

Public Law 103-91
103d Congress

An Act

To provide for the consolidation and protection of the Gallatin Range.

Oct. 1, 1993
[H.R. 873]

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

Gallatin Range
Consolidation
and Protection
Act of 1993.
National Forest
System.

SECTION 1. SHORT TITLE.

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

SEC. 2. FINDINGS.

Congress finds that—

(1) the lands north of Yellowstone National Park possess outstanding natural characteristics and wildlife habitats that give the lands high value as lands added to the National Forest System; and

(2) it is in the interest of the United States for the Secretary, acting through the Forest Service, to enter into an option agreement with Big Sky Lumber Company and Louisiana Pacific Corporation to fulfill the purposes of this Act.

SEC. 3. BIG SKY LUMBER LAND EXCHANGE—GALLATIN AREA.

(a) **IN GENERAL.**—Notwithstanding any other provision of law, the Secretary of Agriculture (referred to in this Act as the "Secretary", unless the context otherwise requires) shall acquire by exchange certain lands and interests in lands of the Big Sky Lumber Company (referred to in this Act as the "Company"), in and adjacent to the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area, the Scapegoat Wilderness Area, and other lands in the Gallatin National Forest in accordance with this section.

(b) **DESCRIPTION OF LANDS.**—

(1) **OFFER AND ACCEPTANCE OF LAND.**—If the Company offers to the United States acceptable fee title, including mineral interests, to approximately 37,752 acres of land owned by the Company and available for exchange, as depicted on two maps entitled "Proposed BSL Land Acquisitions", East Half and West Half Gallatin National Forest, dated February 1993 the Secretary shall accept a warranty deed to the land.

(2) **EXCHANGE.**—In exchange for the lands described in paragraph (1) and subject to valid existing rights, the Secretary of the Interior shall convey, by patent, the fee title to approximately 16,278 acres of National Forest System lands available for exchange as depicted on the maps referred to in paragraph (1), and the five maps entitled "H.R. 873, the Gallatin Range Consolidation and Protection Act of 1993", Lolo and Flathead National Forest, subject to—

(A) the reservation of ditches and canals required by the first section of 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. 371, chapter 837; 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 and the Company.

(3) TERMINATION OF LEASES.—

(A) **VESTING OF RIGHTS AND INTERESTS.**—Upon termination or relinquishment of the leases referred to in paragraph (2)(B), all the rights and interests in such leases reserved under paragraph (2)(B) shall immediately vest in the Company and its successors and assigns.

(B) **NOTICE.**—The Secretary shall provide notice of the termination or relinquishment of the leases referred to in paragraph (2)(B) by a document suitable for recording in the county in which the leased lands are located.

(c) EASEMENTS.—

(1) **IN GENERAL.**—Reciprocal easements in accordance with this subsection shall be conveyed at the time of the exchange authorized by this section.

(2) **CONVEYANCE BY THE SECRETARY.**—The Secretary shall, in consideration of the easements conveyed by the Company under paragraph (3), and under the authority of section 2 of Public Law 88-257 (commonly known as the "National Forest Roads and Trails Act") (16 U.S.C. 533), or the Federal Lands Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), execute and deliver to the Company such easements or other rights-of-way over federally owned lands as may be agreed to by the Secretary and the Company.

(3) **CONVEYANCE BY THE COMPANY.**—The Company shall, in consideration of the easements conveyed by the Secretary under paragraph (2), execute and deliver to the United States such easements or other rights-of-way across Company-owned lands included in this exchange as may be agreed to by the Secretary and the Company.

(d) NORTH BRIDGER RANGE.—

(1) **COVENANTS AND OTHER RESTRICTIONS.**—As a condition of the exchange, with respect to such lands depicted on the map entitled "North Bridger Range", dated May 1993, the Company shall agree that—

(A) the holders, or their successors or assigns, of grazing leases on such lands on the date of enactment of this Act shall be permitted to continue to use such lands for grazing under terms acceptable to the Company and the permittees for so long as the Company owns such lands and for two years after the Company has sold or disposed of such lands; and

(B) the timber harvest practices used on such lands shall be conducted in accordance with Montana Forestry Best Management Practices, the Montana Streamside Zone

Management Law (Mont. Code Ann. sec. 77-5-301 et seq.), and all other applicable laws of the State of Montana.

(2) **FUTURE ACQUISITION.**—The Secretary shall consider the desirability of possible acquisition, through exchange under existing law, of any of the lands described in paragraph (1), and shall, not later than one year after the date of enactment of this Act, report to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives concerning the desirability of an exchange.

Reports.

(e) **TIMING OF TRANSACTION.**—

(1) **DETERMINATION.**—The Secretary shall review the title for the non-Federal lands described in subsection (b), and the appraisal and titles for the non-Federal lands described in sections 4 and 5, and, within sixty days after receipt of all applicable appraisal and title documents from the Company, determine whether—

(A) the applicable title standards for Federal land acquisition have been satisfied or the quality of title is otherwise acceptable to the Secretary;

(B) all draft conveyances and closing documents have been received and approved;

(C) a current title commitment verifying compliance with applicable title standards has been issued to the Secretary;

(D) the appraisals comply with applicable Forest Service standards; and

(E) except as provided in section (8)(b), the title includes both the surface and subsurface estates without reservation or exception (except by the United States or the State of Montana, by patent), including—

(i) minerals or mineral rights;

(ii) timber or timber rights; and

(iii) any other interest in the property.

(2) **CONVEYANCE OF TITLE.**—In the event the appraisal and/or quality of title do not meet Federal standards or are otherwise determined unacceptable to the Secretary, the Secretary shall advise the Company regarding corrective actions necessary to make an affirmative determination under paragraph (1). The Secretary, acting through the Chief of the Forest Service, shall effect the conveyance of lands described in subsection (b)(2) not later than sixty days after the Secretary has made an affirmative determination under paragraph (1).

(f) **COMPLIANCE WITH OPTION.**—Notwithstanding section (3)(e)(2), the Secretary shall not consummate the conveyance of lands described in subsection (b)(2) until the Secretary has determined that title to the lands described in sections 4 and 5 have been escrowed as required by the document entitled "Option Agreement for the Exchange and/or Purchase of Real Property Pursuant to the Gallatin Range Consolidation and Protection Act of 1993" (referred to in this Act as "the Option"), executed by the Company, as seller.

(g) **REFERENCES.**—References in this Act to the Company shall include references to the successors and assigns of the Company.

SEC. 4. LAND CONSOLIDATION—PORCUPINE AREA.

(a) **ACQUISITION OF PORCUPINE PROPERTY.**—The Secretary is authorized and directed to acquire, by purchase or exchange, lands and interests in lands listed as “Exhibit A, Porcupine Area”, in the Option, in accordance with the terms and conditions of the Option for the fair market value of such lands and interests, determined at the time of acquisition, in accordance with the appraisal standards specified in the Option.

(b) **REPORTS TO CONGRESS.**—The Secretary shall report annually to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives, on the status of the acquisition authorized by this section.

SEC. 5. LAND CONSOLIDATION—TAYLOR FORK AREA.

(a) **ACQUISITION OF TAYLOR FORK PROPERTY.**—The Secretary is authorized and directed to acquire, by purchase or exchange, lands and interests in lands as listed as “Exhibit A, Taylor Fork Area”, in the Option, in accordance with the terms and conditions of the Option for the fair market value of such lands and interests, determined at the time of acquisition, in accordance with the appraisal standards specified in the Option.

(b) **REPORTS TO CONGRESS.**—The Secretary shall report annually to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives, on the status of the pending acquisition authorized by this section.

SEC. 6. LAND CONSOLIDATION—GALLATIN ROADED AREA.

(a) **ACQUISITION OF GALLATIN ROADED PROPERTY.**—The Secretary is authorized and directed to acquire, by purchase or exchange, lands and interests in lands as listed as “Exhibit A, Gallatin Roaded”, in the Option, in accordance with the terms and conditions of the Option not otherwise acquired, purchased, or exchanged under section 3, 4, or 5.

(b) **REPORTS TO CONGRESS.**—The Secretary shall report annually to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives, on the status of the acquisition authorized by this section.

Montana.

SEC. 7. SEVERED MINERAL EXCHANGE.

(a) **FINDINGS.**—Congress finds that—

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

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

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

(4) it is desirable that an exchange of lands be completed not later than two years after the date of enactment of this Act.

(b) **MINERAL INTERESTS.**—

(1) **ACQUISITION.**—Pursuant to an exchange agreement between the Secretary and Burlington, the Secretary may acquire mineral interests owned by Burlington or an affiliate of Burlington 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 Mineral Exchanges, Gallatin Area”, dated September 1988, or in fractional sections adjacent to the areas depicted on the maps.

(2) **EXCHANGE.**—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 Burlington may agree upon.

(c) **EQUAL VALUE.**—

(1) **IN GENERAL.**—The value of the mineral interests exchanged under subsection (b) shall be approximately equal in value based upon available information.

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

(3) **INADEQUATE INFORMATION.**—In the absence of adequate information regarding values of minerals proposed for exchange, the Secretary and Burlington 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) **IN GENERAL.**—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 Burlington.

(2) **OTHER INTERESTS.**—If there are not sufficient federally owned mineral interests of approximately equal value underlying lands owned by Burlington, the Secretary and the Secretary of the Interior may identify for exchange other federally owned mineral interests in lands in the State of Montana of which the surface estate is in private ownership.

(e) **CONSULTATION WITH THE DEPARTMENT OF THE INTERIOR.**—

(1) **IN GENERAL.**—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 the agreement of a provision authorizing the exchange of federally owned mineral interests lying outside the boundaries of units of the National Forest System.

(2) **CONVEYANCE.**—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 Burlington and affiliates of Burlington.

(f) **MINERAL INTEREST DEFINED.**—For purposes of this section, the term “mineral interests” includes all locatable and leasable

minerals, including oil and gas, geothermal resources, and other subsurface rights.

SEC. 8. GENERAL PROVISIONS.

(a) **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 of 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.

(b) **TITLE OF LANDS CONVEYED TO THE UNITED STATES.**—

(1) **QUALITY OF TITLE AND RIGHTS.**—Subject to paragraph (2), the rights, title, and interests to lands conveyed to the United States under sections 4, 5, and 6 shall, at a minimum, consist of the surface estate and the subsurface rights owned by the Company or Burlington where applicable.

(2) **EXCEPTION.**—The Secretary may accept title subject to outstanding or reserved oil and gas and geothermal rights, except that there shall be no surface occupancy permitted on the lands acquired by the United States under sections 4, 5, and 6 for access to reserved or outstanding rights or exploration or development of such lands.

(3) **ACCESS.**—No portion of lands acquired by the United States under this Act shall be available for access to, or exploration or development of, any reserved or outstanding oil, gas, geothermal, or other non-Federal property interest.

(c) **NATIONAL FOREST LANDS.**—

(1) **IN GENERAL.**—All lands conveyed to the United States under this Act shall be added to and administered as part of the Gallatin National Forest of the National Forest System by the Secretary in accordance with the laws and regulations pertaining to the National Forest System.

(2) **HYALITE-PORCUPINE-BUFFALO HORN WILDERNESS STUDY AREA.**—Lands acquired within the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area shall be managed to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System in accordance with the Montana Wilderness Study Act of 1977 (16 U.S.C. 1132 note).

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

Approved October 1, 1993.

LEGISLATIVE HISTORY—H.R. 873:

HOUSE REPORTS: No. 103-82, Pt. 1 (Comm. on Natural Resources).

SENATE REPORTS: No. 103-122 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 139 (1993):

May 11, considered and rejected in House.

May 20, considered and passed House.

Aug. 4, considered and passed Senate, amended.

Sept. 13, House concurred in Senate amendment.