculture shall simul-
 23 taneously convey to the City all right, title and interest
 24 of the United States in and to certain Federal lands, com-
 25 prising approximately 9.84 acres, as generally depicted on

1 a map entitled “Empire Federal Lands—Parcel 12”,
 2 dated June 2003.

3 ~~(c) EQUAL VALUE EXCHANGE.—~~

4 ~~(1) APPRAISAL.—~~The values of the Federal
 5 lands identified in subsection (b) and the non-Fed-
 6 eral lands identified in subsection (a)(1)(A) shall be
 7 determined by the Secretary through appraisals per-
 8 formed in accordance with the Uniform Appraisal
 9 Standards for Federal Land Acquisitions (December
 10 20, 2000) and the Uniform Standards of Profes-
 11 sional Appraisal Practice. Except as provided in
 12 paragraph (3), the conveyance of the non-Federal
 13 lands identified in subsection (a)(1)(B) shall be con-
 14 sidered a donation for all purposes of law.

15 ~~(2) SURPLUS OF NON-FEDERAL VALUE.—~~If the
 16 final appraised value, as approved by the Secretary,
 17 of the non-Federal lands identified in subsection
 18 (a)(1)(A) exceeds the final appraised value, as ap-
 19 proved by the Secretary, of the Federal land identi-
 20 fied in subsection (b), the values may be equalized—

21 ~~(A) by reducing the acreage of the non-~~
 22 ~~Federal lands identified in subsection (a) to be~~
 23 ~~conveyed, as determined appropriate and ac-~~
 24 ~~ceptable by the Secretary and the City;~~

(B) the making of a cash equalization payment to the City, including a cash equalization payment in excess of the amount authorized by section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)); or

(C) a combination of acreage reduction and cash equalization.

(3) SURPLUS OF FEDERAL VALUE.—If the final appraised value, as approved by the Secretary, of the Federal land identified in subsection (b) exceeds the final appraised value, as approved by the Secretary, of the non-Federal lands identified in subsection (a)(1)(A), the Secretary shall prepare a statement of value for the non-Federal lands identified in subsection (a)(1)(B) and utilize such value to the extent necessary to equalize the values of the non-Federal lands identified in subsection (a)(1)(A) and the Federal land identified in subsection (b). If the Secretary declines to accept the non-Federal lands identified in subsection (a)(1)(B) for any reason, the City shall make a cash equalization payment to the Secretary as necessary to equalize the values of the non-Federal lands identified in subsection (a)(1)(A) and the Federal land identified in subsection (b).

1 (d) ~~EXCHANGE COSTS.~~—To expedite the land ex-
 2 change under this section and save administrative costs
 3 to the United States, the City shall be required to pay
 4 for—

5 (1) any necessary land surveys; and

6 (2) the costs of the appraisals, which shall be
 7 performed in accordance with Forest Service policy
 8 on approval of the appraiser and the issuance of ap-
 9 praisal instructions.

10 (e) ~~TIMING AND INTERIM AUTHORIZATION.~~—It is the
 11 intent of Congress that the land exchange directed by this
 12 Act shall be completed no later than 120 days after the
 13 date of the enactment of this Act. Pending completion of
 14 the land exchange, the City is authorized, effective on the
 15 date of the enactment of this Act, to construct a water
 16 pipeline on or near the existing course of the Lindstrom
 17 ditch through the Federal land identified in subsection (b)
 18 without further action or authorization by the Secretary,
 19 except that, prior to initiating any such construction, the
 20 City shall execute and convey to the Secretary a legal doc-
 21 ument that permanently holds the United States harmless
 22 for any and all liability arising from the construction of
 23 such water pipeline and indemnifies the United States
 24 against all costs arising from the United States' ownership
 25 of the Federal land, and any actions, operations or other

1 acts of the City or its licensees, employees, or agents in
2 constructing such water pipeline or engaging in other acts
3 on the Federal land prior to its transfer to the City. Such
4 encumbrance on the Federal land prior to conveyance shall
5 not be considered for purposes of the appraisal.

6 (f) ~~ALTERNATIVE SALE AUTHORITY.~~—If the land ex-
7 change is not completed for any reason, the Secretary is
8 hereby authorized and directed to sell the Federal land
9 identified in subsection (b) to the City at its final ap-
10 praised value, as approved by the Secretary. Any money
11 received by the United States in such sale shall be consid-
12 ered money received and deposited pursuant to Public
13 Law 90–171 (16 U.S.C. 484(a); commonly known as the
14 “Sisk Act”, and may be used, without further appropria-
15 tion, for the acquisition of lands for addition to the Na-
16 tional Forest System in the State of Colorado.

17 (g) ~~INCORPORATION, MANAGEMENT, AND STATUS OF~~
18 ~~ACQUIRED LANDS.~~—Land acquired by the United States
19 under the land exchange shall become part of the Arapaho
20 and Roosevelt National Forests, and the exterior boundary
21 of such forest is hereby modified, without further action
22 by the Secretary, as necessary to incorporate the non-Fed-
23 eral lands identified in subsection (a) and an additional
24 40 acres as depicted on a map entitled “Arapaho and Roo-
25 sevelt National Forest Boundary Adjustment—Cub

1 Creek", dated June 2003. Upon their acquisition, lands
 2 or interests in land acquired under the authority of this
 3 Act shall be administered in accordance with the laws,
 4 rules and regulations generally applicable to the National
 5 Forest System. For purposes of Section 7 of the Land
 6 and Water Conservation Fund Act of 1965 (16 U.S.C.
 7 4601-9), the boundaries of the Arapaho and Roosevelt Na-
 8 tional Forests, as adjusted by this subsection shall be
 9 deemed to be the boundaries of such forest as of January
 10 1, 1965.

11 (h) TECHNICAL CORRECTIONS.—The Secretary, with
 12 the agreement of the City, may make technical corrections
 13 or correct clerical errors in the maps referred to in this
 14 section or adjust the boundaries of the Federal lands to
 15 leave the United States with a manageable post-exchange
 16 or sale boundary. In the event of any discrepancy between
 17 a map, acreage estimate, or legal description, the map
 18 shall prevail unless the Secretary and the City agree other-
 19 wise.

20 (i) REVOCATION OF ORDERS AND WITHDRAWAL.—
 21 Any public orders withdrawing any of the Federal lands
 22 identified in subsection (b) from appropriation or disposal
 23 under the public land laws are hereby revoked to the ex-
 24 tent necessary to permit disposal of the Federal lands.
 25 Upon the enactment of this Act, if not already withdrawn

1 or segregated from the entry and appropriation under the
 2 public land laws, including the mining and mineral leasing
 3 laws and the Geothermal Steam Act of 1970 (30 U.S.C.
 4 1001 et seq.); the Federal lands are hereby withdrawn
 5 until the date of their conveyance to the City.

6 **SECTION 1. SHORT TITLE.**

7 *This Act may be cited as the “Arapaho and Roosevelt*
 8 *National Forests Land Exchange Act of 2004”.*

9 **SEC. 2. LAND EXCHANGE, ARAPAHO AND ROOSEVELT NA-**
 10 **TIONAL FORESTS, COLORADO.**

11 *(a) CONVEYANCE BY CITY OF GOLDEN.—*

12 *(1) NON-FEDERAL LAND DESCRIBED.—The land*
 13 *exchange directed by this section shall proceed if, not*
 14 *later than 30 days after the date of enactment of this*
 15 *Act, the City of Golden, Colorado (referred to in this*
 16 *section as the “City”), offers to convey title acceptable*
 17 *to the Secretary of Agriculture (referred to in this sec-*
 18 *tion as the “Secretary”) to the following non-Federal*
 19 *land:*

20 *(A) Certain land located near the commu-*
 21 *nity of Evergreen in Park County, Colorado,*
 22 *comprising approximately 80 acres, as generally*
 23 *depicted on the map entitled “Non-Federal*
 24 *Lands—Cub Creek Parcel”, dated June 2003.*

1 (B) *Certain land located near Argentine*
2 *Pass in Clear Creek and Summit Counties, Colo-*
3 *rado, comprising approximately 55.909 acres, as*
4 *generally depicted on the map entitled “Argen-*
5 *tine Pass/Continental Divide Trail Lands”,*
6 *dated September 2003.*

7 (2) *CONDITIONS OF CONVEYANCE.—*

8 (A) *VIDLER TUNNEL.—The conveyance of*
9 *land under paragraph (1)(B) to the Secretary*
10 *shall be subject to the continuing right of the*
11 *City to permanently enter on, use, and occupy so*
12 *much of the surface and subsurface of the land*
13 *as reasonably is necessary to access, maintain,*
14 *modify, or otherwise use the Vidler Tunnel to the*
15 *same extent that the City would have had that*
16 *right if the land had not been conveyed to the*
17 *Secretary and remained in City ownership.*

18 (B) *ADVANCE APPROVAL.—The exercise of*
19 *that right shall not require the City to secure*
20 *any permit or other advance approval from the*
21 *United States except to the extent that the City*
22 *would have been required had the land not been*
23 *conveyed to the Secretary and remained in City*
24 *ownership.*

1 (C) *WITHDRAWAL.*—*On acquisition by the*
 2 *Secretary, the land is permanently withdrawn*
 3 *from all forms of entry and appropriation under*
 4 *the public land laws (including the mining and*
 5 *mineral leasing laws) and the Geothermal Steam*
 6 *Act of 1970 (30 U.S.C. 1001 et seq.).*

7 (b) *FEDERAL LAND DESCRIBED.*—*On receipt of title*
 8 *to the non-Federal land identified in subsection (a) that is*
 9 *acceptable to the Secretary, the Secretary shall simulta-*
 10 *neously convey to the City all right, title, and interest of*
 11 *the United States in and to certain Federal land, com-*
 12 *prising approximately 9.84 acres, as generally depicted on*
 13 *the map entitled “Empire Federal Lands—Parcel 12”,*
 14 *dated June 2003.*

15 (c) *EQUAL VALUE EXCHANGE.*—

16 (1) *APPRAISAL.*—

17 (A) *IN GENERAL.*—*The values of the Federal*
 18 *land identified in subsection (b) and the non-*
 19 *Federal land identified in subsection (a)(1)(A)*
 20 *shall be determined by the Secretary through ap-*
 21 *praisals performed in accordance with the Uni-*
 22 *form Appraisal Standards for Federal Land Ac-*
 23 *quisitions and the Uniform Standards of Profes-*
 24 *sional Appraisal Practice.*

1 (B) *DONATION.*—*Except as provided in*
 2 *paragraph (3), the conveyance of the non-Federal*
 3 *land identified in subsection (a)(1)(B) shall be*
 4 *considered a donation for all purposes of law.*

5 (2) *SURPLUS OF NON-FEDERAL VALUE.*—*If the*
 6 *final appraised value (as approved by the Secretary)*
 7 *of the non-Federal land identified in subsection*
 8 *(a)(1)(A) exceeds the final appraised value (as ap-*
 9 *proved by the Secretary) of the Federal land identi-*
 10 *fied in subsection (b), the values may be equalized*
 11 *by—*

12 (A) *reducing the acreage of the non-Federal*
 13 *land identified in subsection (a)(1)(A) to be con-*
 14 *veyed, as determined appropriate and acceptable*
 15 *by the Secretary and the City;*

16 (B) *making a cash equalization payment to*
 17 *the City, including a cash equalization payment*
 18 *in excess of the amount authorized by section*
 19 *206(b) of the Federal Land Policy and Manage-*
 20 *ment Act of 1976 (43 U.S.C. 1716(b)); or*

21 (C) *a combination of acreage reduction and*
 22 *cash equalization.*

23 (3) *SURPLUS OF FEDERAL VALUE.*—

24 (A) *APPRAISAL.*—*If the final appraised*
 25 *value (as approved by the Secretary) of the Fed-*

1 *eral land identified in subsection (b) exceeds the*
 2 *final appraised value (as approved by the Sec-*
 3 *retary) of the non-Federal land identified in sub-*
 4 *section (a)(1)(A), the Secretary shall—*

5 *(i) conduct an appraisal in accordance*
 6 *with the Uniform Appraisal Standards for*
 7 *Federal Land Acquisitions and the Uniform*
 8 *Standards of Professional Appraisal Prac-*
 9 *tice for the non-Federal land to be conveyed*
 10 *pursuant to subsection (a)(1)(B); and*

11 *(ii) use the value to the extent nec-*
 12 *essary to equalize the values of the non-Fed-*
 13 *eral land identified in subsection (a)(1)(A)*
 14 *and the Federal land identified in sub-*
 15 *section (b).*

16 *(B) CASH EQUALIZATION PAYMENT.—If the*
 17 *Secretary declines to accept the non-Federal land*
 18 *identified in subsection (a)(1)(B) for any reason*
 19 *or if the value of the Federal land described in*
 20 *subsection (b) exceeds the value of all of the non-*
 21 *Federal land described in subsection (a)(1), the*
 22 *City may make a cash equalization payment to*
 23 *the Secretary, including a cash equalization pay-*
 24 *ment in excess of the amount authorized by sec-*

1 tion 206(b) of the Federal Land Policy and
2 Management Act of 1976 (43 U.S.C. 1716(b)).

3 (d) *EXCHANGE COSTS.*—*The City shall pay for—*

4 (1) *any necessary land surveys; and*

5 (2) *the costs of the appraisals, on approval of the*
6 *appraiser and the issuance of appraisal instructions.*

7 (e) *TIMING AND INTERIM AUTHORIZATION.*—

8 (1) *TIMING.*—*It is the intent of Congress that the*
9 *land exchange directed by this Act shall be completed*
10 *not later than 180 days after the date of enactment*
11 *of this Act.*

12 (2) *INTERIM AUTHORIZATION.*—*Pending comple-*
13 *tion of the land exchange, not later than 45 days after*
14 *the date of enactment of this Act, subject to applicable*
15 *law, the Secretary shall authorize the City to con-*
16 *struct approximately 140 feet of water pipeline on or*
17 *near the existing course of the Lindstrom ditch*
18 *through the Federal land identified in subsection (b).*

19 (f) *ALTERNATIVE SALE AUTHORITY.*—

20 (1) *IN GENERAL.*—*If the land exchange is not*
21 *completed for any reason, the Secretary shall sell the*
22 *Federal land identified in subsection (b) to the City*
23 *at the final appraised value of the land, as approved*
24 *by the Secretary.*

1 (2) *SISK ACT.*—Public Law 90–171 (commonly
 2 known as the “Sisk Act”) (16 U.S.C. 484a) shall,
 3 without further appropriation, apply to any cash
 4 equalization payment received by the United States
 5 under this section.

6 (g) *INCORPORATION, MANAGEMENT, AND STATUS OF*
 7 *ACQUIRED LAND.*—

8 (1) *INCORPORATION.*—Land acquired by the
 9 United States under the land exchange shall become
 10 part of the Arapaho and Roosevelt National Forests.

11 (2) *BOUNDARY.*—The exterior boundary of the
 12 Forests is modified, without further action by the Sec-
 13 retary, as necessary to incorporate—

14 (A) the non-Federal land identified in sub-
 15 section (a); and

16 (B) approximately an additional 80 acres
 17 as depicted on the map entitled “Arapaho and
 18 Roosevelt National Forest Boundary Adjust-
 19 ment—Cub Creek”, dated June 2003.

20 (3) *ADMINISTRATION.*—On acquisition, land or
 21 interests in land acquired under this section shall be
 22 administered in accordance with the laws (including
 23 rules and regulations) generally applicable to the Na-
 24 tional Forest System.

1 (4) *LAND AND WATER CONSERVATION FUND.*—
 2 *For purposes of section 7 of the Land and Water Con-*
 3 *servation Fund Act of 1965 (16 U.S.C. 460l–9), the*
 4 *boundaries of the Arapaho and Roosevelt National*
 5 *Forests (as adjusted by this subsection) shall be*
 6 *deemed to be the boundaries of the Forests as of Janu-*
 7 *ary 1, 1965.*

8 (h) *TECHNICAL CORRECTIONS.*—*The Secretary, with*
 9 *the agreement of the City, may make technical corrections*
 10 *or correct clerical errors in the maps referred to in this sec-*
 11 *tion.*

12 (i) *REVOCATION OF ORDERS AND WITHDRAWAL.*—

13 (1) *REVOCATION OF ORDERS.*—*Any public orders*
 14 *withdrawing any of the Federal land identified in*
 15 *subsection (b) from appropriation or disposal under*
 16 *the public land laws are revoked to the extent nec-*
 17 *essary to permit disposal of the Federal land.*

18 (2) *WITHDRAWAL.*—*On the date of enactment of*
 19 *this Act, if not already withdrawn or segregated from*
 20 *entry and appropriation under the public land laws*
 21 *(including the mining and mineral leasing laws) and*
 22 *the Geothermal Steam Act of 1970 (30 U.S.C. 1001*
 23 *et seq.), the Federal land identified in subsection (b)*
 24 *is withdrawn until the date of the conveyance of the*
 25 *Federal land to the City.*

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[Report No. 108-285]

A BILL

To direct the Secretary of Agriculture to exchange certain lands in the Arapaho and Roosevelt National Forests in the State of Colorado.

JUNE 25, 2004

Reported with an amendment