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MARITIME WASHINGTON NATIONAL HERITAGE AREA ACT

AUGUST 30, 2016.—Ordered to be printed

Filed, under authority of the order of the Senate of July 14, 2016

Ms. MURKOWSKI, from the Committee on Energy and Natural Resources, submitted the following

R E P O R T

[To accompany S. 1623]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1623) to establish the Maritime Washington National Heritage Area in the State of Washington, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. On page 14, between lines 4 and 5, insert the following:
(6) alters, modifies, diminishes, or extinguishes the treaty rights of any Indian tribe within the National Heritage Area.
2. On page 14, line 5, strike “(6)” and insert “(7)”.
3. On page 14, line 9, strike “(7)” and insert “(8)”.

PURPOSE

The purpose of S. 1623 is to establish the Maritime Washington National Heritage Area in the State of Washington.

BACKGROUND AND NEED

Western Washington State’s heritage is shaped by its relationship to the waters of Puget Sound, the Straits of Juan de Fuca, and the Pacific Ocean. Native communities found a bounty of resources in the waters and shorelines of this area. While salmon and sea life provided an abundance of sustenance, western red cedar provided the material to establish permanent settlements and a maritime

culture. Canoe culture allowed an extensive trade and social network to develop throughout the region, which was reliant on these open waterways. The very resources that provided for native peoples to thrive also attracted European and American explorers and settlers.

Following the settlement of the international boundary between British North America and the United States west of the Rocky Mountains, in 1846, European American settlements began to gain strength. The timber industry spurred these settlements and the transformation of the region from a backwater to a center of maritime commerce. Pacific Northwest ships helped supply the Klondike Gold Rush. Lumber shipped from the region helped rebuild San Francisco after the earthquake of 1906 and was exported throughout the world.

Shipyards followed soon after a spike in lumber exports. In fact, the history of ship building—both civilian and military—highlights a major economic activity of the region today. Naval activity at Bremerton, Bangor, and Everett provide a vital connection to the region's maritime past.

Today, the region continues to be tied to its saltwater heritage both in commerce and recreation. In 2010, the Washington State Department of Archeology and Historic Preservation undertook a feasibility study of the designation of a national heritage area to preserve and promote this heritage. Designation of a National Heritage Area and a coordinating organization would allow for the significant number of maritime resources (e.g., museums and interpretive centers, historic vessels, maritime education centers, lighthouses and locks, waterfronts, and public spaces, etc.) to actively develop opportunities for visitors.

LEGISLATIVE HISTORY

S. 1623 was introduced in the Senate by Senators Cantwell and Murray on June 18, 2015. The Subcommittee on National Parks held a hearing on the measure on June 15, 2016.

Representative Kilmer introduced similar legislation in the House of Representatives, H.R. 2833, on June 18, 2015.

In the 113th Congress, Senators Cantwell and Murray introduced similar legislation, S. 2576, on July 9, 2014. A hearing was held by the Subcommittee on National Parks on July 23, 2014 (S. Hrg. 113-493). The authorization to establish the Maritime Washington National Heritage Area was included as part of the text of S. 2602, which was ordered reported by the Senate Committee on Energy and Natural Resources on November 13, 2014 (S. Rept. 113-300).

The Committee on Energy and Natural Resources met in open business session on July 13, 2016, and ordered S. 1623 favorably reported as amended.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on July 13, 2016, by a majority voice vote of a quorum present, recommends that the Senate pass S. 1623, if amended as described herein. Three Senators requested that their vote be recorded as follows:

NAYS

Mr. Barrasso
Mr. Risch
Mr. Lee

COMMITTEE AMENDMENTS

During its consideration of S. 1623, the Committee adopted amendments clarifying that nothing in this Act alters, modifies, diminishes, or extinguishes the treaty rights of any Indian tribe within the National Heritage Area.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 contains the short title.

Section 2. Definitions

Section 2 contains key definitions.

Section 3. Maritime Washington National Heritage Area

Section 3(a) establishes the Maritime Washington National Heritage Area in the State of Washington.

Subsection (b) identifies the boundaries of the National Heritage Area and authorizes the boundaries' revision if the revision is proposed in the management plan approved by the Secretary and placed on file.

Subsection (c) requires the map to be on file for public inspection in the offices of the National Park Service (NPS) and the local coordinating entity.

Subsection (d) deems the Washington Trust for Historic Preservation as the local coordinating entity for the National Heritage Area.

Section 4. Management plan

Section 4(a) requires the local coordinating entity to submit to the Secretary a proposed management plan for the National Heritage Area for approval no later than three years after the date of enactment of this Act.

Subsection (b) sets forth the management plan's requirements to include an integrated and cooperative approach for protection and interpretation of the natural, cultural, historic, scenic, and recreational resources of the National Heritage Area and the consideration of State and local plans, such as inventories of property resources, related themes, and significance of the property. The management plan must also include a resource inventory and produce comprehensive policies, strategies, and recommendations for funding and management of the National Heritage Area. In addition, in the management plan the local coordinating entity must develop actions that government, private organizations, and individuals agree to take to protect and manage the National Heritage Area and produce an implementation program. The management plan is also further required to identify funding sources and account for Federal, State, and local programs to carry out the management plan, including the role of the NPS.

Subsection (c) establishes a deadline of three years after the date of the Act's enactment for the local coordinating entity to provide the proposed management plan to the Secretary in order to be eligible for additional funding under the Act.

Subsection (d) directs the Secretary, in consultation with the State, to approve or disapprove the management plan no later than 180 days after receipt from the local coordinating entity. This section sets forth criteria that the Secretary must consider in evaluating the proposed management plan, including whether the local coordinating entity is representative of the diverse interests of the National Heritage Area, whether adequate opportunity for public involvement was provided, and whether the proposal's implementation would result in the adequate protection of the National Heritage Area. If the Secretary disapproves the proposal, the local coordinating entity will be advised in writing, with recommendations for revision of the management plan, and the Secretary is required to review the revised management plan within 180 days after receipt. The Secretary has the discretion to approve or disapprove substantive amendments to the management plan and the local coordinating entity may use Federal funds to carry out any amendments to the plan upon the Secretary's approval.

Section 5. Administration

Section 5(a) authorizes the Secretary, acting through the local coordinating entity, to make grants; enter into cooperative agreements; engage qualified staff; accept money or services from any source, including those provided under any other Federal law or program; enter into contracts for goods or services; and serve as a catalyst for any other activity that furthers the purposes of the National Heritage Area and is consistent with the management plan.

Subsection (b) requires the local coordinating entity to prepare and submit the management plan to the Secretary and to assist local government entities, regional planning organizations and non-profit organizations in implementing the approved management plan. In preparing and implementing the management plan, the local coordinating entity must consider diverse interests and conduct public meetings at least semiannually. The local coordinating entity is further required to prepare and submit an annual report to the Secretary for any year for which Federal funds have been received. The report must include all expenses, activities, income, expenditures, and matching funds that are in support of the National Heritage Area. The local coordinating entity will require any organizations receiving funds to also make available to the Secretary all records concerning the expenditure of the funds.

Subsection (c) prohibits the local coordinating entity from using Federal Funds to acquire real property or any interest in real property.

Section 6. Relationship to other federal agencies

Section 6(a) states that the Act does not affect the authority of a Federal agency to provide technical or financial assistance under any other law.

Subsection (b) encourages the head of any Federal agency to consult and coordinate with the Secretary and the local coordinating

entity in planning activities that may have an impact on the National Heritage Area.

Subsection (c) affirms that any law or regulation authorizing a Federal agency to manage or use Federal land under the jurisdiction of the Federal agency is not modified, altered, or amended by this Act.

Section 7. Private property and regulatory protections

Section 7 specifies that nothing in the Act abridges the rights of property owners and that property owners are not required to permit public access to their property; modify use or public access of property under any Federal, State, or local law; alter any duly adopted land use regulation, use plan, or regulatory authority; transfer any land use or regulatory authority to the local coordinating entity; authorize or imply the reservation of water or water rights; modify, diminish, or extinguish the reserved treaty rights of any Indian tribe within the National Heritage Area; affect the jurisdiction of the State to manage fishing and hunting within the National Heritage Area; or create any liability to any person injured on private property.

Section 8. Evaluation and report

Section 8(a) tasks the Secretary with conducting an evaluation and preparing a report of the accomplishments of the National Heritage Area not later than 3 years before the termination date of Federal funding.

Subsection (b) states that the evaluation components should include a progress assessment of the local coordinating entity; an analysis of investments, including funding made by Federal, State, tribal, and local government and private entities; and a review of the management and partnership structure for sustaining the National Heritage Area.

Subsection (c) requires the Secretary to submit a report to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives that describes the findings and conclusions of the evaluation along with recommendations for the future role of the NPS with respect to the National Heritage Area.

Section 9. Authorization of appropriations

Section 9(a) authorizes \$10 million to be appropriated, of which not more than \$1 million may be authorized to be appropriated for any fiscal year to carry out the Act.

Subsection (b) denotes that amounts made available shall remain available until expended.

Subsection (c) requires not more than a 50 percent share of non-Federal funding or in-kind contributions of goods or services for any activity under the Act.

Subsection (d) specifies that the authority of the Secretary to provide assistance for this Act terminates 15 years after the Act is enacted.

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 Congressional Budget Office completes its cost estimate, it will be posted on the internet at *www.cbo.gov*.

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. 1623. 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. 1623, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 1623, as ordered reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

EXECUTIVE COMMUNICATIONS

The testimony provided by the NPS at the June 15, 2016, Subcommittee on National Parks hearing on S. 1623, follows:

STATEMENT OF DR. STEPHANIE TOOTHMAN, ASSOCIATE DIRECTOR CULTURAL RESOURCES, PARTNERSHIPS, AND SCIENCE, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman, thank you for the opportunity to present the Department of the Interior's views on S. 1623, a bill to establish the Maritime Washington National Heritage Area in the State of Washington.

The Department supports the enactment of S. 1623, as the proposed Maritime Washington National Heritage Area has been found to meet the National Park Service's interim criteria for designation as a national heritage area.

However, along with designating any new national heritage areas, the Department recommends that Congress pass national heritage area program legislation. There are currently 49 designated national heritage areas, yet there is no authority in law that guides the designation and administration of these areas. Program legislation that establishes criteria to evaluate potentially qualified National heritage areas and a process for the designation, funding, and administration of these areas would provide a much-needed framework for evaluating proposed national heritage areas. It would offer guidelines for successful planning and management, clarify the roles and responsibilities of all parties, and standardize timeframes and funding for designated areas. The Department also notes that newly-authorized national heritage areas will compete for limited resources in the Heritage Partnership Program. The President's FY17 Budget proposes \$9.4 million for the current

49 areas. The authorization of additional national heritage areas will leave less funding for each individual national heritage area.

The proposed area includes land that is as located within one-quarter mile landward of the shoreline in the counties of Whatcom, Skagit, Snohomish, San Juan, Island, King, Pierce, Thurston, Mason, Kitsap, Jefferson, Clallam, and Grays Harbor, approximately 3,000 linear miles of a "Salt Water Coast." The proposed local coordinating entity for the Maritime Washington National Heritage Area would be the Washington Trust for Historic Preservation. A *Feasibility Study for a Washington State National Maritime Heritage Area* was completed by the Washington Department of Archaeology and Historic Preservation in April 2010. The National Park Service conducted a review of the study for consistency with the interim *National Heritage Area Feasibility Study Guidelines*, and with a subsequent revised Statement of Importance and boundary justification submitted March 5, 2012, and found that the area meets these criteria for national heritage area designation. The Washington Trust for Historic Preservation was informed of this decision in a letter on June 5, 2012.

The proposed Maritime Washington National Heritage Area stretches from northern ports in Bellingham and Blaine to the protected harbors of Aberdeen and Hoquiam. The landscape tells the stories of a rich Native American civilization, development of the farthest territorial corner of the United States, of gold rushers and shipbuilders, and of a gateway to Alaska, Asia and the seaports of the world.

Living between steep glacier-clad mountain ranges and a temperate saltwater shoreline, native people built a complex culture around canoe routes and salmon cycles. By the late 18th century, the region was being mapped and named by Spanish, English, and Russian explorers in the interest of science and the pursuit of colonial empire. After the 49th parallel was established as the nation's northern border in 1846, this new corner of the country entered a dramatic period of social, political and military development. The vast conifer forests were easily accessible for timber production, and the coastal geography made possible its transportation to the developing American west. The timber trade and abundant marine resources, especially salmon, of the San Juan de Fuca straight, the Puget Sound and the Pacific Ocean attracted American, European and Pan-Asian settlers who provided the labor for thriving port economies in Port Angeles, Port Townsend, and Port Gamble.

At the heart of the heritage area is the greater Puget Sound, a system of interconnected marine waterways, harbors, bays and inlets that wet the shores of the San Juan Archipelago and the many waterfront towns, cities, and ports that have grown up here over time. The naval facilities on Puget Sound have built and repaired vessels in our fleet for over a century. Even today the region relies on the

country's largest marine highway system—its famous ferries—for day-to-day transportation.

These stories are represented in the traditional Native American sites, lumber towns, logging mills, salmon processing plants, historic ships, lighthouses, museums and the host of other maritime-related sites, scenes, and traditions that comprise the proposed Maritime Washington National Heritage Area. Under the leadership of the Washington Trust for Historic Preservation, the heritage area would encourage and support the work of the many organizations committed to the recognition, preservation and continued economic, recreational and educational use of this unique and vital region and its resources.

Mr. Chairman, this concludes my testimony. I would be happy to answer any questions you or any other 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 bill as ordered reported.

