

Public Law 101-560
101st Congress

An Act

Regarding the Early Winters Resorts.

Nov. 15, 1990
[H.R. 5507]

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

Washington.
National forests.
Public lands.
Wilderness
areas.

SECTION 1. LAND EXCHANGE.

(a)(1) The Secretary of Agriculture (hereafter in this Act referred to as the "Secretary") and the Secretary of the Interior shall, subject to subsection (b), take all actions necessary to effect the conveyance of certain Federal lands within the State of Washington as generally depicted on the map entitled "Location of Selected Okanogan National Forest Lands" and dated May 15, 1990, in exchange for certain lands as generally depicted on maps entitled "Glacier Peak Wilderness Parcels" and "Methow Valley Parcels", both dated May 15, 1990. Such maps shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(2) Conveyance of National Forest lands pursuant to paragraph (1) shall be by the Secretary of Agriculture. The Secretary of the Interior, upon request of the Secretary of Agriculture, shall convey such public lands as may be required in order to complete such exchange. The conveyances shall be subject to such easements, restrictions, and other conditions as each Secretary may impose in order to meet applicable requirements of law, to further the purposes for which adjacent Federal lands are managed, or to protect the public interest.

(b)(1) The exchange described in subsection (a) shall be analyzed by the Secretary of Agriculture pursuant to applicable law. The Secretary shall make every effort to complete such analysis and to issue a record of decision thereon by October 1, 1991, consistent with the requirements of such law.

(2) Analysis pursuant to paragraph (1) shall be of the exchange described in subsection (a), except to the extent the Secretary proposes to modify the size or number of parcels of Federal lands to be conveyed in order to equalize values (except as otherwise provided in this Act) or to meet other requirements of applicable law. Nothing in this Act shall be construed as requiring consideration of other lands as part of any alternative considered in such analysis.

(3) Appraisals of the Federal lands described in subsection (a) shall be completed by September 1, 1991, or as soon thereafter as possible, on the basis of highest and best use (including use as part of the proposed resort complex), and in accordance with procedures required by Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716) (hereafter in this Act referred to as "FLPMA"). Such appraisals shall be of the values of the lands involved as of November 1, 1990. Any exchange of such lands shall be for lands of equal value, or if they are not equal, the values shall be equalized in either one of two ways:

(A) by the payment of money to or by the Secretary (except that such payments shall not exceed 25 percent of the total value of the lands conveyed by the Secretary); or

(B) by adjusting the actual acreage conveyed and boundaries thereof so that lands of equal value are exchanged, except that no such adjustment shall be made to the lands identified as "Golf Course and Open Space Parcel" on the maps referred to in subsection (a)(1).

(4) The Secretary of the Interior and the Secretary of Agriculture shall make every effort to conclude by November 1, 1991, all steps necessary to complete an exchange involving the lands described in subsection (a)(1), but no Federal lands shall be conveyed as part of such an exchange unless and until—

(A) the Forest Service has issued a permit for use of Sandy Butte for ski facilities;

(B) Okanogan County, Washington, has approved the Early Winters Resort's land use application for lands associated with the resort development; and

(C) Early Winters Resort has obtained all water rights required for approval of the application referred to in subparagraph (B).

(5) Except as provided in this Act, conveyances of Federal lands under this section shall be completed notwithstanding any other provision of FLPMA or the Federal Land Exchange Facilitation Act of 1988. Lands acquired by the United States pursuant to this section shall be added to, and administered as part of, the National Forest System and, with respect to those portions within wilderness, pursuant to the Wilderness Act.

SEC. 2. REVIEWS.

(a) With respect to actions pursuant to section 1 or section 4, any record of decision shall be issued by the Chief of the Forest Service and there shall be no further administrative consideration other than a period not to exceed 30 days during which the Chief shall consider and act on any requests to reconsider such record of decision.

(b) Judicial challenge to a Record of Decision or subsequent permit based thereon issued under subsection (a) shall be made in accordance with this subsection notwithstanding any other provision of law:

(1) Such judicial challenge must be filed within the later of either—

(A) 45 days of—

(i) such Record of Decision,

(ii) action by the Chief in response to a request for reconsideration, or

(iii) issuance of a subsequent permit based thereon,

or

(B) 10 days after the end of any period of advance notice of intent to bring such challenge required by the specific statute under which such challenge is brought.

(2) Such judicial challenge must be filed in the United States Court for the District of Oregon.

(3) Any appeal from a final decision of the district court shall be filed within 45 days after such final decision in the United States Court of Appeals for the Ninth Circuit.

(c) The courts shall expeditiously render their final decision relative to any action or appeal, or any further judicial review of the actions of the Forest Service pursuant to this Act. The district court shall make every effort to render its final decision relative to any action within 60 days from the date such action is filed, and the court of appeals shall make every effort to render its final decision relative to any appeal within 90 days from the date such appeal is filed.

Courts.

SEC. 3. OTHER LAWS.

Nothing in this Act shall be construed as amending the National Environmental Policy Act of 1969 or the Endangered Species Act of 1973 or as modifying the applicability of those Acts or any other provisions of law otherwise applicable with respect to any activities occurring on or proposed for any of the lands affected by this Act.

SEC. 4. ENVIRONMENTAL ANALYSIS.

The sum of \$500,000 is hereby authorized to be appropriated under this Act for the Forest Service to prepare the Supplement to the Final Environmental Impact Statement (hereafter in this section referred to as "SEIS") for the proposed Early Winters Resort in the Methow Valley, Washington State. This sum may be used by the Forest Service to employ additional employees or consultants in the preparation of the SEIS. The SEIS shall be completed, and a final Record of Decision shall be issued by the Forest Service as soon as possible, consistent with applicable requirements of law.

Appropriation
authorization.

Approved November 15, 1990.

LEGISLATIVE HISTORY—H.R. 5507:

HOUSE REPORTS: No. 101-843, Pt. 1 (Comm. on Merchant Marine and Fisheries).
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Oct. 10, considered and passed House.
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