

Calendar No. 239

106TH CONGRESS
1ST Session

S. 953

[Report No. 106-129]

A BILL

To direct the Secretary of Agriculture to convey certain land in the State of South Dakota to the Terry Peak Ski Area.

JULY 29, 1999

Reported with an amendment

Calendar No. 239

106TH CONGRESS
1ST SESSION**S. 953****[Report No. 106-129]**

To direct the Secretary of Agriculture to convey certain land in the State of South Dakota to the Terry Peak Ski Area.

IN THE SENATE OF THE UNITED STATES

MAY 4, 1999

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

JULY 29, 1999

Reported by Mr. MURKOWSKI, with an amendment

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

To direct the Secretary of Agriculture to convey certain land in the State of South Dakota to the Terry Peak Ski Area.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Terry Peak Land Con-
5 veyance Act of 1999”.

1 **SEC. 2. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—Congress finds that—

3 (1) certain land in the National Forest system
4 located in the Black Hills National Forest in Law-
5 rence County, South Dakota, is permitted to the
6 Terry Peak Ski Area by the Secretary of Agriculture
7 under the National Forest Ski Area Permit Act of
8 1986 (16 U.S.C. 497b);

9 (2) the Forest land comprises only 10 percent
10 of the land at the Ski Area, and the remaining 90
11 percent of land at the Ski Area is owned by the Ski
12 Area operator;

13 (3) the small percentage of Forest land at the
14 Ski Area—

15 (A) is encumbered by ski lifts and trails, a
16 base lodge, a parking lot, and other privately-
17 owned improvements;

18 (B) serves little purpose in continued pub-
19 lic ownership; and

20 (C) should be conveyed to the Ski Area to
21 unify land management and eliminate permit-
22 ting and related administrative costs to the
23 United States;

24 (4) the Ski Area is interested in acquiring the
25 land from the United States;

1 (5) the Secretary lacks the administrative au-
2 thority to convey the land in a non-simultaneous
3 land exchange absent specific authorization from
4 Congress;

5 (6) the Forest contains several small inholdings
6 of undeveloped private land with multiple land-
7 owners that—

8 (A) complicate the management of Forest
9 land; and

10 (B) may be acquired by the United States
11 from willing sellers if funds for the acquisition
12 of the land are made available to the Secretary;

13 (7) the proceeds from the Terry Peak convey-
14 ance would provide a modest, but readily available
15 and flexible source of funds that may be used by the
16 Secretary to acquire certain inholdings in the Forest
17 from willing sellers;

18 (8) due to the small and scattered nature of the
19 inholdings of private land in the Forest and the
20 number of potential sellers involved, the Secretary
21 could acquire the inholdings more quickly and effi-
22 ciently by purchasing them directly rather than ac-
23 quiring the inholdings through administrative land
24 exchanges; and

25 (9) it is in the public interest to—

1 (A) convey the Forest land at Terry Peak
2 to the Ski Area at fair market value; and

3 (B) use the proceeds of the conveyance to
4 acquire more desirable land for addition to the
5 Forest for permanent public use and enjoyment.

6 (b) PURPOSES.—The purposes of this Act are to—

7 (1) authorize and direct the conveyance of cer-
8 tain Forest land at the Ski Area to the Ski Area;
9 and

10 (2) to use the proceeds of the conveyance to ac-
11 quire more desirable land for the United States for
12 permanent public use and enjoyment.

13 **SEC. 3. DEFINITIONS.**

14 In this Act:

15 (1) FOREST.—The term “Forest” means the
16 Black Hills National Forest in the State of South
17 Dakota.

18 (2) SECRETARY.—The term “Secretary” means
19 the Secretary of Agriculture.

20 (3) SELECTED LAND.—The term “selected
21 land” means land comprising approximately 41.42
22 acres and generally depicted as Government Lots 6
23 and 11, Section 2, Township 4 North, Range 2
24 East, Black Hills Meridian, on the map entitled

1 “Terry Peak Land Conveyance”, dated March,
2 1999.

3 (4) ~~SKI AREA.~~—The term “Ski Area” means—

4 (A) the Terry Peak Ski Area of the Black
5 Hills Chairlift Company, a South Dakota Cor-
6 poration; or

7 (B) the successors, heirs, and assigns of
8 the entity described in subparagraph (A).

9 **SEC. 4. LAND CONVEYANCE.**

10 (a) ~~IN GENERAL.~~—The Secretary shall convey the se-
11 lected land to the Ski Area at fair market value as deter-
12 mined by the Secretary under subsection (b).

13 (b) ~~APPRAISAL.~~—

14 (1) ~~IN GENERAL.~~—The Secretary shall deter-
15 mine the value of the selected land by using nation-
16 ally recognized appraisal standards, including, to the
17 extent appropriate—

18 (A) the uniform appraisal standards for
19 Federal land acquisitions;

20 (B) the uniform standards of professional
21 appraisal practice; and

22 (C) other applicable law.

23 (2) ~~COSTS.~~—As a condition of the conveyance
24 under this section, the Ski Area shall pay all costs
25 of the appraisal.

1 ~~(c) COMPLETION.—~~The conveyance under this sec-
 2 tion shall be completed not later than 180 days after the
 3 date of enactment of this Act, unless the Secretary and
 4 the Ski Area agree to postpone the completion date.

5 ~~(d) OTHER LAW.—~~Prior to completing the convey-
 6 ance under this section, the Secretary shall complete
 7 standard pre-disposal analyses and obtain necessary per-
 8 mits and clearances pertaining to—

- 9 ~~(1)~~ threatened and endangered species;
- 10 ~~(2)~~ cultural and historic resources;
- 11 ~~(3)~~ wetland and floodplains; and
- 12 ~~(4)~~ hazardous materials.

13 ~~(e) USE OF PROCEEDS.—~~All funds received by the
 14 Secretary under this Act shall be—

- 15 ~~(1)~~ considered to be funds received and depos-
 16 ited under the Public Law 90–171 (16 U.S.C.
 17 484a); and
- 18 ~~(2)~~ used by the Secretary to acquire replace-
 19 ment land from willing sellers for addition to the
 20 Forest.

21 ~~(f) LAND ACQUIRED.—~~

- 22 ~~(1) IN GENERAL.—~~Any land acquired under
 23 subsection ~~(c)(2)~~ shall be added to and administered
 24 as part of the Forest.

25 ~~(2) BOUNDARY.—~~

1 (A) IN GENERAL.—If any land acquired
 2 under subsection (c)(2) lies outside the exterior
 3 boundary of the Forest, the Secretary may
 4 modify the boundary of the Forest to include
 5 the acquired land.

6 (B) NO EFFECT ON OTHER LAW.—Nothing
 7 in this section limits the authority of the Sec-
 8 retary to adjust the boundaries of the Forest in
 9 accordance with section 11 of the Act of March
 10 1, 1911 (36 Stat. 963, chapter 186, 16 U.S.C.
 11 500).

12 (g) VALID EXISTING RIGHTS; EASEMENTS.—The
 13 conveyance under this section shall be subject to valid
 14 rights, easements (including utility easements), rights-of-
 15 way, and any other right, title, or interest of record on
 16 the selected land existing on the date of the conveyance
 17 of the selected land to the Ski Area.

18 **SECTION 1. SHORT TITLE.**

19 *This Act may be cited as the “Terry Peak Land Trans-*
 20 *fer Act of 1999”.*

21 **SEC. 2. FINDINGS AND PURPOSES.**

22 (a) FINDINGS.—Congress finds the following:

23 (1) *Certain National Forest System land located*
 24 *in the Black Hills National Forest in Lawrence*
 25 *County, South Dakota, is currently permitted to the*

1 *Terry Peak Ski Area by the Secretary of Agriculture*
2 *pursuant to section 3 of the National Forest Ski Area*
3 *Permit Act of 1986 (16 U.S.C. 497b).*

4 *(2) The National Forest System land comprises*
5 *only 10 percent of the land at the Ski Area, with the*
6 *remaining 90 percent located on private land owned*
7 *by the Ski Area operator.*

8 *(3) As the fractional Forest Service land holding*
9 *at the Ski Area is also encumbered by ski lifts, ski*
10 *trails, a base lodge parking lot and other privately*
11 *owned improvements, it serves little purpose in con-*
12 *tinued public ownership, and can more logically be*
13 *conveyed to the Ski Area to unify land management*
14 *and eliminate permitting and other administrative*
15 *costs to the United States.*

16 *(4) The Ski Area is interested in acquiring the*
17 *land from the United States, but the Secretary does*
18 *not have administrative authority to convey such*
19 *land in a nonsimultaneous land exchange absent spe-*
20 *cific authorization from Congress.*

21 *(5) The Black Hills National Forest contains*
22 *several small inholdings of undeveloped private land*
23 *with multiple landowners which complicate National*
24 *Forest land management and which can be acquired*

1 *by the United States from willing sellers if acquisi-*
 2 *tion funds are made available to the Secretary.*

3 *(6) The proceeds from the Terry Peak conveyance*
 4 *can provide a modest, but readily available and flexi-*
 5 *ble, funding source for the Secretary to acquire cer-*
 6 *tain inholdings in the Black Hills National Forest*
 7 *from willing sellers, and given the small and scattered*
 8 *nature of such inholdings, and number of potential*
 9 *sellers involved, can do so more efficiently and quickly*
 10 *than through administrative land exchanges.*

11 *(7) It is, therefore, in the public interest to con-*
 12 *vey the National Forest System land at Terry Peak*
 13 *to the Ski Area at fair market value and to utilize*
 14 *the proceeds to acquire more desirable lands for addi-*
 15 *tion to the Black Hills National Forest for permanent*
 16 *public use and enjoyment.*

17 *(b) PURPOSE.—It is the purpose of this Act to require*
 18 *the conveyance of certain National Forest System lands at*
 19 *the Terry Peak Ski Area to the Ski Area and to utilize the*
 20 *proceeds to acquire more desirable lands for the United*
 21 *States for permanent public use and enjoyment.*

22 **SEC. 3. DEFINITIONS.**

23 *As used in this Act:*

24 *(1) The term “Secretary” means the Secretary of*
 25 *Agriculture, unless otherwise specified.*

1 (2) *The term “selected land” means land com-*
 2 *prising approximately 41.42 acres and generally de-*
 3 *icted as government lots 6 and 11, section 2, town-*
 4 *ship 4 north, range 2 east, Black Hills meridian, on*
 5 *a map entitled “Terry Peak Land Conveyance”, dated*
 6 *March 1999; and*

7 (3) *the terms “Terry Peak Ski Area” and “Ski*
 8 *Area” mean the Black Hills Chairlift Company, a*
 9 *South Dakota Corporation, or its successors, heirs*
 10 *and assigns.*

11 **SEC. 4. LAND CONVEYANCE AND MISCELLANEOUS PROVI-**
 12 **SIONS.**

13 (a) *CONVEYANCE REQUIRED.—The Secretary of Agri-*
 14 *culture shall convey the selected land to the Terry Peak Ski*
 15 *Area at fair market value, as determined by the Secretary.*

16 (b) *APPRAISAL.—The value of the selected land shall*
 17 *be determined by the Secretary utilizing nationally recog-*
 18 *nized appraisal standards, including to the extent appro-*
 19 *priate, the Uniform Appraisal Standards For Federal Land*
 20 *Acquisitions (1992), the Uniform Standards of Professional*
 21 *Appraisal Practice, and other applicable law. The costs of*
 22 *the appraisal shall be paid for by the Ski Area.*

23 (c) *COMPLETION OF CONVEYANCE.—It is the sense of*
 24 *Congress that the conveyance to the Ski Area required by*
 25 *this Act be consummated no later than 6 months after the*

1 *date of enactment of this Act, unless the Secretary and the*
 2 *Ski Area mutually agree to extend the consummation date.*
 3 *Prior to conveying the selected land to the Ski Area, the*
 4 *Secretary shall complete standard pre-disposal analyses*
 5 *and clearances pertaining to threatened and endangered*
 6 *species, cultural and historic resources, wetlands and*
 7 *floodplains, and hazardous materials.*

8 (d) *USE OF PROCEEDS BY THE SECRETARY.—All*
 9 *monies received by the Secretary pursuant to this Act shall*
 10 *be considered monies received and deposited pursuant to*
 11 *Public Law 90–171 (16 U.S.C. 484a; commonly known as*
 12 *the Sisk Act) and shall be retained and utilized by the Sec-*
 13 *retary until fully expended to acquire replacement land*
 14 *from willing sellers for addition to the Black Hills National*
 15 *Forest in South Dakota. Any lands so acquired shall be*
 16 *added to and administered as part of the Black Hills Na-*
 17 *tional Forest and, if any such land lies outside the exterior*
 18 *boundaries of the Forest, the Secretary may modify the*
 19 *boundary of the Forest to include such land. Nothing in*
 20 *this section shall be construed to limit the authority of the*
 21 *Secretary to adjust the boundaries of the Forest pursuant*
 22 *to section 11 of the Act of March 1, 1911 (16 U.S.C. 521;*
 23 *commonly known as the Weeks Act).*

24 (e) *CONVEYANCE SUBJECT TO VALID EXISTING*
 25 *RIGHTS, EASEMENTS.—The conveyance to the Ski Area re-*

1 *quired by this Act shall be subject to valid existing rights*
2 *and to existing easements, rights-of-way, utility lines and*
3 *any other right, title or interest of record on the selected*
4 *land as of the date of transfer of the selected land to the*
5 *Terry Peak Ski Area.*