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SENATE

{ REPORT
{ 108-236

HARPERS FERRY NATIONAL HISTORICAL PARK BOUNDARY REVISION ACT OF 2004

MARCH 9, 2004.—Ordered to be printed

Mr. DOMENICI, from the Committee on Energy and Natural Resources, submitted the following

R E P O R T

[To accompany S. 1576]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1576) to revise the boundary of Harpers Ferry National Historical Park, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE MEASURE

The purpose of S. 1576 is to revise the boundary of the Harpers Ferry National Historical Park to include approximately 772 acres of Federal land and to authorize the Secretary of the Interior to acquire approximately 368 acres for addition to the park.

BACKGROUND AND NEED

Originally established in June 1944, Harpers Ferry National Historical Park (NHP) has had three previous boundary expansions. In 1988, the National Park Service (NPS) was directed by Congress to study lands adjacent to the Harpers Ferry NHP to determine whether they had historical significance and merited federal protection. In addition to the Special Boundary Study, in 1993 the Congressionally chartered Civil War Sites Advisory Committee issued its *Report on the Nation's Civil War Battlefields*, which reaffirmed the importance of Harpers Ferry. The findings of these two reports have guided specific efforts to protect lands identified in the study.

The Harpers Ferry area first experienced tension between development and preservation interests when proposed housing developments threatened the historically significant School House Ridge

Battlefield. Over time, outreach by the NPS has helped to educate community members about the historic and other values of properties that could be acquired. The NPS also completed a study that resulted in a proposal for a new park boundary and acreage ceiling increase based on a broad public outreach effort. According to surveys conducted by the Park Service, 94 percent of respondents now strongly support this effort.

Harpers Ferry NHP today consists of 2,505 acres of land, the current statutory ceiling acreage for the park. The park is unable to acquire additional land parcels of historic value without new legislation. S. 1576 authorizes an expansion of the acreage ceiling to 3,745 acres, which allows the NPS to acquire an additional 1,240 acres. The new ceiling is sufficient to allow the NPS to acquire all the historically sensitive lands and incorporate them into the park, and would provide a 100-acre margin to allow for survey and land acquisition modifications.

LEGISLATIVE HISTORY

S. 1576 was introduced by Senators Byrd and Rockefeller on September 3, 2003. The Subcommittee on National Parks held a hearing on S. 1576 on October 2, 2003. S. Hrg. 108–225. At the business meeting on February 11, 2003, the Committee on Energy and Natural Resources ordered S. 1576 favorably reported.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on February 11, 2004, by a unanimous vote of a quorum present, recommended that the Senate pass S. 1576.

The rollcall vote on reporting the measure was 23 yeas, 0 nays, as follows:

YEAS

NAYS

Mr. Domenici
 Mr. Nickles
 Mr. Craig
 Mr. Campbell*
 Mr. Thomas
 Mr. Alexander
 Ms. Murkowski
 Mr. Talent
 Mr. Burns
 Mr. Smith*
 Mr. Bunning
 Mr. Kyl*
 Mr. Bingaman
 Mr. Akaka
 Mr. Dorgan*
 Mr. Graham of Florida*
 Mr. Wyden*
 Mr. Johnson*
 Ms. Landrieu*
 Mr. Bayh*
 Mrs. Feinstein*
 Mr. Schumer*
 Ms. Cantwell

* Indicates voted by proxy.

SECTION-BY-SECTION ANALYSIS

Section 1 entitles this Act the “Harpers Ferry National Historical Park Boundary Revision Act of 2004”.

Section 2 amends the first section of the Act of June 30, 1944 (58 Stat. 645, chapter 328; 16 U.S.C. 450bb).

Subsections (a) and (b) of section 1 as amended, authorize the Secretary of the Interior to acquire land within the boundaries of the Park.

Subsection (c)(1) adds new language which authorizes the Secretary of the Interior to acquire by purchase from a willing seller with donated or appropriated funds, by donation or by exchange, land or an interest in land within the boundaries as depicted as “Private Lands” on the map entitled “Harpers Ferry National Historical Park Proposed Boundary Expansion”, numbered 385/80126, and dated July 14, 2003.

Paragraph 2(A) transfers to the National Park Service for inclusion in the park the land depicted on the referenced map as “U.S. Fish and Wildlife Service Lands” and revises the boundary of the Park accordingly.

Paragraph 2(B) revises the boundary of the park to include the land depicted on the referenced map as “Appalachian NST” and excludes that land from the boundary of the Appalachian National Scenic Trail.

Subsection (d) increases the acreage ceiling for the Park to 3,745 acres.

Subsection (e) requires that all maps shall be on file and available for public inspection in the appropriate offices of the National Park Service.

Subsection (f) requires that land or interest in land acquired under this section become a part of the park.

Subsection (g) authorizes appropriations.

Section 3 makes minor conforming amendments to the Act of June 30, 1944.

COST AND BUDGETARY CONSIDERATIONS

The Congressional Budget Office estimate of the costs of this measure has been requested but was not received at the time the report was filed. When the report is available, the Chairman will request it to be printed in the Congressional Record for the advice of the Senate.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1576. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 1576, as ordered reported.

EXECUTIVE COMMUNICATIONS

On February 11, 2004, the Committee on Energy and Natural Resources requested legislative reports from the Department of Interior and the Office of Management and Budget setting forth Executive agency recommendations on S. 1576. These reports had not been received at the time the report on S. 1576 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by the National Park Service at the Subcommittee hearing follows:

STATEMENT OF SUE MASICA, ASSOCIATE DIRECTOR, PARK PLANNING, FACILITIES, AND LANDS, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman, thank you for the opportunity to present the views of the Department of the Interior on S. 1576, a bill to provide for additional lands to be included within the boundary of Harpers Ferry National Historical Park in the state of West Virginia.

The Department supports enactment of this legislation if amended in accordance with this statement. S. 1576 would authorize the Secretary of the Interior to expand the boundary of Harpers Ferry National Historical Park to include lands that are critical to preserving resources that tell the stories there. The Department recommends that the legislation be amended to include in the boundary only the transfer of lands from the U.S. Fish and Wildlife Service and the Appalachian National Scenic Trail to Harpers

Ferry National Historical Park, and the donation of 177 acres of private lands from the Civil War Preservation Trust. The Department recognizes the importance of including in the boundary the remaining private lands, but we recommend that the committee defer action on authorizing the acquisition of these lands during the remainder of the 108th Congress. To meet the President's Initiative to eliminate the deferred maintenance backlog, we need to continue to focus our resources on caring for existing areas in the National Park System.

Located at the confluence of the Potomac and Shenandoah Rivers, Harpers Ferry has a history that has few parallels in the American drama. The park commemorates a diverse number of people and events, decisions, and actions that influenced the course of our nation's history over 230 years. In 1944, Congress established Harpers Ferry as "a public national memorial commemorating the historical events that occurred at or near Harpers Ferry."

This bill would add nine parcels of land to the boundary of the park to provide permanent protection of resources that are integral in commemorating historical events that occurred at Harpers Ferry. These include properties on School House Ridge, which was the position of Confederate General Stonewall Jackson during the strategic battle for Harpers Ferry in 1862; the Werner tract, which protects the southern viewshed of the park; a portion of the Appalachian National Scenic Trail that contains Civil War campgrounds; several small properties that protect park viewsheds between Bolivar Heights and the Murphy Farm; and Potoma Wayside that protects part of the view Thomas Jefferson described in his Journals on the State of Virginia as "stupendous" and "worth a trip across the Atlantic." The wayside is also used as the take-out for white-water rafting companies and paddlers using the Shenandoah and Potomac rivers near Harpers Ferry.

In 2001, at the direction of Congress, the National Park Service undertook extensive outreach efforts and public meetings in and around Harpers Ferry, West Virginia, to explain the options for expanding the boundary of Harpers Ferry National Historical Park. These options were drawn from 12 years of public debate centered on the expansion of the park and were incorporated into documents that were widely disseminated to the public.

During the 2001 public outreach efforts, Harpers Ferry National Historical Park worked with the Appalachian National Scenic Trail, the U.S. Fish and Wildlife Service, private non-profit organizations, conservation organizations, state and local leaders, tourism and business interests, land developers, private landowners, and the public. Four public meetings were held throughout Jefferson County, West Virginia, and one or more meetings were held with each private landowner identified in the report. The National Park Service transmitted the results of the outreach efforts to Congress in a report titled "Report to the Senate Appropriations Committee of the United States Congress

on the Public Outreach Program at Harpers Ferry National Historical Park, in Harpers Ferry, West Virginia, to Explain the Options to Expand the Park's Boundary and Determine if there is a Public Consensus for Expansion" (September 2002). The report concluded that there exists an overwhelming public consensus (94 percent) for expansion of the park. Support for the expansion is equally strong among outreach participants at the local, regional and national levels.

The land in the proposed park expansion is largely federal. Lands held by the U.S. Fish and Wildlife Service and the Appalachian National Scenic Trail, which the park currently manages through agreements, would be transferred to the Harpers Ferry National Historical Park to be administered directly. The total federal acreage in the proposed legislation is 772 acres. There are also 368 acres of private land in the bill's proposed park expansion that the Secretary of the Interior would be authorized to acquire from willing sellers. The Civil War Preservation Trust owns 177 acres, which they want to donate to the Park, with the remaining 191 acres split among six individual owners. For the National Park Service to acquire these lands, the current park acreage ceiling of 2,505 acres needs to be increased to 3,745 acres, which includes a margin of 100 acres within the new ceiling for survey and acquisition corrections.

No appraisals have been done on the properties included in the proposed park expansion; however, based on recent comparable sales of property adjacent to the park, the National Park Service believes that the land acquisition costs would total approximately \$3.7 million to acquire all 191 acres of private land. With our proposed amendment, land acquisition costs would be negligible since it would be acquired through donation or transfer.

The land in the proposed expansion is mainly forest or agricultural farmland that contains a few structures. The National Park Service proposes to manage the forested lands as protected viewsheds, and the agricultural lands under the park's agricultural leasing program with an overlay of public trails and interpretive exhibits for public use and enjoyment. We originally estimated development costs to be less than \$500,000 including projects such as building small parking areas, restoring battlefields, developing trails, and creating exhibits. We also had estimated operational costs to administer all the land would add \$150,000 annually to Harpers Ferry's \$5.7 million operational costs, an increase of less than one percent.

With our proposed amendment, development costs would be reduced to approximately \$350,000 and operational costs would be reduced to approximately \$100,000.

That concludes my prepared statement Mr. Chairman. I would be pleased to answer any questions you or members of the committee may have.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 1576, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

16 U.S.C. 450bb

AN ACT to provide for the establishment of the Harpers Ferry National Monument

[Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized to accept donations of land, interest in land, buildings, structures, and other property in the vicinity of Harpers Ferry, West Virginia, not to exceed one thousand five hundred acres, as the Secretary of the Interior may deem necessary to carry out the purposes of this Act, and donations of funds for the purchase and maintenance thereof, the evidence of title to such lands to be satisfactory to the Secretary of the Interior. Any Federal land within the area designated by the Secretary of the Interior as necessary for monument purposes shall be transferred to the administration of the Department of the Interior and when so transferred shall become a part of the monument: Provided, That the Federal department or agency having administration over such land shall agree in advance to such transfer.]

SECTION 1. HARPERS FERRY NATIONAL HISTORICAL PARK.

(a) *IN GENERAL.*—*To carry, out the purposes of this Act, the Secretary of the Interior (referred to in this Act as the “Secretary”) is authorized to acquire, by purchase from a willing seller with donated or appropriated funds, by donation, or by exchange, land or an interest in land within the boundaries as generally depicted on the map entitled “Boundary Map, Harpers Ferry National Historical Park”, numbered 385–80,021A, and dated April 1979.*

(b) *BRADLEY AND RUTH NASH ADDITION.*—*The Secretary is authorized to acquire, by donation only, approximately 27 acres of land or interests in land that are outside the boundary of the Harpers Ferry National Historical Park and generally depicted on the map entitled “Proposed Bradley and Ruth Nash Addition—Harpers Ferry National Historical Parks”, numbered 385–80056, and dated April 1, 1989.*

(c) *BOUNDARY EXPANSION.*—

(1) *IN GENERAL.*—*The Secretary is authorized to acquire, by purchase from a willing seller with donated or appropriated funds, by donation, or by exchange, land or an interest in land within the area depicted as “Private Lands” on the map entitled “Harpers Ferry National Historical Park Proposed Boundary Expansion,” numbered 385/80,126, and dated July 14, 2003.*

(2) *ADMINISTRATION.*—*The Secretary shall—*

(A) *transfer to the National Park Service for inclusion in the Harpers Ferry National Historical Park (referred to in this Act as the “Park”) the land depicted on the map referred to in paragraph (1) as “U.S. Fish and Wildlife Serv-*

ice Lands” and revise the boundary of the Park accordingly; and

(B) revise the boundary of the Park to include the land depicted on the map referred to in paragraph (1) as “Appalachian NST” and exclude that land from the boundary of the Appalachian National Scenic Trail.

(d) MAXIMUM NUMBER OF ACRES.—The number of acres of the Park shall not exceed 3,745.

(e) MAPS.—The maps referred to in this section shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(f) ACQUIRED LAND.—Land or an interest in land acquired under this section shall become a part of the Park, subject to the laws (including regulations) applicable to the Park.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 2. The property acquired under the provisions of section 1 of this Act shall constitute the Harpers Ferry National Monument and shall be a public national memorial commemorating historical events at or near Harpers Ferry. The Director of the National Park Service under the direction of the [Secretary of the Interior] *Secretary* shall have the supervision, management, and control of such national monument, and shall maintain and preserve it for the benefit and enjoyment of the people of the United States, subject to the provisions of the Act of August 25, 1916 (39 Stat. 535), entitled “An Act to establish a National Park Service, and for other purposes”, as amended.

SEC. 3. The [Secretary of the Interior] *Secretary* is authorized to—

(1) Maintain, either in an existing structure acquired under the provisions of section 1 of this Act or in a building constructed by him for the purpose, a museum for relics and records pertaining to historic events that took place at Harpers Ferry, and for other relics of national and patriotic interest, and to accept on behalf of the United States, for installation in such museum, articles which may be offered as additions to the museum; and

(2) Construct roads and facilities and mark with monuments, tablets, or otherwise, points of interest within the boundaries of the Harpers Ferry National Monument.

SEC. 4. There are authorized to be appropriated such sums as may be necessary to carry out the improvements and maintenance on the lands and sites donated under the provisions of this Act.

Approved June 30, 1944.