GALLATIN RANGE CONSOLIDATION AND PROTECTION ACT

HEARING

BEFORE THE

SUBCOMMITTEE ON
NATIONAL PARKS, FORESTS, AND PUBLIC LANDS

OF THE

COMMITTEE ON
NATURAL RESOURCES
HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRD CONGRESS

FIRST SESSION

ON

H.R. 873

GALLATIN RANGE CONSOLIDATION AND PROTECTION ACT OF 1993

HEARING HELD IN WASHINGTON, DC
MARCH 23, 1993

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GALLATIN RANGE CONSOLIDATION AND PROTECTION ACT OF 1993

TUESDAY, MARCH 23, 1993

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON NATIONAL PARKS, FORESTS AND PUBLIC LANDS, COMMITTEE ON NATURAL RESOURCES,

Washington, DC.

The subcommittee met, pursuant to call, at 10 a.m., in Room 1324, Longworth House Office Building, Hon. Bruce F. Vento, presiding.

Mr. VENTO. The Subcommittee on National Parks, Forests, and Public Lands will come to order. As members have been notified, we are meeting this morning for hearings on a bill, H.R. 873, which deals with a matter addressed in the last Congress but not resolved at this time.

[A copy of the bill, H.R. 873, follows:]

I

103D CONGRESS
1ST SESSION

H. R. 873

Entitled the "Gallatin Range Consolidation and Protection Act of 1993".

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 4, 1993

Mr. WILLIAMS introduced the following bill; which was referred to the Committee on Natural Resources

---

A BILL

Entitled the "Gallatin Range Consolidation and Protection Act of 1993".

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 referred to as the "Gallatin Range Consolidation and Protection Act of 1993".

SEC. 2. FINDINGS.

The Congress finds that:

(1) It has been the clear policy of the Federal Government since 1925 to consolidate the checkerboard lands along the Gallatin Range north of Yellowstone National Park.

(2) These lands north of Yellowstone possess outstanding natural characteristics and wildlife habitat which give them high value as lands added to the National Forest System.

(3) Although these lands have remained pristine up till now failure to consolidate at this time will in the near future lead to fragmentation and development.

(4) The Federal Government has already invested a great deal in keeping the lands along the Gallatin Range protected from excess development.

SEC. 3. PLUM CREEK LAND EXCHANGE—GALLATIN AREA.

(a) IN GENERAL.—The Secretary shall, subject to the provisions of section 4(b) and section 5(b) and, notwithstanding any other law, acquire by exchange and cash equalization in the amount of $3,400,000, certain lands and interests in land of the Plum Creek Timber, L.P. (referred to in this section as the "company") in and adjacent to the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area, the Scapegoat Wilderness Area, and other land in the Gallatin National Forest in accordance with this section.

(b)(1) DESCRIPTION OF LANDS.—If the company offers to the United States the fee title, including mineral interests, to approximately 37,752 and 15/100 acres of land

owned by the company which is available for exchange to the United States as depicted on a map entitled "Plum Creek Timber and Forest Service Proposed Gallatin Land Exchange", dated May 20, 1988, the Secretary shall accept a warranty deed to such land and, in exchange therefor, and subject to valid existing rights, recommend that the Secretary of the Interior convey, subject to valid existing rights, by patent the fee title to approximately 12,414 and 6/100 acres of National Forest System lands available for exchange to the company as depicted on such map, subject to—

(A) the reservation of ditches and canals required by the Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-one, and for other purposes", approved August 30, 1890 (26 Stat. 391; 43 U.S.C. 945);

(B) the reservation of rights under Federal Oil and Gas Lease numbers 49739, 55610, 40389, 53670, 40215, 33385, 53736, and 38684; and

(C) such other terms, conditions, reservations and exceptions as may be agreed upon by the Secretary of Agriculture and the company.

(2) On termination or relinquishment of the leases referred to in paragraph (1), all the rights and interests in land granted therein shall immediately vest in the company, its successors and assigns, and the Secretary shall give notice of that event by a document suitable for recording in the county wherein the leased lands are situated.

(c) EASEMENTS.—At closing on the conveyances authorized by this section—

(1) in consideration of the easements conveyed by the company as provided in paragraph 2 of this subsection, the Secretary of Agriculture shall, under authority of the National Forest Roads and Trails Act of October 13, 1964, or the Federal Land Policy and Management Act of 1976, execute and deliver to the company such easements and authorizations over federally owned lands included in this exchange as may be agreed to by the Secretary and the company in the exchange agreement.

(2) In consideration of the easements conveyed by the United States as provided in paragraph (1), the company shall execute and deliver to the United States such easements and authorizations across company-owned lands included in this exchange as may be agreed to by the Secretary and the company in the exchange agreement.

(d) MAPS.—The maps referred to in subsection (b) are subject to such minor corrections as may be agreed upon by the Secretary and the company. The Secretary shall notify the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs to the United States House of Representatives of any corrections made pursuant to the subsection.

(e) TIMING OF TRANSACTION.—It is the intent of Congress that the conveyances authorized by this section be completed within ninety days after the date of enactment of an Act making the appropriation authorized by subsection (g).

(f) FOREST LANDS.—All lands conveyed to the United States pursuant to this section shall become national forest system lands to be administered by the Secretary in accordance with applicable law.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section the sum $3,400,000, which amount the Secretary shall, when appropriated, pay to the company to equalize the value of the exchange of land authorized by this section.

(h) QUALITY OF TITLE.—Title to the properties referenced in this section to be offered to the United States by Big Sky Lumber Company, its assignees or successors

in interest, shall be inclusive of the entire surface and subsurface estates without reservation or exception. The owner shall be required to reacquire any outstanding interest in mineral or mineral rights, timber or timber rights, water or water rights, or any other outstanding interest in the property, except reservations by the United States or the State of Montana by patent, in order to assure that title to the property is transferred as described in this section and sections 4, 5, and 6. The agreement shall clearly evidence that the owners have the legal capacity to accomplish the foregoing requirements. Title standards for acquisition shall otherwise be in compliance with Forest Service policies and procedures.

(i) REFERENCES.—The reference and authorities of this section referring to Plum Creek Timber Company, L.P., shall also refer to its successors.

SEC. 4. LAND CONSOLIDATION; PORCUPINE AREA.

(a) IN GENERAL.—The exchange described in section 14 of this Act shall not be consummated by the Secretary until the conditions of this section are met.

(b) CONDITIONS.—The Secretary or a qualified section 501(c)(3) conservation entity, acting on its behalf for later disposition to the United States, shall have acquired, by purchase or option to acquire, or exchange, all of the Porcupine property for its fair market value, determined

at the time of acquisition in accordance with appraisal standards acceptable to the Secretary by an appraiser acceptable to the Secretary and the owner. Any appraisal for exchange purposes shall be conducted by the same parties, utilizing the same standards noted above; "And further that, if said acquisition or option to acquire has been consummated by a qualified section 501(c)(3) conservation entity, said entity shall have notified the Secretary that the quality of title in fact secured meets applicable Forest Service standards with respect to surface and subsurface estates or is otherwise acceptable to the Forest Service".

(c) DESCRIPTION OF LANDS.—The Secretary is authorized and directed to acquire by purchase or exchange the lands and interests therein as depicted on a map entitled "Porcupine Area", dated September, 1992.

(d) LAND ACQUISITION AUTHORITIES.—Acquisitions pursuant to this section shall be under existing authorities available to the Secretary.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out the purposes of this section. Funds necessary for land acquisition are authorized to be appropriated from the Land and Water Conservation Fund.

(f) AUTHORIZATION OF EXCHANGE.—The Secretary is authorized to offer the lands and interests described on a map entitled "Porcupine Exchange Lands", dated September, 1992, to Big Sky Lumber Company, its assignee or successors in interest to fulfill the purposes of this section: *Provided,* That the lands shall not transfer to the company until the provisions of this section and section 16 are met.

(g) EQUAL VALUE.—Any exchange of lands between Big Sky Lumber Company and the United States shall be for equal value.

(h) REFERENCES.—The reference and authorities of this section referring to the Big Sky Lumber Company, shall also refer to its successors.

SEC. 5. LAND CONSOLIDATION—TAYLOR FORK AREA.

(a) IN GENERAL.—The exchange described in section 14 of this Act shall not be consummated by the Secretary until the conditions of this section are met.

(b) CONDITIONS.—The Secretary or a qualified section 501(c)(3) conservation entity, acting on its behalf for later disposition to the United States, shall have acquired, by purchase or option to acquire, or exchange, all of the Taylor Fork property for its fair market value, determined at the time of acquisition in accordance with appraisal standards acceptable to the Secretary by an appraiser ac-

ceptable to the Secretary and the owner. Any appraisal for exchange purposes shall be conducted by the same parties, utilizing the same standards noted above; and further that, if said acquisition or option to acquire has been consummated by a qualified section 501(c)(3) conservation entity, said entity shall have notified the Secretary that the quality of title in fact secured meets applicable Forest Service standards with respect to surface and subsurface estates or is otherwise acceptable to the Forest Service.

(c) DIRECTION.—The Secretary is directed to provide Congress, within two years, recommendations designed to acquire by purchase or exchange Taylor Fork Area lands owned by Big Sky Timber Company: *Provided,* That such recommendations are agreed to by Big Sky Lumber Company: *Provided further,* That nothing in this section limits the Secretary's authority to acquire or purchase said lands.

(d) DESCRIPTION OF LANDS.—The Secretary is authorized and directed to acquire by purchase or exchange the lands and interests therein as depicted on a map entitled "Taylor Fork Area", dated September, 1992.

(e) LAND ACQUISITION AUTHORITIES.—Acquisition pursuant to this section shall be under existing authorities available to the Secretary: *Provided,* That notwithstanding

any other law, exchanges authorized in this section shall not be restricted within the same State.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out the purposes of this section. Funds necessary for land acquisition are authorized to be appropriated from the Land and Water Conservation Fund.

(g) EQUAL VALUE.—Any exchange of lands between Big Sky Lumber Company and the United States shall be for equal value.

(h) REFERENCES.—The reference and authorities of this section referring to the Big Sky Lumber Company, shall also refer to its successors.

(i) REPORTS TO CONGRESS.—For a period of two years from the date of enactment of this Act, the Secretary shall report annually to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, on the status of the negotiations with the company or its successors in interest to effect the land consolidation authorized by this section.

SEC. 6. LAND CONSOLIDATION—GALLATIN AREA.

(a) IN GENERAL.—The Secretary shall work diligently to assure all lands within what is generally known as the Gallatin Range owned by Big Sky Lumber Com-

pany, its assignee or successors in interest, not acquired, purchased or exchanged pursuant to sections 14 and 15 of this Act are acquired by the United States through exchange or purchase.

(b) DIRECTION.—The Secretary is directed to provide Congress, within three years, recommendations designed to acquire by purchase or exchange Gallatin Area lands owned by Big Sky Timber Company: *Provided,* That such recommendations are agreed to by Big Sky Lumber Company: *Provided further,* That nothing in this section limits the Secretary's authority to acquire or purchase said lands.

(c) DESCRIPTION OF LANDS.—The Secretary is authorized and directed to acquire by purchase or exchange the lands and interests therein as depicted on a map entitled "Gallatin Area", dated September, 1992.

(d) LAND ACQUISITION AUTHORITIES.—Acquisitions pursuant to this section shall be under existing authorities available to the Secretary: *Provided,* That notwithstanding any other law, exchanges authorized in this section shall not be restricted within the same State.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out the purposes of this section. Funds

necessary for land acquisition are authorized to be appropriated from the Land and Water Conservation Fund.

(f) EQUAL VALUE.—Any exchange of lands between Big Sky Lumber Company and the United States shall be for equal value.

(g) QUALITY OF TITLE.—The quality of title to the properties referenced in this section in fact secured shall meet applicable Forest Service standards with respect to surface and subsurface estates or shall otherwise be acceptable to the Forest Service.

(h) REFERENCES.—The reference and authorities of this section referring to the Big Sky Lumber Company, shall also refer to its successors.

(i) REPORTS TO CONGRESS.—For a period of three years from the date of enactment of this Act, the Secretary shall report annually to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, on the status of the negotiations with the company or its successors in interest to effect the land consolidation authorized by this section.

O

OPENING STATEMENT OF CHAIRMAN VENTO

Mr. VENTO. The measure, H.R. 873, introduced by our friend and colleague from Montana, a member of the subcommittee, would facilitate blocking up the checkerboard ownership of ecologically significant lands in the Gallatin Range of Montana. The subcommittee visited this site in the 100th Congress? Or 101st Congress, in 1987–88. This proposal then was passed by the House twice. It was passed in the 100th Congress in the wilderness bill that was, unfortunately, vetoed by the President at that time, and then again in the wilderness bill that was passed in the last Congress but failed to make it across the finish line in the Senate in the waning hours of the last Congress.

A copy of the bill with background of material—the Gallatin Range issue is a derivative of the broader Montana wilderness bill, but action needs to be timely on that in order to facilitate an agreement that was made between the Forest Service and other interested parties concerning that land. As I say, a copy of the material and description is before each member.

STATEMENT OF HON. CRAIG THOMAS, A U.S. REPRESENTATIVE FROM THE STATE OF WYOMING

Mr. VENTO. The gentleman from Wyoming, Mr. Thomas.

Mr. THOMAS. Thank you very much, Mr. Chairman. Let me make a couple of comments from Mr. Hansen's statement and then ask that it be included in the record.

There is—and I agree there is a merit, of course, in consolidating land ownerships, and particularly in the Gallatin as talked about here. However, it does appear there would be a large gain for Federal ownership, and I certainly feel very strongly about that. As you know, it has been my view that we certainly should not have a net gain, and indeed in some instances probably should dispose of some Federal lands. So I think that is an interesting, perhaps unintended, effect of this bill. Secondly, updated appraisals, according to Mr. Hansen, should be made and the timber prices have changed substantially. So I would like to submit that for the record, if I may.

Mr. VENTO. Without objection, the entire statements of all members, opening statements, and the statements of witnesses in their entirety will be made part of the record.

Mr. THOMAS. Thank you, Mr. Chairman.

Mr. VENTO. Hearing no objection, so ordered.

[Prepared statement of Mr. Hanson follows:]

STATEMENT OF THE HON. JAMES V. HANSEN

I thank you for holding today's hearing and look forward to hearing from the witnesses.

Although there clearly is a great deal of merit in consolidating some land ownerships in the Gallantin National Forest and throughout the west, I have some concerns about H.R. 873.

First, it appears that this bill will result in a large gain of federal land ownership at a time when the Forest Service does not have the resources to manage the lands it already owns.

Second, updated appraisals are not yet available for two of the tracts in this bill. Because timber prices are sky rocketing, this Subcommittee must have updated appraisal information before we go to mark-up. How can we possibly estimate the cost to the government without such information?

Finally, I note that the Nature Conservancy has options on two of the tracts in this bill which they would like to sell to the Forest Service. The Nature Conservancy spent more money in land acquisition last year than the Forest Service, I wonder why we don't let the Conservancy exercise their option, by the land and protect themselves.

Mr. THOMAS. Actually, you know, this is in Montana, and I have a fairly strong feeling about those representing a particular State certainly should have the lead. It does seem as if this legislation is on a fairly fast track. We are holding hearings today and I think mark-up is later this week.

I have been contacted by some folks who I happen to know who grew up on the ranch across the river from us that now live in this area. They are concerned that there hasn't been more opportunity for them, at least recently, to have participation in it. The Inspector General, of course, which depending on your point of view we have either given a great deal of credit here or discredited entirely, depending on whether we agree with what they say or not——

Mr. VENTO. Depending on whether we agree or disagree with them. [Laughter]

Mr. THOMAS.—exactly—has issued a report critical of the involvement of third parties in land purchases and exchanges, and now, of course, we are fast-tracking that kind of an arrangement here.

Nevertheless, as I indicated, even though there does appear to me to be some issues that need to be talked about, I understand it has the support of the three members of the Montana delegation, and I respect that. And I hope that when other wilderness bills comeup that they will respect that in terms of Wyoming.

So, thank you, Mr. Chairman.

Mr. VENTO. I thank the gentleman for his comments.

Mr. Duncan?

Mr. DUNCAN. I have no statement.

Mr. VENTO. I am pleased to recognize the gentleman from Montana, a member of the subcommittee and the sponsor of the Gallatin Range Consolidation Protection Act of 1993, Mr. Williams.

STATEMENT OF HON. PAT WILLIAMS, A U.S. REPRESENTATIVE FROM THE STATE OF MONTANA

Mr. WILLIAMS. Thank you, Mr. Chairman. On behalf of H.R. 873 I address myself this morning. I want to thank you for holding this hearing today and for moving so quickly in this year's agenda to consider this important piece of legislation, the Gallatin Range Consolidation Protection Act.

This legislation, as I think you are aware, Mr. Chairman, from our previous discussions, consolidates checkerboard lands in Montana. It was included in the Montana wilderness bill that passed this subcommittee, the full committee and the House last session. That was the third time that legislation consolidating lands in the Gallatin has passed the House. It is being presented without the accompanying wilderness bill this year because of the real public lands disaster that is looming in Montana if this legislation is not adopted by this spring.

Just north of America's first national park, Yellowstone, the Gallatin Range connects the other mountains of the Yellowstone Ecosystem much like spokes in a wheel. This range was not protected,

of course, when the park was set aside because every other section in the area had been granted to the railroad as payment for the transamerica construction. But the range's importance to the integrity of Yellowstone has never been questioned, and it has essentially remained wild ever since the park was first designated.

The range is the home of some of the largest elk herd in America, along with countless other species, including the endangered grizzly bear. The range also is the headwaters of some of the most pristine streams and rivers left anywhere in the lower 48 States.

The first attempt to consolidate these lands happened back in 1925, and since then there have been countless attempts to bring the Gallatin Range into Federal ownership. The Federal Government has already spent more than $12 million to acquire elk winter range, and the House of Representatives have held countless hours of testimony on the importance of these lands. In fact, the first hearing that was held after I became a member of this subcommittee outside of Washington was in Montana concerning these lands 15 years ago. The House has passed, as I said earlier, three bills to complete these land trades and purchases, but still the range, the area remains chopped up in checkerboard land ownership.

Now, let me be current on this, relatively current. In 1988 both the House and Senate passed a consolidation bill for these lands. It was vetoed as part of an overall wilderness bill by then President Reagan. Following that veto, the railroad that owned the lands sold them to a private timber company in order, I think, to avoid a hostile takeover, and the company has since again sold the lands to several new owners interested in timber and development.

Part of the new sale arrangement requires that timber be provided off the private lands, and so now we face a serious problem. If we don't solve these intermingled problems by the time the contractual harvest becomes necessary and due, I submit that the days of relatively gracious corporate neighbors in and around the Gallatin are over, and increasingly important recreation and watershed and wildlife habitat lands will be subdivided, will be harvested, will be posted off limits, will be sold for private hunting rights, unless this legislation is signed into law by this spring.

I helped to bring the various parties together last year to reach this agreement. Without this agreement in the Gallatin we face a June deadline, and at that point a company will enter and log the nationally significant Porcupine drainage, it is called, with the public therefore losing its precious opportunities and already scarce public access. I think that the majority on this subcommittee will be committed to see that this area is not lost.

Local landowners are in agreement. Conservation organizations, nationally and locally, are in agreement. The Park Service and the Forest Service are in agreement. The immediate private owners of the properties are in agreement. It is now left only for the legislative and executive branch to join the agreement. If we do not, an opportunity to keep the area north of Yellowstone National Park, an opportunity which has been dreamt of since 1925 will be lost for the rest of our lives and our children's and their children's children.

Mr. Chairman, again I urge haste on this legislation, and thank you for the haste with which you have treated this matter in this Congress.

[The letters follow:]

OFFICE OF THE GOVERNOR

STATE OF MONTANA

MARC RACICOT
GOVERNOR

STATE CAPITOL
HELENA, MONTANA 59620-0801

March 3, 1993

Kathy Hadley, President
Joe Gutkoski, Vice President
Montana Wildlife Federation
P.O. Box 1175
Helena, MT 59624

Dear Kathy & Joe:

Thank you for letting me know of your support for H.R. 873, legislation which seeks an exchange of land involving the Gallatin National Forest.

I support the consolidation and protection of the Gallatin area's important wildlife habitat, majestic scenery, pristine water quality, recreational values and wilderness potential. I support the intent of H.R. 873 and the Montana Department of Fish, Wildlife & Parks also strongly favors the components of the bill.

In addition to the Gallatin Land Exchange portion of the bill, the acquisition and protection of the Porcupine and Taylor Fork areas are key elements to an overall package of land stewardship and improved wildlife management in the Gallatin area.

Another proposed land exchange also has positive potential for the Gallatin Valley. Brand S Lumber in Livingston is working on an exchange with the Forest Service which offers possible state park, wildlife management, silviculture and economic benefits in the Lost Creek drainage near Anaconda and the Gallatin area. That exchange is in the process of being finalized, and there is a possibility that this exchange could be amended into H.R. 873 or serve as a stand-alone exchange for congressional consideration.

I see tremendous potential for these exchanges to consolidate blocks of land in the Gallatin which will protect important habitat and recreational values for years--even generations--to come, and at the same time allow model timber programs which create and preserve jobs and demonstrate solid forest stewardship.

Thank you again for your letter. Please let me know if I can be help in future matters.

Sincerely,

Marc Racicot

MARC RACICOT
Governor

cc: Max Baucus
Conrad Burns
Pat Williams

TELEPHONE: (406) 444-3111 FAX: (406) 444-5529

03/12/93 15:11 PAT WILLIAMS BUTTE ☎ 006

TO :
FROM : City of Bozeman

PHONE NO. : 91443713898

MAR. 16. 1993 9:11AM P 1
PHONE NO. : 406 586 3321 203

Attn: Matt Baldwin
David B.

THE CITY OF BOZEMAN
411 E. MAIN ST. P.O. BOX 640 PHONE (406) 586-3321
BOZEMAN, MONTANA 59715-0640

March 15, 1993

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To Pat Williams	From City of Bozeman
Co.	Co.
Dept.	Phone # 586-3321
Fax # 442-7138	Fax # Same X203

Representative Pat Williams
United States House of Representatives
Room 2457, Rayburn House Office Building
Washington, DC 20515

Dear Representative Williams:

I am writing in support of the land sale in Cottonwood Canyon, which is commonly referred to as the "Gallatin Canyon land exchange".

In 1990, the city and county governments adopted the 1990 Bozeman Area Master Plan Update. One of the important goals of the plan is to support the establishment and maintenance of greenbelts and open space, including the preservation of trail and open space. To help implement this goal, the City Commissioners created the Parks, open Space and Trails Committee to develop a park and open space plan. The concept of linking Main Street to the mountain ranges to the north and to the south of Bozeman has become known as "From Main Street To The Mountains" and has gained wide public acceptance and enthusiasm. The acquisition of the property in Cottonwood Canyon, to be used for public access to forest service lands in the Gallatin Canyon, would be a significant step toward providing the desired trail system.

The proposed public access area and the trail system that could be developed will provide a significant amenity in that portion of the valley. The trail will provide a quiet, natural atmosphere for the serious or recreational hiker; and it could also be developed to accommodate mountain bikers. It has become clear that our trails system linking our residents and visitors to wild places at our doorstep has become a significant stimulus to our local economy.

As Mayor of the City of Bozeman, I encourage you to support the legislation that makes this dream a reality.

Yours sincerely,

Timothy Swanson

TIMOTHY SWANSON
Mayor

TS:rs

03/12/93 15:12 PAT WILLIAMS BUTTE %5 007
03/12/1993 15:06 FROM MT Wilderness Assoc. TO 17239511518 P.02

MONTANA WILDERNESS ASSOCIATION

MWA Flathead Chapter Position on Gallatin Land Exchange

The Montana Wilderness Association supports the Gallatin Land Exchange, including the trade of 2,830 acres in the Flathead National Forest's Island Unit to Big Sky Lumber Company. The exchange would protect Porcupine Creek drainage and the biological heart of the Gallatin Wilderness Study Area, the most important and most threatened lands in the Greater Yellowstone Ecosystem that currently are unprotected.

The exchange is the result of many years of negotiation between interested groups, and now enjoys overwhelming support from conservation groups, sportsmen groups and the congressional delegation. The exchange originally involved Plum Creek Timber Company, which supported the trade. Last year, Plum Creek sold its Gallatin lands to Big Sky Lumber Company, which now supports the exchange. The federal government will acquire a total of 70,000 acres in the exchange.

The Flathead Chapter is never eager to see public land turned over to corporate timber companies, but the benefits to Montana of the proposed exchange far outweigh any negative aspects, said Flathead Chapter President Rose Titus.

"The Island Unit has been heavily logged and roaded by the Forest Service to the detriment of water quality and wildlife," Titus said. "There's no reason to believe that Big Sky Lumber will manage these lands in a different manner than the Forest Service."

"In terms of environmental value, there's no comparison with the outstanding elk winter range that would be acquired in the Gallatin Range. All things considered, this exchange is clearly in the public interest," Titus said.

Flathead Chapter MWA • P.O. Box 543 • Kalispell, MT 59903-0543

Citizens to Save the Gallatin Valley Face
984 Lower Tom Burke Road
Gallatin Gateway, Montana 59730

Robert James, President
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Daniel J. Roth, Esq.
Legal Counsel

March 19, 1993

Representative Pat Williams
U.S. House of Representative
Washington, D.C. 50515

RE: Pat Williams Gallatin Range Consolidation and Protection Act HR873 and S489

Dear Representative Williams:

Because it is absolutely essential that this Bill be acted upon before June 1st, we beg you to give its merits your most earnest consideration. The Federal Government has, since 1925, been trying to bring these lands into public ownership and this appears to be the last and best chance as the clear-cutting will begin in June, if the deadline is not met.

These lands have been described by the Greater Yellowstone Coalition as the "biologic heart" of the S393 Wilderness Study Area established in Southwest Montana,16 years ago. It is part of the fragile Yellowstone Eco-System which offers wonderful fishing, hunting, all sorts of other outdoor recreations while providing habitat critical to moose, elk, grizzly bear, sheep and native cutthroat trout which have already disappeared in many areas. The 70,000 acres, which would be acquired, is largely intermingled with National Forest lands and would help preserve the very best of what is left. If we don't acquire these lands now we will have missed our last chance.

Should the Gallatin Face not be brought into public ownership, the entrance to the canyon would be so defaced by clear-cuts it would be almost impossible to have Highway #191 through the Canyon designated as a Scenic By-Way. If you have seen it you know it is a most worthy candidate. The pristine Gallatin River and its tributaries would also be at risk. Please remember, the lands concerned will be NATIONAL lands and that your constituents will have an interest in them fully equal to those who happen to live here.

When you think on what this plan will do, we believe you will agree that the future of this magnificent area does not lie with more aggressively developing extractive industries, but in preserving the integrity of it's eco-systems and the whole community of life they support.

Respectfully yours,

Robert James

Robert James

Pat - Many thanks - this letter will reach all of your Committee if your time permits, please enter it into the record.

Mr. VENTO. I thank the gentleman for his work. I thought that probably I had—I remember when I first jurisdiction we went to this area and looked at it, and the Forest Service had been working on a negotiated-type of consolidation and it had been going, and has been going at, apparently, a deliberate speed but there is some need for legislation to facilitate it. So I commend the gentleman for the agreement. Hopefully, as we look at it more closely in detail today we will act positively on it, as we did.

I think this was really something that came from both of the Representatives from Montana in the last session, not just one. So, in that sense it was bipartisan and it remains a bipartisan proposal, apparently, put together by the gentleman from Montana, Mr. Williams.

Let me turn to the witness list. We are pleased to welcome the representative from the BLM, Mr. Kemp Conn, the Deputy Assistant Secretary, Department of Interior, BLM.

Without objection, your testimony, Mr. Conn, has been made part of the record, and feel free to proceed in summarizing or reading the relevant portions thereof, or all of it if it is brief. Please proceed, Mr. Conn.

PANEL CONSISTING OF KEMP CONN, DEPUTY ASSISTANT DIRECTOR, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR; AND MARK REIMERS, DEPUTY CHIEF, FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE, ACCOMPANIED BY BOB DENNEE, LANDS PROGRAM MANAGER, GALLATIN NATIONAL FOREST

STATEMENT OF KEMP CONN

Mr. CONN. Thank you, Mr. Chairman. With respect to H.R. 873, when given the necessary information to issue a patent, as the Bureau of Land Management's only role in this issue, we will be more than willing to do so.

[Prepared statement of Mr. Conn follows:]

STATEMENT OF KEMP CONN, DEPUTY ASSISTANT DIRECTOR, LAND AND RENEWABLE RESOURCES, BUREAU OF LAND MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON NATIONAL PARKS, FORESTS AND PUBLIC LANDS, COMMITTEE ON NATURAL RESOURCES, U.S. HOUSE OF REPRESENTATIVES, ON H.R. 873, THE "GALLATIN RANGE CONSOLIDATION AND PROTECTION ACT OF 1993."

I appreciate the opportunity to comment on H.R. 873, a bill which would provide for the exchange of certain National Forest System lands in Montana for certain private lands to be added to the National Forest System. Among other provisions, the bill would also provide that the Secretary of Agriculture recommend that the Secretary of the Interior convey certain National Forest System lands by patent to complete the exchange transactions.

The Bureau of Land Management's (BLM) only involvement in the land transactions proposed by this legislation would be to issue the land patent or patents for the referenced 12,414.06 acres of National Forest System lands.

By law the boundary of public lands to be patented must be surveyed by standards approved by the BLM. The only description proposed in H.R. 873 for the lands the BLM would patent is a reference to a map entitled "Plum Creek Timber and Forest Service Proposed Gallatin Land Exchange", dated May 20, 1988. At this time, we have not seen the referenced map and do not have sufficient information to determine whether the lands are properly described for conveyance or whether existing surveys of the lands in question conform to the official rectangular survey system.

If we are provided legally sufficient descriptions of the lands to be conveyed, the BLM would have no objection to the bill and could issue the patent or patents promptly.

If new surveys are required before a patent can be issued, arrangements should be made to ensure that there is sufficient funding to cover the survey costs and the surveys would have to be approved by the BLM. The bill should provide for that contingency.

Although they do not affect the BLM, I would also like to note that there are several technical corrections which should be made to H.R. 873. These technical corrections are addressed in the Forest Service statement.

This completes my statement. I would be pleased to answer your questions.

Mr. VENTO. Thank you for your testimony, and the full statement will be in the record.

Mr. Reimers.

STATEMENT OF MARK REIMERS

Mr. REIMERS. Mr. Chairman, and members of the committee, I think we all hope that the BLM can carry out their role as soon as possible and issue these patents. That is the objective that we are headed towards. I share with you and the other members a long history and love this particular area of Montana.

Since both you, Mr. Chairman, and Mr. Williams have highlighted the history and the background, with your permission I will just highlight my testimony and submit it for the record. I have with me also today Bob Dennee, the Lands Program Manager, from the Gallatin National Forest, so if we get into some detailed questions about particular tracts he is available both now and later to your committee staff to help answer those.

The Department of Agriculture supports enactment of H.R. 873, the Gallatin Range Consolidation and Protection Act. We do suggest some amendments which we have provided to the committee. The legislation involves the Big Sky Lumber Company inholdings in four locations within the Gallatin and Madison Mountain Ranges, and we have a display map. You are pretty familiar with these, but as you look at them, the background is the Gallatin National Forest. The Plum Creek Exchange is shown in the bright pink. The Porcupine area is shown in orange. The Taylor Fork area is shown in the bold yellow. The land consolidation, Gallatin area, is shown in dark blue near the top.

Most of these lands are within the Gallatin Range Wilderness Study Area that extends from Yellowstone Park to the north. The other colors in the background, the light yellow is BLM, the light blue is State, and then there are other ownerships.

As was already mentioned by Mr. Williams, these lands contain critical wildlife habitat and outstanding recreation opportunities. There is broad support for the action that is proposed in this legislation. We understand that Big Sky Lumber is receptive to these proposals. As was mentioned, there is a time frame and they are seeking to have legislation enacted by June of this year.

The overall proposal involves checkerboard lands with a long and complex history. A key to the current proposal has been the involvement of interested parties such as The Nature Conservancy and the Rocky Mountain Elk Foundation. The bill recognizes this involvement and employs three distinct methods to accomplish the overall purposes. I will briefly highlight the sections of the bill.

Section 3 would direct the Forest Service to complete the Plum Creek Exchange. This 2-party exchange was first proposed in 1987, as was mentioned. It involves 37,000 acres of Big Sky Lumber lands and 12,000 acres of National Forest System lands in exchange with a $3.4 million equalization payment. In the present proposal, completing the Plum Creek Exchange is contingent upon related acquisition of the Big Sky Lumber lands in Porcupine and Taylor Fork.

Section 4 deals with the Porcupine area. A key to this part of the bill is the involvement of The Nature Conservancy as a third party. The Nature Conservancy holds an option to acquire these lands within 2 years.

Section 4 authorizes the Forest Service to acquire approximately 11,000 acres of Big Sky Lumber lands in the Taylor Fork area of the Gallatin by purchase or exchange, and authorizes Land and Water Conservation funding. The Nature Conservancy again is involved in this transaction as previously noted.

The fourth area additionally authorizes and directs the Forest Service to pursue acquisition of other Big Sky Lumber lands in the Gallatin area and authorizes Land and Water Conservation funding. The Forest Service would report to Congress regarding this acquisition effort. These are the remaining 24,000 acres of intermingled Big Sky Lumber lands in the northern Gallatin Range.

About half, or 40,000 acres, of these inholdings are located within the Gallatin Range Wilderness Study Area. The Porcupine, Taylor Fork, and southern Gallatin Range are within the Greater Yellowstone Grizzly Bear Recovery Zone. The acquisition, as was mentioned, would consolidate public ownership in the upper Gallatin, Porcupine, Taylor Fork as it relates to elk winter range.

If the proposed acquisitions are not consummated, as Mr. Williams pointed out, there is the concern and likelihood that the Big Sky Lumber owners will develop their lands to serve their own corporate purposes. These are private lands. The land adjustment allows for the consolidation of National Forest System lands and also the consolidation of lands owned by Big Sky Lumber.

There are some tradeoffs with regard to the exchanges. There are some National Forest System lands near the boundary and in checkerboard areas that would be transferred to private ownership.

One question I would like to address is the question of minerals. Although the Forest Service would acquire all the mineral rights under the lands in the Plum Creek land exchange portion of this bill, the mineral estate is owned separately in the case of the Porcupine and Taylor Fork areas. We believe it is important that we acquire both the surface and subsurface ownership to satisfy the purposes of the acquisition. We understand the owners of the subsurface rights are willing to convey the locatable minerals and agree to no surface occupancy with regard to the leasable minerals and the geothermal energy. These conditions are the minimum we feel would be acceptable to support the overall purposes of the exchange.

Our supplemental statement does have some additional suggestions. There is one major suggestion. In the addition, we recommend a provision for exchange of mineral rights in several other areas. This provision was in previous versions of the bill that the

committee considered. This exchange would involve mineral rights underlying National Forest System lands on the Gallatin and Lolo National Forests that are held by Burlington Northern, and acquiring these subsurface rights would enhance management opportunities for the Federal Government.

We believe the proposed exchange and acquisition would be in the public interest. We are hopeful that the committee will be able to move ahead.

This completes my prepared statement, and I would be happy to answer your questions.

Mr. VENTO. Thank you. Thank you very much for your statement, Mr. Reimers.

[Prepared statement of Mr. Reimers follows:]

Statement of Mark Reimers, Deputy Chief
Forest Service
United States Department of Agriculture

Before the
Subcommittee on National Parks, Forests, and Public Lands
Committee on Natural Resources

Concerning H.R. 873

March 23, 1993

Mr. Chairman and members of the subcommittee:

Thank you for the opportunity to provide the Subcommittee with our views on H.R. 873.

The Department of Agriculture supports enactment of H.R. 873, the "Gallatin Range Consolidation and Protection Act," with amendments as we recommend. This legislation would enable public acquisition of critical inholdings within the Gallatin National Forest in southwest Montana.

This legislation involves acquisition of Big Sky Lumber Company inholdings in four locations within the Gallatin and Madison Mountain Ranges, as shown on the display map. These same land acquisitions were included in the Montana Wilderness bill considered by the 102nd Congress.

These lands contain important wildlife habitats and outstanding recreation opportunities. A broad spectrum of national and local conservation and recreation organizations, Federal land

management, and State fish and wildlife agencies agree that these lands should be acquired. We understand that Big Sky Lumber is receptive to these proposals, provided authorizing legislation can be enacted by June 1993.

These lands are part of a complex ownership pattern resulting from an earlier Federal land policy that granted lands to the railroads for opening up the West. The practice of granting lands in a "checkerboard" fashion has created some of the land management problems we are dealing with today. The difficulties are particularly acute when management objectives of the owners are different.

Efforts to resolve this issue began in earnest in the 1980's, with then-owner Plum Creek Timber Company. As circumstances and owners have changed over time, an exchange with several components has evolved. A key has been the involvement of interested parties such as The Nature Conservancy and Rocky Mountain Elk Foundation. The bill recognizes this involvement and employs three distinct methods to accomplish its broader purposes.

First, there is a land exchange involving the Forest Service and Big Sky Lumber. Second, there is a transaction involving The Nature Conservancy, whereby it could acquire Big Sky Lumber lands in two other areas and hold them for future acquisition by the Forest Service. Third, there is an additional area of intermingled Big Sky Lumber and National Forest System lands

which will be examined for possible future acquisition. I will describe each of these components in more detail.

Section 3 of H.R. 873 would direct the Forest Service to complete the **Plum Creek Land Exchange** (Gallatin Area). This two-party exchange was first proposed in 1987, and has been included in most of the Montana wilderness bills considered since that time. A total of 37,752 acres of Big Sky Lumber lands would be acquired in exchange for 12,414 acres of National Forest System lands and a $3.4 million equalization payment through Land and Water Conservation funding. In the present proposal, completing the Plum Creek Exchange is contingent upon related acquisition of Big Sky Lumber lands in the Porcupine and Taylor Fork areas.

Section 4 of H.R. 873 specifically authorizes the Forest Service to acquire 8,050 acres of Big Sky Lumber lands in the **Porcupine Area** of the Gallatin Forest by purchase or exchange, and authorizes Land and Water Conservation funding. A key to this part of the bill is the involvement of The Nature Conservancy as a third party. The Nature Conservancy holds an option agreement to acquire these lands within 2 years.

These lands are located in the upper Gallatin Canyon, just north of Yellowstone National Park. They are the same lands included in a previously-proposed Porcupine Land Exchange between the Forest Service and the previous owners of the lands.

Section 5 of H.R. 873 authorizes the Forest Service to acquire approximately 11,200 acres of Big Sky Lumber lands in the **Taylor Fork Area** of the Gallatin Forest by purchase or exchange, and authorizes Land and Water Conservation funding. The Nature Conservancy also is involved in this transaction as previously noted.

The lands are located in the Taylor Fork and Buck Creek drainages in the upper Gallatin Canyon, between Yellowstone National Park and the Lee Metcalf Wilderness. These same lands are currently proposed by the Forest Service and conservation organizations for Land and Water Conservation purchase in 1994.

Section 6 of H.R. 873 additionally authorizes and directs the Forest Service to pursue acquisition of other Big Sky Lumber lands in the **Gallatin Area**, and authorizes Land and Water Conservation funding. The Forest Service would report to Congress regarding this acquisition effort. These are the remaining 24,000 acres of intermingled Big Sky Lumber lands in the northern Gallatin Range.

I will briefly highlight the **key values** on the lands which would be acquired and protected through this legislation, and the **likely consequences** if the public is unable to acquire these inholdings.

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About half, or 40,000 acres, of these inholdings are located within the Gallatin Range **Wilderness Study Area**. Acquisition would consolidate public ownership in the Congressionally-designated wilderness study area and continue to maintain the wilderness character of the Gallatin Range until Congress can address the wilderness question. These lands contain outstanding wildlife, scenic, wilderness and recreation values.

The Porcupine, Taylor Fork, and southern Gallatin Range are all within the Greater Yellowstone **Grizzly Bear Recovery Zone**. These private inholdings contain resident grizzly bear populations and habitat components necessary for the recovery of this threatened species. In total, nearly 25,000 acres of the lands to be acquired on the Gallatin Forest are considered essential for recovery of the grizzly bear.

The acquisitions would consolidate public ownership in the upper Gallatin, Porcupine and Taylor Fork elk winter range, which is important habitat for over 3,000 elk which migrate from Yellowstone National Park.

The lands to be acquired in the upper Gallatin and Madison Range are the **headwaters of the Gallatin and Yellowstone Rivers**, two nationally-known wild trout streams. These headwater areas also contain sensitive riparian areas and valuable watersheds.

If the proposed acquisitions are not consummated, Big Sky Lumber owners will likely develop their lands to serve a variety of corporate purposes.

The land adjustments allow for consolidation of National Forest System lands and also consolidation of lands owned by Big Sky Lumber. In total, the National Forest boundaries would be reduced by about 540 miles, at an estimated total **cost savings** of $2.5 million (present value) in corner and property boundary maintenance.

There are also some tradeoffs if these transactions occur. The lands that would be exchanged also have resource values such as productive timber lands with significant volumes. Since the lands to be acquired are largely within a wilderness study area, they would not be available for timber management. Overall, this would slightly reduce the available timber harvest from the National Forests.

Valuable wildlife habitat exists on the Federal lands which would be exchanged, such as quality mule deer summer range and habitat for elk, black bear, and moose. The northern slopes of the Bridger Range, including some of the exchange lands, have outstanding scenic qualities.

Nearly half of the Gallatin National Forest lands to be exchanged are within the Bridger Mountain Roadless Area. However, this roadless area is recommended for non-wilderness purposes in the Gallatin Forest Plan. Forest Plan direction for these lands emphasizes timber management, livestock grazing, and other objectives that are more compatible with Big Sky Lumber's ownership objectives.

Over the long term, the lands which would be acquired by Big Sky Lumber may be subject to residential development, particularly in the Bridger Mountains.

Although the Forest Service would acquire all mineral rights under lands in the Plum Creek Land Exchange portion of this bill, the mineral estate is owned separately in the case of the Porcupine and Taylor Fork areas. We believe it is critical that we acquire surface and subsurface ownership rights that would satisfy the purposes of this acquisition. We understand the owners of the subsurface rights are willing to convey the locatable mineral rights and to agree that no surface occupancy would occur for any leasable mineral or geothermal energy development. These conditions are the minimum we believe to be acceptable to support the overall purposes of the exchange.

The attached Supplemental Statement provides our suggested amendments to the bill. Briefly summarized, we recommend adding a provision for an exchange of mineral rights, as considered in previous versions of this legislation before the 102nd Congress. This exchange involves mineral rights underlying National Forest System lands on the Gallatin and Lolo National Forests that are held by Burlington Northern. Acquiring these subsurface rights would enhance management options for the Federal Government. We also recommend several minor technical corrections.

In the balance, we believe the proposed exchange and acquisition to be in the public interest. The Forest Service would acquire many more acres than would be exchanged out of public ownership and the lands to be acquired have outstanding public values.

Mr. Chairman, this concludes my prepared statement and I would be pleased to answer the Subcommittee's questions on the bill.

USDA Forest Service

Supplemental Statement
concerning
H. R. 873 - Gallatin Range Consolidation and Protection Act of 1993

The copy of H.R. 873 shows recommended changes. Recommended additions are underlined, deletions are [~~everstruek~~]. Most changes are obvious, such as changing committee name references. The substantive changes are discussed below.

Sec. 4(f): Recommend deleting this section. The lands identified in 4(f) were originally part of the proposed 1983 Porcupine Land Exchange. The reason 4(f) was included in 1992 was to help facilitate a possible exchange for Porcupine. At this point, we see little benefit in having this section because the preference is to acquire Porcupine Area by purchase.

Sec. 4(g), 5(g), 6(f): Recommend deleting, as this provision could be construed to be more restrictive than existing authorities for exchange, which provide for 25 percent cash equalization.

Added Sec. 7: This section would add a severed minerals exchange which has been considered in previous versions of this legislation in the 102nd Congress. This section is a part of the Senate version of this bill. To clarify, this exchange is not directly associated with the lands to be acquired set forth in previous sections.

Added Sec. 8: This section would provide language concerning maps in one place rather than reiterating in each of Sections 3,4,5, and 6. Also clarifies intent that no surface occupancy or access to subsurface rights not conveyed to the United States is provided for under the bill.

103D CONGRESS
1ST SESSION

H. R. 873

Entitled the "Gallatin Range Consolidation and Protection Act of 1993".

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IN THE HOUSE OF REPRESENTATIVES

February 4, 1993

Mr. WILLIAMS introduced the following bill; which was referred to the Committee on Natural Resources

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A BILL

Entitled the "Gallatin Range Consolidation and Protection Act of 1993".

//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 referred to as the "Gallatin Range Consolidation and Protection Act of 1993".

!!SEC. 2. FINDINGS.!!

The Congress finds that:

(1) It has been the clear policy of the Federal Government since 1925 to consolidate the checkerboard lands along the Gallatin Range north of Yellowstone National Park.

(2) These lands north of Yellowstone possess outstanding natural characteristics and wildlife habitat which give them high value as lands added to the National Forest System.

(3) Although these lands have remained pristine up till now failure to consolidate at this time will in the near future lead to fragmentation and development.

(4) The Federal Government has already invested a great deal in keeping the lands along the Gallatin Range protected from excess development.

!!SEC. 3. PLUM CREEK LAND EXCHANGE--GALLATIN AREA.!!

(a) IN GENERAL.--The Secretary of Agriculture, hereinafter the "Secretary" shall, subject to the provisions of section 4(b) and section 5(b) and, notwithstanding any other law, acquire by exchange and cash equalization in the amount of $3,400,000, certain lands and interests in land of the Plum Creek Timber, L.P. (referred to in this section as the "company") in and adjacent to the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area, the Scapegoat Wilderness Area, and other land in the Gallatin National Forest in accordance with this section.

(b)(1) DESCRIPTION OF LANDS.--If the company offers to the United States the fee title, including mineral interests, to approximately 37,752 and 15/100 acres of land owned by the company which is available for exchange to the United States as depicted on a map entitled "Plum Creek Timber and Forest Service Proposed Gallatin Land Exchange", dated May 20, 1988, the Secretary shall accept a warranty deed to such land and, in exchange therefor, and subject to valid existing rights, upon such acceptance [~~recommend that~~] the Secretary of the Interior shall convey, subject to valid existing rights, by patent the fee title to approximately 12,414 and 6/100 acres of National Forest System lands available for exchange to the company as depicted on such map, subject to--

(A) the reservation of ditches and canals required by the Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-one, and for other purposes", approved August 30, 1890 (26 Stat. 391; 43 U.S.C. 945);

(B) the reservation of rights under Federal Oil and Gas Lease numbers 49739, 55610, 40389, 53670, 40215, 33385, 53736, and 38684; and

(C) such other terms, conditions, reservations and exceptions as may be agreed upon by the Secretary [~~of Agriculture~~] and the company.

(2) On termination or relinquishment of the leases referred to in paragraph (1), all the rights and interests in land granted therein shall immediately vest in the company, its successors and assigns, and the Secretary shall give notice of that event by a document suitable for recording in the county wherein the leased lands are situated.

(c) EASEMENTS.--Reciprocal easements shall be exchanged at closing on the conveyances authorized by this section--

(1) in consideration of the easements conveyed by the company as provided in paragraph 2 of this subsection, the Secretary of Agriculture shall, under authority of the National Forest Roads and Trails Act of October 13, 1964, or the Federal Land Policy and Management Act of 1976, execute and deliver to the company such easements or other rights of way [~~and~~] authorizations over federally owned lands included in this exchange as may be agreed to by the Secretary and the company in [~~the~~] an exchange agreement.

(2) In consideration of the easements conveyed by the United States as provided in paragraph (1), the company shall execute and deliver to the United States such easements or other rights of way [~~and~~] authorizations across company-owned lands included in this exchange as may be agreed to by the Secretary and the company in [~~the~~] an exchange agreement.

[~~(d) MAPS.--The maps referred to in subsection (b) are subject to such minor corrections as may be agreed upon by the Secretary and the company. The Secretary shall notify the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs to the United States House of Representatives of any corrections made pursuant to the subsection.~~]

(e) TIMING OF TRANSACTION.--It is the intent of Congress that the conveyances authorized by this section be completed within ninety days after the date of enactment of an Act making the appropriation authorized by subsection (g).

(f) FOREST LANDS.--All lands conveyed to the United States pursuant to this section and in sections 4, 5, and 6 shall become national forest system lands to be administered by the Secretary in accordance with applicable law.

(g) AUTHORIZATION OF APPROPRIATIONS.--There is authorized to be appropriated to carry out this section the sum $3,400,000, which amount the Secretary shall, when appropriated, pay to the company to equalize the value of the exchange of land authorized by this section.

(h) QUALITY OF TITLE.--Title to the properties referenced in this section to be offered to the United States by Big Sky Lumber Company, its assignees or successors in interest, shall include both [~~be inclusive of~~] the entire surface and subsurface estates without reservation or exception. The owner shall be required to [re]acquire any outstanding interest in mineral or mineral rights, timber or timber rights, water or water rights, or any other outstanding interest in the property, except reservations by the United States or the State of Montana by patent, in order to assure that title to the property is transferred as described in this section and sections 4, 5, and 6. [~~The agreement shall clearly evidence that the owners have the legal capacity to accomplish the foregoing requirements. Title standards for acquisition shall otherwise be in compliance with Forest Service policies and procedures.~~] Title to land to be conveyed to the United States shall be acceptable to the Secretary and shall otherwise be in conformity with title standards for federal land acquisitions.

(i) REFERENCES.--The reference and authorities of this section referring to Plum Creek Timber Company, L.P., shall also refer to its successors and assigns.

!!SEC. 4. LAND CONSOLIDATION; PORCUPINE AREA.!!

(a) IN GENERAL.--The exchange described in section 3 [~~14~~] of this Act shall not be consummated by the Secretary until the acquisition authorized by this section is completed [~~conditions of this section are met~~].

(b) CONDITIONS.--The Secretary or a not for profit corporation (hereinafter "conservation entity") exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code [~~qualified section 501(c)(3) conservation entity,~~] acting [~~on its behalf~~] for later disposition to the United States, shall have acquired, by purchase or option to acquire, or exchange, all of the Porcupine property for its fair market value, determined at the time of

acquisition in accordance with appraisal standards acceptable to the Secretary by an appraiser acceptable to the Secretary and the owner. [Any-appraisal for--exchange-purposes-shall-be-conducted-by-the-same-parties;-utilizing-the same-standards-noted-above;] And further that, if said acquisition or option to acquire has been consummated by a [qualified-section-501(c)(3)] conservation entity, said entity shall have notified the Secretary that the quality of title in fact secured meets applicable Forest Service standards with respect to surface and subsurface estates or is otherwise acceptable to the Forest Service.

(c) AUTHORIZATION FOR ACQUISITION [DESCRIPTION-OF-LANDS].--The Secretary is authorized and directed to acquire by purchase or exchange the lands and interests therein as depicted on a map entitled "Porcupine Area", dated September, 1992.

(d) LAND ACQUISITION AUTHORITIES.--Acquisitions pursuant to this section shall be under existing authorities available to the Secretary.

(e) AUTHORIZATION OF APPROPRIATIONS.--There are authorized to be appropriated such sums as are necessary to carry out the purposes of this section. Funds necessary for land acquisition are authorized to be appropriated from the Land and Water Conservation Fund. Expenditures authorized from the Land and Water Conservation Fund may be made without regard to restrictions or limitations contained in section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9).

[-(f)-AUTHORIZATION-OF-EXCHANGE.--The-Secretary-is-authorized-to-offer-the lands-and-interests-described-on-a-map-entitled-"Porcupine-Exchange-Lands", dated-September,-1992,-to-Big-Sky-Lumber-Company,-its-assignee-or-successors-in interest-to-fulfill-the-purposes-of-this-section:-//Provided,-\\-That-the-lands shall-not-transfer-to-the-company-until-the-provisions-of-this-section-and section-16-are-met.]

[(g)-EQUAL-VALUE.--Any-exchange-of-lands-between-Big-Sky-Lumber-Company and-the-United-States-shall-be-for-equal-value.]

(h) REFERENCES.--The reference and authorities of this section referring to the Big Sky Lumber Company, shall also refer to its successors and assigns.

!!SEC. 5. LAND CONSOLIDATION--TAYLOR FORK AREA.!!

(a) IN GENERAL.--The exchange described in section 3 [14] of this Act shall not be consummated by the Secretary until the [conditions-of-this section-are-met] acquisition authorized by this section is completed.

(b) CONDITIONS.--The Secretary or a not for profit corporation (hereinafter "qualified conservation entity") exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code [qualified-section-501(c)(3) conservation-entity,] acting [on-its-behalf] for later disposition to the United States, shall have acquired, by purchase or option to acquire, or exchange, all of the Taylor Fork property for its fair market value, determined at the time of acquisition in accordance with appraisal standards acceptable to the Secretary by an appraiser acceptable to the Secretary and the owner. [Any appraisal-for-exchange-purposes-shall-be-conducted-by-the-same-parties;

~~utilizing the same standards noted above;~~] And further that, if said acquisition or option to acquire has been consummated by a qualified conservation entity, said entity shall have notified the Secretary that the quality of title in fact secured meets applicable Forest Service standards with respect to surface and subsurface estates or is otherwise acceptable to the Forest Service.

[~~(e) DIRECTION.--The Secretary is directed to provide Congress, within two years, recommendations designed to acquire by purchase or exchange Taylor Fork Area lands owned by Big Sky Timber Company: //Provided,\\ --That such recommendations are agreed to by Big Sky Lumber Company: //Provided further,\\ That nothing in this section limits the Secretary's authority to acquire or purchase said lands;~~]

(d) AUTHORIZATION FOR ACQUISITION [~~DESCRIPTION OF LANDS~~].--The Secretary is authorized and directed to acquire by purchase or exchange the lands and interests therein as depicted on a map entitled "Taylor Fork Area", dated September, 1992.

(e) LAND ACQUISITION AUTHORITIES.--Acquisition pursuant to this section shall be under existing authorities available to the Secretary: //Provided,\\ That notwithstanding any other provision of law, exchanges authorized in this section shall not be restricted within the same State.

(f) AUTHORIZATION OF APPROPRIATIONS.--There are authorized to be appropriated such sums as are necessary to carry out the purposes of this section. Funds necessary for land acquisition are authorized to be appropriated from the Land and Water Conservation Fund. Expenditures authorized from the Land and Water Conservation Fund may be made without regard to restrictions or limitations contained in section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9).

[~~(g) EQUAL VALUE.--Any exchange of lands between Big Sky Lumber Company and the United States shall be for equal value~~].

(i [~~h~~]) REFERENCES.--The reference and authorities of this section referring to the Big Sky Lumber Company, shall also refer to its successors and assigns.

(h [~~i~~]) REPORTS TO CONGRESS.--For a period of two years from the date of enactment of this Act, the Secretary shall report annually to the Committee on Natural Resources [~~Interior and Insular Affairs~~] of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, on the status of the negotiations with the company or its successors in interest to effect the land consolidation authorized by this section.

!!SEC. 6. LAND CONSOLIDATION--GALLATIN AREA.!!

(a) IN GENERAL.--It is the policy of the Congress that the Secretary shall attempt to acquire by purchase or exchange [~~work diligently to assure~~] all lands within what is generally known as the Gallatin Range owned by Big Sky Lumber Company, its assignees or successors in interest, not otherwise acquired, purchased or exchanged pursuant to sections 3 and 4 [~~14 and 15~~] of this Act [~~are acquired by the United States through exchange or purchase~~].

[(b) DIRECTION.--The Secretary is directed to provide Congress, within three years, recommendations designed to acquire by purchase or exchange Gallatin Area lands owned by Big Sky Timber Company: //Provided, \\ That such recommendations are agreed to by Big Sky Lumber Company: //Provided further, \\ That nothing in this section limits the Secretary's authority to acquire or purchase said lands.]

(c) AUTHORIZATION FOR ACQUISITION [DESCRIPTION OF LANDS].--The Secretary is authorized and directed to acquire by purchase or exchange the lands and interests therein as depicted on a map entitled "Gallatin Area", dated September, 1992.

(d) LAND ACQUISITION AUTHORITIES.--Acquisitions pursuant to this section shall be under existing authorities available to the Secretary: //Provided, \\ That notwithstanding any other law, exchanges authorized in this section shall not be restricted within the same State.

(e) AUTHORIZATION OF APPROPRIATIONS.--There are authorized to be appropriated such sums as are necessary to carry out the purposes of this section. Funds necessary for land acquisition are authorized to be appropriated from the Land and Water Conservation Fund. Expenditures authorized from the Land and Water Conservation Fund may be made without regard to restrictions or limitations contained in section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9).

[(f) EQUAL VALUE.--Any exchange of lands between Big Sky Lumber Company and the United States shall be for equal value.]

(f [g]) QUALITY OF TITLE.--The quality of title to the properties referenced in this section in fact secured shall meet applicable Forest Service standards with respect to surface and subsurface estates or shall otherwise be acceptable to the Forest Service.

(g [h]) REFERENCES.--The reference and authorities of this section referring to the Big Sky Lumber Company, shall also refer to its successors and assigns.

(h [i]) REPORTS TO CONGRESS.--For a period of three years from the date of enactment of this Act, the Secretary shall report annually to the Committee on Natural Resources [Interior and Insular Affairs] of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, on the status of the negotiations with the company or its successors in interest to effect the land consolidation authorized by this section.

!!SEC. 7. SEVERED MINERALS EXCHANGE.!!

(a) FINDINGS.--The Congress finds that:--

(1) underlying certain areas in Montana described in subsection (b) are mineral rights owned by subsidiaries of Burlington Resources, Incorporated, its successors and assigns (referred to in this section as the "company");

(2) there are federally owned minerals underlying lands of the company lying outside those areas;

(3) the company has agreed in principle with the Department of Agriculture to an exchange of mineral rights to consolidate surface and subsurface ownerships and to avoid potential conflicts with the surface management of such areas; and

(4) it is desirable that an exchange be completed within two years after the date of enactment of this Act.

(b) DESCRIPTION OF MINERAL INTERESTS.--(1) Pursuant to an exchange agreement between the Secretary and the company, the Secretary may acquire mineral interests owned by the company or an affiliate of the company thereof underlying surface lands owned by the United States located in the areas depicted on the maps entitled "Severed Minerals Exchange, Clearwater-Monture Area", dated September 1988 and "Severed Minerals Exchanges, Gallatin Area", dated September 1988, or in fractional sections adjacent to those areas.

(2) In exchange for the mineral interests conveyed to the Secretary pursuant to paragraph (1), the Secretary of the Interior shall convey, subject to valid existing rights, such federally owned mineral interests as the Secretary and the company may agree upon.

(c) EQUAL VALUE.--(1) The value of mineral interests exchanged pursuant to this section shall be approximately equal based on available information.

(2) To ensure that the wilderness or other natural values of the areas are not affected, a formal appraisal based upon drilling or other surface disturbing activities shall not be required for any mineral interest proposed for exchange, but the Secretary and the company shall fully share all available information on the quality and quantity of mineral interests proposed for exchange.

(3) In the absence of adequate information regarding values of minerals proposed for exchange, the Secretary and the company may agree to an exchange on the basis of mineral interests of similar development potential, geologic character, and similar factors.

(d) IDENTIFICATION OF FEDERALLY OWNED MINERAL INTERESTS.--(1) Subject to paragraph (2), mineral interests conveyed by the United States pursuant to this section shall underlie lands the surface of which are owned by the company.

(2) If there are not sufficient federally owned mineral interests of approximately equal value underlying company lands, the Secretary and the Secretary of the Interior may identify for exchange any other federally owned mineral interest in land in the State of Montana of which the surface estate is in private ownership.

(e) CONSULTATION WITH THE DEPARTMENT OF THE INTERIOR.--(1) The Secretary shall consult with the Secretary of the Interior in the negotiation of the exchange agreement authorized by subsection (b), particularly with respect to the inclusion in such an agreement of a provision calling for the exchange of federally owned mineral interests lying outside the boundaries of units of the National Forest System.

(2) Notwithstanding any other law, the Secretary of the Interior shall

convey the federally owned mineral interests identified in a final exchange agreement between the Secretary of Agriculture and the company and its affiliates.

(f) DEFINITION.--For purposes of this section, the term "mineral interests" includes all locatable and leasable minerals, including oil and gas, geothermal resources, and all other subsurface rights.

(g) ENVIRONMENTAL LAW.--The execution and performance of an exchange agreement and the taking of other actions pursuant to this section shall not be deemed a major Federal action significantly affecting the quality of the environment within the meaning of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332), nor shall they require the preparation of an environmental assessment under this Act.

!!SEC.8 MAPS.!!

The maps referred to in Sections 3, 4, 5, 6 and 7 are subject to such minor corrections as may be agreed upon by the Secretary and the company. The Secretary shall notify the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources to the United States House of Representatives of any corrections made pursuant to the subsection. The maps shall be on file and available for public inspection in the office of Chief, Forest Service, USDA.

Mr. VENTO. Mr. Reimers, about the last statement you mentioned that there is a sought legislative direction with regard to the purchase of mineral rights underlying some national forest lands in the same area—or is it outside this area?

Mr. REIMERS. Well, it is actually outside.

Mr. VENTO. Okay.

Mr. REIMERS. The section I referred to is a separate area.

Mr. VENTO. But doesn't the Forest Service have existing authority to purchase that, lacking legislative direction?

Mr. REIMERS. That is right. It is a complex situation that would involve us acquiring subsurface rights and the Federal Government giving up subsurface rights under private land somewhere else.

Mr. VENTO. Under private land that you now own?

Mr. REIMERS. Yes. The Federal Government holds mineral interests under private lands in a number of places in Montana.

Mr. VENTO. So, in order to do that you need legislative action or authority or not?

Mr. REIMERS. No, it could be done under existing law.

Mr. VENTO. Okay.

Mr. REIMERS. This legislation would give impetus to try to complete that.

Mr. VENTO. Well, we will take that under consideration. Obviously, that was something that we had had in one of the earlier versions, and I will consult with the principals involved.

There is no time schedule problem there, is there?

Mr. REIMERS. That is correct.

Mr. VENTO. Okay. So I think we do have that, and I am sure there is a concern on the part of those that had negotiated, especially my colleague, the concerns about not bogging down with some of these desirable but nevertheless time-consuming other issues. I don't want to delay that.

This legislation is needed to block it up. Obviously, you have authority to do some of these activities now, but this again would give legislative impetus and it also is necessary, as I understand, in order to facilitate. As part of the agreement, have legislation in place that would facilitate this. That is my understanding.

What type of authority or new authority would be granted in this legislation that is different from what the Forest Service would do or could do now, Mr. Reimers?

Mr. REIMERS. Right. Well, under the Plum Creek part of the exchange it authorizes us and directs us to do that, so it actually completes the exchange on that portion. We also have a limitation on the amount of authority that can be cash equalized, which is 25 percent, and although this particular exchange only exceeds that by a small amount, that would complicate it if we had to do it under our existing authority. This legislation directs the exchange and makes clear with regard to the Plum Creek aspect both the exchange of lands and the cash equalization.

Mr. VENTO. We would not be changing—would we be changing any of the forest boundaries in this proposal?

Mr. REIMERS. No. This is internal to the national forest.

Mr. VENTO. So the boundaries already embrace these, basically, inholdings; is that correct?

Mr. REIMERS. That is correct.

Mr. VENTO. There are resources, I note, on the lands being given up in terms of timber values which would be given up on those traded back in since they are in a Wilderness Study Area and probably will be designated as wilderness based on the policy path we are pursuing in this area. There is that lack of revenue that would occur there; is that correct, Mr. Reimers?

Mr. REIMERS. Well, that is correct. There are lands—some of the lands that we are giving up have timber. On the other hand, the whole picture on the Gallatin is complicated by the roadless situation with regard to how much timber we have been able to harvest as it relates to the roadless area question, and so ultimately we hope for the resolution of not only this exchange but whatever wilderness designations are appropriate to allow us to move ahead with the forest plan with regard to an orderly timber harvest program.

Mr. VENTO. Obviously, as we look at that map and you have highlighted some of the checkerboard areas that are subject to this bill, we notice some around there that are not the subject of it, you know, to, I guess, the northeast—in the northeast region of these forests that obviously don't present the same problem. Can you explain the basis? Are those areas that are not critically important, or are those areas that are candidates for exchange?

Mr. REIMERS. Well, the best comparison really would be that when this exchange, this legislation, was completed the lands would be essentially blocked up within the Wilderness Study Area. A number of the other checkerboard areas are areas that are already developed, and so it is much easier to carry out joint management with private landowners in checkerboard areas if both areas are being developed mutually for a number of resources. Where you have a checkerboard ownership within an area that is anticipated to remain roadless or near roadless it presents problems both for ourselves and the private landowner.

Mr. VENTO. Well, I note that you eliminate 540 miles of boundary problems by virtue of these particular exchanges. The others, obviously, would persist and would be logical. Obviously, if we were to make further actions, and there are those. I guess Brand S will testify that another exchange involving its lands should be added to the bill. I don't know if you know what lands, candidate lands they are suggesting for exchange, Mr. Reimers, or not. Mike Atwood will be testifying that he would like to see consideration given to an additional exchange.

Do you know what lands he is proposing, or speaking to in his testimony, Mr. Reimers?

Mr. REIMERS. I don't have knowledge of all the details.

Mr. VENTO. Okay.

Mr. REIMERS. They have talked with our people at the forest level. We generally have a number of proposed exchanges between ourselves and private landowners in checkerboard areas. The difficult part usually is the determination of the lands that would leave Federal ownership. It is fairly easy to get agreement that some lands, particularly in a blocked up pattern, should come to the Federal Government and the National Forest System, but then when you are giving up other lands then other owners, other users of those lands quite often raise questions, and so we have to go

through a fairly lengthy process to find an exchange that we can feel is truly in the public interest in order to——

Mr. VENTO. You know, it happens when you get a good bill, Pat, and it is moving along everybody suggests, as the Forest Service here has today, that they would like to add their little changes to it with regards to mineral exchanges, and Brand S would like to add its little proposal to it. You know, what sometimes can happen when you begin to add these is it begins to delay the consideration of it.

Obviously, if agreement can be achieved and we can do more good and it doesn't take away from the basic momentum and agreement in the bill, I will be happy to deliberate with my colleagues and others on those matters. We want Pat Williams to do as much good as he possibly can with this bill. [Laughter]

Mr. REIMERS. And we agree and we will go with whatever he sees fit here and be supportive of it.

Mr. VENTO. Mr. Hefley, can we defer to our colleague from Montana for questioning here out of deference to this sponsorship? Mr. Williams?

Mr. WILLIAMS. Thanks. You have answered a couple of questions that I had, Mr. Reimers and Mr. Conn. I appreciate both of you being here and your willingness to continue to work with us. I particularly want to thank the Forest Service, and most particularly the local people who joined at the table in reaching this agreement, which I say has alluded us since 1925. So we are very close now and we are hopeful that there are no unnecessary delays, even those for good purposes, which might prevent us from our spring deadline in finally realizing this goal of a northern area of green adjacent to Yellowstone.

Let me ask one remaining question that I have, Mr. Reimers. When the Forest Service considered its support for and involvement in this process, were you required by law or did the Forest Service without being mandated to do so look at the impact on the supply, the timber supply to the mills adjacent to the entire area affected by the trades?

Mr. REIMERS. Well, I guess I could only answer in a general sense. As we worked on the forest plan and as we looked at these specific lands, we do have data that I can provide the committee that indicates the kind of timber volumes and the nature of the timber resource on the lands that are being acquired and that those that are being given up—I don't think I could be as specific as we might like to be because of the complication of the roadless areas and in this case the Wilderness Study Area. The lands in the proposed Wilderness Study Area and that were in further planning status were in fact included in the base for the Gallatin National Forest, but in recent times, with an allowable sale quantity of 21 million we have only offered approximately 8 to 10 million based on trying to work our way through some of those questions.

And so we are aware of the timber values that are involved there and the volumes, and some of the lands that would be exchanged out of or go into private ownership do in fact have a timber resource that is important to Big Sky Lumber to meet some of the commitments, as I understand it, to the mill in the Bozeman area.

But that is about as specific as I could be other than to actually indicate volumes area by area.

Mr. WILLIAMS. You mentioned that mill. Have you also looked at the effect that the trade would have on Brand S?

Mr. REIMERS. No. No, we haven't evaluated that in the same detail, nor do we have as specific a proposal at this time.

Mr. WILLIAMS. Has the Forest Service done an analysis as to whether or not the results of this trade add or subtract from Montana's roadless base?

Mr. REIMERS. Well, we will increase the number of roadless area acres because the predominant part of the lands that are acquired are within the Wilderness Study Area and are roadless and undeveloped.

Mr. WILLIAMS. All right. Thank you. Thanks, Mr. Chairman.

Mr. VENTO. Mr. Hefley?

Mr. HEFLEY. Thank you, Mr. Chairman. Mr. Reimers, I would like to establish the net gain of the Federal land ownership would be if this bill passes. My calculation shows that the Forest Service could receive up to 81,000 acres of private lands and is only required to exchange 12,414 acres. That results in a 69,000 acre gain of lands for the Forest Service. Is that in the ballpark?

Mr. REIMERS. Yes, that is correct. And I have a page that I can provide for the record that shows the acreages of each owner in the proposed exchange, and the numbers that you have are correct.

Mr. HEFLEY. Also, our staff has indicated to me that the ballpark cost for this would be about $13 million. However, as I understand it, the appraisals for lands in the Taylor Fork area, the 11,000 acres, and the Gallatin face will not be completed for at least another month. Is that correct? Are we just making wild guesses here on how much it will cost?

Mr. REIMERS. Yes. We have just tentative estimates. We, of course, know the amount of money with regard to the Plum Creek, and we have estimates of the amount that would be required to complete the Porcupine and the Taylor Fork. We would have to go on with the process to do that acquisition.

But, as I mentioned, The Nature Conservancy is already involved in both the Porcupine and the Taylor Fork, so they actually have options as I understand it. So in each case, we will have to make sure that any acquisition we do is in the public interest. But I think that the number that I have for the three portions—the Plum Creek, the Porcupine, and the Taylor Fork—would, in fact, require a total of $12 million.

Mr. HEFLEY. Well, you bring up The Nature Conservancy. It is my understanding that the Congress appropriated $62.4 million for land acquisition for the Forest Service this year, and that is down from $88 million that was appropriated the previous year. The Nature Conservancy, on the other hand, does have options to buy two of the tracts in this bill and has an annual budget of $274 million and last year earned about $70 million selling lands to government agencies, and I just wonder.

The Nature Conservancy has a tremendous reputation. I have great respect for them. I have worked with them on other projects in Colorado. Why not let them go ahead and exercise their options and buy these lands to protect them? They have shown that they

do as good or better job of protecting lands as we do as a Federal Government.

Mr. REIMERS. They can probably speak to it themselves, but their approach is to facilitate the government to get key tracts, and you are correct that this happens over a period of time with a number of tracts. But the ultimate management and ownership of tracts, particularly in cases like this that are entirely surrounded by the Federal Government is it is usually envisioned to be in Federal ownership.

Mr. HEFLEY. Thank you very much.

Mr. VENTO. If the gentleman would just yield for a moment, he said that The Nature Conservancy earned $90 million selling land last year. I think that is more than we spent in Forest Service lands, so I don't know how they could have earned it from the Forest Service. So I think that that—you probably need to be careful.

Mr. HEFLEY. Well, they also work with State as well as Federal Government.

Mr. VENTO. I would be very surprised if that were their—in any case, that is something to evaluate, I think, further. I would just question that myself.

In any case, Mr. Reimers, in looking at this, your testimony, more carefully, there are two separate requests that you have for authority. One is within the lands that are to be acquired, there is I guess an implied agreement that the mineral rights in those areas that would be owned would be acquired, but, you are suggesting some technical language changes in that area too. In addition to that you are seeking authority to acquire mineral—I mean these are distinct mineral rights that you are talking about, another set of mineral rights that are owned by Burlington Northern. Is that correct?

Mr. REIMERS. That is right. Those two are completely separate.

Mr. VENTO. Okay. Okay.

Mr. REIMERS. One is that we want to be sure to get the subsurface rights in the specific areas mentioned in this bill, and the other deals with a separate question that has to do with—

Mr. VENTO. Well, that is right. And I, you know, I am friendly to both the suggestions in terms of trying to clarify for administrative purposes and eliminate the potential for problems, especially I think in the area that we are focusing on here, which are in the exchanges as well as in the other area. I just don't know what all the ramifications of that would be. I assume it is not in this bill for some reason.

But I think it is essential—I agree that it is essential that we certainly clarify the mineral rights and the acquisition of those in the areas that are being exchanged here. So we should solve this all within the same policy document.

Are there further questions of the panel?

[No response]

Mr. VENTO. If not, thank you very much, gentlemen, for your testimony. Mr. Conn, for your patience. Thank you very much.

Mr. CONN. Thank you.

Mr. VENTO. We are pleased to have a panel of witnesses Mr. Patrick Graham, the Director of the Department of Fish, Wildlife and Parks, State of Montana, Helena; Mr. Michael Scott, the Northern

Rockies Regional Director, The Wilderness Society, and also representing the Greater Yellowstone Coalition, from Bozeman; and Mr. Tim Blixseth, the owner of the Big Sky Lumber Joint venture, from Portland, Oregon; and finally, Mr. Mike Atwood, Brand S Corporation, Livingston, Montana.

Mr. WILLIAMS. Mr. Chairman, while these people are coming to the table, I would like to ask unanimous consent to include, immediately following my opening statement, letters of support for this legislation. Those letters of support come from Montana's Governor, Mike Racicot; from the Mayor of the city of Bozeman, which, as the chairman knows, is the closest large city affected by this exchange; and two additional letters, one from the Montana Wilderness Association and another from a local group in the area there which calls itself Citizens To Save the Gallatin Valley Face.

Mr. VENTO. Without objection, they will be made part of the record immediately following the gentleman from Montana's introductory and opening statement.

We are pleased to welcome the witnesses. Gentlemen, I think we will have all of your written testimony before us, I hope we do, and if you just take 4 or 5 minutes to summarize it, I think it would be helpful for the facilitation and consideration of the measure before us.

Mr. Graham, please proceed. Director Graham.

PANEL CONSISTING OF PATRICK J. GRAHAM, DIRECTOR, DEPARTMENT OF FISH, WILDLIFE AND PARKS, STATE OF MONTANA, HELENA, MONTANA; MICHAEL SCOTT, NORTHERN ROCKIES REGIONAL DIRECTOR, WILDERNESS SOCIETY, REPRESENTING THE GREATER YELLOWSTONE COALITION, BOZEMAN, MONTANA; TIM BLIXSETH, OWNER, BIG SKY LUMBER JOINT VENTURE, PORTLAND, OREGON; MIKE ATWOOD, BRAND S CORPORATION, LIVINGSTON, MONTANA

STATEMENT OF PATRICK J. GRAHAM

Mr. GRAHAM. Thank you, Mr. Chairman, members of the committee. Again, as you noted, I am the director of the Department of Fish, Wildlife and Parks, the State agency that is responsible for managing the fish and wildlife resources of Montana in addition to State parks and other outdoor recreation activities including snowmobiling, watchable wildlife and others.

The Gallatin Range Consolidation and Protection Act of 1993 could greatly benefit all of these important resources. I have personally seldom seen the kind of broad support that is occurring for this piece of legislation. Groups that are often in opposition have united behind this effort. There would be even more support if the millions of visitors who now pass by these lands each year knew what this legislation could accomplish.

Governor Mark Racicot, as Congressman Williams indicated, also has expressed support, and I would quote from him: "I see tremendous potential for these exchanges to consolidate blocks of land in the Gallatin, which will protect important habitat and recreational values for years, even generations, to come, and at the same time allow model timber programs which create and preserve jobs and demonstrate solid forest stewardship."

Consolidation of the checkerboard ownership in the Gallatin and Madison ranges will benefit Montana's resources by ensuring consistent management through public process. Because these lands are adjacent to Yellowstone National Park, their significance is even greater. I would just like to touch on a few of the important resources that we have identified.

These lands provide winter range for 70 percent of the Gallatin elk herd that winters in Montana and summers in Yellowstone National Park. It has the highest concentration of wintering moose in the Gallatin, Madison and Yellowstone drainages. It has the primary migration route through the Taylor Fork drainage for over 2500 elk that summer in Yellowstone park and winter in Montana's Madison Range. The lands are vital to the recovery of the endangered grizzly bear population and are within the recovery zone designated for the Greater Yellowstone.

This habitat may also be important to the Arctic grayling. It has recently been reintroduced into the Gallatin drainage. This species is currently under review for potential listing as an endangered species. Consolidation of these lands would remove numerous trespass and access conflicts for a wide variety of outdoor recreationists, hunters, anglers, backpackers, hikers and others. It will also aid with the problem of access to public lands.

The Big Sky snowmobile trail, which is the longest trail in Montana, connecting Bozeman with West Yellowstone and then connecting trials in Yellowstone Park and Idaho, this trail goes through the mixed ownership sections. There are a number of other important assets to this land which I won't go over, but they are included in the recent testimony.

In summary, it is clear that these lands are of both local and national significance. Montanans and hundreds of thousands of tourists visit this area each year. The scenic and recreational qualities of these lands bring pressure to subdivide and otherwise change the land use. Change would fragment the important habitat and, for all practical purposes, be irreversible.

We urge your support of this legislation. Thank you.

Mr. VENTO. Thank you, Mr. Graham, for your testimony—Director Graham.

[Prepared statement of Mr. Graham follows:]

TESTIMONY ON HR 873
Gallatin Range Consolidation and Protection Act of 1993
Washington, DC
March 23, 1993

Presented by
Patrick J. Graham, Director
Montana Department of Fish, Wildlife & Parks

My name is Pat Graham, and I am director of the Montana Department of Fish, Wildlife & Parks. Our state agency is responsible for managing fish and wildlife resources and, in addition, state parks and outdoor recreation activities - including snowmobiling, watchable wildlife and others. The "Gallatin Range Consolidation and Protection Act of 1993" (HR 873) could greatly benefit all of these important resources.

I have seldom seen the kind of broad support that is occurring for this piece of legislation. Groups that are often in opposition have united behind this effort. There would be even more support if the millions of visitors who pass by these lands each year knew what this legislation would accomplish.

Governor Marc Racicot also has expressed support for this legislation. To quote Governor Racicot: "I see tremendous potential for these exchanges to consolidate blocks of land in the Gallatin which will protect important habitat and recreational values for years - even generations - to come, and at the same time allow model timber programs which create and preserve jobs and demonstrate solid forest stewardship."

Consolidation of the checkerboard ownership of the Gallatin and Madison ranges will benefit Montana resources by ensuring consistent management through public process. Because these lands are adjacent to Yellowstone National Park, their significance is even greater.

This legislation will provide the following benefits:

- Winter range for 70 percent of the Gallatin elk herd that winters in Montana and summers in Yellowstone National Park.
- Winter range for the highest concentration of wintering moose in the Gallatin, Madison and Yellowstone drainages.
- The primary migration route through the Taylor Fork drainage for 2,500 elk that summer in Yellowstone Park and winter in Montana's Madison range.
- Lands vital to recovery of the endangered grizzly bear population in the Yellowstone ecosystem.

- Habitat that may be important to Arctic grayling that have recently been reintroduced in the Gallatin drainage. This species is currently under review for listing under the Endangered Species Act.

- Consolidation of these lands will resolve numerous trespass and trail access conflicts for a wide variety of outdoor recreationists such as hunters, fishermen, backpackers, hikers and others who make use of these high value recreation lands. It will also aid with the problem of access to public lands.

- The Big Sky snowmobile trail, the longest trail in Montana, connects Bozeman with West Yellowstone and connects with trails in Yellowstone Park and Idaho. The trail goes along the Gallatin range, through the mixed ownership sections.

- Headwaters for world famous trout streams - the Madison, Gallatin and Yellowstone rivers.

- The state fish, cutthroat trout, depend on many of the headwater streams.

- Native bighorn sheep use the lands year-round.

- Deer, moose and about 4,500 elk use these lands in spring summer and fall.

It is clear that these lands are of both local and national significance. Montanans and hundreds of thousands of tourists visit this area every year. The scenic and recreational qualities of these lands bring pressure to subdivide or otherwise change the land use. Change would fragment this important habitat and, for all practical purposes, be irreversible.

We urge your support of this legislation.

Mr. VENTO. We are pleased to welcome Michael Scott with The Wilderness Society. Please proceed with your testimony, Mr. Scott.

STATEMENT OF MICHAEL SCOTT

Mr. SCOTT. My name is Michael Scott. I am the Northern Rockies regional director of The Wilderness Society. I am pleased to be here today to testify both on behalf of the Society and the Greater Yellowstone Coalition.

Our two organizations enthusiastically support H.R. 873. As Mr. Williams pointed out, this has been the culmination of 65 years of effort on behalf of Montanans, and there is probably too many people and too numerous to thank, but I would like to thank a couple here: yourself, Mr. Chairman, for the role that you helped play back in 1987 when you brought the Forest Service and then Plum Creek together to help push the Gallatin land exchange; Representative Williams for his early understanding of the importance of this and his bringing together many of the parties to work on this; Senator Baucus and Senator Burns for cosponsoring this legislation in the Senate; and the role that The Nature Conservancy has played in helping facilitate this process; as well as the gentleman sitting to my left, Mr. Blixseth, who recognized the public value of the lands that he owned and was willing to sit down and negotiate.

As many have testified here, Mr. Chairman, this bill is overwhelmingly in favor of the public. Not only does the public net out increased acreage of very, very high wildlife, but we also are well on our way towards consolidating the checkerboard ownership in the Gallatin Range Wilderness Study Area, which is, perhaps, really the heart of the matter. In the first phases of this acquisition we will end up with a clean Wilderness Study Area, the largest Wilderness Study Area in the Greater Yellowstone Ecosystem. One, Mr. Chairman, again that you had a key role in, when Plum Creek illegally bull-dozed a road into the Rock Creek drainage in 1988. You helped, along with Mr. Williams, facilitate the undoing of that and the protection of that Wilderness Study Area. When this legislation passes it sets the stage for potential future discussion about the Wilderness Study Area as wilderness.

We would also like to point out that the Rocky Mountain Elk Foundation has been very active in this area to protect what Director Graham has pointed out is the largest elk herd in Montana and the United States.

We acknowledge that there are some impacts from this legislation, particularly in the North Bridgers where some lands are consolidated and there will be some increased timber harvest by Big Sky Lumber. But we also would note that these lands are designated as timber harvest areas by the Forest Service in the Gallatin Forest Plan. Our statement, Mr. Chairman, goes into some detail about the impacts and potential benefits that outweigh those impacts.

In sum, Mr. Chairman, what this land exchange would do would be to greatly benefit the northern half of the Greater Yellowstone Ecosystem. As mentioned earlier as well, there is many, many people that support this legislation. I would like to mention among them the Gallatin County Commissioners, the Montana Chapter of The Nature Conservancy, Sacajawea Audubon, Gallatin Outfitters

Association, Concerned Citizens for Cottonwood, Gallatin Wildlife Association, Valley of the Flowers Chapter of the Native Plant Society, Montana Wilderness Association, Madison-Gallatin Alliance, Madison Wildlife Federation, Madison-Gallatin Trout Unlimited, Great Bear Foundation, Bozeman Viewshed Council, Bear Creek Property Owners Association, Black Ram Bowmen, Citizens to Save the Gallatin Face, Public Lands Access Association, Montana Bowhunters Association, Big Sky Owners Association, and several local State legislators.

Even northwest Montanans support this even though, as Representative Williams pointed out, the net acreage in northwest Montana actually goes to the private sector. I would note a couple of things that haven't been pointed out. First, this particular piece of legislation cleans up the last inholding in the Bob Marshall Wilderness Complex, a section of Plum Creek ownership on the north fork of the Blackfoot River in the Scapegoat Wilderness goes public as a result of this exchange. In addition to that there is a section of land immediately adjacent to the town of Libby that is needed for a school expansion that goes to the town of Libby as a result of this. So there is an awful lots of benefits associated with this, not just in the Gallatin.

Mr. Chairman, as noted, we are up against a June 1 deadline. We really are out of time and out of options on this legislation. We are very pleased that you have scheduled this on a fast-track for hearing and mark-up in the subcommittee, and we understand it will be potentially for mark-up next week in the full committee. We really need that fast-track in order to make that June 1st deadline because The Nature Conservancy holds options that will expire at that point to the Porcupine drainage. If we lose the Porcupine drainage, this whole convoluted and complex land exchange process may start to unravel, resulting in some of the problems that Mr. Reimers pointed out, Mr. Graham pointed out, and Representative Williams pointed out.

You will hear a little later testimony from Brand S which will ask that you potentially consider the attachment of an exchange that Brand S is currently discussing with the Forest Service to this piece of legislation. We would urge this committee to resist that because the Brand S exchange is still in its infancy.

We don't have appraisals; Brand S hasn't yet held the public meetings that it has discussed and has promised that it would. We don't have a position yet on the exchange. It may be a very good exchange, but we don't want to lose this larger, more important exchange currently because we are waiting for what happens with Brand S. If the Brand S exchange has merit, we urge this committee to act on it expeditiously.

We are pleased to see the Forest Service and Meridian Minerals having worked out the subsurface estate issue. We adhere to a basic principle on this, and that principle is that whoever ended up owning the minerals, that the Forest Service needed to be able to assure the public that it had sufficient control over the surface and subsurface minerals in order to protect the surface values, which, after all, is what this exchange is all about; we are protecting the wild lands and wildlife of the Gallatin.

Our testimony speaks to two suggested changes in this legislation: one, to make it clear that the lands that would be acquired within the Gallatin Range Wilderness Study Area be managed to protect their wilderness qualities in accordance with Public Law 95–150; and, secondly, that the lands acquired outside the WSA be subject to a forest plan amendment so that the people of Montana will have an opportunity, as well as the rest of the country an opportunity, to provide the Forest Service with their recommendations on how those lands be managed.

In summary, Mr. Chairman, H.R. 873 is an historic opportunity to finally correct land ownership patterns in the Gallatin National Forest disrupted by decades of checkerboard ownership. Montanans have worked for years toward this worthy goal, but we are out of options and almost out of time. H.R. 873 represents our last and best chance for checkerboard consolidation. We urge speedy approval of this vitally needed piece of legislation by this subcommittee and the full House.

Thank you, Mr. Chairman, for the opportunity to testify. Either I or Bart Koehler of the Greater Yellowstone Coalition, here today, would be happy to answer questions.

[Prepared statement of Mr. Scott follows:]

TESTIMONY OF MICHAEL D. SCOTT REPRESENTING THE WILDERNESS SOCIETY AND THE GREATER YELLOWSTONE COALITION BEFORE THE NATURAL RESOURCES SUBCOMMITTEE ON NATIONAL PARKS, FORESTS AND PUBLIC LANDS ON H.R. 873, "THE GALLATIN RANGE CONSOLIDATION AND PROTECTION ACT OF 1993", MARCH 23, 1993

Good morning Chairman Vento, Congressman Williams and members of the subcommittee. My name is Michael Scott. I am the Northern Rockies Regional Director for The Wilderness Society, based in Bozeman, Montana. I am here today representing both The Wilderness Society and the Greater Yellowstone Coalition. The Wilderness Society is a 55 year-old national conservation organization dedicated to the conservation of America's public lands with 300,000 members nationwide and some 2,500 members in the Northern Rockies. The Greater Yellowstone Coalition is a ten year old regional organization dedicated to preserving and protecting the Greater Yellowstone Ecosystem and the quality of life it sustains. The Coalition has 100 local, regional and national member groups as well as 4,000 individual members.

I am pleased to be here today to offer the enthusiastic support of our two organizations for Representative Pat Williams' H.R. 873, "The Gallatin Range Consolidation and Protection Act of 1993". This important piece of legislation culminates 65 years of work by Montanans to resolve a troublesome checkerboard land ownership problem on the Gallatin National Forest. H.R. 873 is identical to Sections 14–17 in last year's Montana wilderness bill which passed the full House.

H.R. 873 represents a once-in-a-lifetime opportunity. Mr. Chairman, there are many to thank for this legislation. You gave our efforts an immeasurable boost in 1987 when, after Plum Creek bulldozed a road into the Hyalite-Porcupine-Buffalo Horn WSA, you requested the company and the Forest Service to develop a land exchange which would remove the checkerboard from the Gallatin Range. Representative Williams deserves praise for helping shepherd through the intense negotiations last fall between Big Sky Lumber (the current owners of the land) and local interests. Tim Blixseth, the co-owner of Big Sky Lumber also should receive kudos for his recognition of the valuable public resource he owns and his interest in seeking a solution that would transfer these lands to public ownership.

We would also like to extend a special thanks to the Montana chapter of The Nature Conservancy. The Conservancy stepped forward to secure the option of the purchase of the Porcupine drainage. This option made it possible to craft H.R. 873 in a balanced manner.

Finally, those Montanans that have stood up in support of this legislation deserve to be recognized. It is not often that a piece of legislation receives such a wide range of support as H.R. 873. Among those that support this bill are Senators Max Baucus and Conrad Burns, Montana's Governor Marc Racicot, Montana Department of Fish, Wildlife and Parks, the Gallatin County Commissioners, the City of Bozeman, the Montana chapter of The Nature Conservancy, Sacajawea Audubon, Gallatin Outfit-

ters Association, Concerned Citizens for Cottonwood, Gallatin Wildlife Association, Valley of the Flowers Chapter of the Native Plant Society, Montana Wilderness Association, Madison-Gallatin Alliance, Montana Wildlife Federation, Madison-Gallatin Trout Unlimited, Great Bear Foundation, Bozeman Viewshed Council, Bear Creek Property Owners Association, Black Ram Bowmen, Citizens to Save the Gallatin Face, Public Lands Access Association, Montana Bowhunters Association, Big Sky Owners Association and several local state legislators.

It is important to note that this legislation is before you with a great sense of urgency. Quite literally, we have run out of time and options in our search to find solutions to the checkerboard land pattern on the Gallatin. Past efforts to trade lands while Plum Creek still owned them failed. Efforts by the Nature Conservancy, which we supported, to purchase the lands also failed. Now we face a June 1 deadline for winning approval of this legislation. After that date the options obtained by the Nature Conservancy expire and this whole proposal could collapse like a house of cards. H.R. 873 is a terrific solution to the Gallatin's checkerboard problem and represents our last and only chance before the checkerboard lands in the wildlife-rich Porcupine and Taylor Fork drainages are lost and the wild core of the Gallatin Range is logged, sold and subdivided.

ELEMENTS OF H.R. 873

H.R. 873 consolidates the checkerboard land pattern in the Gallatin Range and the lower half of the Madison Range. The legislation assures that over 300,000 acres of public lands will stay public and the interspersed checkboard will not be subject to subdivision or other development. H.R. 873 accomplished this in four separate sections.

First, the legislation authorizes the United States to purchase the checkerboard lands optioned by The Nature Conservancy in the Porcupine drainage—the heart of the Hyalite-Porcupine-Buffalo Horn WSA. This important area is the winter home to a large part of the Northern Yellowstone elk herd and is important grizzly bear country.

Second, the bill authorizes the United States to secure lands in the Taylor Fork-Buck Creek Divide area through purchase or exchange. This area is an important elk migration and wintering area as well as habitat for grizzly bear and moose. It is used by snowmobilers as a play area. The Taylor Fork is one of the most significant tributaries of the Gallatin river, considered a blue river fishery, and where the Montana Department of Fish, Wildlife and Parks has recently reintroduced fluvial grayling, a species almost extinct in the lower 48 states.

Third, H.R. 873 consummates the Gallatin Exchange in which Mr. Chairman, as I mentioned above, you have such a significant role. This exchange secures all of Big Sky Lumber's roadless lands inside the Hyalite-Porcupine Buffalo Horn WSA and sets the stage for potential future wilderness designation.

Finally, the bill calls on the Forest Service and Big Sky Lumber to figure out a way, through purchase or exchange, to secure the remaining checkerboard lands in the north Gallatin Range and the Gallatin Face, outside of the WSA. These lands include important wildlife lands as well as the backdrop to the Gallatin Valley.

All told, H.R. 873 would add some 81,000 critical acres to the public domain. In exchange, the public would give up 3,650 acres of current public land in the north part of the Bridger Range, two sections in the Bangtails and several sections of national forest inholdings in the Lolo and Flathead National Forests, as well as paying Big Sky Lumber a $3.4 million differential. As a side note, this bill also secures the last remaining section of private land within the Bob Marshall Wilderness complex.

When completed, the four-stage package would: (1) resolve potentially serious land management conflicts engendered by the largest checkerboard ownership in the Greater Yellowstone Ecosystem; (2) eliminate the threat of residential subdivision and other inappropriate development in critical watersheds and wildlife habitat; (3) secure a 40-mile-long unbroken habitat link for grizzly bears and other species between Yellowstone National Park and the outskirts of Bozeman; and (4) ensure continued high-quality public recreational opportunities in the Gallatin Range.

IMPORTANCE OF H.R. 873 TO THE GREATER YELLOWSTONE ECOSYSTEM

The Gallatin and Madison Ranges comprise a very important piece of the Greater Yellowstone Ecosystem. The Greater Yellowstone Ecosystem is the largest, essentially intact, functioning ecosystem in the temperate zones of the world.

This legislation will insure that a good part of the ecosystem's processes stay intact. Many of the species that summer in Yellowstone National Park, including elk, moose and bison, move onto the Gallatin and Madison Ranges during winter or use them as migration corridors. Development of the interspersed checkerboard would

inhibit, or stop, these migrations resulting in a significant reduction in Yellowstone's wildlife.

Large parts of the Madison and Gallatin Ranges are home to the threatened grizzly bear. Protecting the integrity of these ranges is crucial if we hope to recover the grizzly bear to sufficient population levels.

Just as important is the role this legislation plays in protecting Yellowstone's world-renowned geysers, hot springs and fumaroles. Mr. Chairman, you will have before you legislation later this year introduced by Representative Williams designed to protect Yellowstone from the threat of external geothermal development. This subcommittee considered and passed the same legislation last congress.

Much of the private checkerboard that would be traded or purchased as part of this legislation lies within the 15-mile geothermal area-of-concern adjacent to the park. H.R. 873 will transfer these checkerboard parcels to the United States, thus eliminating the prospect that these private lands might be developed for geothermal energy and thereby threaten Yellowstone's hydrothermal systems.

THE PROPOSED BRAND-S LAND EXCHANGE SHOULD NOT BE ATTACHED TO H.R. 873

The Brand-S Lumber Company is currently developing a land exchange involving lands on the Deerlodge National Forest and the Gallatin National Forest which it would like to attach to H.R. 873. The congress should not include the Brand-S proposal in this legislation.

It may well be that the Brand-S exchange will be a good exchange, one that our organizations can support. But we do not yet know enough about it to have formed a position. There is no appraisal yet done on the subject properties. The public has not yet had a chance to review the proposal and the congress has never had a hearing on the proposed exchange.

Clearly, the Brand-S exchange is going to take time to finalize. H.R. 873 does not have time to wait. We must pass this legislation through both houses of congress and send it to the president's desk by June 1, otherwise we may lose the great opportunity before us.

Don't slow down H.R. 873 by waiting for the Brand-S exchange. If the Brand-S proposal is finalized, we urge you to deal with it on its own merits and on its own legislative track.

H.R. 873 WILL FACILITATE FUTURE WILDERNESS DESIGNATION FOR THE HYALITE-PORCUPINE-BUFFALO HORN WILDERNESS STUDY AREA

The consolidation of the checkerboard in the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area within the Gallatin Range sets the stage for future consideration of the WSA and surrounding lands for wilderness. This WSA has existed since the late Senator Lee Metcalf included it in his Montana Wilderness Study Act in 1977. It is the largest roadless area in the Greater Yellowstone Ecosystem not currently designated wilderness. In addition to protecting the values mentioned above, it would provide an unbroken wilderness from just south of Bozeman to Yellowstone National Park.

H.R. 873 WILL BENEFIT LOCAL ECONOMIES

A recent publication of The Wilderness Society, "The Wealth of Nature", documented the role public land amenities paly in local economies in the Greater Yellowstone Ecosystem. Virtually all of the job and income growth in Yellowstone counties over the last ten years, including Gallatin County, has come from small entrepreneurial enterprises that locate and stay in the region, in part, because of its wonderful outdoor resources. Since H.R. 873 will help protect our land, water and wildlife it will also help insure a vibrant future economy.

Consolidation of these checkerboard lands will also help protect a specific part of our local economy. Sixty of Montana's outfitters work on the Gallatin National Forest, many of them in areas affected by this legislation. The Gallatin Outfitters Association estimates that its members contribute $20 million to the economies Gallatin and Park Counties.

CONSIDER FUTURE BRIDGER RANGE WILDERNESS DESIGNATION

As mentioned above, approximately 3,500 acres of lands in the northern part of the Bridger Range, just south of Flathead Pass, will be traded to Big Sky Lumber Company. About 2,500 acres of this total are within the 47,000 acre Bridger Range roadless area.

The Bridger Range is a very important local roadless resource. It is well-known and well-liked by Gallatin and Park County residents. It is also a range under threat. In addition to losing 2,500 acres of its roadless base in this exchange, there is a proposed major new development at Bridger Bowl, a local ski area. Several large tracts of land adjacent to the roadless area are for sale, presumably to be subdivided.

To offset the impacts of the Gallatin land exchange and to provide some assurance that the roadless base of the range will not be compromised in the future, we urge Representative Williams, and this subcommittee, to support designation of the remaining Bridger Range roadless area as wilderness in our Montana congressman's forthcoming wilderness bill.

THE GALLATIN EXCHANGE IS SUPPORTED BY CITIZENS IN NORTHWEST MONTANA

There have been some who claim that citizens in northwest Montana get nothing in return for the lands on the Lolo and Flathead National Forests which would be traded to Big Sky Lumber.

Montanans care about Montana. We realize that proposals such as H.R. 873 must be viewed in the larger context. We have attached a copy of a statement from the Flathead Chapter of the Montana Wilderness Association to our testimony. It states clearly that conservationists in the Flathead Valley are fully in support of H.R. 873. As Ross Titus, the chapter chair states, "In terms of environmental value, there's no comparison with the outstanding elk winter range that would be acquired in the Gallatin Range. All things considered, this exchange is clearly in the public interest."

ADDITIONAL CHANGES TO H.R. 873

The Coalition and The Society offer two additional suggested changes to the bill. We have a clear understanding that the private lands within the Hyalite-Porcupine Buffalo Horn WSA, which would be added to the public domain, will be managed as part of the WSA pursuant to PL 95–150. However, to make certain this happens we urge you to add language directing the Secretary to manage the lands to be acquired within the WSA in accordance with PL 95–150.

In addition we suggest the addition of language making it clear that the checkerboard lands which will be added to the Gallatin National Forest will be the subject of a forest plan amendment to determine how they will be managed. The addition of this language gives Montanans the assurance that they will have a hand in helping decide how the acquired lands will be managed.

SUBSURFACE MINERAL ESTATE

Meridian Mineral Company owns the subsurface estate of the lands involved in H.R. 873. Much of this estate will be traded as a result of the Gallatin Range exchange portion of H.R. 873. But, Meridian will continue to own the subsurface on lands in the Porcupine, Taylor Fork and Gallatin Roaded portions of H.R. 873.

We understand that the Forest Service and Meridian Minerals have developed an amendment to H.R. 873 to deal with this problem. We support this amendment. The amendment allows Meridian to sell its right of access to its oil, gas and geothermal interests and sell entirely its hardrock mineral interests to the United States.

While we would rather that Meridian sold its entire mineral interests to the United States, the Forest Service states its proposed amendment will give it effective control over any potential mineral development on the lands in question.

CONCLUSION

H.R. 873 is an historic opportunity to finally correct land ownership patterns on the Gallatin National Forest disrupted by decades of checkerboard ownership. Montanans have worked for years toward this worthy goal.

But, we are out of options and almost out of time. H.R. 873 represents our last, and best, chance for checkerboard consolidation. We urge speedy approval of this vitally needed piece of legislation by this subcommittee and the full House.

Thank you, Mr. Chairman, for the opportunity to offer the views of The Wilderness Society and the Greater Yellowstone Coalition on H.R. 873. Either Bart Koehler, representing the Greater Yellowstone Coalition, or I would be happy to answer questions.

Mr. VENTO. Thank you.

Bart's testimony, I notice, is attached, so that will become part of the record, and we appreciate your emphasis and input on this. So that will all be part of the record, and we would be happy to greet him later.

[Prepared statement of Mr. Koehler follows:

Greater Yellowstone Coalition

3/23/93

TESTIMONY OF THE GREATER YELLOWSTONE COALITION RE: HR 873

Mr. Chairman and Members of the Sub-Committee on Public Lands:

My name is Bart Koehler, and I am presenting testimony on behalf of The Greater Yellowstone Coalition. For the record, I am an Associate Program Director for GYC with an M.S. degree in Natural Resource Management and Planning, and 20 years of experience working with grassroots conservation groups in defense of wildlife habitat and wild country. (Both in the hinterlands and here in D.C.)

The Greater Yellowstone Coalition strongly supports Congressman Pat Williams' HR 873 -- The Gallatin Range Consolidation and Protection Act -- and urges you to do everything you can to secure its speedy passage. HR 873 is identical to the land exchange sections (Sections 14-17) that the House of Representatives approved last year, as part of the Vento-Williams version of the Montana Wilderness Bill. (Senators Baucus and Burns have co-sponsored this bill in the Senate -- S 489.)

For your review, I have included a detailed background statement which underscores the importance of this issue, and includes hard-hitting reasons why you should approve HR 873 and bring over 80,000 acres into the public domain.

Passage of this legislation will safeguard some of the finest wildlife habitat and wildlands on the North American Continent. The lands involved are crucial habitat for large elk herds, many grizzly bears, and thriving populations of bighorn sheep, moose and deer -- plus pristine watersheds and productive fisheries the Federal Government has been trying to place into public ownership since 1925. These lands include the biological heart of the S.393 Hyalite-Porcupine-Buffalo Horn Wilderness Study Area (155,000 acres; established 16 years ago) which stretches almost 30 miles from Hyalite Peak to Yellowstone National Park.

HR 873 directs a land exchange in the Wild Gallatin Range; it authorizes and directs the acquisition of all lands in the Porcupine watershed and lands in S.Cottonwood Canyon; it authorizes and directs the acquisition of lands in the Taylor Fork drainage; (the Gallatin exchange shall not be consummated until the Porcupine and Taylor Fork are secured) and it authorizes the Secretary to provide to Congress (within 3 years) recommendations aimed at acquiring N.W. Gallatin Range and Gallatin Face lands. (See following maps/detailed explanation.)

We have a clear understanding that the private lands which would go into public ownership and are located within the Gallatin Range WSA boundary will be managed as part of the WSA under Public Law 95-150. However, in order to make

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certain that this happens, we urge you to add language which would direct the Secretary to manage these lands in accordance with P.L. 95-150. Furthermore, language should be added to make it clear that the new national forest lands should be subject to a Forest Plan amendment -- so the public can help determine their highest and best use. This would also allow the possibility of adding some of these sections to the existing Lee Metcalf Wilderness, sometime in the future.

We can't turn back the clock. We're running out of time and we've run out of options. The owner of the private land has given a June 1 deadline for winning approval of the land exchange. After that date, the stop-gap option agreements obtained by the Nature Conservancy will expire. We are convinced that without Congressional action, these lands will be roaded, logged and subdivided. In other words, the incredible wildlife and wildland values of the Porcupine, Gallatin Range, S. Cottonwood Canyon, and Taylor Fork areas will fall victim to an irreversible calamity. Tragically, the wild heart of the Porcupine-Gallatin Range WSA will be lost forever.

While we don't want to lose any roadless lands in our region, we feel that it is in the larger public interest to secure a net gain of 70,000 acres of some of the finest wildlife habitat in the West, (including 37,000 roadless acres in the WSA & 4,000 roadless acres in Taylor Fork and South Cottonwood), and let timber harvest proceed in 2,500 acres of roadless land in the North Bridger Range -- which would be traded to the landowner, but are already planned for logging and roads, under the Gallatin Forest Plan.

The legislative struggle to secure these lands started over 10 years ago. Support from Montanans for this legislation runs wide and deep. Groups lining up in support so far include: the Madison-Gallatin Alliance, Gallatin Wildlife Association, Concerned Citizens for Cottonwood, Citizens to Save the Gallatin Valley Face, the Bozeman Viewshed Council, Montana Wilderness Association, Montana Wildlife Federation, Madison-Gallatin Trout Unlimited, Sacajawea Audubon Society, and the Great Bear Foundation. Many local government officials, including the Gallatin County Commissioners, support this measure. The Forest Service, the Montana Fish, Wildlife & Parks Dept., and Montana's Governor Marc Racicot also strongly support it.

Congress has only 25 voting days left before June 1st. There is so much to gain if this bill succeeds -- and way too much to lose, if it fails.

Today, we must find the will and the way to get this bill passed and signed into law -- without any delay.

Burt Koehler

THE LAND EXCHANGE

The public would realize a net gain of 70,000 acres of magnificent land in the trade, while Blixseth's Big Sky Lumber would receive cash, and 5,700 acres of federal land in the North Bridger and Bangtail mountains near Bozeman, Mont., plus 6,600 acres of scattered timberland in Northwest Montana national forests. The national forest lands BSL would get are already planned for logging and roads under existing forest plans.

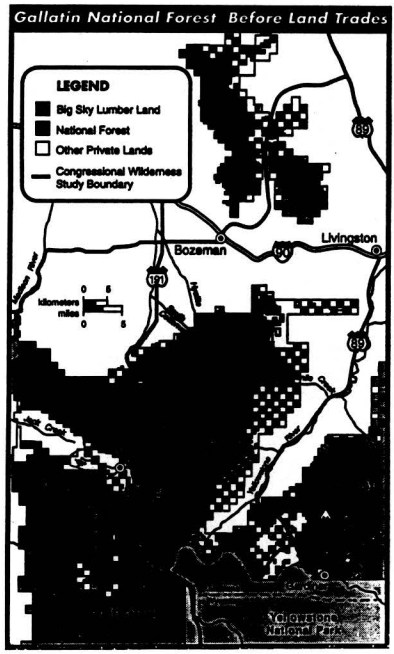
Gallatin Range Consolidation and Protection Act

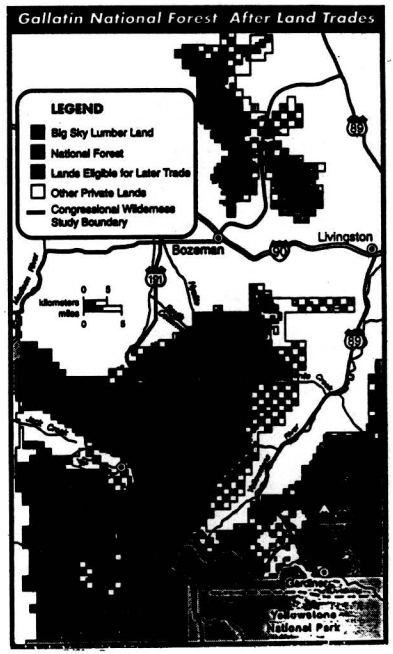
GALLATIN CREST: Big Sky Lumber gives up 37,752 acres in the Gallatin Range and in proposed additions to the Absaroka-Beartooth Wilderness. In return it gets $3.4 million in cash and 12,414 acres of timberland, about half of which is in the North Bridgers and Bangtails. The rest is in scattered parcels in Flathead and Lolo national forests in Northwest Montana.

PORCUPINE: The Nature Conservancy will get a two-year contract to purchase 6,182 acres in this critical wildlife drainage, 1,577 more in South Cottonwood Canyon near Bozeman and 320 acres in Taylor Fork. The Nature Conservancy would sell it to the government.

TAYLOR FORK: The Nature Conservancy would acquire a three-year option on 11,200 acres of BSL land and sell it to the government.

NORTH GALLATIN: The Forest Service would have three years to purchase or trade for BSL's 24,000 acres here, including lands along the Gallatin Face.





"""""""""""HEARING STATEMENT BACKGROUND INFORMATION"""""""""""""""""""

SECURING A WORLD CLASS WILDLIFE RESOURCE

The Montana Department of Fish, Wildlife and Parks is on record as strongly supporting this legislation. The Department's wildlife and biological analyis clearly showed the vital importance of securing private lands in the Porcupine, Gallatin Range and Taylor Fork areas into public ownership. If this bill is signed into law, the new National Forest lands would include:

>Areas which are extremely important to the recovery of the Grizzly Bear in Greater Yellowstone -- including currently occupied Grizzly habitat in the Porcupine, Big Creek and Taylor Fork drainages which are classed as Situation I and II.
> Critical winter range for up to 70% of the Gallatin elk herd. The Porcupine drainage has the highest concentration of wintering elk in the Upper Gallatin area.
>Critical winter range for the highest concentration of wintering moose in the Gallatin and Madison Mountain Ranges--particularly in Porcupine and Taylor Fork. The Upper Gallatin is one of the top three areas in Montana to find moose.
>A primary migration route for 2,500 elk that winter in the Madison Range through Taylor Fork. These elk winter in Bear Creek Wildlife Mgt. Area & Indian Creek area.
>Important year-round range for a native bighorn sheep population. There are only a few bighorn sheep populations in the West that are considered truly native.
>Important spring/summer/fall range for elk, moose, and mule deer .
>Important habitat for mountain lions, wolverines, plus other furbearers.
>Important habitat for bald eagles, golden eagles and peregrine falcons -- plus a wide variety of hawks and owls.
>Headwaters of 14 tributaries of the Gallatin and Yellowstone Rivers -- important to cutthroat trout survival. The Gallatin and Yellowstone Rivers are both classified as Blue Ribbon trout fisheries.
>Tributaries important for grayling recovery in Upper Gallatin drainage.

LONG HISTORY OF EFFORTS TO SAFEGUARD WILDLIFE HABITAT

Over the years, the Forest Service, the State of Montana and the Congress of the United States have taken a great interest in safeguarding key wildlife habitat areas ---many of which are located on the private lands involved in this exchange.

Forest Service

>In 1909, Chief Pinchot was petitioned to establish a game preserve adjacent to Yellowstone National Park. Pinchot agreed as long as it would be established by the State or Congress.
>In 1911, Montana's State legislature established the preserve.
>In 1909, the USFS closed lands south of Tepee/Buffalo Horn Divide and Taylor Fork/Sage Creek Divide and Shedhorn Mtn. to livestock grazing.

>Since 1920, all USFS land from the Porcupine Drainage southward along the east side of the Gallatin River has been closed to livestock grazing.
>In 1933, Northern Pacific Railroad dedicated over 23,000 acres of their holdings east of the Gallatin River for elk grazing.

State of Montana

>In 1945, Mt.Dept.of Fish,Wildlife and Parks purchased all lands south of Porcupine Creek to Yellowstone National Park, from Burlington Northern.
>In 1954, the Dept. acquired the Bear Creek Wildlife Management Area -- which is located just west of Taylor Fork.
>In 1968, the Dept. began leasing much of the private lands in Porcupine drainage to provide forage for wintering elk.
>In 1977, the Dept. noted that " The management of the Gallatin elk herd has been one of the primary conerns of the Montana Fish Game Dept. for the past 50 years. More time, effort and money has been devoted to this elk herd than to any other in the State."

U.S. Congress

>In 1977, the Congress passed legislation ,which was signed into law, to establish the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area -- as part of S.393.
>Since 1977 this area -- which includes the private lands in the Porcupine drainage and private lands along the backbone of the wild Gallatin Range -- has been managed to protect its wilderness characteristics. This WSA is the largest chunk of roadless country in Greater Yellowstone which is not designated Wilderness.
>In 1989, the Congress appropriated one million dollars (LWCF) to the Forest Service to help purchase 4 sections of private land in South Cottonwood Canyon -- which is known locally as Bozeman's "vest pocket wilderness". 2 1/2 sections of South Cottonwood Canyon are part of the Porcupine acquistion, and 3 sections are part of the lands which would become public as a result of the Gallatin Exchange.

HEARINGS AND PUBLIC INVOLVEMENT

Many people believe that the Porcupine/Gallatin area would already be lost to the public if we had not come up with an 11th hour stop-gap solution late last year. Despite overwhelming public support, a handful of folks still want more public involvement. Normally, we would gladly support more field hearings and meetings. However, we are in an extremely difficult situation with a very short timeline. Make no bones about it -- the cries for more hearings are really cries for delay, and these calculated cries are aimed at trying to delay and kill this bill.

There have been seven Congressional Hearings since 1987 which have been the official forums for discussing Montana Wilderness and this critically important land exchange. (Contrary to allegations that the North Bridger swaps are new, the Gallatin Exchange has included the North Bridgers from the outset -- only the

private landowners have changed.)

The House and Senate held field hearings in Montana during 1987 and 1988 respectively. Land exchanges in the Porcupine-Gallatin areas were integral parts of the House and Senate bills. Both houses of Congress held Committee hearings in Washington, D.C. during those years as well. The land exchanges passed both the House and Senate, and were part of the Montana Wilderness Bill which was vetoed by President Reagan. The most recent round of the Montana Wilderness debate (1991-92) included extensive discussions of the land exchanges. The Senate held hearings in 1991. The House of Representatives held two Committee hearings in '92. Both House and Senate approved the land exchange for the Gallatin-Porcupine Areas. A final House-Senate measure failed to gain approval during the last hours of the Congress in late 1992. In 1993, the House and Senate are holding hearings before acting on the land exchange.

(None of the above discusses the earlier public workshops the USFS held regarding the management of the S.393-WSA in the Gallatin Range....Workshops were held in 1979, and meetings in 1985. Land exchange issues were a major topic of discussion.)

Furthermore, there was one public meeting held on this issue last year, and this year there have have been at least 4 public meetings held in Gallatin County on the exchanges.

ALTERNATIVES -- NO MORE OPTIONS, NO MORE TIME

Some local citizens have asked why more alternatives haven't surfaced at this time. One of the most difficult things to understand about land exchanges/purchases is that they only can be consummated if there is an agreement between the landowner and the Federal Government. Some folks have proposed that the Congress simply buy all of the private lands in the Gallatin-Porcupine-Taylor Fork areas. Unfortunately, this won't work for two reasons: 1) Congress is very unlikely to allocate such a large level of funding and 2) The current owner wants land and money in exchange for his lands -- not just money. Without his agreement, the land exchange legislation will fail. Furthermore, the idea of eminent domain proceedings simply will not fly.

Each component of this land exchange hangs together. We cannot separate Porcupine and Taylor Fork from the Gallatin Exchange. Frankly, if BSL does not get the other NF lands as a result of the Gallatin Exchange -- we don't get Porcupine, Taylor Fork, nor the chance to protect the rest of the Gallatin Range WSA.

We would have loved to have had The Nature Conservancy buy all this land last year -- but sadly, that outcome was simply not in the cards. The harsh reality we had to wrestle with and we continue to face is that we offered up a large number of alternatives, but ran out of options that were agreeable to the current landowner. We tried to change the exchanges so the lands in the North Bridgers and Bangtails

were not included; we tried to get the owner to accept more money in substitution for these lands and/or accept alternate lands. We tried any number of these approaches as well as urging the new owner to conduct sustainable forestry practices on his acquired lands and to work in harmony with his neighbors. The fundamental problem with land exchange legislation is that unless the landowner agrees with the language, the most enlightened proposal in the world will not get to first base.

One of the most difficult things to understand about land exchanges is that they can only -- and I repeat only -- be consummated if there is an agreement between the landowner and the Federal Government.

Nevertheless.....this exchange is clearly and overwhelmingly in the public interest.

EXCHANGE WILL NOT RESULT IN SACRIFICE OF THE BRIDGER RANGE

There are roughly 60,000 acres of National Forest land in the Bridger Range today. Contrary to some reports, the exchanges will not result in a dramatic "shifting" of logging, roading and subdivision problems from the Gallatin to the Bridgers:

•First, the 3,500 acres of National Forest lands in the Flathead Pass/North Bridgers which would go to Tim Blixseth and Big Sky Lumber are currently scheduled for logging and roadbuilding under the Gallatin Forest Plan.

•Second, Blixseth should comply with Best Management Practices, and would have to operate under the Montana Streamside Management Zone law. (The purpose of the law is to "protect the public interest in the quality and quantity of forest waters and conserve the integrity of streamside management zones".)

•Third, possible problems caused by increased logging truck traffic in Bridger Canyon could be avoided by re-routing logging trucks via alternate routes -- such as via Wilsall, and subdivision problems could be resolved by local planning district efforts, covenants, easement agreements

•The latest charge is that this exchange will somehow result in "de-watering" Flathead Creek. Beyond the protections found in the Streamside Management Zone law, you should know that there are 13 major tributaries of Flathead Creek. Only 5 tributaries would be impacted by this exchange. The majority of tributaries would not be impacted, so the flows in Flathead Creek should not be dramatically changed.

CONCERNS OVER IMPACTS IN N.W. MONTANA

Some folks have made some far-fetched claims that turning national forest lands in northwest Montana over to BSL would result in an ecological disaster. One claim went so far as to say that the citizens of Big Fork would be viewing a "moonscape" caused by BSL from downtown Big Fork.

The facts are as follows:
>The closest impacted section of land near Big Fork is over 13 miles due west -- across Flathead Lake, up and over a ridgeline and down the other side. The lands

are surrounded by logging and roads. These lands are not visible from Big Fork. >With few exceptions, the lands exchanged to BSL have been roaded and logged, and are surrounded by roads and logging on other private lands.

Contrary to these claims, this exchange will not be a disaster. From an ecological standpoint, the lands to be granted to BSL are not as valuable as the lands that would go public within the Porcupine/Gallatin Range and Taylor Fork areas.

People also fail to recognize that if this exchange gets approved, then the last section of private land in the Scapegoat Wilderness -- along the North Fork of the Blackfoot River (part of the Bob Marshall Wilderness complex) will be placed into public ownership.

WILDLANDS AND POTENTIAL WILDERNESS -- WHAT'S REALLY AT STAKE?

Minor Impacts to the Bridgers if This Bill Succeeds

Some folks claim that the entire Bridger Range roadless area is terribly threatened by this land exchange. These claims are dead wrong:
* If the land exchange is passed then only 2,500 acres along the edge of the 47,497 acre area will be impacted, or 5% of the roadless area.
*The Bridger Range roadless area which will remain will still function as a biological corridor.....and should be designated as Wilderness in separate legislation.

Huge Impacts to Gallatin Wilderness Study Area if This Bill Fails

Consider what is at stake with the proposed exchange. If the exchange is not approved then almost 30% of the existing 155,000 acre Hyalite-Porcupine-Buffalo Horn Wilderness Study Area (or 17 times more wild acres than in the affected roadless land in the Bridgers) plus 1,600 roadless acres in South Cottonwood Canyon, will be lost -- the wild heart of the Porcupine-Gallatin Range will be gone forever. (This percentage is based on 37,000 acres of BSL lands and 6,700 acres of other private land in WSA. If the BSL lands are lost, then the other private lands are functionally lost as far as the WSA goes.)

Look at Potential Wilderness

If the exchange does not get approved we will lose 43,000 acres of roadless private land (BSL and other private) in the Porcupine/Gallatin Range WSA and 2,300 roadless acres in the Taylor Fork and 1,600 roadless acres in South Cottonwood. (These roadless lands that would be lost by failing to pass the exchange amount to almost 20 times more acres than in the affected 2,500 acres of roadless lands in the Bridgers)

If the Exchange Fails -- then Kiss the WSA Good-bye

If the exchange fails, we'll lose much, much more than the 43,000 acres in the heart of the Porcupine/Gallatin WSA because just about every other section of the 155,000 acre WSA is private land (in a swiss-cheese or checkerboard pattern). If we lose the heart then we've basically lost the entire WSA -- which was established by Congress 16 years ago. If the exchange fails, then the resultant habitat fragmentation will be devastating. Remember that the Porcupine/Gallatin, Taylor Fork & S.Cottonwood wildlands are crucial habitat for large elk herds, numerous grizzly bears, and healthy populations of bighorn sheep, moose and deer, plus pristine watersheds that Federal Government has been trying to place into public ownership since 1925. These wildlands include some of the most important wildlife/biological corridors in the West. These values will be destroyed if this land exchange fails.

Rock-Hard Reality

The rock-hard reality is this: if this bill fails because of opposition to logging a tiny percentage of the Bridgers —then the calls for saving the Bridgers will be responsible for the tragic sacrifice of the Taylor Fork, S.Cottonwood areas and the Porcupine/Gallatin Range Wilderness Study Area.

THESE EXCHANGE/PURCHASES DO NOT REQUIRE A LEGISLATIVE EIS

Some people claim that a legislative EIS is required before the Gallatin Land Exchange can be approved by Congress -- they are dead wrong. Again, as in the case of the cries for more public hearings, some folks are trying to use this EIS claim as a ploy to trip up, delay and kill this bill. Here are the facts:

*If Congress legislates/directs an exchange, NEPA is not required.
* If Congress authorizes (or gives the FS the authority) to work out an exchange, but does not direct or legislate the exchange, then the agency needs to bring their proposal to Congress with a legislative EIS. That's when an EIS is required. Then the proposal goes thru appropriations or implementation legislation.
*Purchases do not require NEPA.
* The Gallatin Exchange is NOT an agency proposal TO Congress.....it is clearly a proposal FROM AND BY Congress.
*Congress can do whatever Congress wants.
*Montana citizens put this current package together. The Forest Service only drew up the maps after it was formulated.
*Congress passes wilderness legislation, all the time -- without EISs.
*NEPA applies to Federal Agencies.....not the Congress.
*The original Gallatin Exchange was requested by Sen. Max Baucus and Rep. Bruce Vento. The Porcupine exchange was requested by Rep. Pat Williams & Sen. Baucus.

HOW WE VIEW THE PROPOSED BRAND-S EXCHANGE IDEA

We understand the concerns about the land exchange idea that's being proposed by Brand S. So far, the Forest Service has not agreed to any specific proposal, and the agency has not finished the required appraisal work and value-for-value test. Frankly the idea is still in the formative stages and is far from being a real-life proposal.

If and when the Brand S idea becomes a viable proposal, then we will take a hard and honest look at it. If it makes sense and solves problems, that's one thing -- but if it doesn't make sense and causes new problems, then we'll have to fight it. One major concern is that the proposal must meet the standard value-for-value test; we will also be keeping a eagle-eye out to make sure it will not cause a negative impact on the overall integrity of the existing Gallatin Range Wilderness Study Area.

You are also aware that we are opposed to linking the Brand S proposal to S. 489. We are concerned that potential deliberations over the Brand S proposal could easily delay and ultimately de-rail quick passage of S.489 -- so that the June 1 deadline is not met. Since the Senate only has 23 voting days prior to June 1st, (the House has 25 voting days) we firmly believe that the Brand S proposal should be handled on its own legislative track.

CONCLUSION

Mr. Chairman, I'm sure that you can recall the agonizing attempts Alaskans made to get Admiralty Island's Lake Florence watershed placed into public ownership and designated as wilderness. We failed, (in spite of putting forth every effort possible over a period of many years) and the most popular lake on Admiralty Island has now been ravaged by private timber harvest activities. All this because people could not or would not agree on a resolution. This proposed legislation is of equal or greater importance -- we simply cannot fail with this effort.

Twenty years ago this month, was the first time I'd ever testified before a Congressional Committee on behalf of a grassroots conservation group and in defense of the wildlife habitat and wild country. (My testimony was before this Committee in this hearing room.) Over that span of time, I've learned some very hard lessons about land exchanges. This time around, we must succeed.

Mr. Chairman, today we must find the will and the way to get this exchange signed into law.

Bart Koehler

.....END.....

Mr. VENTO. Mr. Blixseth.

STATEMENT OF TIM BLIXSETH

Mr. BLIXSETH. Mr. Chairman, committee members, my name is Tim Blixseth. I represent the owners of this property, Big Sky Lumber Company, and I think probably what we have here is really a unique opportunity to do something that hasn't been done between the timber industry and the conservation community, and those that know me know how I feel; I have always been on the other side of the aisle, fighting the conservationists until this issue.

When we first bought this property, we were vehemently against this exchange. We felt that it was lopsided financially, that we were getting the bad end of the stick, so to speak, and through a lot of efforts by people like Michael Scott and Bart Koehler and other people involved in the area, they basically got our way of thinking around to the point where we agreed that it was probably an equitable thing to do, not so much from a financial standpoint but from being the right thing to do.

It is kind of a pain to have your ownership intermingled with the U.S. Government. If you have ever owned a couple of sections of land, you know that it is tough because of rights-of-way and easements. So we still feel that the Federal Government is getting the better end of the bargain financially.

I wanted to address Mr. Thomas's questions earlier about the appraisals. Certainly the market has gone up on the value of both pieces of property dramatically since the inception of this idea. Certainly today, if we didn't do this trade with the Forest Service, we would make a lot more money. There is a tremendous demand for these properties. There seems to be a big flock of people to the State of Montana just to buy a piece of the wilderness.

We are committed to do this exchange. We have signed up to June 1, and we would like to see it get done. We think this can possibly be the flagship between industry and the conservation community for future negotiations, future dealings on properties that are problem laden, as ours are.

So we support this bill, and we will do everything we can to make it happen.

Thank you.

Position statement of Big Sky Lumber Company follows:]

POSITION STATEMENT

HR-873 and S-489

Notwithstanding our vested interest, Big Sky Lumber Co. (BSL) is committed, supports and unequivocally endorses HR 873 and S-489 for reasons other than its vested interest.

The passage of this Legislation will safeguard for future generations the finest wildlife habitat and most pristine wild lands on the North American continent. The lands involved are crucial habitat for the largest elk herd in North America, the threatened grizzly bear and thriving populations of big horn sheep, moose and deer. Future generations will secure an interest in upwards of 70,000 acres of unparalleled scenic beauty and vast recreational opportunities. These values will be lost forever if the Legislation is not adopted into law.

The lands involved include the heart of S393, the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area, which was established 16 years ago and which stretches from Hyalite Peak south to Yellowstone National park. The private land that will be acquired from BSL exists in a checkerboard pattern surrounded by public land administered by the United States Forest Service. The Legislation will, without question, enhance management potential and efficiency of operation of a major portion of the Gallatin National Forest.

There is clearly overwhelming support for the Legislation. Individuals and organized groups who, in the past, opposed or had mixed emotions relative to the wilderness legislation support this Legislation. Conservation and environmental groups who have expressed affirmative support include: The Madison-Gallatin Alliance, Gallatin Wildlife Association, Concerned Citizens for Cottonwood, Citizens to Save the Gallatin Valley Face, The Bozeman View Shed Council, Montana Wilderness Association, Montana Wildlife Federation, and The Great Bear Foundation. Legislation is supported by local and state officials, the Forest Service and Montana Department of Fish, Wildlife and Parks.

BSL recognizes that it has a unique opportunity with the aid and assistance of Congress to create in perpetuity a legacy that will be a benefit to the human and natural environment. Additionally, the passage of this Legislation will grant and give to the Nature Conservancy a period of upwards of two years to purchase approximately 6,182 acres in the Porcupine Drainage of the Gallatin Canyon and upwards of three years to purchase approximately 11, 200 acres in the Taylor Fork area. The long sought after Porcupine and Taylor Fork lands will be conveyed to the Untied States Forest Service once acquired by the Conservancy.

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Mr. VENTO. Thank you, Mr. Blixseth.

Finally on this panel we have Mike Atwood of the Brand S Corporation.

Welcome, Mike. Please proceed.

STATEMENT OF MIKE ATWOOD

Mr. ATWOOD. Mr. Chairman, Mr. Williams, and members of the committee, my name is Mike Atwood, and I want to thank you for the chance to share my thoughts with you about H.R. 873, the Gallatin Range Consolidation and Protection Act.

I work with about 250 other people at a small lumber mill called Brand S Lumber in Livingston, Montana. Our mill is near by the Gallatin Range, and we are affected by this proposed legislation.

One of our major competitors will be the beneficiary of this land exchange. They will receive National Forest land that has been identified in the Gallatin Forest Plan as land that will support major timber sales available to all bidders. If this land exchange occurs, we will not have the chance to bid on the timber on those lands, nor will other small operators in our area, and, as you know, the timber supply is very critical to our continued existence.

We have searched for ways, however, to level the playing field. We studied the findings in section 2 of H.R. 873, and there are four findings. They apply equally to the lands that we own along the Gallatin Range north of Yellowstone Park. Everything that can be said about Big Sky lumber lands that are part of H.R. 873 can be said of ours. I will go through those.

Number one, we own seven sections of land that bisect the Gallatin Range, five of which are within the Hyalite–Porcupine—Buffalohorn Wilderness Study Area. In fact, they effectively separate the Federal lands to the north end of the study area from lands to the southern part of the study area.

Number two, these lands possess outstanding natural characteristics and wildlife habitat which give them high value, and these lands should be added to the National Forest System.

Number three, although these lands have remained pristine up till now, failure to consolidate at this time will in the near future lead to fragmentation and development.

Finally, number four, the Federal Government has already invested a great deal in keeping the lands along the Gallatin Range protected from excess development.

We propose to add an exchange of our lands to this legislation so the convoluted land ownership pattern along the Gallatin Crest can be solved with one piece of legislation so we can maintain some sort of fairness in our working circle.

We propose to exchange seven sections of land that we own along the Gallatin Range for checkerboard lands—lands that are in a checkerboard pattern and isolated—with other lands of ours. In addition, we would exchange the Lost Creek Reserve on the Deerlodge Forest for some isolated tracts on both the Gallatin and the Deerlodge National Forest. The Lost Creek Reserve would be an extraordinary addition to the National Forest System.

We made this proposal to the Forest Service about two months ago, and we have been working hard on the proposal since then. We should close on the proposal in the next few weeks. We have

discussed our proposal with all members of the Montana congressional delegation, and I do have some maps with me that would help illustrate the exchange if you want to discuss that further.

The lands that we have offered are wanted by the Forest Service and environmental groups. The lands that we have selected are scattered, isolated, checkerboard tracts that are difficult and, in many cases, unavailable for the public to use and enjoy.

We have agreed with the Forest Service to trade lands on an equal basis. All lands have been appraised by a Forest Service appraiser or are in the process of being appraised, and we have agreed to pay half of the Forest Service appraiser's wages for the time he put in on this project in order to expedite things.

We have also agreed to place easements on certain lands that we own now and would retain as well as those we would acquire to require the best of forestry practices and to restrict subdivision in order to protect the outstanding resource values in the Gallatin Range. We would also donate those easements to the Nature Conservancy.

Mr. Chairman, this land exchange that we propose is in the best interest of all concerned. It is a win/win situation for everyone, and it is also endorsed by the Governor of Montana and many environmental organizations and sportsmen's groups. We have met with several informed citizens groups and have received pretty good acceptance to it, and while it would stand on its own, we ask that it be added to this legislation.

Time is of the essence for us, as apparently it is for the private proponent of the present H.R. 873. The administrative process for land exchange is terribly time consuming. This legislation that we discuss today is much more efficient.

Adding the additional land exchange or adjustment I propose today will permit the consolidation of the Hyalite–Porcupine–Buffalohorn Wilderness Study Area and ensure public ownership of the Lost Creek Reserve. In addition, the lands that we offer will greatly improve public access to public lands.

We will have the necessary work done in time, so this legislation will not be held up. Adding our proposal to H.R. 873 would be the right thing to do.

I thank you.

Mr. VENTO. Thank you, Mr. Atwood, for your testimony.

Our concern is, we don't know as much about the proposal that you are making. The Forest Service hasn't done the preliminary work, nor has there been very much dialogue, apparently, between the constituencies that would be affected, which apparently is something that the Forest Service has at least explored more extensively with regard to the other land exchanges that are embraced by the delegation bill from Montana. That is principally the concern.

You had an opportunity, or others had had an opportunity, to have some dialogue on these exchanges that are in the bill before us that you are testifying on. Is that correct.

Mr. ATWOOD. That is correct.

Mr. VENTO. So I think what they are trying to do is afford everyone the same opportunity. I wouldn't completely write this off. I don't know as much about it as I would like to know, so I have an

open mind with regard to it, but we are under a time line with regard to this other measure, to try to hold all the parties in agreement so we can give the Forest Service the direction that they need here.

So I am open-minded, as I said, about the other proposals that you have made and understand that you are affected or impacted by the loss of some, at least insofar as it is not wilderness study, but you can't bid on it, so you would like to, obviously, try to rationalize or bring some other consideration to facilitate orderly utilization of wood fiber by your mills and so forth. I understand that. So we will certainly look at that. I don't know what the possibilities are, but we will explore it through staff and see what we can do. Obviously we are under a short time frame, and there won't be more information forthcoming, but we will act as deliberately as possible if, in fact, there is agreement.

I have a number of questions. First of all, Congressman Hefley was quoting from the financial report of the Nature Conservancy in talking about the amount of money that they had expended. I think that is where he was getting the number from. But he pointed out that they had expended $90 million but the cost of the land sold was $87 million and the cost of selling it was over $3 million, so they lost money, and they, of course, donated land to the extent of $18.5 million.

But let me just put the entire article in the record from the January/February Nature Conservancy. It is the 1992 financial report. I will put the entire article in the record, without objection, so everybody can study that more carefully.

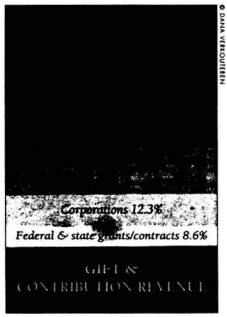
[The article follows:]

The recent environmental challenges **1992** *facing The Nature Conservancy have been extraordinary, and the organization's response has placed unusual pressures on its resources. Restoring those resources while continuing to respond to habitat protection needs was therefore a high priority during the 1992 fiscal year.* *Despite a recession, the*

FINANCIAL REPORT

Conservancy increased its revenue from dues, contributions and grants by 15 percent—a tribute to both diligent fund-raising and increased public recognition of the importance of the Conservancy's mission and the organization's effectiveness in pursuing it. A strategic decision to transfer $11.7 million into the Land Preservation Fund—the revolving account that bankrolls critical land acquisitions—is largely responsible for this year's apparent deficit.

The organization also adopted improved accounting methods in fiscal 1992. These changes, reviewed and approved by external auditors, will allow the Conservancy to track its financial status more accurately and efficiently in the future. One important outgrowth of these new auditing procedures is that membership development expenses were discovered to be far lower than figures stated in previous years.



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Another change for fiscal 1992 is the rise in spending on conservation science and land management. This reflects the Conservancy's increasing emphasis on studying and managing entire ecosystems (also known as bioreserves)—a key component of its "Last Great Places" initiative.

The Conservancy cannot continue to meet the growing environmental challenges worldwide without the continued generosity of individuals, corporations and foundations. Therefore, the organization is seeking to enlarge its base of members and supporters, and asks for your assistance in this important endeavor.

SOURCE OF FUNDS
(Before sales of conservation land)
Gifts/Contributions 85.4%
Investment Income 10.8%
Merchandising, Leases, Fees, Other 3.8%

USE OF FUNDS
Program Expenses/ Capital Allocations 87.7%
General & Administrative 5.6%
Fund-raising 4.5%
Membership Development 2.2%

PARTNERSHIPS WITH GOVERNMENT

In 1992 the Conservancy continued its tradition of making substantial contributions to state and federal government bodies and other conservation agencies. The value of land sold and contributed to government and other conservation agencies was more than $109 million. In return, the organization received approximately $90.7 million.

Although this work with partner organizations results in a net financial loss for the Conservancy, it is vitally important. The task of conservation is too large for any single entity, and the Conservancy believes it is critical that government as well as private resources be devoted to this effort.

Mr. VENTO. We appreciate Mr. Hefley bringing this article to our attention, because it does demonstrate the bargain the National Government received for the activities of the Nature Conservancy, I think about 25 percent greater value than what would be expended, to say nothing about some of the administrative red tape that the Forest Service sometimes gets involved with in terms of trying to facilitate land purchases and/or the other land management agencies. They simply don't have the flexibility, because of the discussion that Mr. Atwood and I just had, that the Nature Conservancy or private sector might have to make purchases of land.

But hopefully this can be an orderly process, one in which there is an enlightened view and recognition of a responsible action on the part of the land management agencies and the conservation groups that are involved in it.

I hope we can move ahead with this agreement. I think we need more cooperation such as has become evident here in order to rationally manage lands and not have everything explode into a polarized type of conflict before the committee. It seems the resources here are outstanding. The Greater Yellowstone Coalition and others involved, I think, are to be commended as well as the other individuals—Mr. Blixseth and others—involved in the agreement. I think it does give reason for new hopes.

Just a couple of questions. For Mr. Graham: What would be the consequences to the wildlife resources if these lands are developed?

Mr. GRAHAM. Mr. Chairman, I think the grizzly bear situation is probably the most critical in the sense that it is an endangered species and recovery of that species requires some fairly large tracts of land. I think that by blocking it up throughout that range we would have a better chance to see recovery and a spread for that grizzly bear population in the Greater Yellowstone.

It depends on what would be the fate of the lands. If they were subdivided, for example, we would very likely have human/grizzly bear conflicts in that area that would certainly create problems for recovery.

The same thing, I think, with the elk migrations, depending on what was happening to those lands. If it would disrupt the migration of those elk herds, property damage could result as well.

The fisheries values are probably a little bit more difficult, to quantify what those impacts would be, but I think it primarily would be with the elk and grizzly bear, bighorn sheep, and the wintering.

Mr. VENTO. How are the grayling doing in this area? In this basin you have reintroduced the grayling you mentioned in your testimony. How are they doing?

Mr. GRAHAM. We have just started. We haven't had a chance to evaluate that.

Mr. VENTO. But nobody is allowed to go fishing for them, I guess. Is that right?

Mr. GRAHAM. Not yet.

Mr. VENTO. Well, let me know when it is appropriate.

I guess you have some other slots in Montana where you can catch grayling. Were they reintroduced in these other locations in

Montana as well, or have they been naturally occurring there without interruption?

Mr. GRAHAM. We have lake-dwelling grayling in Montana in a number of locations. The Upper Big Hole River Drainage is the last place in the Lower 48 States where we have stream-dwelling Arctic grayling.

Mr. VENTO. And that is an uninterrupted presence there. Is that correct?

Mr. GRAHAM. That is correct, as far as we know.

Mr. VENTO. Well, if they would quit introducing all those brook trout—I didn't know that "brook trout" was a dirty word until I went to Montana, the eastern brook trout, but I found out that there had been a plethora of individuals. Obviously, we would take any type of trout we could get in Minnesota. We haven't been able to quite take that elitist attitude with regard to the relative desirability of various types of trout.

Mr. Blixseth, I was impressed with your statement, and obviously it reflects real progress in terms of the dialogue that is going on in Montana. Hopefully it will lead to more agreement on issues than what has occurred.

Obviously, we are talking about vetoed wilderness bills and so forth. That is a pretty unusual circumstance. By the time they get to the President's desk, we normally don't have that problem, but we did in this case, and I am hopeful that we can get this important measure passed and will be able to work on the other issues with dispatch as well.

Obviously, if this agreement doesn't go forth you would be left with little alternative but to develop the lands. Would that be correct?

Mr. BLIXSETH. That is correct.

Mr. VENTO. Why is it so important that we have this June deadline in this instance to you? It is important to you, I assume.

Mr. BLIXSETH. For a couple of different reasons. Number one, we sold the manufacturing facility that we acquired in the acquisition to Louisiana Pacific who employ 100 or so people in the Belgrade area, which is just outside of Bozeman. As part of that agreement, we promised to deliver x amount of board feet of timber to them over a five-year period, and they have a UCC filing, if you will, on our timber lands, and they have the right to enter on those lands if we don't and harvest the timber to keep that mill running and employ those people.

So basically we reached agreement with LP that last year we had given the legislation until 12/31/92 to pass, and, as we all know, the wilderness bill failed, and so the Nature Conservancy talked us into going to June 1, which is six additional months, and because of the supply of timber that is available about that date, June 1 is the date that we going to have to kind of start looking ahead to see where those people who work in that mill are going to get wood to keep running.

The second concern, of course, is the financial concern. We paid a certain amount of money for this property and expect to receive a certain amount of return on our investment, and we can't wait indefinitely for something to happen, so that is our reason.

Mr. VENTO. Thank you.

Mr. Thomas, shall we defer to Mr. Williams here and let him ask questions first, or do you wish to go ahead?

Mr. THOMAS. If I might, Mr. Chairman.

Mr. VENTO. All right. Mr. Thomas.

Mr. THOMAS. Very briefly.

Mr. Scott, I thought I heard you say that there was a net increase in private ownership as a result of this?

Mr. SCOTT. No, no. In public ownership.

Mr. THOMAS. Public ownership, okay. And fairly substantial—maybe 69,000 acres?

Mr. SCOTT. Roughly 70,000 acres.

Mr. THOMAS. Okay.

Mr. Graham, is there no one that has any misgiving about this? All the testimony we have had has been positive. I guess that means no one questions it. Is that right?

Mr. GRAHAM. Congressman, I would never speak for everyone. I am not aware of opposition.

Mr. THOMAS. Okay. That is interesting.

Mr. Blixseth, will you acquire some other timber lands in this exchange?

Mr. BLIXSETH. I don't think I quite understand your question. You mean, are we going to acquire timberland back from the Federal Government?

Mr. THOMAS. Yes.

Mr. BLIXSETH. Yes, I think there are 6,700 acres, more or less, over in the Lolo and the Flathead National Forests, isolated timber land, that would come back to our company, and there are also other timberlands which are intermingled with the Forest Service in nonstrategic environmental areas that we are negotiating with the Forest Service currently to try and consolidate the balance of our ownership.

Mr. THOMAS. Well, there are 12,000 acres here in exchange. Is that to your company?

Mr. BLIXSETH. That is to our company.

Mr. THOMAS. I see.

Mr. BLIXSETH. We think ultimately it will be a greater number than that.

Mr. THOMAS. But it hasn't been settled, has it? As I read through this, there are several things here in Porcupine Creek and Taylor Fork, roaded lands that are not settled.

Mr. BLIXSETH. Well, it is actually a four-pronged agreement with the Nature Conservancy. Number one is what we refer to as the Gallatin exchange; that is set and locked.

Mr. THOMAS. Yes.

Mr. BLIXSETH. Number two would be the Porcupine Drainage, which has about 7,000 acres in it. They have the right to buy it for money or trade. Number three would be the Taylor Fork Area, which has 11,000 add acres. Again, they have a right—meaning the Nature Conservancy—the right to check; and the last is about 24,000 or 25,000 acres, which would be the balance of the Gallatin National Forest.

Mr. THOMAS. So you will pick up 12,000 acres and $3.5 million.

Mr. BLIXSETH. On phase one.

Mr. THOMAS. Okay. Again, my concern basically is that we seem always in these exchanges—I am for exchanges. I wonder why there couldn't be some other property exchanges. I know we will argue, well, we can't do it on Forest Service lands, and frankly I don't know quite why BLM and others can't participate as well.

At any rate, thank you.

Mr. VENTO. If the gentleman would yield, I think one of the difficulties frequently that creeps into this, and it persisted in the eighties when there was obviously a very dedicated group. In fact, providing for exchanges is not use of LWCF money or purchase, whether through Nature Conservancy or others. It is simply that the fungibility of trying to arrange land exchanges interstate—or intrastate—interstate, we got involved in a few of them—is just very difficult to do. Obviously, establishing a value just is a more efficient way of doing it.

I know the gentleman's concern, and for those of us that come from large public land States, like Montana and Minnesota or Wyoming, it is a real concern. Obviously, we don't compare with the types of problems that they have in your States but there is large public ownership in my State.

In any case, it is just the fungibility and the practicability of doing this. Where it is readily workable, you do it; where it isn't, you obviously, in order to facilitate this, need to have the Land and Water Conservation or Nature Conservancy and others involved.

Mr. SCOTT. Mr. Chairman, if I could point out one thing on the public/private debate.

Mr. VENTO. Yes, Mr. Scott.

Mr. SCOTT. I think it is important to note, as the witnesses have testified here today, that the lands to be acquired by the United States, these roughly net 70,000 acres, are extremely high in terms of their wildlife and wilderness values, and when you look at a forest like the Gallatin Forest that has such high amenity values, there just isn't that much around to give up to go the other way.

I think the feeling among the people that participated in this is that we wanted to protect as much as possible those high-value lands for the grizzly bears and the spawning cutthroat trout and the other things, and where we could find lands that didn't have the high environmental values, as Mr. Blixseth pointed out, we would trade those, but we would use cash for the differential. I think that that was sort of the theme that we were operating under.

Mr. THOMAS. I understand that. I do understand, first of all, that forest lands were generally withdrawn for a purpose. So therefore it is hard to find some that many would agree are no longer necessary, but there are also millions of acres in Montana of other lands that were simply there because no one took them up and they have no particular value. I am suggesting that we ought to broaden our scope when it comes to exchanges and not hold it within a very small area.

Mr. VENTO. I think the issue, Mr. Blixseth will probably tell you, is that there are other millions of acres in Montana in public ownership, but it may not be acreage that he is particularly interested in. This is the problem you get into.

Mr. THOMAS. But there are other people who are interested in it.

Mr. VENTO. No, no. I understand.

Mr. THOMAS. You talk about the complication. You know, it becomes complicated if you don't want to do it, but if you want to do it you can find a way.

Mr. VENTO. I'm not trying to be argumentative with the gentleman but just want to point out that I think all these lands have different values, I would say, not no value, and I am sure the gentleman would agree with that; I think he misspoke.

Mr. Williams, thank you for your patience.

Mr. WILLIAMS. Thank you, Mr. Chairman.

It appears that although support for this trade is not totally unanimous either on this committee or, frankly, in Montana, but there is significant support for it and widespread understanding of the importance of going ahead with it.

We have heard, somewhat to my surprise, by the way, no opposition being expressed to the trade by any of the witnesses today, so let me focus on the one matter which still seems to be in contention, and that is whether or not to add Brand S and their potential trade to this legislation before we move it.

Mr. Graham, you spoke about the national significance of going ahead with this trade. If trying to work out the difficulties of the Brand S trade ended up in the demise of the trade now before us, do you think Montana would be well served, or the Nation?

Mr. GRAHAM. No.

Mr. WILLIAMS. Have you worked at all with the various agencies or parties involved in either the trade before us or the Brand S trade? Have you worked with any of them, Mr. Graham?

Mr. GRAHAM. Yes.

Mr. WILLIAMS. Have you worked with any of them with regard to the trades themselves?

Mr. GRAHAM. Just in reviewing the information, briefing our Fish, Wildlife, and Parks Commission about these issues, but not in any negotiations.

Mr. WILLIAMS. You are familiar, because of your current work and your past work as well, with the difficulty in trying to arrive at a negotiated trade, are you not?

Mr. GRAHAM. Yes, I am.

Mr. WILLIAMS. And you do know that it will take most likely months, if not longer, to finalize the proposed Brand S trade, do you not?

Mr. GRAHAM. Generally the negotiations we have with the Department usually take quite a bit of time.

Mr. WILLIAMS. And you have heard the witnesses before us talk about June as an end date for moving this legislation.

Mr. GRAHAM. Correct.

Mr. WILLIAMS. Mr. Scott, first, thank you for your long involvement, many hours and days of work on the trade that was agreed to in the Gallatin with the other parties involved.

With regard to attaching the Brand S trade to this one, being as you personally sat at the table, personally walked the land, and are aware of the difficulties inherent in trying to put the trade now before us together, do you think there is time to delay this trade in the hopes of including the Brand S trade with it?

Mr. SCOTT. I don't think so, Congressman Williams. The problem we face, as Mr. Graham pointed out, is that we are somewhat in

the infancy of looking at the Brand S trade, and I think that maybe Mr. Atwood misspoke for a moment when he said that there was significant support in the environmental community for the Brand S trade.

I don't think the environmental community has yet had an opportunity to take a position on the Brand S exchange because we don't yet have the appraisals back, which I understand will be—they are imminent, within a week or so or even less, but we haven't had the public forums that we have had over this exchange and haven't crystalized the public sentiment on that exchange, and I am not trying to say that it would potentially be a bad exchange, nor am I saying that it is a good exchange, we don't know yet, and in not knowing is the risk that we run with this particular piece of legislation, with your legislation, H.R. 873, because we do know the values in this one and we do know the time deadline that we are under, and we know how quickly we have to move it.

So our concern, the Greater Yellowstone Coalition and the Wilderness Society's concern, is that we don't want to do anything that would potentially jeopardize this legislation, not trying to rain on Brand S's parade on this one, it is just that this needs to move. If the Brand S exchange is meritorious when it comes out and public support comes out in favor of it, it deserves to move, and we would be one that would come to you and ask you for your support.

Mr. WILLIAMS. Thank you.

Mr. Blixseth, I also want to thank you. You described yourself as one who sat on the other side of the table from the environmentalists sometimes—quite often, in fact, I guess—in an odd positions, given positions, but nonetheless you and they were able to get on the same side of the table, and you were willing to listen and consider, and I think the public ought to be appreciative of that.

If we get past whatever a magic date might be, but it appears to be some time in early June now—if we get past that date with no light at the end of the tunnel, very little legislative movement, what are your next steps with regard to your property in the Gallatin?

Mr. BLIXSETH. If that scenario materializes, we will start selling some of the properties. We have numerous inquiries and offers on the table currently, and we will manage the timber and log some of the timber into the mill at Louisiana Pacific and subdivide some of the properties.

Mr. WILLIAMS. Mr. Atwood, thank you for being here with us today.

I note from your testimony that you have generously not opposed the legislation but hope, understandably, to be a part of it, to have the trade that you and others at Brand S are diligently working on included as part of this legislation. I understand that you are trying to identify lands in the Deerlodge Forest for possible trade to Brand S, and in an effort, myself, to determine how far along all of you are in your trade as I consider whether or not to link it to this bill, I have been in touch with some folks in the various areas that you are considering.

The first indication that I get from talking to folks in the Skyline Sportsmen's Group with regard to the Deerlodge exchange is that they are opposed to it. Have you visited with them, or do you have

any understanding of where the local sportsmen may be with regard to that part of the exchange?

Mr. ATWOOD. You are referring to the isolated tracts?

Mr. WILLIAMS. Yes.

Mr. ATWOOD. Okay. We have had some informal meetings with the Skyline sportsmen's groups. To this date, actually, we haven't heard any major objections. That is news to me.

I think the merits of the Anaconda Butte people getting Lost Creek Reserve far outweigh these isolated tracts that were submitted to us by the Forest Service for acquirement.

Mr. WILLIAMS. I think your company is to be commended for their diligence in traveling the State and seeking support from the various recreation and sportsmen's groups. I have a number of them call me and my staff and tell me that Brand S was by or Brand S has been on the phone. Have you found any of the recreation groups or conservation groups that are supportive of your specific proposals?

Mr. ATWOOD. Yes. I have been looking for the opportunity to say this, in that the Nature Conservancy—it was actually one of their ideas that in order to avoid the potential impacts on Brand S, realizing that we are a viable employer in the area, they came to us and said, "Look, the eight-mile area has been previously released; maybe we can do something over there for you guys," and, in fact, an environmental group actually initiated the idea.

I would have a little bit of difference of opinion that there aren't any environmental groups in favor of this. They are also concerned that we would be an anchor on this bill, and we realize that we can't hold it up, and there is some risk, I think, in being very specific about your exchange. Whereas our exchange is very specific, we feel very confident in having those things worked out.

Mr. WILLIAMS. If waiting to include the Brand S exchange on this bill would mean that this bill would be delayed past the time when Big Sky Lumber would have to go ahead with their development plans, would your position of support for this legislation at that time time? Would you be for killing it by having the delay go ahead, or do you think that this exchange standing alone without Brand S in it is of enough regional and national significance that it ought to go ahead?

Mr. ATWOOD. It is difficult for me to respond to that until we see the appraisal. At this point, I think we are dealing with some pretty old appraisal sort of values for timber, and it is hard for us, but generally we think it is probably a good deal.

We, too, are under the gun, so to speak, on our Lost Creek plans. We are going to have to do something with that this spring, and as the chairman asked me, why were we not so active previously? we didn't have Lost Creek to offer. This is a 15,000-acre piece of property. It is the Porcupine of that area. It has national significance for big horn sheep and other wildlife.

We are not going to aggressively oppose it. We have always had concerns with the effects to our mill. There are two planned timber sales that are virtually taken out of that. But we realize that some value has to be traded there for what the Government will obtain.

Mr. WILLIAMS. Mr. Atwood, what I am going to encourage the committee to do is to proceed ahead with our schedule, which was

not easily reached, the chairman has been very kind to schedule both hearing and markup, and the full committee chairman has been very kind as well to place us on his schedule. I want to go ahead with that while, at the same time, monitoring the progress of your trade for consideration of possibly attaching that trade at some point on the bill.

But I want you to understand fully that for my part—and I have got a lot of colleagues here I have to satisfy in order to move this legislation—but I want you and Brand S and the company to understand that, for my part, I don't want to lose this bill on this trade. I want it to keep moving. I don't want anything to jeopardize it.

From 1925 to now is a long time. The door is about to close on the possibility of consolidating these lands, and it may well be that we can find another vehicle—for example, the Montana wilderness bill—to delay until we can see if your trade can be culminated and then put the authorization for your trade in the Montana wilderness bill, and then of course we would have the support for the first time of Brand S of a Montana wilderness bill, so we would be killing all the birds with the same stone, and that might be a worthy goal and objective.

Mr. ATWOOD. That's very comforting. [Laughter.]

Mr. WILLIAMS. Thank you, Mr. Chairman.

Mr. VENTO. It gets a little complicated, is right.

I was just looking at Taylor Creek here. The Forest Service puts out terrific photographs of the Gallatin National Forest area. Obviously, after looking over the information and background, I figure I can review the scenic qualities without being biased after looking over the facts, so I am looking at the photographs now.

The whole issue that occurred to me is that—if Taylor Creek gets subdivided, of course, I would like my piece of it—but the very problem of trying to possess wilderness is elusive in the sense that in subdividing it you destroy that which you want to preserve and that which you enjoy. So this gives us an opportunity to do that in a holistic manner, and we hope that we have that option, and we appreciate the cooperation of all involved, and the advocacy of the gentleman from Montana and his hard work, and the delegation's hard work, and the principles, in bringing this about.

I have no further questions, but I have been listening to the exchange between Mr. Atwood and Mr. Williams with regard to the Brand S issue, and we will devote staff effort toward it. If it is something that is workable, we will do it as a vehicle presents itself, whether it is this bill or at a later date. I think you have made your point, Mr. Atwood and others on this panel.

Thank you. The meeting stands adjourned.

[Whereupon, at 12:05 p.m., the subcommittee was adjourned.]

APPENDIX

MARCH 23, 1993

ADDITIONAL MATERIAL SUBMITTED FOR THE HEARING RECORD

Senator Conrad Burns'
Statement before the National Parks, Forests and
Public Lands Subcommittee
March 23, 1993

Mr. Chairman, I would like to first take this opportunity to thank you and the other subcommittee members for holding this hearing today. The bill currently before you, H.R. 873, the Gallatin Range Consolidation and Protection Act is important to my home state of Montana, and I hope the bill may be acted upon before the June 1 deadline.

I am a co-sponsor of the Senate companion bill, S. 489. These bills, S. 489 and H.R. 873, will eliminate some of the controversies surrounding land management decisions. The checkerboard ownership of this Range has caused land management problems in the past for both private property owners and the Forest Service. Over the years, the parties have worked to develop a plan to consolidate their respective lands. This exchange has been around for sometime and deserves to be seen to completion.

I do not want anything to slow down the movement of this bill. Many people in the Gallatin area have waited long enough for this exchange to be completed. I would like to ask that a number of items be considered in the debate, however.

First, people in the Wilsall area have concerns over water quality. There are approximately 17 ranches which could be affected by logging along a stretch of land between Flathead Pass and Ferry lake, on the east side of the Bridger Mountains. In addition, they are concerned that this land maybe sub-divided in the future. I would like to see this concerns addressed before this bill is enacted into law.

In addition, I would like to explore the possibility of an amendment being added that will ensure jobs will not be lost in Livingston. Currently, the Forest Service is working out final details of a possible land trade evolving the Lost Creek area that will protect jobs at the Brand-S lumber mill in Livingston, Montana and provide protection for wildlife habitat. It is my understanding that the Forest Service will be completing the appraisal this week. This exchange will protect prime Mountain Sheep habitat on the Deerlodge National Forest and ensure work at the sawmill in Livingston will continue. This trade appears to be in the public interest, and I am hopeful that it might be considered as well in this bill.

Last, I hope we will be able to consider a small land transfer in Lincoln County, Montana. This transfer of only 340 acres is important to the County because they currently rely on special use permits. The areas include a graveyard, landfill, and school ground. This land is used in the day-to-day functions of the

local community, and it seem that this, too, would be in the public's best interest. I have introduced, and Senator Baucus is a co-sponsor of, S. 528 which would accomplish this transfer. Consideration of adding this bill as amendment might be appropriate at this time.

Having said all this, I would like to stress that I do not want anything to slow the process of the Gallatin bill. As we all know, stand-alone land exchange and transfers do not move quickly in Congress. If this vehicle is moving, I think we should consider adding these transfers and exchange.

I am ready to work with my colleagues from Montana, as well as the committee, to achieve our common goal of having the consolidation completed.

Again, Mr. Chairman, thank you for holding this hearing today.

WILLIAM M. MERCER
INCORPORATED

David P Carlin
Managing Director

March 15, 1993

The Honorable George Miller
U.S. House of Representatives
Washington, D.C. 20515

Re: **HR873 - Gallatin Range Consolidation and Protection Act of 19932**

Dear Representative Miller:

I am a real estate owner in the Gallatin Range area of Montana. I am writing to urge your support of HR873, the Gallatin Range Consolidation and Protection Act of 1993.

With this Act's passage, over 80,000 acres of critical wildlife habitat so important to Yellowstone National Park will be protected in perpetuity. Failure to pass this Act would severely impact the wildlife values of the ares, of Yellowstone National Park, and the regional economy, which is based on tourism, hunting, and recreation.

There is so much to gain: the protection of one of our nation's largest elk herds, endangered species like the Grizzly bear, and tens of thousands or acres of wild lands which should have been protected long ago. After over 60 years of attempts by the U.S. government to acquire these properties, and millions of dollars spent in federal funds, this is our last opportunity. Act now!

Please make this letter part of the official hearing record at the appropriate time.

Thank you for your attention to this matter.

Sincerely,

David P. Carlin
Managing Director

DPC:pg

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Statement for the Record
Meridian Oil Inc. and Meridian Minerals Company
Committee on Natural Resources
Subcommittee on National Parks, Forests & Public Lands
Hearing of March 23, 1993 on HR 873
Gallatin Range Consolidation and Protection Act of 1993

SUMMARY
Meridian Oil and Meridian Minerals (henceforth the Meridian Companies) support HR 873, the Gallatin Range Consolidation and Protection Act of 1993, as introduced by Rep. Pat Williams (D-MT). We own severed mineral interests in each area addressed by the bill and have participated in efforts over the years to rationalize the checkerboard pattern of ownership in sensitive areas in the Gallatin Range. The Meridian Companies stand ready to offer their ownership to complete the Plum Creek Gallatin (Section 3) and Porcupine (Section 4) Exchanges as negotiated in 1988. However, if the US Forest Service (USFS) chooses the purchase option for the lands in Section 4, then we will agree to sell our non-oil and gas mineral interests and surface access rights but will retain our oil, gas and geothermal ownership. In the Taylor Fork area addressed in Section 5, we will agree to sell our surface access rights but retain our oil and gas ownership . The Meridian Companies have not been approached about exchanging or selling their oil, gas, geothermal or mineral ownership under the lands described in Section 6, but would consider any proposals.

BACKGROUND

The Meridian Companies are subsidiaries of Burlington Resources Inc. and are the successors to the land grant interests of the Burlington Northern Railroad Company (BNRR). As such, they have an ownership interest in the checkerboard lands scattered around the Gallatin Range and elsewhere in Montana. At the present time as a result of corporate restructuring during the last five years, Meridian Oil is the owner of all the former BNRR severed oil and gas interests in Montana. Meridian Minerals is the owner of the other non-oil and gas severed mineral interests in many tracts of the checkerboard lands in the Gallatin area in Montana. There is no longer any corporate affiliation between the Meridian Companies and their

previous affiliates, BNRR or Plum Creek Timber Company, LP (Plum Creek).

During the 1980's, the Meridian Companies participated in the negotiations with the Congress and the USFS to arrive at land consolidations in expectation of enactment of legislation designating certain USFS areas in Montana as wilderness. We worked together with Plum Creek, then a sister company, to develop the Plum Creek Gallatin Exchange and the Porcupine Exchange. As part of those negotiations, we executed an inter-company agreement between Plum Creek and the Meridian Companies in which the Meridian Companies agreed to give up all of their mineral interests (including oil and gas) to the USFS in exchange for all the federal mineral interests underlying the lands Plum Creek would receive elsewhere. When Plum Creek subsequently sold their interests in the subject lands to Big Sky Lumber Company (Big Sky), we agreed to the assignment of Plum Creek's interest in the inter-company agreement to Big Sky. Therefore, the Meridian Companies are prepared to proceed with the Plum Creek Gallatin Exchange and the Porcupine Exchange as proposed in 1988 even though Big Sky now owns Plum Creek's interests.

In 1988, the Meridian Companies also worked directly with the USFS and the Bureau of Land Management (BLM) to develop an exchange for our severed mineral interests (including oil and gas) underlying USFS surface in the Clearwater-Monture, Hyalite and Tom Miner Basin areas. The Meridian Companies own about 10,945 acres of severed mineral interests (including oil, gas and geothermal rights) in the Clearwater-Monture area; 8340 acres in the Hyalite Canyon area; and 2159 acres in the Tom Miner Basin area. In this proposal (which has subsequently been named the "severed minerals exchange"), we agreed to give up all our mineral interests to the USFS in exchange for severed federal mineral interests elsewhere in Montana to be designated later. This exchange provision was agreed to by all affected parties, has been included in each wilderness bill since 1988, and is contained in S 489, the Senate companion bill to HR 873.

CURRENT POSITION

Section 3. Plum Creek Land Exchange--Gallatin Area: This section authorizes what we call the Plum Creek Gallatin Exchange. The

Meridian Companies own all of the oil, gas, geothermal and other mineral interests (37,752 acres) under the surface lands owned by Big Sky and designated to be exchanged to the USFS in this section. There has been no oil, gas, geothermal or other mineral exploration or development on these lands, and therefore, the development potential of our ownership is unknown at this time. As stated above, we support this exchange and are ready to proceed with it as originally proposed

Section 4. Land Consolidation--Porcupine Area: This section authorizes the exchange or sale of lands currently held by Big Sky in the Porcupine and Cottonwood areas. The Meridian Companies own all of the oil, gas, geothermal and other mineral interests (8,131 acres) under certain surface lands owned by Big Sky and designated to be exchanged or purchased by this provision. The development potential of our ownership is unknown at this time. In so far as this section would authorize what we call the Porcupine Exchange, we support this exchange and are ready to proceed with it as originally proposed. However, this section also would authorize purchasing the Porcupine lands instead of an exchange. Meridian Minerals is prepared to sell its severed mineral interests other than geothermal rights in this area and will begin appraising its interests immediately. They will not require surface disturbing activities to complete the valuation of these non-oil and gas minerals.

Meridian Oil is not interested in selling the oil, gas and geothermal interests in this area for several reasons. First, obtaining fair market value for severed oil, gas and geothermal interests of unknown value is obviously difficult, if not impossible. Determining their value generally requires prospecting and drilling activities which involve surface disturbance. Not only is it almost impossible to get access to conduct these activities in such sensitive areas, but these activities would not be compatible with the stated objective of preserving the Porcupine and Cottonwood lands' environmental values. Then, as to such data as may be available on the oil, gas and geothermal potential, there is seldom agreement on how much oil, gas and geothermal potential the data actually show and on how much value to attach to that potential. Finally, if the above disagreements can be resolved, it may turn out that arriving at a value for sales purposes costs more than the price to be received for the oil, gas and geothermal rights. In addition and of major concern to Meridian Oil, it may turn out in 10, 20, or more years from now that exceedingly valuable oil, gas and geothermal have been sold at a nominal price

because of our inability to identify their value from available information and our willingness to accommodate the political process.

In lieu of selling its interests, Meridian Oil is negotiating an agreement to sell all of their rights to use the surface of these lands for exploration and development of their oil, gas and geothermal interests. Specifically, this agreement would provide that Meridian Oil would continue to own the oil, gas and geothermal interests in perpetuity, but would sell and convey their surface rights for their present value which is nominal. By law, these surface rights are a part of the severed mineral interests and provide access to so much of the surface as is necessary to extract any minerals. This approach avoids the costs associated with attempting to determine and negotiate fair market value, and removes the uncertainties associated with giving up a property of unknown value. It enhances the public interest by:

- securing the critical property interest (the right to use the surface) necessary to protect the environmental values;

- avoiding the need for surface disturbing activities to appraise the value of the oil, gas and geothermal interests; and

- reducing both the administrative and acquisition cost to the government of securing this protection.

Meridian Oil is prepared to take this step recognizing fully that unless circumstances change sufficiently to cause the government to allow surface access to their oil, gas and geothermal rights, Meridian Oil's ability to produce any oil, gas or geothermal energy that may be present is prevented unless it can be extracted from surface locations outside the Porcupine area. Meridian Oil will expressly give up all its access rights under state and federal law including Section 1323 (a) of the Alaska National Interests Lands Conservation Act (16 U.S.C. 3210(a)). No constitutional taking would be involved here, however, since the legislation facilitates but does not require the purchase of the various rights in the affected lands. Meridian Oil's decision to sell the surface access rights in this situation would be fully discretionary and they would receive full compensation for them.

Section 5. Land Consolidation--Taylor Fork Area: This section authorizes a purchase or exchange of the lands currently held by Big Sky in the Taylor Fork area. Meridian Oil owns all of the oil and gas

interests (11,205 acres) under certain surface lands owned by Big Sky and designated to be purchased or exchanged in this section. Meridian Minerals no longer owns any mineral interests under these lands as they were sold to Plum Creek in late 1992. The development potential of the Meridian Oil ownership is unknown at this time. Meridian Oil is not interested in selling or consummating an exchange for its interests in the Taylor Fork, but they are negotiating with the Nature Conservancy to sell to that organization their surface access rights as explained above.

Section 6. Land Consolidation--Gallatin Area: This section authorizes the purchase or exchange of lands currently owned by Big Sky south of Gallatin Gateway, lying between the Gallatin and Yellowstone Rivers, and not already committed to other transactions. The Meridian Companies own all of the oil, gas and nearly all of the other minerals (23,628 acres) under the surface lands owned by Big Sky and designated to be purchased or exchanged in the section. The development potential of our ownership is unknown at this time. As is apparent from above, we have always been willing to consider proposals to rationalize our ownership. However, at the present time the Meridian Companies have not been approached about consummating an exchange or selling their interests in these parcels, and we have not included these lands in any negotiations to sell either our surface access rights as to oil, gas or geothermal interests, or our other mineral interests.

Additional Section: S 489, the Senate companion to HR 873, contained upon introduction as Section 8 the severed mineral exchange provision addressing our severed mineral interests in the Clearwater-Monture, Hyalite and Tom Miner areas. As explained above, this severed mineral exchange provision has been agreed to by all affected parties since 1988, and removes the threat of mineral extraction from three highly sensitive areas. The Meridian Companies would support the inclusion of this provision in HR 873.

CONCLUSION

The Meridian Companies appreciate the interest of the Natural Resources Committee in resolving these long-standing efforts to rationalize the checkerboard land pattern in the Gallatin area. We are ready to assist and answer any questions the Committee may have.

Representative Bruce Vento, chairman March 17, 1993
c/o Jim Bradley
Subcommittee on National Parks, Forests and Public Lands
Committee on Natural Resources
U.S. House of Representatives
Washington D.C. 20515

Dear Mr. Vento:

I am writing to submit official testimony for the record relating to H.R.873, the Gallatin-Bridger roadless land exchange bill introduced by Montana Rep. Pat Williams. As president of the Alliance for the Wild Rockies, and a strong advocate for ecosystem protection in the form of the Northern Rockies Ecosystem Protection Act (NREPA), I want to point out several deficiencies with the bill as written.

The Forest Service has prepared no environmental analysis, no EIS, that discloses the benefits and costs of the proposal to the public. National Environmental Policy Act (NEPA) regulation includes "proposals for legislation" (§ 1506.8). By failing to disclose the environmental impacts and economic costs to the pubic in a timely fashion, the Forest Service has deliberately excluded the public from the decision-making process, a process that has led directly to the proposed legislation now being considered by the Subcommittee.

Rep. Pat Williams held no public field hearings on the bill, even though it significantly affects three national forests in Montana. Last year, a similar land exchange was only a small part of varous state-wide "wilderness" bills. In the past, hearings have never focused primarily on the significant issues surrounding the Gallatin-Bridger land exchange.

Significant questions have been raised by the public that have not been addressed by Rep. Williams or the Forest Service. These questions are:

1.) Where is the bill language that protects "pristine" Gallatin Range lands? Why not one acre of designated wilderness?
2.) Who decided that Bridger Range roadless lands were suitable for trade? What criteria was used? Will the same criteria be used again, and again in future exchanges associated with this bill?
3.) Why has no consideration been given to NREPA's handling of these important roadless areas? Isn't purchase with no exchange a viable alternative that protects both ranges?
4.) What specifically prevents the Forest Service from destroying the wilderness characteristics found today on Gallatin roadless lands after the bill is passed? Isn't this primarily a timber-supply bill with little or no commitment to roadless/wilderness protection?
5.) Will future Gallatin land exchanges include an open public process – NEPA and field hearings – if the bill's appropriation authorizations for acquisition are not granted? What lands are being considered for future trades if appropriated dollars can't be found?
6.) What timber rights (deed), if any, are held by Louisiana Pacific?

7.) What is in the agreement between Big Sky Lumber and Nature Conservancy? If Nature Conservancy is 301(c)(3), and the Forest Service is public, why is the agreement "private" information being withheld from the interested public.
8.) How will the subcommittee determine that this bill is in the public's best interest with no EIS or documentation of the benefits and costs and no environmental impacts assessment?

Protection language should be added. An amendment is needed to strengthen the bill to secure the public's primary interest in this exchange, wilderness designation.

According to a local rancher, Big Sky Lumber's owner Tim Blixseth allegedly defaulted on $10 million in government timber contracts in Oregon in the past. Many local residents think Blixseth is simply extorting the government for maximum profit with no intention of consumating a series of "friendly" deals that benefit the public.

Wildlife habitat damage will be extensive in the Bridger Range roadless area being traded to Big Sky Lumber. Water users, ranchers with irregated grasslands and livestock, located downstream are worried about dewatering Flathead Creek if deforestation continues to spread, and it will.

And finally, what protection can you guarantee against losing the Eight-Mile drainage in the Gallatin Range to an amendment by Senator Conrad Burns in the Senate? Burns will try to attach another land exchange to the Williams bill to secure timber for Brand-S Lumber Co. in Livingston, Montana.

H.R. 873 looks good from one perspective only; more timber to the local sawmills. There is not a single shred of wilderness protection for public roadless lands in either the Gallatin or Bridger Ranges. It will cost the public millions of dollars – no total dollar amounts have yet been made public – and sadly, there is no certainty for enduring wilderness protection in the Gallatin Range or what will be left of the Bridger Range. Thank you for considering this information.

Sincerely,

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