

Public Law 102-436  
102d Congress

An Act

To provide for a land exchange with the city of Tacoma, Washington.

Oct. 23, 1992  
[H.R. 4489]

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

Conservation.  
16 USC 251  
note.

**TITLE I—LAND EXCHANGE WITH CITY OF TACOMA,  
WASHINGTON**

**SEC. 101. LAND EXCHANGE.**

(a) **IN GENERAL.**—(1) If the city of Tacoma, Washington, in a manner consistent with this title, offers to transfer to the United States the lands identified in paragraph (2) in exchange for the lands described in paragraph (3), the Secretary of the Interior (hereafter in this title referred to as the “Secretary”) shall carry out such exchange as soon as is reasonably possible.

(2) The lands to be conveyed to the United States by the city of Tacoma are approximately 45 acres owned by the State of Washington Department of Natural Resources located in the Soleduck and Quileute areas within the authorized boundary of Olympic National Park.

(3) The lands to be conveyed to the city of Tacoma are approximately 30 acres of land adjacent to Lake Cushman identified as lands to be transferred to the city of Tacoma as depicted on the map entitled “Proposed Boundary Revision Olympic National Park” and dated July 29, 1991. Such map, and a legal description of the lands to be conveyed to the city of Tacoma, shall be on file and available for public inspection with the Director of the National Park Service, Department of the Interior.

(b) **CONDITIONS.**—(1) Any exchange of lands pursuant to this title shall occur only if—

(A) the city of Tacoma demonstrates to the satisfaction of the Secretary that the city of Tacoma is able to deliver to the United States clear and unencumbered title to the lands identified in subsection (a)(2), and that after such exchange there will be no legal impediment to the management of such lands as part of Olympic National Park under all provisions of law applicable to Olympic National Park;

(B) the Secretary is reasonably satisfied that an environmental review of the Cushman Project (No. 460) sufficient to meet the requirements of law has been initiated;

(C) the city of Tacoma has entered into an enforceable agreement with the Secretary which provides that lands acquired by the city of Tacoma through an exchange under this title will be managed in a manner consistent with the management of those same lands during the time such lands were managed by the National Park Service; and

(D) the city of Tacoma offers, in good faith, to negotiate with the Skokomish Tribe regarding the impact of the Cushman Project on fish, wildlife, estuary, and cultural resources, and

to fund appropriate studies concerning such impacts (to be jointly administered by the city and the Tribe), to the extent that further information is needed to facilitate such negotiations and such information is reasonably obtainable.

(2) The land exchange authorized by this section shall be subject to the laws and regulations applicable to exchanges involving lands managed by the Secretary as part of the National Park System.

#### **SEC. 102. BOUNDARY ADJUSTMENT.**

At the same time that the Secretary exchanges lands pursuant to this title, the Secretary shall adjust the boundaries of Olympic National Park in the manner depicted on the map referenced in section 101(a)(3) so as to exclude from such unit of the National Park System the lands transferred to the city of Tacoma by the Secretary pursuant to such exchange.

#### **SEC. 103. ADDITIONAL PROVISIONS.**

Nothing in this title shall be construed—

(1) as approval or disapproval of any reservoir operating level for the Cushman Reservoir which, after a boundary adjustment under section 102, would not inundate any lands within any unit of the National Park System;

(2) to limit the right or ability of any party, including any Indian tribe and Federal Agency, to fully participate as intervenors or otherwise in any process relating to the Cushman Project (No. 460); or

(3) as limiting or otherwise affecting any rights by treaty, executive order, or Federal law of the Skokomish Tribe or any other Indian tribe, including (but not limited to) rights related to fishing or the use of water.

### **TITLE II—OLYMPIC EXPERIMENTAL STATE FOREST**

#### **SEC. 201. PURPOSE.**

The purpose of this title is to assist the experimental management and research program being conducted by the State of Washington on State-owned trust lands on the western Olympic Peninsula in order to contribute to the conservation of the northern spotted owl, old growth ecosystems and fishery resources and to provide for a sustainable supply of timber and trust income in a manner that is consistent with these conservation objectives.

#### **SEC. 202. DEFINITIONS.**

For purposes of this title:

(1) The term "conservation" means the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided by the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) are no longer necessary. Such measures and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

(2) The term "Secretary" means the Secretary of the Interior acting through the Director of the United States Fish and Wildlife Service.

**SEC. 203. MANAGEMENT AND RESEARCH PLAN FOR THE OLYMPIC STATE EXPERIMENTAL FOREST.**

(a) **PLAN DEVELOPMENT.**—The State of Washington may develop and submit to the Secretary of the Interior a management and research plan for the Olympic Experimental State Forest that—

(1) is based upon the recommendations of the Commission on Old Growth Alternatives for Washington's Forest Trust Lands contained in the June 1989 final report of the Commission;

(2) is developed by the State land management agency in consultation with the State wildlife agency and the Olympic Natural Resources Center or a comparable research institution: *Provided, however,* That the research components of the plan shall be developed jointly by the State land management agency and the Olympic Natural Resources Center or a comparable research institution and in consultation with the State wildlife agency;

(3) provides for the close integration of research and management in the plan, and

(4) shall be accompanied by a draft of the detailed statement on the proposed actions under the plan required by section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(b) **PLAN CONTENTS.**—(1) The plan shall provide for the conservation of the northern spotted owl on the Olympic Experimental State Forest and reflect scientifically sound ecosystem management principles designed to contribute to the conservation of fisheries, other sensitive species and the ecology of the forest generally.

Wildlife.

(2) The plan shall contain the following elements:

(A) A framework for coordinated decisionmaking for implementing the plan among the State land management agency, the State wildlife agency and the Olympic Natural Resources Center or a comparable research institution.

(B) A detailed description of the individual elements of the management and research plan; the process for implementing and funding the plan and an allocation of responsibilities for plan implementation and enforcement.

(C) Findings of the State wildlife agency about the extent to which the plan will achieve the objectives in paragraph (1).

**SEC. 204. PLAN REVIEW AND APPROVAL.**

Wildlife.

(a) **PLAN REVIEW.**—Upon submission of the management and research plan for the Olympic Experimental State Forest under section 203(a), the Secretary shall determine whether the plan—

(1) provides for the conservation of the northern spotted owl in the experimental forest; and

(2) is consistent with the final northern spotted owl recovery plan as it applies to the Olympic Peninsula or, in the absence of a final recovery plan, the draft northern spotted owl recovery plan dated April 1992 as it applies to the Olympic Peninsula.

(b) **REVIEW AND PUBLIC COMMENT.**—The Secretary shall after notice and public comment complete the review of the management

and research plans within 90 days after the submission of the plan and supporting documentation by the State of Washington under section 203(a) or within such other period of time as is mutually agreeable to the Secretary and the State of Washington.

(c) **APPROVAL.**—If the Secretary determines that the management and research plan for the Olympic Experimental State Forest meets the standards of subsection (a), the Secretary shall approve the plan and so notify the State.

(d) **RELATIONSHIP TO OTHER LAW.**—If the State authorities identified by the plan as responsible for implementing it comply with their obligations under the approved plan, any activity conducted pursuant to it in the Olympic Experimental State Forest shall not be considered a prohibited taking of the northern spotted owl under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

Approved October 23, 1992.

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**LEGISLATIVE HISTORY—H.R. 4489 (S. 2353):**

**HOUSE REPORTS:** No. 102-946 (Comm. on Interior and Insular Affairs).

**SENATE REPORTS:** No. 102-465 accompanying S. 2353 (Comm. on Energy and Natural Resources).

**CONGRESSIONAL RECORD, Vol. 138 (1992):**

Sept. 29, considered and passed House.

Oct. 7, considered and passed Senate.