

# Union Calendar No. 196

108<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2766

[Report No. 108-329]

To direct the Secretary of Agriculture to exchange certain lands in the Arapaho and Roosevelt National Forests in the State of Colorado.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 17, 2003

Mr. BEAUPREZ (for himself, Mr. UDALL of Colorado, and Mr. TANCREDO) introduced the following bill; which was referred to the Committee on Resources

OCTOBER 28, 2003

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on July 17, 2003]

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## A BILL

To direct the Secretary of Agriculture to exchange certain lands in the Arapaho and Roosevelt National Forests in the State of Colorado.

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

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Arapaho and Roosevelt*  
3 *National Forests Land Exchange Act of 2003”.*

4 **SEC. 2. FINDINGS.**

5 *The Congress finds the following:*

6 *(1) Certain National Forest System lands near*  
7 *Empire, Colorado, are needed by the city of Golden,*  
8 *Colorado, to facilitate the construction of a water*  
9 *pipeline to transport domestic water supplies into*  
10 *storage for the city and its residents.*

11 *(2) Such National Forest System lands, com-*  
12 *prising approximately 9.84 acres in total, are of lim-*  
13 *ited utility for public administration or recreation*  
14 *and other use by virtue of their largely steep terrain,*  
15 *irregular boundary, and lack of easy public access.*

16 *(3) The city of Golden owns, or has an option*  
17 *to purchase, several parcels of non-Federal land com-*  
18 *prising a total of approximately 141 acres near Ever-*  
19 *green and Argentine Pass, Colorado, which it is will-*  
20 *ing to convey to the United States for addition to the*  
21 *Arapaho and Roosevelt National Forests.*

22 *(4) The non-Federal lands owned or optioned by*  
23 *the city of Golden, if conveyed to the United States,*  
24 *will eliminate inholdings in the National Forest Sys-*  
25 *tem, result in administrative cost savings to the*  
26 *United States by reducing costs of forest boundary*

1       *administration, and provide the United States with*  
2       *environmental and public recreational use benefits*  
3       *(including enhanced Federal land ownership along*  
4       *the Continental Divide National Scenic Trail) that*  
5       *greatly exceed the benefits of the Federal land the*  
6       *United States will convey in exchange.*

7               *(5) It is in the public interest to authorize, di-*  
8       *rect, expedite, and facilitate completion of a land ex-*  
9       *change involving these Federal and non-Federal lands*  
10       *to assist the city of Golden in providing additional*  
11       *water to its residents and to acquire valuable non-*  
12       *Federal lands for permanent public use and enjoy-*  
13       *ment.*

14       **SEC. 3. LAND EXCHANGE, ARAPAHO AND ROOSEVELT NA-**  
15               **TIONAL FORESTS, COLORADO.**

16       *(a) CONVEYANCE BY THE CITY OF GOLDEN.—*

17               *(1) LANDS DESCRIBED.—The land exchange di-*  
18       *rected by this section shall proceed if, within 30 days*  
19       *after the date of the enactment of this Act, the city*  
20       *of Golden, Colorado (in the section referred to as the*  
21       *“City”), offers to convey title acceptable to the United*  
22       *States to the following non-Federal lands:*

23               *(A) Certain lands located near the commu-*  
24       *nity of Evergreen in Park County, Colorado,*  
25       *comprising approximately 80 acres, as generally*

1           depicted on a map entitled “Non-Federal  
2           Lands—Cub Creek Parcel”, dated June, 2003.

3           (B) Certain lands located near Argentine  
4           Pass in Clear Creek and Summit Counties, Colo-  
5           rado, comprising approximately 55.909 acres in  
6           14 patented mining claims, as generally depicted  
7           on a map entitled “Argentine Pass/Continental  
8           Divide Trail Lands”, dated September 2003.

9           (2) *CONDITIONS OF CONVEYANCE.*—The convey-  
10          ance of lands under paragraph (1) to the United  
11          States shall be subject to the absolute right of the City  
12          to permanently enter upon, utilize, and occupy so  
13          much of the surface and subsurface of the lands as  
14          may be reasonably necessary to access, maintain, re-  
15          pair, modify, make improvements in, or otherwise  
16          utilize the Vidler Tunnel to the same extent that the  
17          City would have had such right if the lands had not  
18          been conveyed to the United States and remained in  
19          City ownership. The exercise of such right shall not  
20          require the City to secure any permit or other ad-  
21          vance approval from the United States. Upon acquisi-  
22          tion by the United States, such lands are hereby per-  
23          manently withdrawn from all forms of entry and ap-  
24          propriation under the public land laws, including the

1        *mining and mineral leasing laws, and the Geothermal*  
2        *Steam Act of 1970 (30 U.S.C. 1001 et seq.).*

3        *(b) CONVEYANCE BY UNITED STATES.—Upon receipt*  
4        *of acceptable title to the non-Federal lands identified in*  
5        *subsection (a), the Secretary of Agriculture shall simulta-*  
6        *neously convey to the City all right, title and interest of*  
7        *the United States in and to certain Federal lands, com-*  
8        *prising approximately 9.84 acres, as generally depicted on*  
9        *a map entitled “Empire Federal Lands—Parcel 12”, dated*  
10       *June 2003.*

11       *(c) EQUAL VALUE EXCHANGE.—*

12                *(1) APPRAISAL.—The values of the Federal lands*  
13        *identified in subsection (b) and the non-Federal lands*  
14        *identified in subsection (a)(1)(A) shall be determined*  
15        *by the Secretary through appraisals performed in ac-*  
16        *cordance with the Uniform Appraisal Standards for*  
17        *Federal Land Acquisitions (December 20, 2000) and*  
18        *the Uniform Standards of Professional Appraisal*  
19        *Practice. Except as provided in paragraph (3), the*  
20        *conveyance of the non-Federal lands identified in sub-*  
21        *section (a)(1)(B) shall be considered a donation for*  
22        *all purposes of law.*

23                *(2) SURPLUS OF NON-FEDERAL VALUE.—If the*  
24        *final appraised value, as approved by the Secretary,*  
25        *of the non-Federal lands identified in subsection*

1        *(a)(1)(A) exceeds the final appraised value, as ap-*  
2        *proved by the Secretary, of the Federal land identified*  
3        *in subsection (b), the values may be equalized—*

4                *(A) by reducing the acreage of the non-Fed-*  
5                *eral lands identified in subsection (a) to be con-*  
6                *veyed, as determined appropriate and acceptable*  
7                *by the Secretary and the City;*

8                *(B) the making of a cash equalization pay-*  
9                *ment to the City, including a cash equalization*  
10               *payment in excess of the amount authorized by*  
11               *section 206(b) of the Federal Land Policy and*  
12               *Management Act of 1976 (43 U.S.C. 1716(b)); or*

13               *(C) a combination of acreage reduction and*  
14               *cash equalization.*

15        *(3) SURPLUS OF FEDERAL VALUE.—If the final*  
16        *appraised value, as approved by the Secretary, of the*  
17        *Federal land identified in subsection (b) exceeds the*  
18        *final appraised value, as approved by the Secretary,*  
19        *of the non-Federal lands identified in subsection*  
20        *(a)(1)(A), the Secretary shall prepare a statement of*  
21        *value for the non-Federal lands identified in sub-*  
22        *section (a)(1)(B) and utilize such value to the extent*  
23        *necessary to equalize the values of the non-Federal*  
24        *lands identified in subsection (a)(1)(A) and the Fed-*  
25        *eral land identified in subsection (b). If the Secretary*

1        *declines to accept the non-Federal lands identified in*  
2        *subsection (a)(1)(B) for any reason, the City shall*  
3        *make a cash equalization payment to the Secretary as*  
4        *necessary to equalize the values of the non-Federal*  
5        *lands identified in subsection (a)(1)(A) and the Fed-*  
6        *eral land identified in subsection (b).*

7        *(d) EXCHANGE COSTS.—To expedite the land exchange*  
8        *under this section and save administrative costs to the*  
9        *United States, the City shall be required to pay for—*

10            *(1) any necessary land surveys; and*

11            *(2) the costs of the appraisals, which shall be*  
12        *performed in accordance with Forest Service policy*  
13        *on approval of the appraiser and the issuance of ap-*  
14        *praisal instructions.*

15        *(e) TIMING AND INTERIM AUTHORIZATION.—It is the*  
16        *intent of Congress that the land exchange directed by this*  
17        *Act should be completed no later than 120 days after the*  
18        *date of the enactment of this Act. Pending completion of*  
19        *the land exchange, the City is authorized, effective on the*  
20        *date of the enactment of this Act, to construct a water pipe-*  
21        *line on or near the existing course of the Lindstrom ditch*  
22        *through the Federal land identified in subsection (b) with-*  
23        *out further action or authorization by the Secretary, except*  
24        *that, prior to initiating any such construction, the City*  
25        *shall execute and convey to the Secretary a legal document*

1 *that permanently holds the United States harmless for any*  
2 *and all liability arising from the construction of such water*  
3 *pipeline and indemnifies the United States against all costs*  
4 *arising from the United States' ownership of the Federal*  
5 *land, and any actions, operations or other acts of the City*  
6 *or its licensees, employees, or agents in constructing such*  
7 *water pipeline or engaging in other acts on the Federal land*  
8 *prior to its transfer to the City. Such encumbrance on the*  
9 *Federal land prior to conveyance shall not be considered*  
10 *for purposes of the appraisal.*

11 *(f) ALTERNATIVE SALE AUTHORITY.—If the land ex-*  
12 *change is not completed for any reason, the Secretary is*  
13 *hereby authorized and directed to sell the Federal land iden-*  
14 *tified in subsection (b) to the City at its final appraised*  
15 *value, as approved by the Secretary. Any money received*  
16 *by the United States in such sale shall be considered money*  
17 *received and deposited pursuant to Public Law 90–171 (16*  
18 *U.S.C. 484(a); commonly known as the “Sisk Act”, and*  
19 *may be used, without further appropriation, for the acquisi-*  
20 *tion of lands for addition to the National Forest System*  
21 *in the State of Colorado.*

22 *(g) INCORPORATION, MANAGEMENT, AND STATUS OF*  
23 *ACQUIRED LANDS.—Land acquired by the United States*  
24 *under the land exchange shall become part of the Arapaho*  
25 *and Roosevelt National Forests, and the exterior boundary*



1 of such forest is hereby modified, without further action by  
2 the Secretary, as necessary to incorporate the non-Federal  
3 lands identified in subsection (a) and an additional 40  
4 acres as depicted on a map entitled “Arapaho and Roosevelt  
5 National Forest Boundary Adjustment—Cub Creek”, dated  
6 June 2003. Upon their acquisition, lands or interests in  
7 land acquired under the authority of this Act shall be ad-  
8 ministered in accordance with the laws, rules and regula-  
9 tions generally applicable to the National Forest System.  
10 For purposes of Section 7 of the of the Land and Water  
11 Conservation Fund Act of 1965 (16 U.S.C. 460l–9), the  
12 boundaries of the Arapaho and Roosevelt National Forests,  
13 as adjusted by this subsection shall be deemed to be the  
14 boundaries of such forest as of January 1, 1965.

15 (h) *TECHNICAL CORRECTIONS.*—The Secretary, with  
16 the agreement of the City, may make technical corrections  
17 or correct clerical errors in the maps referred to in this sec-  
18 tion or adjust the boundaries of the Federal lands to leave  
19 the United States with a manageable post-exchange or sale  
20 boundary. In the event of any discrepancy between a map,  
21 acreage estimate, or legal description, the map shall prevail  
22 unless the Secretary and the City agree otherwise.

23 (i) *REVOCATION OF ORDERS AND WITHDRAWAL.*—Any  
24 public orders withdrawing any of the Federal lands identi-  
25 fied in subsection (b) from appropriation or disposal under

1 *the public land laws are hereby revoked to the extent nec-*  
2 *essary to permit disposal of the Federal lands. Upon the*  
3 *enactment of this Act, if not already withdrawn or seg-*  
4 *regated from the entry and appropriation under the public*  
5 *land laws, including the mining and mineral leasing laws*  
6 *and the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et*  
7 *seq.), the Federal lands are hereby withdrawn until the date*  
8 *of their conveyance to the City.*



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