

105TH CONGRESS
2D SESSION

S. 1719

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 21, 1998

Referred to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

AN ACT

To direct the Secretary of Agriculture and the Secretary of the Interior to exchange land and other assets with Big Sky Lumber Co. and other entities.

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 “Gallatin Land Consoli-
5 dation Act of 1998”.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) the land north of Yellowstone National Park
4 possesses outstanding natural characteristics and
5 wildlife habitats that make the land a valuable addi-
6 tion to the National Forest System;

7 (2) it is in the interest of the United States to
8 establish a logical and effective ownership pattern
9 for the Gallatin National Forest, reducing long-term
10 costs for taxpayers and increasing and improving
11 public access to the forest;

12 (3) it is in the interest of the United States for
13 the Secretary of Agriculture to enter into an Option
14 Agreement for the acquisition of land owned by Big
15 Sky Lumber Co. to accomplish the purposes of this
16 Act; and

17 (4) other private property owners are willing to
18 enter into exchanges that further improve the owner-
19 ship pattern of the Gallatin National Forest.

20 **SEC. 3. DEFINITIONS.**

21 In this Act:

22 (1) **BLM LAND.**—The term “BLM land”
23 means approximately 2,000 acres of Bureau of Land
24 Management land (including all appurtenances to
25 the land) that is proposed to be acquired by BSL,
26 as depicted in Exhibit B to the Option Agreement.

1 (2) BSL.—The term “BSL” means Big Sky
2 Lumber Co., an Oregon joint venture, and its suc-
3 cessors and assigns, and any other entities having a
4 property interest in the BSL land.

5 (3) BSL LAND.—The term “BSL land” means
6 approximately 54,000 acres of land (including all ap-
7 purtenances to the land except as provided in section
8 4(e)(1)(D)(i)) owned by BSL that is proposed to be
9 acquired by the Secretary of Agriculture, as depicted
10 in Exhibit A to the Option Agreement.

11 (4) EASTSIDE NATIONAL FORESTS.—The term
12 “Eastside National Forests” means national forests
13 east of the Continental Divide in the State of Mon-
14 tana, including the Beaverhead National Forest,
15 Deerlodge National Forest, Helena National Forest,
16 Custer National Forest, and Lewis and Clark Na-
17 tional Forest.

18 (5) NATIONAL FOREST SYSTEM LAND.—The
19 term “National Forest System land” means approxi-
20 mately 29,000 acres of land (including all appur-
21 tenances to the land) owned by the United States in
22 the Gallatin National Forest, Flathead National
23 Forest, Deerlodge National Forest, Helena National
24 Forest, Lolo National Forest, and Lewis and Clark
25 National Forest that is proposed to be acquired by

1 BSL, as depicted in Exhibit B to the Option Agree-
2 ment.

3 (6) OPTION AGREEMENT.—The term “Option
4 Agreement” means—

5 (A) the document signed by BSL, dated
6 July 29, 1998 and entitled “Option Agreement
7 for the Acquisition of Big Sky Lumber Co.
8 Lands Pursuant to the Gallatin Range Consoli-
9 dation and Protection Act of 1993”;

10 (B) the exhibits and maps attached to the
11 document described in subparagraph (A); and

12 (C) an exchange agreement to be entered
13 into between the Secretary and BSL and made
14 part of the document described in subparagraph
15 (A).

16 (7) SECRETARY.—The “Secretary” means the
17 Secretary of Agriculture.

18 **SEC. 4. GALLATIN LAND CONSOLIDATION COMPLETION.**

19 (a) IN GENERAL.—Notwithstanding any other provi-
20 sion of law, and subject to the terms and conditions of
21 the Option Agreement—

22 (1) if BSL offers title acceptable to the Sec-
23 retary to the BSL land—

1 (A) the Secretary shall accept a warranty
2 deed to the BSL land and a quit claim deed to
3 agreed to mineral interests in the BSL land;

4 (B) the Secretary shall convey to BSL,
5 subject to valid existing rights and to other
6 terms, conditions, reservations, and exceptions
7 as may be agreed to by the Secretary and BSL,
8 fee title to the National Forest System land;
9 and

10 (C) the Secretary of the Interior shall con-
11 vey to BSL, by patent or otherwise, subject to
12 valid existing rights and other terms, condi-
13 tions, reservations, and exceptions as may be
14 agreed to by the Secretary of the Interior and
15 BSL, fee title to the BLM land;

16 (2) if BSL places title in escrow acceptable to
17 the Secretary to 11½ sections of the BSL land in
18 the Taylor Fork area as set forth in the Option
19 Agreement—

20 (A) the Secretary shall place Federal land
21 in the Bangtail and Doe Creek areas of the
22 Gallatin National Forest, as identified in the
23 Option Agreement, in escrow pending convey-
24 ance to the Secretary of the Taylor Fork land,

1 as identified in the Option Agreement in es-
2 crow;

3 (B) the Secretary, subject to the availabil-
4 ity of funds, shall purchase 7½ sections of BSL
5 land in the Taylor Fork area held in escrow and
6 identified in the Option Agreement at a pur-
7 chase price of \$4,150,000; and

8 (C) the Secretary shall acquire the 4 Tay-
9 lor Fork sections identified in the Option
10 Agreement remaining in escrow, and any of the
11 6 sections referred to in subparagraph (B) for
12 which funds are not available, by providing
13 BSL with timber sale receipts from timber sales
14 on the Gallatin National Forest and other
15 eastside national forests in the State of Mon-
16 tana in accordance with subsection (c); and

17 (3)(A) as funds or timber sale receipts are re-
18 ceived by BSL—

19 (i) the deeds to an equivalent value of BSL
20 Taylor Fork land held in escrow shall be re-
21 leased and conveyed to the Secretary; and

22 (ii) the escrow of deeds to an equivalent
23 value of Federal land shall be released to the
24 Secretary in accordance with the terms of the
25 Option Agreement; or

1 (B) if funds or timber sale receipts are not pro-
2 vided to BSL as provided in the Option Agreement,
3 BSL shall be entitled to receive patents and deeds
4 to an equivalent value of the Federal land held in es-
5 crow.

6 (b) VALUATION.—

7 (1) IN GENERAL.—The property and other as-
8 sets exchanged or conveyed by BSL and the United
9 States under subsection (a) shall be approximately
10 equal in value, as determined by the Secretary.

11 (2) DIFFERENCE IN VALUE.—To the extent
12 that the property and other assets exchanged or con-
13 veyed by BSL or the United States under subsection
14 (a) are not approximately equal in value, as deter-
15 mined by the Secretary, the values shall be equalized
16 in accordance with methods identified in the Option
17 Agreement.

18 (c) TIMBER SALE PROGRAM.—

19 (1) IN GENERAL.—The Secretary shall imple-
20 ment a timber sale program, according to the terms
21 and conditions identified in the Option Agreement
22 and subject to compliance with applicable environ-
23 mental laws (including regulations), judicial deci-
24 sions, memoranda of understanding, small business
25 set-aside rules, and acts beyond the control of the

1 Secretary, to generate sufficient timber receipts to
2 purchase the portions of the BSL land in Taylor
3 Fork identified in the Option Agreement.

4 (2) IMPLEMENTATION.—In implementing the
5 timber sale program—

6 (A) the Secretary shall provide BSL with
7 a proposed annual schedule of timber sales;

8 (B) as set forth in the Option Agreement,
9 receipts generated from the timber sale pro-
10 gram shall be deposited by the Secretary in a
11 special account established by the Secretary and
12 paid by the Secretary to BSL;

13 (C) receipts from the Gallatin National
14 Forest shall not be subject to the Act of May
15 23, 1908 (16 U.S.C. 500); and

16 (D) the Secretary shall fund the timber
17 sale program at levels determined by the Sec-
18 retary to be commensurate with the preparation
19 and administration of the identified timber sale
20 program.

21 (d) RIGHTS-OF-WAY.—As specified in the Option
22 Agreement—

23 (1) the Secretary, under the authority of the
24 Federal Land Policy and Management Act of 1976
25 (43 U.S.C. 1701 et seq.), shall convey to BSL such

1 easements in or other rights-of-way over National
2 Forest System land for access to the land acquired
3 by BSL under this Act for all lawful purposes; and

4 (2) BSL shall convey to the United States such
5 easements in or other rights-of-way over land owned
6 by BSL for all lawful purposes, as may be agreed
7 to by the Secretary and BSL.

8 (e) QUALITY OF TITLE.—

9 (1) DETERMINATION.—The Secretary shall re-
10 view the title for the BSL land described in sub-
11 section (a) and, within 45 days after receipt of all
12 applicable title documents from BSL, determine
13 whether—

14 (A) the applicable title standards for Fed-
15 eral land acquisition have been satisfied and the
16 quality of the title is otherwise acceptable to the
17 Secretary of Agriculture;

18 (B) all draft conveyances and closing docu-
19 ments have been received and approved;

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

23 (D) the title includes both the surface and
24 subsurface estates without reservation or excep-

1 tion (except as specifically provided in this Act),
2 including—

3 (i) minerals, mineral rights, and min-
4 eral interests (including severed oil and gas
5 surface rights), subject to and excepting
6 other outstanding or reserved oil and gas
7 rights;

8 (ii) timber, timber rights, and timber
9 interests (except those reserved subject to
10 section 251.14 of title 36, Code of Federal
11 Regulations, by BSL and agreed to by the
12 Secretary);

13 (iii) water, water rights, ditch, and
14 ditch rights;

15 (iv) geothermal rights; and

16 (v) any other interest in the property.

17 (2) CONVEYANCE OF TITLE.—

18 (A) IN GENERAL.—If the quality of title
19 does not meet Federal standards or is otherwise
20 determined to be unacceptable to the Secretary
21 of Agriculture, the Secretary shall advise BSL
22 regarding corrective actions necessary to make
23 an affirmative determination under paragraph
24 (1).

1 (B) TITLE TO SUBSURFACE ESTATE.—

2 Title to the subsurface estate shall be conveyed
3 by BSL to the Secretary in the same form and
4 content as that estate is received by BSL from
5 Burlington Resources Oil & Gas Company Inc.
6 and Glacier Park Company.

7 (f) TIMING OF IMPLEMENTATION.—

8 (1) LAND-FOR-LAND EXCHANGE.—The Sec-
9 retary shall accept the conveyance of land described
10 in subsection (a) not later than 45 days after the
11 Secretary has made an affirmative determination of
12 quality of title.

13 (2) LAND-FOR-TIMBER SALE RECEIPT EX-
14 CHANGE.—As provided in subsection (c) and the Op-
15 tion Agreement, the Secretary shall make timber re-
16 ceipts described in subsection (a)(3) available not
17 later than December 31 of the fifth full calendar
18 year that begins after the date of enactment of this
19 Act.

20 (3) PURCHASE.—The Secretary shall complete
21 the purchase of BSL land under subsection
22 (a)(3)(B) not later than 30 days after the date on
23 which appropriated funds are made available and an
24 affirmative determination of quality of title is made
25 with respect to the BSL land.

1 **SEC. 5. OTHER FACILITATED EXCHANGES.**

2 (a) **AUTHORIZED EXCHANGES.**—

3 (1) **IN GENERAL.**—The Secretary shall enter
4 into the following land exchanges if the landowners
5 are willing:

6 (A) Wapiti land exchange, as outlined in
7 the documents entitled “Non-Federal Lands in
8 Facilitated Exchanges” and “Federal Lands in
9 Facilitated Exchanges” and dated July 1998.

10 (B) Eightmile/West Pine land exchange as
11 outlined in the documents entitled “Non-Fed-
12 eral Lands in Facilitated Exchanges” and
13 “Federal Lands in Facilitated Exchanges” and
14 dated July 1998.

15 (2) **EQUAL VALUE.**—Before entering into an
16 exchange under paragraph (1), the Secretary shall
17 determine that the parcels of land to be exchanged
18 are of approximately equal value, based on an ap-
19 praisal.

20 (b) **SECTION 1 OF THE TAYLOR FORK LAND.**—

21 (1) **IN GENERAL.**—The Secretary is encouraged
22 to pursue a land exchange with the owner of section
23 1 of the Taylor Fork land after completing a full
24 public process and an appraisal.

25 (2) **REPORT.**—The Secretary shall report to
26 Congress on the implementation of paragraph (1)

1 not later than 180 days after the date of enactment
2 of this Act.

3 **SEC. 6. GENERAL PROVISIONS.**

4 (a) MINOR CORRECTIONS.—

5 (1) IN GENERAL.—The Option Agreement shall
6 be subject to such minor corrections and supple-
7 mental provisions as may be agreed to by the Sec-
8 retary and BSL.

9 (2) NOTIFICATION.—The Secretary shall notify
10 the Committee on Energy and Natural Resources of
11 the Senate, the Committee on Resources of the
12 House of Representatives, and each member of the
13 Montana congressional delegation of any changes
14 made under this subsection.

15 (3) BOUNDARY ADJUSTMENT.—

16 (A) IN GENERAL.—The boundary of the
17 Gallatin National Forest is adjusted in the
18 Wineglass and North Bridger area, as described
19 on maps dated July 1998, upon completion of
20 the conveyances.

21 (B) NO LIMITATION.—Nothing in this sub-
22 section limits the authority of the Secretary to
23 adjust the boundary pursuant to section 11 of
24 the Act of March 1, 1911 (commonly known as
25 the “Weeks Act”) (16 U.S.C. 521).

1 (C) ALLOCATION OF LAND AND WATER
2 CONSERVATION FUND MONEYS.—For the pur-
3 poses of section 7 of the Land and Water Con-
4 servation Fund Act of 1965 (16 U.S.C. 460l-
5 9), boundaries of the Gallatin National Forest
6 shall be considered to be the boundaries of the
7 National Forest as of January 1, 1965.

8 (b) PUBLIC AVAILABILITY.—The Option
9 Agreement—

10 (1) shall be on file and available for public in-
11 spection in the office of the Supervisor of the Gal-
12 latin National Forest; and

13 (2) shall be filed with the county clerk of each
14 of Gallatin County, Park County, Madison County,
15 Granite County, Broadwater County, Meagher Coun-
16 ty, Flathead County, and Missoula County, Mon-
17 tana.

18 (c) COMPLIANCE WITH OPTION AGREEMENT.—The
19 Secretary, the Secretary of the Interior, and BSL shall
20 comply with the terms and conditions of the Option Agree-
21 ment except to the extent that any provision of the Option
22 Agreement conflicts with this Act.

23 (d) STATUS OF LAND.—All land conveyed to the
24 United States under this Act shall be added to and admin-
25 istered as part of the Gallatin National Forest and

1 Deerlodge National Forest, as appropriate, in accordance
2 with the Act of March 1, 1911 (5 U.S.C. 515 et seq.),
3 and other laws (including regulations) pertaining to the
4 National Forest System.

5 (e) MANAGEMENT.—

6 (1) PUBLIC PROCESS.—Not later than 30 days
7 after the date of completion of the land-for-land ex-
8 change under section 4(f)(1), the Secretary shall ini-
9 tiate a public process to amend the Gallatin Na-
10 tional Forest Plan and the Deerlodge National For-
11 est Plan to integrate the acquired land into the
12 plans.

13 (2) PROCESS TIME.—The amendment process
14 under paragraph (1) shall be completed as soon as
15 practicable, and in no event later than 540 days
16 after the date on which the amendment process is
17 initiated.

18 (3) LIMITATION.—An amended management
19 plan shall not permit surface occupancy on the ac-
20 quired land for access to reserved or outstanding oil
21 and gas rights or for exploration or development of
22 oil and gas.

23 (4) INTERIM MANAGEMENT.—Pending comple-
24 tion of the forest plan amendment process under
25 paragraph (1), the Secretary shall—

1 (A) manage the acquired land under the
2 standards and guidelines in the applicable land
3 and resource management plans for adjacent
4 land managed by the Forest Service; and

5 (B) maintain all existing public access to
6 the acquired land.

7 (f) RESTORATION.—

8 (1) IN GENERAL.—The Secretary shall imple-
9 ment a restoration program including reforestation
10 and watershed enhancements to bring the acquired
11 land and surrounding national forest land into com-
12 pliance with Forest Service standards and guide-
13 lines.

14 (2) STATE AND LOCAL CONSERVATION
15 CORPS.—In implementing the restoration program,
16 the Secretary shall, when practicable, use partner-
17 ships with State and local conservation corps, includ-
18 ing the Montana Conservation Corps, under the
19 Public Lands Corps Act of 1993 (16 U.S.C. 1721 et
20 seq.).

21 (g) IMPLEMENTATION.—The Secretary of Agri-
22 culture shall ensure that sufficient funds are made avail-
23 able to the Gallatin National Forest to carry out this Act.

24 (i) REVOCATIONS.—Notwithstanding any other provi-
25 sion of law, any public orders withdrawing lands identified

1 in the Option Agreement from all forms of appropriation
2 under the public land laws are revoked upon conveyance
3 of the lands by the Secretary.

4 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

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

Passed the Senate October 2, 1998.

Attest:

GARY SISCO,
Secretary.