

Committee on Natural Resources

Rob Bishop, Chairman
Markup Memorandum

July 6, 2015

To: Natural Resources Committee Members

From: Spencer Kimball, Federal Lands Subcommittee Staff, x 6-7736

Subject: Full Committee Markup on H.R. 2223, "*Crags, Colorado Land Exchange Act of 2015*"

Bill Summary

H.R. 2223, the "*Crags, Colorado Land Exchange Act of 2015*," introduced by Congressman Doug Lamborn, (R-CO), would authorize, direct, expedite, and facilitate a land exchange in El Paso and Teller Counties, Colorado. The purpose of, and need for, this exchange is to dispose of National Forest System lands encumbered by permanent improvements at Emerald Valley Ranch that have lost their National Forest character and use that opportunity to acquire private lands in the Pikes Peak region with high National Forest values.

Bill Sponsors/Co-Sponsors

Sponsor: Rep. Doug Lamborn (R-CO-05)
Co-Sponsor: Rep. Jared Polis (D-CO-02)

Background

Proposed Exchange

This bill would require the USFS and BHI to perform a land exchange, wherein BHI would convey to the United States the 320-acre Crags property and a perpetual public access easement for the lower portion of the Barr Trail in exchange for an 83-acre Federal parcel located at Emerald Valley Ranch and a perpetual access easement along Forest Service Road (FSR) 371 from FSR 368 (Old Stage Road) to the existing closure gate approximately one-half mile west of Emerald Valley Ranch. If the value of the Non-Federal parcel exceeds the value of the Federal parcel and perpetual access easement, BHI will donate the excess value to the U.S.

The exchange is intended to provide increased recreational opportunities for the public on the Pike National Forest, including securing perpetual access on the portion of the Barr Trail located on private lands outside the Pike National Forest boundary. Acquiring the Crags property would complement management of the Pikes Peak West Roadless Area and other adjacent National Forest System lands and would eliminate management encumbrances and liability to the United States associated with buildings at Emerald Valley Ranch.

Non-Federal Parcel and Barr Trail Public Access Easement

BHI recently acquired the 320-acre Craggs property on the west side of Pikes Peak. The property is completely surrounded by the Pike National Forest and has been the top acquisition priority for the Pikes Peak Ranger District for several years. The property provides several opportunities to connect Forest System trails emanating from The Craggs Campground with trails in the Horsethief Park/Putney Gulch area. In addition, existing trails within the property could become key links in the proposed Ring-the-Peak Trail.

The trailhead for the Barr Trail is located just west of the Pikes Peak Cog Railway Station on property owned by the City of Manitou Springs. After climbing a series of switchbacks, the trail enters property owned by the Manitou & Pikes Peak (M&PP) Railway Company, a sister company of BHI. Historically, the M&PP Railway Company granted term easements to the U.S. Forest Service to provide legal public access along the segment of the Barr Trail. Although there is currently no easement in place on this segment, the M&PP Railway Company is presently allowing public access on the trail.

Federal Parcel and Perpetual Access Easement

The Emerald Valley Ranch is located on a federal parcel located southwest of Colorado Springs on the southeast side of Pikes Peak. BHI acquired buildings on the parcel from the previous owner in 2012. In October 2012, USFS issued a 20-year special use permit to BHI to operate and maintain Emerald Valley Ranch as a guest ranch. Since issuance of the special use permit, BHI has invested in significant upgrades and improvements throughout the parcel, including a water supply system, a portion of the toe of the dam for the southernmost reservoir along Little Fountain Creek, and a historic road that provides secondary and emergency access to Emerald Valley Ranch.

Support for the Legislation

The bill is currently supported by: El Paso County, Colorado; the City of Manitou Springs, Colorado; the City of Colorado Springs, Colorado; Trust for Public Land; Colorado Natural Heritage Program; Trails and Open Space Coalition; Pikes Peak Marathon Inc.; Friends of the Peak; and Incline Friends.

Administration Position

The Forest Service has expressed general support of the bill with minor concerns.¹

¹ [Statement of Leslie Weldon, Deputy Chief National Forest System, Forest Service, U.S. Department of Agriculture on H.R. 1138, Sawtooth National Recreational Area and Jerry Peak Wilderness Additions Act](#), before the House Committee on Natural Resources, Subcommittee on Federal Lands. June 16, 2015.

Section-by-Section Analysis of Major Provisions of H.R. 2223

SEC. 4. LAND EXCHANGE.

- Particulars of the Exchange- States the Secretary shall convey to BHI the Federal land if BHI offers to convey to the Secretary all right, title, and interest of BHI in the non-Federal land.
- Requirements for Land Title- Requires title to the non-Federal land conveyed and donated to the Secretary must be acceptable to the Secretary and must conform to standards applicable to land acquisitions by the Federal Government.
- Perpetual Access Easement to BHI- The non-exclusive perpetual access easement to be granted allows BHI to fully maintain, at its expense, and use FSR 371 from its junction with FSR 368 and the full and continued public and administrative access and use of FSR 371.
- Route and Condition of Road- Provides that BHI and the Secretary may mutually agree to improve, relocate, reconstruct, or otherwise alter the route and condition of all or portions of such road.
- Costs- States that BHI shall pay for all land survey, appraisal, and other costs to the Secretary to process and consummate the exchange, including reimbursement to the Secretary for staff time.

SEC. 5. EQUAL VALUE EXCHANGE AND APPRAISALS.

- Appraisal Requirements- Requires values of the lands to be exchanged under this Act be determined by the Secretary through appraisals performed in accordance with Uniform Appraisal Standards for Federal Land Acquisitions and other standards and shall be performed by an appraiser mutually agreed to by the Secretary and BHI.
- Equal Value Exchange- States that the values of the Federal and non-Federal land parcels exchanged should be equal, and that if the final appraised value of the Federal land exceeds the final appraised value of the non-Federal land parcel, BHI will make a cash equalization payment to the United States to achieve equal value. Any cash equalization moneys received by the Secretary shall be deposited in the fund established under Public Law 90-171 (the 'Sisk Act') and made available to the Secretary for the acquisition of land or interests in land in Region 2 of the USFS. If the final appraised value of the non-Federal land parcel exceeds the final appraised value of the Federal land, the United States shall not make a cash equalization payment to BHI and surplus value of the non-Federal land shall be considered a donation by BHI to the United States.
- Appraisal Exclusions- Requires that the appraised value of the Federal land parcel shall not reflect any increase or diminution in value due to BHI's special use permit on the

parcel; nor that the Barr Trail easement donation shall not be appraised for purposes of this Act.

SEC. 6. MISCELLANEOUS PROVISIONS.

- Withdrawal Provisions- Requires that lands acquired by the Secretary under this Act will be permanently withdrawn from all forms of appropriation and disposal under public land laws. Any public land order that withdraws the Federal land from appropriation or disposal will be revoked to the extent necessary to permit disposal of the Federal land parcel to BHI.
- Post-exchange Land Management- Requires land acquired by the Secretary will become part of the Pike-San Isabel National Forest and be managed in accordance with the laws, rules, and regulations applicable to the National Forest System.
- Exchange Timetable- States that it is the intent of Congress that the land exchange be consummated no later than one year after the date of the enactment of this Act.
- Maps, Estimates, and Descriptions- Authorizes the Secretary and BHI, by mutual agreement, to make minor boundary adjustments to the lands involved in the exchange, and correct any minor errors in any map, acreage estimate, or description of those lands. If there is a conflict, the map shall control unless the Secretary and BHI mutually agree otherwise. Upon enactment, the Secretary shall file and make available all maps in the headquarters of the Pike-San Isabel National Forest.

Effect on Current Law

H.R. 2223 does not affect current law.