

LEASES, PERMITS, AND CONTRACTS FOR BUILDINGS, FACILITIES, AND PROPERTIES IN THE NATIONAL WILDLIFE REFUGE SYSTEM

NOVEMBER 4, 2003.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. POMBO, from the Committee on Resources,
submitted the following

R E P O R T

[To accompany H.R. 1204]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 1204) to amend the National Wildlife Refuge System Administration Act of 1966 to establish requirements for the award of concessions in the National Wildlife Refuge System, to provide for maintenance and repair of properties located in the System by concessionaires authorized to use such properties, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. LEASES, PERMITS, AND CONTRACTS FOR BUILDINGS, FACILITIES, AND PROPERTIES IN THE NATIONAL WILDLIFE REFUGE SYSTEM.

(a) **IN GENERAL.**—The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.) is amended by—

- (1) striking section 6 (relating to amendments to other laws, which have executed);
- (2) redesignating section 5 (16 U.S.C. 668ee) as section 6; and
- (3) inserting after section 4 the following:

“SEC. 5. CONCESSION CONTRACTS.

“(a) **CONTRACT REQUIREMENT.**—(1) The Secretary shall not authorize a person to use any land or water in the System for any activity described in subsection (b), except under a contract that complies with the requirements established under subsection (c).

“(2) The Secretary may not award a contract required under this subsection except under a competitive bidding process.

“(3) This subsection does not apply with respect to any administrative site, visitors facility, or revenue producing visitor service mandated or authorized pursuant

to section 1306 or 1307 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3196, 3197).

“(b) COVERED CONCESSION ACTIVITIES.—(1) The activity referred to in subsection (a) is any commercial activity conducted to provide accommodations, facilities, or services to members of the public who are visiting lands or waters in the System, for the purpose of providing such visitors recreational, educational, or interpretive enjoyment of lands or waters in the System.

“(2) Such activity does not include—

“(A) any activity carried out under a procurement contract, grant agreement, memorandum of understanding, or cooperative agreements;

“(B) the performance of volunteer services;

“(C) any activity by a governmental entity;

“(D) the operation of a bookstore in a refuge facility by a national wildlife refuge Friends organization; and

“(E) those revenue producing visitor services, as that term is used in sections 36.37 and 36.41 of title 50, Code of Federal Regulations, provided within any national wildlife refuge area in Alaska.

“(c) STANDARDIZED CONTRACT.—(1) The Secretary, acting through the Director, shall issue regulations that implement this section.

“(2) Regulations under this subsection shall authorize a contract to use a provision other than those specified, by the Secretary as part of a standardized contract only if—

“(A) the provision addresses extenuating circumstances that are specific to a refuge or the contract; and

“(B) the provision is approved by the Secretary in writing.

“(3) The Secretary shall require in each contract provisions that require that any activity conducted in the System under the contract—

“(A) must be a compatible use; and

“(B) must be designed to—

“(i) conserve the natural and cultural resources of the System;

“(ii) facilitate the enjoyment of the lands and waters of the System by visitors to the System; and

“(iii) enhance such visitors’ knowledge of the natural resources of the System.

“(d) MAINTENANCE AND REPAIR.—(1) Notwithstanding any other provision of law, the Secretary shall include, in each contract that authorizes a person to use any land or water in the System for any activity described in subsection (b), provisions that—

“(A) authorize the person to maintain or repair any improvement on or in such land or water that the person is authorized to use for such activity; and

“(B) treat costs incurred by the person for such maintenance or repair as consideration otherwise required to be paid to the United States for such use.

“(2) This subsection does not authorize any maintenance or repair that is not directly related to an activity described in subsection (b) that is authorized by the contract.

“(3) The United States shall retain title to all real property that is maintained or repaired under this subsection.

“(e) NO COMPENSABLE INTEREST.—Nothing in this Act shall be considered to convey to any person any right to compensation for—

“(1) the value of any maintenance activities, repairs, construction, or improvements on or in land or water in the System; or

“(2) buildings, facilities, fixtures, and non-movable equipment that the person is authorized to use under this Act.

“(f) EXPENDITURE OF FEES AND OTHER PAYMENTS.—(1) Amounts received by the United States as fees or other payments required under any agreement, lease, permit, or contract for use of real property located in an area in the System, other than lands withdrawn for Native selection pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) shall be available to the Secretary for expenditure in accordance with this subsection, without further appropriation.

“(2) Amounts available for expenditure under this subsection may only be used—

“(A) at the refuge or refuge complex with respect to which the amounts were received as fees or other payments;

“(B) to increase the quality of the visitor experience; and

“(C) for purposes of—

“(i) backlogged repair and maintenance projects (including projects relating to health and safety);

“(ii) interpretation, signage, habitat, or facility enhancement; or

“(iii) administration of agreements, leases, permits, and contracts from which such amounts are derived.

“(3) Paragraph (1) shall not affect the application of the Act of June 15, 1935 (chapter 261; 16 U.S.C. 715s), commonly referred to as the Refuge Revenue Sharing Act, to amounts referred to in paragraph (1) that are not expended by the Secretary under paragraph (1).”

(b) APPLICATION.—Section 5(a) of the National Wildlife Refuge System Administration Act of 1966, as amended by this section, shall apply only with respect to a concession that is—

(1) first awarded after the date of the publication of regulations under section 5(c) of the National Wildlife Refuge System Administration Act of 1966, as amended by this section; or

(2) renewed after the end of the 3-year period beginning on the date of the enactment of this Act.

(c) DEADLINE FOR REGULATIONS ESTABLISHING PROGRAM REQUIREMENTS.—The Secretary of the Interior shall issue regulations under section 5(c) of the National Wildlife Refuge System Administration Act of 1966, as amended by this section, by not later than 18 months after the date of the enactment of this Act.

(d) COMPREHENSIVE CONSERVATION PLAN REQUIREMENT.—Section 4(e) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd) is amended by adding at the end the following:

“(5) The Secretary shall include, in the comprehensive conservation plan for each refuge under this subsection, a description of the activities that may be conducted in the refuge, and the lands, waters, and facilities of the refuge that may be used, under concession contracts awarded under section 5(a).”

(e) PRIOR AMENDMENTS NOT AFFECTED.—Nothing in this section shall be construed to affect any amendment made by section 6 of the National Wildlife Refuge System Administration Act of 1966, as in effect before the enactment of this Act, or any provision of law amended by such section.

SEC. 2. ANNUAL REPORT ON NATIONAL WILDLIFE REFUGE CONCESSIONS.

(a) REPORTING REQUIREMENT.—The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.) is further amended by amending section 7 (relating to amendments to another law, which have executed) to read as follows:

“SEC. 7. ANNUAL REPORT ON CONCESSION ACTIVITIES IN THE SYSTEM.

“(a) IN GENERAL.—The Secretary shall submit by December 31 each year, to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate, a report on concessions activities conducted in the System.

“(b) CONTENTS.—Each report under this section shall describe the following with respect to the period covered by the report:

“(1) The number of refuge units in which concessions activities were conducted.

“(2) The names and descriptions of services offered in the System by each concessionaire.

“(3) A listing of the different types of legal arrangements under which concessionaires operated in the System, including contracts, memoranda of understanding, permits, letters of agreement, and other arrangements.

“(4) Amounts of fees or other payments received by the United States with respect to such activities from each concessionaire, and the portion of such funds expended for purposes under this Act.

“(5) An accounting of the amount of monies deposited into the fund established by section 401 of the Act of June 15, 1935 (chapter 261; 16 U.S.C. 715s), popularly known as the refuge revenue sharing fund, and of the balance remaining in the fund at the end of the reporting period.

“(6) A listing of all concession contracts and other arrangements that were terminated or not renewed within the reporting period.

“(7) A summary of all improvements in visitor services in the System that were completed by concessionaires and volunteers during the reporting period.

“(8) A summary of all backlogged repair and maintenance, facility enhancement, and resource preservation projects completed by concessionaires and volunteers during the reporting period.”

(b) DEADLINE FOR FIRST REPORT.—The Secretary of the Interior shall submit the first report under the amendment made by subsection (a) by not later than 1 year after the date of the enactment of this Act.

PURPOSE OF THE BILL

The purpose of H.R. 1204 is to amend the National Wildlife Refuge System Administration Act of 1966 to establish requirements

for the award of concessions in the National Wildlife Refuge System, to provide for maintenance and repair of properties located in the System by concessionaires authorized to use such properties, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

The National Wildlife Refuge System is comprised of Federal lands that have been acquired or designated for the conservation and enhancement of fish and wildlife. The System is administered by the U.S. Fish and Wildlife Service and it is managed in accordance with the National Wildlife Refuge System Administration Act of 1966. The Act was amended and updated by the National Wildlife Refuge Improvement Act of 1997 (P.L. 105-57).

The statutory mission of the System is “to administer a national network of lands and waters for the conservation, management, and where appropriate, restoration of the fish, wildlife, and plant resources and their habitats within the United States for the benefit of present and future generations of Americans.” Recreational and other uses of System lands are permitted if those uses are compatible with the mission of the System and the purposes for which the refuge was established. In fact, thirty-eight million people visited refuges last year. The System is comprised of about 94 million acres of land incorporated within 542 refuges and 37 wetland management districts which provides habitat for hundreds of fish and wildlife species. Refuges are located in all 50 States and five U.S. Territories.

The System includes; 2,700 employees; 5,000 buildings; 2,000 utility systems; 10,000 miles of dikes, levees and fences; 5,500 miles of public roads; 23,000 water control structures; 690 dams; 2,500 public use structures such as boardwalks, observation platforms or boat launch sites; and about 4,000 items of construction or agricultural equipment, such as tractors, mowers, backhoes, graders, and forklifts and thousands of tools, pumps and scientific equipment.

In Fiscal Year 2003, the System received \$369,800,000 for System operation and maintenance, the paychecks and materials needed to keep the employees, volunteers, facilities and equipment at work throughout the year. By comparison, in Fiscal Year 2003, the smaller 84 million acre National Park System received nearly \$2.4 billion for operations and maintenance funds.

In Fiscal Year 2003, the deferred maintenance backlog in the Maintenance Management System (MMS) database includes 5,086 projects. Completion of these projects is estimated to cost \$645 million. In addition to the deferred maintenance backlog, the MMS database also includes the backlog of construction projects valued at more than \$500,000, or, in the case of existing facilities, more than 10 percent of the cost of the facility needing expansion, renovation or repair. The database currently includes 493 construction projects valued at \$797 million. Critical Refuge Operations Needs Survey needs are estimated at \$335 million. The total replacement value of assets within the National Wildlife Refuge System is \$7 billion. These backlog figures are important in order to put in proper perspective the rationale why the U.S. Fish and Wildlife Service has not been unable to maintain various buildings and properties

within the refuge system that are leased or utilized by private concessionaires.

Concessionaires within the refuge system

For nearly seventy years, the Secretary of the Interior has been statutorily authorized by Section 401 of the Act of June 15, 1935 to grant privileges or concessions on units of the refuge system. Concessions are defined as businesses operated by a private enterprise that provides recreational, educational and interpretive enjoyment for the visiting public. A concession offers a public service and it generally requires some capital investment by the concessionaire for facilities and products. In 1966, the Secretary was authorized by the National Wildlife Refuge System Administration Act to negotiate and enter into contracts with any person, public agency or private enterprise for public accommodations that are not inconsistent with the purposes for which the refuge was established. The National Wildlife Refuge Improvement Act of 1997 requires all refuge Comprehensive Conservation Plans to determine if a concession is compatible with the purposes of the individual refuge unit.

Furthermore, the U.S. Fish and Wildlife Service retains title to all property utilized by concessionaires. By statute, the Service may only accept money for the rental and/or use of Service property and facilities. Therefore, the Service alone is responsible for the maintenance and upkeep of all federal buildings and facilities found within the boundaries of the refuge system.

After completing a 2002 survey of existing concessionaires of the National Wildlife Refuge System, it appears there are about fifty refuge units that have various concession type services. In fourteen cases, concessionaires have signed five year contracts after a formal government bidding process and the Service has established a minimum payment of a 5 percent franchise fee. The services offered range from boat and canoe rentals, bookstores, campgrounds, ferries, gift shops, interpretive tours, sleigh rides and tour boat operators. In almost all other cases, concessionaires have signed letters of agreement, memoranda of understanding, special use permits or leases with the Fish and Wildlife Service. All revenues paid to the Service by concessionaires in the form of annual franchise fees or a percentage of gross receipts are credited to the National Wildlife Refuge Fund. As specified under Title 40 U.S.C. 303(b), these funds may not be used to offset concession related refuge administrative, capital improvements and maintenance expenses. While the Service has not made an income projection for the current fiscal year, it collected \$204,000 in FY'00, \$227,400 in FY'01 and \$187,224 in FY'02.

Based on the survey of refuge managers at the affected concession units, it is clear that a number of buildings, docks, restrooms and storage facilities are in extremely poor condition. Concessionaires have been unable to repair these facilities because of the current statutory restrictions. It is regrettable that these refuge facilities have not been properly maintained. In many cases, concessions afford the public the opportunity to experience "hands on" the positive aspects of a wildlife refuge and to obtain a greater appreciation on how their tax dollars are spent.

Title 40 U.S.C. 303(b) limits flexibility available to refuge managers to collaborate with concessionaires to use non-federal funds to address deteriorating facilities. The Service has been unable to return refuge incurred expenses for the administration, capital improvement and maintenance expenses involved with providing concession opportunities. The operation of concessions on refuge land has been viewed as a low priority issue.

As the size of the refuge system has increased, there has been a decrease in the amount of funding available to provide quality recreational opportunities, staff to provide interpretation and environmental education and to modernize facilities. An option for providing wildlife dependent recreational opportunities such as hunting, fishing, wildlife observation, wildlife photography, interpretation and environmental education, which are priority uses of the National Wildlife Refuge System, is to allow private concessionaires to provide those services. Concession operations should be viewed as a management tool to facilitate services to the visiting public.

H.R. 1204 would amend the National Wildlife Refuge System Administration Act to establish a new policy for those private concessionaires who use federal property within our national wildlife refuge system. The Secretary of the Interior would be authorized to establish a standardized refuge concession contract, to include in any future contracts with a concessionaire language that allows the lessee to maintain or repair any structure within the refuge unit and to treat those costs as compensation for using those facilities and the Secretary would be required to produce an annual report on concession activities. Furthermore, H.R. 1204 limits expenditures by concessionaires within the refuge system to a specific list of authorized items including: backlogged repair and maintenance projects, interpretation, signage, habitat, facility enhancement, resource protection and preservation and the administration of the contracts. The Fish and Wildlife Service will retain the right to determine whether a specific repair is warranted, they will obtain estimates for any repair or maintenance work and these projects are expected to be selected from the Maintenance Management System database. No concessionaires would acquire any possessory interest in any facilities improved by them.

COMMITTEE ACTION

H.R. 1204 was introduced on March 11, 2003, by Congressman Mark Souder (R-IN). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on Fisheries Conservation, Wildlife and Oceans. On June 26, 2003, the Subcommittee held a hearing on the bill. On July 17, 2003, the Subcommittee met to mark up the bill. Mr. Souder offered an amendment in the nature of a substitute to provide flexibility to the Fish and Wildlife Service to establish a standardized concession contract, exempted bookstores operated by national wildlife refuge friends groups from the contract requirement, streamlined how concession funds can be spent and clarified that guides and outfitters in Alaska are not required to have a concession contract. The amendment was adopted by voice vote. The bill, as amended, was then forwarded by voice vote to the Full Committee. On September 24, 2003, the Full Resources Committee met to consider the bill. No

further amendments were offered and the bill, as amended, was then ordered favorably reported to the House of Representatives by unanimous consent.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, credit authority, or an increase or decrease in revenues or tax expenditures. According to the Congressional Budget Office, this bill would have a negligible impact on direct spending.

3. General performance goals and objectives. This bill does not authorize funding and therefore, clause 3(c)(4) of rule XIII of the Rules of the House of Representatives does not apply.

4. Congressional Budget Office cost estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 23, 2003.

Hon. RICHARD W. POMBO,
*Chairman, Committee on Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1204, a bill to amend the National Wildlife Refuge System Administration Act of 1966 to establish requirements for the award of concessions in the National Wildlife Refuge System and to provide for maintenance and repair of properties located in the System by concessionaires authorized to use such properties.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff is Deborah Reis.

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

Enclosure.

H.R. 1204—A bill to amend the National Wildlife Refuge System Administration Act of 1966 to establish requirements for the award of concessions in the National Wildlife Refuge System to provide for maintenance and repair of properties located in the System by concessionaires authorized to use such properties

H.R. 1204 would establish a new policy governing the use of private concessions to provide public accommodations and services at national wildlife refuges. CBO estimates that enacting the bill would have no significant impact on the federal budget. H.R. 1204 would affect direct spending (included offsetting receipts), but we estimate that any impact could be negligible.

The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would have no significant impact on the budgets of state, local, or tribal governments.

H.R. 1204 would require the U.S. Fish and Wildlife Service (USFWS) to enter into agreements with concessions only through formal contracts. The bill would require that each standardized contract contain a provision allowing the concessioner to provide maintenance or other work directly benefitting the facilities it uses in exchange for paying a lower fee to the government. Any fees that are received from concessioners could be spent without further appropriation for purposes such as contract administration and refuge improvements.

At present, agreements between the USFWS and concessions (including nonprofit organizations) take several different forms, including contracts, special-use permits, and memoranda of understanding. Fee of these agreements result in any income to the government. The offsetting receipts presently collected (less than \$300,000 a year) are deposited into the National Wildlife Refuge Fund and later spent, without further appropriation, on administrative costs or refuge revenue-sharing payments to local governments.

CBO expects that implementing H.R. 1204 would cause a permanent loss of offsetting receipts over the next few years because both the USFWS and its current contractors would probably find it advantageous to renegotiate existing fee-generating agreements as quickly as the bill would allow. New contracts would allow these concessions to provide maintenance and related work on the property they use in consideration for reduced concessions fees or lease payments—an exchange that is not permitted under existing law. Because spending would fall correspondingly, these would be no net impact of these changes on the federal budget.

The CBO staff contact for this estimate is Deborah Reis. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

**NATIONAL WILDLIFE REFUGE SYSTEM
ADMINISTRATION ACT OF 1966**

SEC. 4. (a) * * *

* * * * *

(e)(1) * * *

* * * * *

(5) The Secretary shall include, in the comprehensive conservation plan for each refuge under this subsection, a description of the activities that may be conducted in the refuge, and the lands, waters, and facilities of the refuge that may be used, under concession contracts awarded under section 5(a).

* * * * *

SEC. 5. CONCESSION CONTRACTS.

(a) **CONTRACT REQUIREMENT.**—(1) *The Secretary shall not authorize a person to use any land or water in the System for any activity described in subsection (b), except under a contract that complies with the requirements established under subsection (c).*

(2) *The Secretary may not award a contract required under this subsection except under a competitive bidding process.*

(3) *This subsection does not apply with respect to any administrative site, visitors facility, or revenue producing visitor service mandated or authorized pursuant to section 1306 or 1307 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3196, 3197).*

(b) **COVERED CONCESSION ACTIVITIES.**—(1) *The activity referred to in subsection (a) is any commercial activity conducted to provide accommodations, facilities, or services to members of the public who are visiting lands or waters in the System, for the purpose of providing such visitors recreational, educational, or interpretive enjoyment of lands or waters in the System.*

(2) *Such activity does not include—*

(A) *any activity carried out under a procurement contract, grant agreement, memorandum of understanding, or cooperative agreements;*

(B) *the performance of volunteer services;*

(C) *any activity by a governmental entity;*

(D) *the operation of a bookstore in a refuge facility by a national wildlife refuge Friends organization; and*

(E) those revenue producing visitor services, as that term is used in sections 36.37 and 36.41 of title 50, Code of Federal Regulations, provided within any national wildlife refuge area in Alaska.

(c) **STANDARDIZED CONTRACT.**—(1) The Secretary, acting through the Director, shall issue regulations that implement this section.

(2) Regulations under this subsection shall authorize a contract to use a provision other than those specified, by the Secretary as part of a standardized contract only if—

(A) the provision addresses extenuating circumstances that are specific to a refuge or the contract; and

(B) the provision is approved by the Secretary in writing.

(3) The Secretary shall require in each contract provisions that require that any activity conducted in the System under the contract—

(A) must be a compatible use; and

(B) must be designed to—

(i) conserve the natural and cultural resources of the System;

(ii) facilitate the enjoyment of the lands and waters of the System by visitors to the System; and

(iii) enhance such visitors' knowledge of the natural resources of the System.

(d) **MAINTENANCE AND REPAIR.**—(1) Notwithstanding any other provision of law, the Secretary shall include, in each contract that authorizes a person to use any land or water in the System for any activity described in subsection (b), provisions that—

(A) authorize the person to maintain or repair any improvement on or in such land or water that the person is authorized to use for such activity; and

(B) treat costs incurred by the person for such maintenance or repair as consideration otherwise required to be paid to the United States for such use.

(2) This subsection does not authorize any maintenance or repair that is not directly related to an activity described in subsection (b) that is authorized by the contract.

(3) The United States shall retain title to all real property that is maintained or repaired under this subsection.

(e) **NO COMPENSABLE INTEREST.**—Nothing in this Act shall be considered to convey to any person any right to compensation for—

(1) the value of any maintenance activities, repairs, construction, or improvements on or in land or water in the System; or

(2) buildings, facilities, fixtures, and non-movable equipment that the person is authorized to use under this Act.

(f) **EXPENDITURE OF FEES AND OTHER PAYMENTS.**—(1) Amounts received by the United States as fees or other payments required under any agreement, lease, permit, or contract for use of real property located in an area in the System, other than lands withdrawn for Native selection pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) shall be available to the Secretary for expenditure in accordance with this subsection, without further appropriation.

(2) Amounts available for expenditure under this subsection may only be used—

(A) at the refuge or refuge complex with respect to which the amounts were received as fees or other payments;

(B) to increase the quality of the visitor experience; and

(C) for purposes of—

(i) backlogged repair and maintenance projects (including projects relating to health and safety);

(ii) interpretation, signage, habitat, or facility enhancement; or

(iii) administration of agreements, leases, permits, and contracts from which such amounts are derived.

(3) Paragraph (1) shall not affect the application of the Act of June 15, 1935 (chapter 261; 16 U.S.C. 715s), commonly referred to as the Refuge Revenue Sharing Act, to amounts referred to in paragraph (1) that are not expended by the Secretary under paragraph (1).

【SEC. 6. Section 4(b) of the Act of March 16, 1934 (48 Stat. 451), as amended (16 U.S.C. 718d(b)), is further amended by changing the colon after the word “areas” to a period and striking the provisos, which relate to hunting at certain wildlife refuges and which are now covered by section 4 of this Act.

【SEC 7. (a) Sections 4 and 12 of the Migratory Bird Conservation Act (45 Stat. 1222), as amended (16 U.S.C. 715c and 715k), are further amended by deleting the word “game” wherever it appears.

【(b) Section 10 of the Migratory Bird Conservation Act (45 Stat. 1224), as amended (16 U.S.C. 715i), which relates to the administration of certain wildlife refuges, is amended to read as follows:

【“SEC. 10. (a) Areas of lands, waters, or interests therein acquired or reserved pursuant to this Act shall, unless otherwise provided by law, be administered by the Secretary of the Interior under rules and regulations prescribed by him to conserve and protect migratory birds in accordance with treaty obligations with Mexico and Canada, and other species of wildlife found thereon, including species that are threatened with extinction, and to restore or develop adequate wildlife habitat.

【“(b) In administering such areas, the Secretary is authorized to manage timber, range, and agricultural crops; to manage other species of animals, including but not limited to fenced range animals, with the objectives of perpetuating, distributing, and utilizing the resources; and to enter into agreements with public and private agencies.”

【(c) Section 11 of the Migratory Bird Conservation Act (45 Stat. 1224) (16 U.S.C. 715j) is amended by striking the period at the end thereof and adding the following: “(39 Stat. 1702) and the treaty between the United States and the United Mexican States for the protection of migratory birds and game mammals concluded February 7, 1936 (50 Stat. 1311).”

【(d) Sections 13 and 14 of the Migratory Bird Conservation Act (45 Stat. 1224), as amended (16 U.S.C. 715l and 715m), which provide for the enforcement of said Act and for penalties for violations thereof and which are covered by section 4 of this Act, are repealed.】

SEC. [5.] 6. DEFINITIONS.

For purposes of this Act:

(1) The term “compatible use” means a wildlife-dependent recreational use or any other use of a refuge that, in the sound professional judgment of the Director, will not materially inter-

ferre with or detract from the fulfillment of the mission of the System or the purposes of the refuge.

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SEC. 7. ANNUAL REPORT ON CONCESSION ACTIVITIES IN THE SYSTEM.

(a) *IN GENERAL.*—The Secretary shall submit by December 31 each year, to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate, a report on concessions activities conducted in the System.

(b) *CONTENTS.*—Each report under this section shall describe the following with respect to the period covered by the report:

(1) The number of refuge units in which concessions activities were conducted.

(2) The names and descriptions of services offered in the System by each concessionaire.

(3) A listing of the different types of legal arrangements under which concessionaires operated in the System, including contracts, memoranda of understanding, permits, letters of agreement, and other arrangements.

(4) Amounts of fees or other payments received by the United States with respect to such activities from each concessionaire, and the portion of such funds expended for purposes under this Act.

(5) An accounting of the amount of monies deposited into the fund established by section 401 of the Act of June 15, 1935 (chapter 261; 16 U.S.C. 715s), popularly known as the refuge revenue sharing fund, and of the balance remaining in the fund at the end of the reporting period.

(6) A listing of all concession contracts and other arrangements that were terminated or not renewed within the reporting period.

(7) A summary of all improvements in visitor services in the System that were completed by concessionaires and volunteers during the reporting period.

(8) A summary of all backlogged repair and maintenance, facility enhancement, and resource preservation projects completed by concessionaires and volunteers during the reporting period.

* * * * *