

HB

498

ALASKA STATE LEGISLATURE

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Member
HEALTH, EDUCATION AND SOCIAL SERVICES

Member
STATE AFFAIRS



REPRESENTATIVE PAUL SEATON
House District 35

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Sponsor Statement

HB 498

"An Act requiring the sale or trade of state land."

The State of Alaska often acquires, or is asked to acquire for public purposes, special parcels of private lands that have exceptional beauty, recreational access, development and conservation potential. Acquired lands can be critical to maintaining or expanding the economy for local communities. Acquiring special lands for public purposes is difficult in part to the potentiality of lost tax revenues garnered from private lands. Acquiring special lands also removes land from an already limited pool of private disposable lands. House Bill 498 attempts to remove opposition to private land acquired for public purposes.

HB 498 expedites the acquisition of special land for public purposes by requiring the commissioner of the Dept. of Natural Resources to review the State's land holdings, and expedite for sale or trade state land. The land that will be sold or traded may be of equal value, size and proximity; the state land to be sold or traded can only be selected from settlement, agriculture, or reclassified land from other development land categories. Under the bill, other developmental classifications may be reviewed and reclassified as settlement lands in order to expedite the sale or trade of state lands during an acquisition of special lands.

In the Kenai Peninsula, spruce bark beetles have ravaged most of the lands designated for forestry purposes. With little timber left for harvest, the state's categorization of forestry lands maybe outdated. Under HB 498, acquisition of special lands could be made easier, if land could be reclassified and sold or traded during the special land's acquisition process.

If the commissioner is unable to locate proximate land, or if the commissioner is unable to reclassify land and make it available for sale or trade, then special land acquisitions could still go forward. HB 498 promotes responsible land management in our State by providing for the acquisition of special private land parcels to meet the changing needs of Alaskan residents and local communities.



23-LS1230\Q
Bullock
3/31/04

CS FOR HOUSE BILL NO. 498()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE SEATON

A BILL
FOR AN ACT ENTITLED

1 **"An Act requiring the sale or trade of state land."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 *** Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
4 to read:

5 **LEGISLATIVE FINDINGS.** The legislature finds that

6 (1) as a general policy, the state benefits from the private ownership and
7 development of property;

8 (2) less than one percent of land in the state is privately owned, and less than
9 ten percent is owned by Alaska Native Corporations;

10 (3) with changing populations and economics, it is sometimes in the best
11 interest of the state to acquire private lands for specific public benefits; and

12 (4) conflicting state interests can be resolved by requiring that equal and
13 comparable lands be sold or traded into private ownership every time private lands are
14 acquired by the state through purchase or eminent domain.

15 *** Sec. 2.** AS 38.05.050 is amended to by adding new subsections to read:

1 (b) Except as provided in (c) and (d) of this section, the commissioner shall
2 sell for private use an amount of settlement or agricultural land equal to or greater than
3 the total acreage acquired by the state from private landowners through purchase or
4 eminent domain. The settlement or agricultural land sold shall be reasonably
5 proximate in location to the land acquired, shall be of equal or greater value, and shall
6 demonstrate similar economic development potential. If sufficient settlement or
7 agricultural land reasonably proximate in location to the land acquired by the state is
8 not available, the commissioner shall review other proximate state land to determine if
9 that land may be reclassified as settlement or agricultural land, except that land
10 classified by the commissioner as public recreation, heritage, transportation, water
11 resources, or wildlife habitat, may not be reclassified under this subsection. If, after
12 reviewing proximate state land for reclassification, the commissioner finds that there
13 is no proximate settlement or agricultural land available, the requirement to sell
14 settlement or agricultural land under this subsection to offset an acquisition of private
15 land does not apply to that acquisition. The sale of settlement or agricultural land
16 under this subsection shall be close in time to the acquisition by the state from a
17 private landowner, but is not required to be simultaneous. If a single parcel is not
18 available, multiple parcels of land may be combined to meet the requirements of this
19 subsection.

20 (c) The commissioner may trade settlement or agricultural land with the owner
21 of the land the state is acquiring to satisfy the sale requirements of (b) of this section.
22 Land traded by the state under this subsection is not subject to the proximity, value, or
23 acreage requirements of (b) of this section and does not need to demonstrate economic
24 development potential that is similar to the potential of the private land acquired.

25 (d) The provisions of (b) of this section do not apply to land acquired by the
26 state solely for a roadway, right-of-way, or easement.

27 (e) In this section, "settlement land" means

28 (1) upland that is, by reason of its physical qualities and location,
29 suitable for year-round or seasonal residential or private recreational use or for
30 commercial or industrial development;

31 (2) tideland, submerged land, or shoreland that is suitable for float

1 homes; or

2 (3) land that is immediately adjacent to upland with existing or
3 proposed settlement and that will be managed to support the existing or proposed
4 upland settlement uses.

5 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
6 read:

7 APPLICABILITY. AS 38.05.050(b), added by sec. 2 of this Act, applies to acreage
8 acquired by the state from private landowners by purchase or eminent domain on or after the
9 effective date of this Act.

10

Fact Sheet

Title: Land Ownership In Alaska



Alaska Department of
**NATURAL
RESOURCES**

Division of Mining, Land & Water
March 2000

Current land ownership in Alaska can be traced back to three main events in the state's history.

- ◆ Russian traders arrived in Alaska in the mid-1700's and established small, scattered trading posts and settlements. Alaska Natives (the Eskimo, Indian, and Aleut peoples) continued as the primary "landowners" during this period of Russian occupation.

On October 18, 1867, Russia sold Alaska to the United States government. As a result, the federal government owned the Alaska Territory, approximately 375 million acres (about one-fifth the size of the continental U.S.).

- ◆ Alaska became a state in 1959. The federal government granted the new state 28% ownership of its total area. Approximately 103,350,000 acres were selected under three types of grants: Community (400,000 acres), National Forest Community (400,000 acres), and General (102,550,000 acres). Additional territorial grants, for schools, university and mental health trust lands, totaling 1.2 million acres were confirmed with statehood. All grants combined gave the State of Alaska approximately 105 million acres.
- ◆ In 1971 Congress passed the Alaska Native Claims Settlement Act (ANSCA). This law granted 44 million acres and 1 billion dollars to village and native corporations created under the act. Generally, ANSCA gave Native selections priority over state land selections.

State Land

To date, the state has received patent to approximately 85% (90 million acres) of its total land selections. The state was permitted to select lands, from any federal land not already reserved for other uses, to provide:

1. Land and resources to support the state's economy for road construction, economic development, and building houses, schools, and other public and private facilities.
2. A reduction in federal control over state internal affairs by giving the state ownership and jurisdiction over its own land.

The state chose land to meet three specific needs - settlement, resources and recreation.

Settlement – The State of Alaska selected land to encourage development and settlement. Land for public facilities, road construction and other public needs were included. Once owned, the state transfers large tracts of land to local governments, and leases and disposes of land to the private sector. There are approximately 580,000 acres currently in the state's land disposal bank for eventual lease or sale.

Resources - The Alaskan economy is based on exploration for and the development of natural resources. Lands were selected for agriculture, forestry, commercial fisheries, mining potential, oil and gas development, and wildlife habitat.

Recreation – Lands for wildlife, back-country recreation, and varying degrees and types of developed recreation were chosen and reserved to provide a variety of experiences for Alaskans and the tourist industry.

Once land is selected, land planners develop state land use plans. Planners consider laws and policies set by the Governor and state legislature, the character of the land itself, recommendations made by resource experts and public input to determine the most appropriate management of currently owned or selected state land. Plans are developed for land in selected status in anticipation of its conveyance to the state.

Federal Land

The federal government is still the largest landowner in Alaska with 60% of the total area (222 million acres). This acreage includes national parks, wildlife refuges, national forests, military reservations and the North Slope National Petroleum Reserve. More than a dozen federal agencies manage federal lands in Alaska.

The majority of federally owned lands have been set aside for public use (approximately 80 million acres). These are designated as follows:

The National Park Service and Fish and Wildlife Service manage about 119.3 acres (48.3 and 71.0 million acres respectively) for primary uses of resource protection and fish and wildlife conservation.

The Forest Service and Bureau of Land Management manage about 97.7 million acres (19.8 and 77.9 million acres respectively) for multiple use purposes including timber production, fish and wildlife, recreation, water and mining. Management of these lands is based on priorities and compatibility among various uses.

The remaining federal land is designated for special purposes, such as military reservations, the National Petroleum Reserve and U.S. Postal Service lands.

Native Lands

Native lands are private lands. The Alaska Native Claims Settlement Act, passed by Congress in 1971, mandated the creation of regional and village Native corporations for the disbursement of the 44 million acres and payment of one billion dollars mandated to Native ownership.

Thirteen regional corporations were created for the distribution of ANSCA land and money. Twelve of those shared in selection of 16 million acres, the thirteenth corporation, based in Seattle, received a cash settlement only. 224 village corporations, of 25 or more residents, shared 26 million acres. The remaining acres, which include historical sites and existing native-owned lands, went into a land pool to provide land to small villages of less than 25 people.

Other Private Land

Land in private ownership (other than Native land) comprises less than one percent of the total land in Alaska. Much of the best land for development around Alaska's communities is, or will be, privately owned. Private land development meets people's needs by providing places to live, work, shop and recreate. It also provides a tax base for cities and communities to help support public services.

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Sectional Analysis

HB 498

"An Act requiring the sale or trade of state land."

***Section 1.** Legislative findings as related to the intent of the bill.

***Section 2.** Amends Alaska Statute 38.05.050 regarding Article 2, Sale of Land for private ownership, by adding a new subsection (b).

(b) The new subsection provides the commissioner of natural resources with statutory authority to sell state land in the event that land is taken from private individuals for the purposes of conservation. The commissioner must attempt to sell land proximate in size, value, and location with regards to the land purchased for conservation. Under this subsection, land may be reclassified to meet the requirements of land to be sold.

(c) To meet the requirements set out in (b) of this act, the commissioner may trade state land.

(d) The requirements set out in (b) of this act, do not apply to roadways, right-of-ways or easements.

(e, 1-3) Defines settlement land into the statutes.

***Section 3.** Amends codified law relating to applicability, stating that only land acquired from private landowners by purchase or eminent domain would be affected after the enactment of the bill.





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Thursday, December 11, 2003

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Story last updated at 2:00 p.m. Thursday, June 19, 2003



Gov. vetoes federal grant for KHLT

by Chris Bernard
Staff Writer

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It seems to be a matter of philosophy, not economy, that led the governor to veto nearly \$15 million in federal grants for Kodiak and Homer, including \$450,000 for the Kachemak Heritage Land Trust's purchase of the Baycrest Ski Trails.

Homer's representatives and project supporters are scratching their heads.

"I don't quite know what to say about that," said Barb Seaman, executive director of the KHLT.

"I was very disappointed, and a little disturbed," said Rep. Paul Seaton, R-Homer.

Features

- Seawatch
- Neighbors
- Forum

The \$450,000 was to cover 75 percent of the costs of purchasing a 160-acre Diamond Creek parcel that includes more than 25 kilometers of Nordic ski trails, and the 7-mile Homestead Trail.

Originally homestead land, the area has been popular with hikers and Nordic skiers for nearly 20 years, Seaman said. The land recently sold, and when the new landowners announced plans to subdivide, KHLT and the Kachemak Nordic Ski Club began seeking a way to protect the trails and the surrounding area.

The group applied for Forest Legacy Funding, and was prioritized No. 1 on the list for Alaska projects for 2004, she said.

However, the grants would have to be received by the state. And the state said no. Murkowski's administration said it planned to deny receipt authority for all federal funding for land acquisition in 2004.

On the final day of the state legislative session, on which the House and Senate were scheduled to vote on the capital budget, the project's outlook improved. Seaton managed to add an 11th-hour amendment giving the state's authorization.

Hopes were high that, as the governor vetoed budget items to cut costs, the Kodiak and Homer projects would be spared since they would not cost the state a dime.

But when the governor unveiled his budget cuts last week, both were on

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the list.

"This is poor policy. We need to maximize the amount of land in private ownership," Murkowski said in his veto statement.

"That was a philosophical difference," said Seaton. "The Murkowski administration is opposed to taking private land and putting it into government hands. Even though KHLT is a little different than that, it got lumped in.

Sen. Gary Stevens, R-Kodiak, expressed similar sentiments. "I thought we had a pretty good plan worked out," he said. "But, the governor has some ideological concerns."

The Kodiak project would have accepted about \$14.5 million in federal funding for the creation of elk habitat on Afognak Island, he said. The Afognak purchase had the support of local government, the Native corporations who owned some of the land, and conservationists.

"It's really a shame. Both projects were really important, and I'm just really concerned and upset about it," Stevens said.

The KHLT project had the support of the Homer City Council, the Chamber of Commerce and a wide range of groups from the Homer Soil and Water Conservation District to Homer Community School.

"We had an immense amount of community support for this," Seaman said. "It's disappointing to me to have everything lined up and then have it disappear for no obvious reason."

Seaton said he's not given up hope. "I'm still working on alternate ways of getting there. I'll be working on this with the governor," he said.

Stevens agreed that this is not the end of either project.

"Both have broad-reaching economical possibilities," he said. "The Afognak Island one would bring in revenues from lodges, guides, all kinds of things. And for Homer, the KHLT land would raise property values and help bring tourism money to town. There is definitely an economic side of this that maybe hasn't been looked at closely enough."

Comments or questions?

For questions about the website contact the web master at HomerNews.com
For questions or comments about the news Homer News Editorial and Newsroom Content

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www.kachemaklandtrust.org

Kachemak Heritage Land Trust

Preserving, for public benefit, land with significant natural, recreational or cultural values by working with willing landowners.

April 9, 2003

Representative Paul Seaton
State Capitol, Room 428
Juneau, Alaska 99801

Dear Representative Seaton,

The Diamond Creek Project is a rare opportunity to purchase a key parcel of land containing valuable recreational trails for the long-term benefit of our community. Acquisition of the 160-acre Fowler property has been recommended for approval by the national Forest Legacy Program and the U.S. Forest Service for federal funding in 2004. If Forest Legacy Program funding continues nationally, it has already committed 75% of the purchase price for this parcel, or \$450,000. The purchase price has been established by a qualified appraisal and almost \$70,000 of the 25% private match has already been raised in pledges without actually having begun a capital campaign yet.

Kachemak Heritage Land Trust has established a Diamond Creek Acquisition Fund to accept private contributions toward the purchase of this keystone property. Well-loved trails run on three sides and through the middle of this regionally significant parcel. As you know, Diamond Creek is a significant recreation area with maintained hiking and ski trails. This watershed includes the 7-mile Homestead Trail - by far the most popular and accessible summertime hiking trail on the north side of Kachemak Bay, which is maintained for public use by Kachemak Heritage Land Trust. In the winter, the Kachemak Bay Nordic Ski Club maintains more than 90 kilometers of groomed ski trails within the Diamond Creek watershed, which is the largest non-motorized area maintained for cross country skiers locally.

Located 3.5 miles from Homer, the Diamond Creek area was historically homestead land. Until a 160 acre parcel at the heart of the area was recently sold and slated for subdivision, many people did not understand that almost half the winter and summer recreational trails crisscrossing the watershed exist by permission only. For over 60 years this has been Homer's favorite recreational area. This Diamond

*Working with Willing Landowners on
Alaska's Kenai Peninsula*

.....

FROM : KHLT

PHONE NO. : 9072355263

Apr. 07 2003 09:42PM P3

April 9, 2003

Page 2

Creek corridor serves thousands of resident and visiting hikers, equestrians, skiers and students annually.

The trail system in the Diamond Creek area is valuable both to our quality of life and to our local economy and provides unparalleled recreational opportunities for thousands of residents and visitors. Homer's City Council will vote on a resolution of support, sponsored by Mayor Cushing, urging receipt authority for Forest Legacy Program funds at their meeting on April 14, 2003. Local support for this project is such that we anticipate unanimous approval from the City Council for this resolution. I will provide you with a copy as soon as it is available.

We are pleased to have a project that stands on its own merits as valuable to our community's economic future. We also have a proclaimed willing seller, significant community support and the federal part (75%) of the funding all but guaranteed by the Forest Legacy Program and the US Forest Service, and a large portion of the non-federal match already raised. We respectfully request that acceptance of this funding be included as a capital budget item for 2004. Thank you very much for your time, assistance and attention!

Sincerely,

Barbara Seaman
Executive Director

enc.: 2 Diamond Creek area maps, letters of support from Kachemak Nordic Ski Club, Homer Chamber of Commerce, Homer High School, Homer Community School, Homer Soil and Water Conservation District, letter expressing willingness to sell by landowner, the Homer Demonstration Forest's management plan, and the Forest Legacy Program Projects, Fiscal Year 2004 Recommendations

cc: Steve Bush, Federal Forest Legacy Coordinator
Kathryn Reid, State Forest Legacy Coordinator
Ted Stevens, U.S. Senator
Gary Stevens, Alaska State Senator
John Fowler, landowner
David Banks, The Nature Conservancy of Alaska
Roger Hoerster, Trust for Public Land

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June 16, 2003

Governor Frank H. Murkowski
PO Box 110001
Juneau AK 99801-0001

Dear Governor Murkowski,

I feel that there is a misunderstanding related to the veto of receipt authority for the federal Forest Legacy funds for the Diamond Ridge land acquisition project. The reason for this veto stated in the capital budget transmittal letter is "policy disagreement." I am also concerned with wholesale removal of private lands and the loss of associated taxes and economic potential. In fact, I have been working on legislation that would require the State to offer at public auction comparable land when the State acquires any private land, so I do not think of this as a "policy disagreement."

The Diamond Creek project is strongly supported by this community because it gives Homer the ability to generate winter economic activity. This project must be distinguished from land acquisitions that just 'tie-up' property and should be more closely compared with new roads, airports or other economic development projects.

The primary purpose of this project is to expand and improve an extensive ski trail system currently used by many residents, tourists, and school ski teams. This connected system would allow the community to host regional and national ski meets and other events that can greatly improve our sluggish winter economy. Evidence of the business community's approval of this project is seen in the Homer Chamber of Commerce's supporting letter (see attached). Also, the City of Homer is willing to forego the taxable basis of the property for the economic opportunity of winter tourism and has passed a resolution in support of the project.



In 2006, the Arctic Winter Games will be hosted on the Kenai Peninsula. Thousands of athletes, international officials, and spectators will be coming to the region for this event. Our well-developed ski trails were instrumental in the Arctic Winter Games Site Committee's choice (see attached). However, this particular parcel is needed to legally connect and preserve this existing trail system.

With your approval, I would like to pursue receipt authorization for these funds through the Revised Program for Unanticipated Federal Receipts with the Legislative Budget and Audit Committee.

Sincerely,



Representative Paul K. Seaton
House District 35

Attachments: Homer Chamber of Commerce letter
Arctic Winter Games Site Committee document
City of Homer resolution

cc: Cheryl Frasca and Jay Hogan, OMB
Rep. Ralph Samuels, LB&A

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSHB498(RES)werkdraftVerC
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Natural Resources
 Title Sale or Trade of State Land RDU Resource Development
 Component Land Sales/Municipal Entitlements
 Sponsor Rep. Seaton
 Requester (H) RES Component No. 2456

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	95.3	95.3	95.3	95.3	95.3	95.3
Travel	10.0	10.0	10.0	10.0	10.0	10.0
Contractual	15.0	15.0	15.0	15.0	15.0	15.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	120.3	120.3	120.3	120.3	120.3	120.3

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	120.3	120.3	120.3	120.3	120.3	120.3
1005 GF/Program Receipts						
1037 GF/Mental Health						
University Endow./PS trust fund						
1153 Land Disposal Income Fund						
TOTAL	120.3	120.3	120.3	120.3	120.3	120.3

Estimate of any current year (FY2004) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time	1	1	1	1	1	1
Part-time	2	2	2	2	2	2
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*
 HB 498 requires the department to sell an amount of settlement or agricultural land equal to or greater than the acreage acquired by the state from private individuals either through purchase or eminent domain. The legislation stipulates that the land sold under this section shall be of equal or greater value, reasonably proximate in location, close in time to the acquisition, and demonstrate similar economic development potential to the land acquired by the state.

 The legislation also requires that the commissioner consider reclassifying certain lands as settlement land or agricultural land in order to satisfy the requirements of the section.

 cont.

Prepared by: Bob Loeffler, Director Phone 269-8600
 Division: Mining, Land and Water Date/Time 4/15/04
 Approved by: Thomas Irwin, Commissioner Date 4/15/04
 Agency: Natural Resources

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. CSHB498(RES)workdraftVerC

ANALYSIS CONTINUATION

This legislation would require DNR to track all state acquisitions of private land to determine those that fit the standards set, identify and assess suitable replacement lands and sell or trade these lands to replace the lands acquired from the private domain. DNR would need to track all acquisitions originating within DNR (including State Parks and ADF&G acquisitions which are done by DNR), as well as those qualifying acquisitions made by the Departments of Education, Administration, Transportation and Public Facilities (when acquired for airports, ports, public facilities), the University of Alaska, the Mental Health Trust Unit, or the Alaska Railroad. Lands acquired for easements or rights-of-way by the DNR (for EVOS purposes) or DOT&PF would be exempt.

Though the amount of land acquired by the state through purchase or eminent domain varies from year to year, based on historic records, DNR anticipates that approximately 4,800 acres of land acquisitions annually would qualify for disposal under this proposal. These lands would be contained in any number of tract sizes and number from scores to hundreds of individual parcels.

The state land acquisition tracking efforts would require:

1 NRS I – @\$52.0 for six (6) months = \$26.0

The state land replacement assessment, including reclassifying lands to settlement status would require:

1 NRS II – @\$59.0 for six (6) months = \$29.5

1 NRS I – @\$52.0 for six (6) months = \$26.0

1 Appraiser I – @\$55.0 for three (3) months = \$13.8

In addition, DNR estimates that it would require at least \$10.0 in travel costs to examine subject properties and \$15.0 in contractual costs for appraisal services.

Once the land has been identified, preparing for and conducting the land sale will be handled by existing Land Sales staff. Land sale costs such as public notice, brochures and contract issuance will be assumed as part of the existing land sale program. The bill will not result in increased land sales as the amount of land currently offered for sale (over 23,000 acres currently available over-the-counter, plus new offerings) exceeds the amount of acquisitions (estimated at 4,800 acres). No additional revenue is anticipated as DNR assumes that the acreage identified to be sold under this program will replace an equal amount of acreage that would have been sold under the existing program.