

## Calendar No. 553

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SENATE

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### CHANNEL ISLANDS NATIONAL PARK

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JULY 31, 2006.—Ordered to be printed

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

### R E P O R T

[To accompany S. Res. 468]

The Committee on Energy and Natural Resources, to which was referred the resolution (S. Res. 468) supporting the continued administration of Channel Islands National Park, including Santa Rosa Island, in accordance with the laws (including regulations) and policies of the National Park Service, having considered the same, reports favorably thereon without amendment and recommends that the resolution do pass.

#### PURPOSE OF THE MEASURE

The purpose of S. Res. 468 is to support the continued administration of Channel Islands National Park, including Santa Rosa Island, in accordance with the laws, regulations, and policies of the National Park Service.

#### BACKGROUND AND NEED

In 1980, Congress included Santa Rosa Island within the boundaries of the newly established Channel Islands National Park. In the park's authorizing legislation (Public Law 96-199), Congress made the Federal acquisition of Santa Rosa Island a priority, requiring the Secretary to acquire lands on the island as "expeditiously as possible" after the passage of the Act.

In 1986, the National Park Service (NPS) purchased the entire 54,000-acre island in fee simple title from Vail & Vickers, Ltd. (V&V) for \$29.5 million. Under the Park's authorizing legislation, V&V was permitted to retain a 25-year, non-commercial reservation of use and occupancy on a 7.6-acre area containing the ranch house and a nearby field. In addition to the use and occupancy

lease, the NPS has also issued V&V a series of 5-year Special Use Permits, allowing them to continue prior activities, including cattle ranching and commercial deer and elk hunting. The issuance of these permits was unusual: Channel Islands National Park's establishing legislation does not allow for hunting within the park. And, commercial activities are not generally permitted within parks without a concessions contract.

In May 1995, the California Regional Water Quality Control Board issued a Clean Up and Abatement Order against the Park, alleging violation of the Clean Water Act on Santa Rosa Island. The Order charged that cattle and wild ungulates were destroying streamside areas, increasing the rate of soil erosion island-wide by an order of magnitude, and damaging water quality. On July 25, 1995, the U.S. Fish and Wildlife Service (FWS) proposed 8 plant species on Santa Rosa Island for listing under the Endangered Species Act. In October 1996, subsequent to the Clean Water Act violation and the proposed plant species listing, the National Parks and Conservation Association (NPCA) filed a lawsuit alleging that the National Park Service was violating the Clean Water Act and the Endangered Species Act by allowing V&V to continue to allow cattle, deer, and elk to graze the island.

In response to the lawsuit, the park completed a Resources Management Plan and Environmental Impact Statement in May 1997 to address impacts of cattle grazing and conservation of rare and endangered species on Santa Rosa Island. On July 31, 1997, the FWS listed 8 plant species on Santa Rosa Island as endangered or threatened under the Endangered Species Act.

In the fall of 1997, all parties involved (NPS, FWS, NPCA, V&V) agreed upon a mediated Settlement approved by the court. The Settlement Agreement required removal of almost all cattle from the island by December 31, 1998. The Settlement Agreement also established maximum numbers of deer and elk which could remain on the island until 2011, if recovery goals for two federally listed plant species could be met. V&V is required to remove all deer and elk from the island by 2011.

V&V has removed cattle from the island on schedule. Since the cattle left the island, park scientists have documented a considerable improvement in water quality and the recovery of streamside vegetation. Recovery goals for one of two endangered plant species have been met. However, the continued presence of deer fawns each spring on the island may be attracting golden eagles which prey on the endangered Santa Rosa Island Swift Fox.

Under the current Special Use Permit, V&V will manage a commercial hunt for deer and elk each year. The current permit is for the period October 1, 2003–December 31, 2008. Terms of the current Special Use Permit are linked to the Settlement Agreement. Hunts are operated by Multiple Use Managers, Inc. which charges \$9,000 to \$16,500, plus trophy fees, for 4 to 5-day hunts. There are approximately 80 trophy hunting clients per year. NPS receives no revenue from the hunting operation. The public is excluded from most of the island during hunts.

In 2005, there was a proposal to include language in the FY 2006 National Defense Authorization Act that would have transferred administrative jurisdiction over Santa Rosa Island from the NPS to the Department of Defense. The proposed language would have

also required that deer and elk populations on the island be maintained at current levels to provide hunting for disabled veterans and their guests. Ultimately, the proposed language was not included in the Act or the conference report.

On May 3, 2006, the House Armed Services Committee ordered reported the FY 2007 National Defense Authorization Act (H.R. 5122) with a provision concerning Santa Rosa Island. Section 1036(c) requires the Secretary of the Interior to immediately cease the plan, approved in the settlement agreement, to exterminate deer and elk on Santa Rosa Island. The section prohibits the Secretary from exterminating or nearly exterminating the deer and elk herds. H.R. 5122 was passed by the House of Representatives on May 11, 2005.

Although the settlement agreement does not require V&V to exterminate the elk, only to remove them from the island, it appears that the House-passed language would nullify the settlement agreement and require the NPS to manage the island in a way that is contrary to their management practices. S. Res. 468 resolves that Channel Islands National Park, including Santa Rosa Island, should be continued to be administered by the NPS in accordance with existing laws and policies, and that the NPS should not be directed to manage the island in a manner that would deny the public access to the island, or that would be inconsistent with NPS' responsibility to protect natural resources, including threatened and endangered species.

#### LEGISLATIVE HISTORY

S. Res. 468 was introduced by Senators Feinstein and Boxer on May 4, 2006. The Subcommittee on National Parks held a hearing on S. Res. 468 on May 16, 2006. At the business meeting on May 24, 2006, the Committee on Energy and Natural Resources ordered S. Res. 468 favorably reported.

#### COMMITTEE RECOMMENDATIONS

The Committee on Energy and Natural Resources, in open business session on May 24, 2006, by a unanimous voice vote of a quorum present, recommends that the Senate pass S. Res. 468.

#### SECTION-BY-SECTION ANALYSIS

S. Res. 468 resolves that Santa Rosa Island should be administered by the National Park Service in accordance with the existing laws, regulations, and policies governing the park. S. Res. 468 also resolves that the park should not be managed in a way that excludes the public from the island.

#### 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. Res. 468. 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. Res. 468, as ordered reported.

EXECUTIVE COMMUNICATIONS

The views of the Administration on S. Res. 468 were included in testimony received by the Committee at a hearing on the bill on May 16, 2006. This testimony follows:

STATEMENT OF STEPHEN MARTIN, DEPUTY DIRECTOR,  
NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman, thank you for the opportunity to appear before the subcommittee today to present the views of the Department of the Interior on S. Res. 468, supporting the continued administration of Channel Islands National Park, including Santa Rosa Island, in accordance with the laws (including regulations) and policies of the National Park Service.

Because S. Res. 468 is a Senate resolution that will not be signed into law, the Department is not taking a position on the resolution itself. However, the Department strongly agrees with the sentiment expressed by the resolution that the National Park Service (NPS) should continue to manage Channel Islands National Park, including Santa Rosa Island, in a manner that provides for protection of the park's resources and their enjoyment by visitors to the islands.

S. Res. 468 calls for the NPS to manage Santa Rosa Island, part of Channel Islands National Park, in a way that protects and allows interpretation of the natural, scenic, and cultural resources of the island and provides visitors with a safe and enjoyable park experience. It further states that the NPS should not be directed to manage Santa Rosa Island in a manner that would result in the public being denied access to significant portions of the island or that would be inconsistent with the responsibility of the NPS to protect native resources within the park.

We understand that S. Res. 468 is in response to repeated attempts in recent years to allow deer and elk, and associated hunting operations, to remain on Santa Rosa Island indefinitely. The current effort in this regard is language included in H.R. 5122, the National Defense Authorization for Fiscal Year 2007, which requires the Secretary of the Interior to stop the plan to remove the deer and elk from the island as required by a court-ordered settlement agreement. This provision would effectively overturn the 1998 settlement agreement, that the NPS is legally bound to, that requires the phaseout of non-native deer and elk over several years and their complete removal from the island by the end of 2011. Until the deer and elk are removed and the hunting operation ends, most of the island will remain closed to the public for significant portions of each year.

Channel Islands National Monument was designated in 1938 by President Franklin D. Roosevelt under the author-

ity of the Antiquities Act. In 1980, the monument was expanded to include additional islands, including the 54,000-acre Santa Rosa Island, and redesignated as Channel Islands National Park. The park's purpose is to protect the nationally significant natural, scenic, wildlife, marine, ecological, archaeological, cultural, and scientific values of the five out of the eight California Channel Islands that comprise the park.

The question of whether to allow hunting in units of the National Parks System is decided by Congress on a case-by-case basis. Congress discussed the issue of the appropriateness of hunting on the Channel Islands during consideration of the legislation to redesignate Channel Islands National Monument as a national park in 1979 and 1980, and made a deliberate decision not to allow hunting there. We feel that this is still the appropriate decision today.

It is important to note that once it was determined that Santa Rosa Island was to be incorporated within Channel Islands National Park, Vail and Vicker's, Ltd. (V&V) requested that Santa Rosa Island be the highest priority for acquisition by the NPS. This was reflected in the enabling legislation. In 1986, the NPS purchased Santa Rosa Island for \$29.5 million from V&V, who retained a 25-year non-commercial reservation of use and occupancy covering a 7.6-acre area containing the ranch house and a nearby field. At the request of V&V, supported by members of Congress, the NPS issued a series of 5-year special use permits (SUPs) to allow V&V to continue their cattle ranching and elk and deer hunting operations.

In 1996, because of the impacts on endangered species and water quality issues, the National Parks Conservation Association sued the NPS. In 1997, V&V sued NPS to retain their current SUP and continue their operations until 2011. A three-way settlement agreement, entered into court in 1998, provided for removing the cattle by the end of 1998, which occurred on schedule, and for phasing out deer and elk, and removing them altogether by the end of 2011, when the V&V 25-year non-commercial reservation of the 7.6 acre ranch expires. The settlement agreement included two options under which hunting could continue. The parties chose the second option, which was to manage the deer and elk using adaptive management guidelines. Each year, the NPS, with recommendations from an agreed upon scientific panel, determines whether an accelerated reduction in either the deer or elk herds are necessary. Regardless of the management option, all deer and elk are to be removed by V&V no later than the end of 2011. At that time, V&V will be required to remove all their property, including any remaining deer and elk, which V&V owns. It is necessary to end the hunting operation to open up the island for other recreational purposes, such as hiking, camping, and sightseeing, on a year-round basis. So long as a hunting operation continues, 90 percent of the island will be off limits for general recreation for four to five months of each year. After spending \$29.5 mil-

lion to purchase the island and more to restore native plants and animals, the NPS has been eager to make this spectacular island available for full-time enjoyment by the general public.

Santa Rosa Island is currently the most accessible of the five islands that are part of Channel Islands National Park. It is the island where the NPS can most easily and cost effectively welcome American citizens who have physical disabilities, including our men and women in uniform who have become disabled in the service to our Nation.

Removal of the non-native deer and elk is necessary for native plants and animals to flourish on Santa Rosa Island, and to ensure that efforts spent on restoration are not wasted. Channel Islands National Park has been in the forefront of the NPS's efforts to control non-native species that out-compete the native species. The park has undertaken several successful ecological restoration programs. The eradication of introduced rats from Anacapa Island has resulted in the increased survivability of the Xantus's murrelet. The removal of introduced rabbits, cattle, sheep, and mules from Santa Barbara, Santa Rosa, Santa Cruz and San Miguel Islands has allowed for vegetation restoration. Park staff, local communities, the Nature Conservancy, and the Montrose Trustees, who worked together to reestablish the American bald eagle were recently rewarded with the first eaglet born in the northern Channel Islands in 50 years, on Santa Cruz Island. The NPS looks forward to more successes of this type in the Channel Islands, including Santa Rosa Island.

For all these reasons, the Department supports the continued implementation of the 1998 settlement agreement, so that the day will come, after 2011, when NPS will be able to manage Santa Rosa Island as Congress intended when Channel Islands National Park was established in 1980.

Mr. Chairman, that concludes my statement. I will be happy to answer any questions you or members of the subcommittee may have.

#### CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the Resolution S. Res. 468, as ordered reported.

