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SENATE

{ REPORT
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MILL SPRINGS BATTLEFIELD NATIONAL MONUMENT ACT

NOVEMBER 26, 2018.—Ordered to be printed

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

R E P O R T

[To accompany H.R. 5979]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Natural Resources, to which was referred the bill (H.R. 5979) to establish the Mill Springs Battlefield National Monument in the State of Kentucky as a unit of the National Park System, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute, and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Mill Springs Battlefield National Monument Act”.

SEC. 2. DEFINITIONS.

In this Act:

(1) MAP.—The term “Map” means the map entitled “Mill Springs Battlefield National Monument, Nancy, Kentucky”, numbered 297/145513, and dated June 2018.

(2) MONUMENT.—The term “Monument” means the Mill Springs Battlefield National Monument established by section 3(a)(1).

(3) SECRETARY.—The term “Secretary” means the Secretary of the Interior, acting through the Director of the National Park Service.

SEC. 3. ESTABLISHMENT OF MILL SPRINGS BATTLEFIELD NATIONAL MONUMENT.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Subject to paragraph (2), there is established as a unit of the National Park System, the Mill Springs Battlefield National Monument in the State of Kentucky, to preserve, protect, and interpret for the benefit of present and future generations—

(A) the nationally significant historic resources of the Mill Springs Battlefield; and

- (B) the role of the Mill Springs Battlefield in the Civil War.
- (2) DETERMINATION BY THE SECRETARY.—The Monument shall not be established until the date on which the Secretary determines that a sufficient quantity of land or interests in land has been acquired to constitute a manageable park unit.
- (3) NOTICE.—Not later than 30 days after the date on which the Secretary makes a determination under paragraph (2), the Secretary shall publish in the Federal Register notice of the establishment of the Monument.
- (4) BOUNDARY.—The boundary of the Monument shall be as generally depicted on the Map.
- (5) AVAILABILITY OF MAP.—The Map shall be on file and available for public inspection in the appropriate offices of the National Park Service.
- (6) ACQUISITION AUTHORITY.—The Secretary may only acquire land or an interest in land located within the boundary of the Monument by—
- (A) donation;
 - (B) purchase from a willing seller with donated or appropriated funds; or
 - (C) exchange.
- (b) ADMINISTRATION.—
- (1) IN GENERAL.—The Secretary shall administer the Monument in accordance with—
- (A) this Act; and
 - (B) the laws generally applicable to units of the National Park System, including—
 - (i) section 100101(a), chapter 1003, and sections 100751(a), 100752, 100753, and 102101 of title 54, United States Code; and
 - (ii) chapter 3201 of title 54, United States Code.
- (2) MANAGEMENT PLAN.—
- (A) IN GENERAL.—Not later than 3 years after the date on which funds are first made available to prepare a general management plan for the Monument, the Secretary shall prepare the general management plan in accordance with section 100502 of title 54, United States Code.
- (B) SUBMISSION TO CONGRESS.—On completion of the general management plan, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate the general management plan.
- (c) PRIVATE PROPERTY PROTECTION.—Nothing in this Act affects the land use rights of private property owners within or adjacent to the Monument.
- (d) NO BUFFER ZONES.—
- (1) IN GENERAL.—Nothing in this Act, the establishment of the Monument, or the management of the Monument creates a buffer zone outside the Monument.
- (2) ACTIVITY OR USE OUTSIDE MONUMENT.—The fact that an activity or use can be seen, heard, or detected from within the Monument shall not preclude the conduct of the activity or use outside the Monument.

PURPOSE

The purpose of H.R. 5979 is to establish the Mill Springs Battlefield National Monument in the State of Kentucky as a unit of the National Park System.

BACKGROUND AND NEED

Fought on January 19, 1862, the Battle of Mill Springs in Kentucky was the first significant Civil War victory for the Union Army. The Confederate Army attempted a surprise attack on the camped Union forces, but a combination of bad weather conditions and diligent Union pickets prevented the Confederate Army from securing an advantage, bringing about a Union victory and the death of prominent Confederate General Zollicoffer. The victory at Mill Springs boosted morale within the Union Army and helped to break the Confederate defense line across Kentucky, key to keeping the State solidly in Union control.

Today, a non-profit association manages the Mill Springs Battlefield, and through its efforts has acquired and preserved over 400 acres of battlefield lands via grants and private donations. The site

features an interpretation of the battlefield and a 10,000 square foot visitor’s center. However, the preservation and educational efforts by volunteers have reached beyond association resources, and Mill Springs Battlefield has been dubbed one of the top 25 “most endangered battlefields” by the Department of the Interior.

In 1993, the Congressionally-established Civil War Site Advisory Commission classified Mill Springs as a Class B battlefield, which the Commission described as having “a direct, observable impact on the direction, duration, conduct, or outcome of the campaign.”

H.R. 5979 would establish the Mill Springs Battlefield as a unit of the National Park System to assure continued protection of the battlefield and provide funding for employees and interpretive work to increase awareness of the battle’s historical significance.

LEGISLATIVE HISTORY

H.R. 5979 was introduced in the House of Representatives by Representative Rogers on May 25, 2018. The Subcommittee on Federal Lands held a hearing on the bill on July 17, 2018. On July 23, 2018, H.R. 5979 was reported, as amended, by the Committee on Natural Resources (H. Rept. 115–855), and passed by voice vote in the House of Representatives.

Companion legislation, S. 3176, was introduced by Senator McConnell on June 28, 2018. The Subcommittee on National Parks held a hearing on S. 3176 and H.R. 5979 on August 15, 2018.

The Committee on Energy and Natural Resources met in open business session on October 2, 2018, and ordered H.R. 5979 favorably reported, as amended.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on October 2, 2018, by a majority voice vote of a quorum present, recommends that the Senate pass H.R. 5979, if amended as described herein.

COMMITTEE AMENDMENT

During its consideration of H.R. 5979, the Committee adopted an amendment in the nature of a substitute. The substitute amendment updated the definition of the term Monument and the private property protection language. The substitute amendment also modified the conditions under which the Secretary is to establish the Monument, including eliminating the requirement for written agreements from landowners, requiring a Federal Register notice regarding the Monument’s establishment, and authorizing the purchase from a willing seller with donated or appropriated funds.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 contains the short title.

Section 2. Definitions

Section 2 contains key definitions.

Section 3. Establishment of Mill Springs Battlefield National Monument

Subsection (a) establishes the Mill Springs Battlefield National Monument in the State of Kentucky as a unit of the National Park System to preserve, protect, and interpret for the benefit of present and future generations the nationally significant historic resources of the Mill Springs Battlefield, as well as its role in the Civil War. The Monument shall not be established until the Secretary determines that a sufficient quantity of land or land interests have been acquired to constitute a manageable park unit. Within 30 days of such determination, the Secretary is required to publish a Federal Register notice regarding the Monument's establishment. This subsection also specifies that the Monument's boundary shall be as generally depicted on the Map and the Map shall be on file and available for public inspection. This subsection further states that the Secretary may only acquire land or land interests within the Monument's boundary by donation, purchase from a willing seller with donated or appropriated funds, or exchange.

Subsection (b) requires the Secretary to administer the Monument in accordance with this Act and the laws generally applicable to National Park System units. The Secretary is directed to prepare a general management plan in accordance with applicable law within three years after funds are first made available for its preparation and submit the general management plan to the House Natural Resources Committee and the Senate Energy and Natural Resources Committee upon completion.

Subsection (c) states that nothing in this Act affects the land use rights of private property owners within or adjacent to the Monument.

Subsection (d) states that nothing in this Act, the establishment of the Monument, or the management of the Monument creates a buffer zone outside of the Monument. This subsection further makes clear that an activity which can be seen, heard, or detected from within the Monument shall not preclude the conduct of the activity or use outside of the Monument.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the costs of this measure has been provided by the Congressional Budget Office:

H.R. 5979 would establish the Mill Springs Battlefield National Monument in Nancy, Kentucky. Under the bill, the site would become a unit of the National Park System and would be owned and operated by the National Park Service (NPS). The bill would direct the NPS to acquire land for the monument by means of donation, purchase using donated funds, or through a land exchange. Based on the experience of creating other system units, CBO expects that the monument would not be formally established for several years.

Using information from the NPS on the costs of operating new system units, CBO estimates that the agency would incur about \$200,000 annually in administrative costs in the monument's early years. The bill also would require the NPS to develop a general management plan for the monument. Based on the costs of similar projects, CBO estimates that developing the plan would cost less than \$500,000. In total, CBO estimates that implementing H.R.

5979 would cost about \$1 million over the 2019–2023 period; such spending would be subject to the availability of appropriated funds.

Enacting H.R. 5979 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 5979 would not increase net direct spending or on budget deficits in any of the four consecutive 10-year periods beginning in 2029.

H.R. 5979 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Janani Shankaran. The estimate was reviewed by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

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 H.R. 5979. The Act 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 H.R. 5979, as ordered reported.

EXECUTIVE COMMUNICATIONS

The testimony provided by the Department of the Interior at the August 15, 2018, hearing on H.R. 5979 follows:

STATEMENT OF P. DANIEL SMITH, DEPUTY DIRECTOR, EXERCISING THE AUTHORITY OF THE DIRECTOR, NATIONAL PARK SERVICE, U.S. DEPARTMENT OF THE INTERIOR

Chairman Daines, Ranking Member King, and Members of the Subcommittee, thank you for the opportunity to provide the Department of the Interior's views on S. 3176 and H.R. 5979, bills to establish the Mill Springs Battlefield National Monument in the State of Kentucky as a unit of the National Park System, and for other purposes.

The Department supports enactment of S. 3176 and H.R. 5979 with amendments described later in this statement. As a nationally significant Civil War site, where the principal owner has indicated a desire to donate the battlefield property including a visitor center for inclusion in the National Park System, the Mill Springs Battlefield represents an exceptional opportunity to preserve and interpret for future generations a critical chapter in Civil War history.

S. 3176 and H.R. 5979 would authorize the Secretary of the Interior to establish Mill Springs Battlefield National Monument as unit of the National Park System after meeting specified requirements. The proposed boundary of the monument includes land within the Mill Springs National Historic Landmark and also visitor and administrative facilities outside of the Landmark. The bills include authorities for land acquisition and administration that

are commonly included in legislation establishing a unit of the National Park System.

The Battle of Mill Springs, Kentucky, on January 19, 1862, was the battle that led to the total collapse of the eastern portion of the Confederate line designed to protect Kentucky and hopefully bring its allegiance to the South. Mill Springs is considered to be the first significant Union victory in the western theater of the Civil War; it permitted Federal troops to carry the war into Middle Tennessee a few weeks later. This Union victory, after a long line of defeats, reenergized the Northern war interests and directly led to the battles of Columbus, Fort Henry and Fort Donelson; the fall of Nashville; and battles at Shiloh and Corinth. Kentucky's importance to the Union has been demonstrated many ways, most significantly by President Abraham Lincoln's famous quote, "I hope to have God on my side, but I must have Kentucky." After Mill Springs, the Union held control of Kentucky throughout the war.

Designated a National Historic Landmark in 1994, Mill Springs Battlefield was recognized in the 1993 Civil War Sites Advisory Commission Report as a Preservation Priority One battlefield, indicating it has the characteristics of high integrity, significance, and threats that warrant focused preservation action. A local non-profit group, the Mill Springs Battlefield Association Inc. (Association), was formed in 1992 to preserve, maintain, and interpret this important battlefield. The Association has actively worked with the National Park Service American Battlefield Protection Program and the nonprofit American Battlefield Trust to secure grants to apply towards purchase of battlefield land and to fund archeological surveys and additional scholarly research related to the battle. Ongoing research has resulted in a better understanding of the battle's extent and the historic resources found at Mill Springs, which is reflected in the updated National Register of Historic Places documentation completed in 2009 for the battlefield and associated Civil War era sites. The Association's visitor center, which opened in 2006, includes a reference library and community room; it offers a variety of educational programs to generate public understanding of the significance of the site.

The National Park Service is in the final stages of preparing a Congressionally authorized special resource study on Mill Springs Battlefield. Strong local support for including the site in the National Park System has been indicated through public meetings and comments. The Mill Springs Battlefield Association, a major landowner within the proposed boundary, is prepared to donate its holdings for inclusion in the new unit. All funding for the unit would be subject to National Park Service priorities and the availability of appropriations.

The Department recommends that S. 3176 and H.R. 5979 be amended in the following ways:

First, both bills provide land acquisition authority by means of donation, purchase with donated funds, or ex-

change. The Department recommends amending the bills to also include the authority to purchase lands with appropriated funds. Such authority is common for other National Park Service units. That authority would allow the owners of private property within the boundary the opportunity to sell their lands to the Federal government. Even if the owners are not interested in selling their land at the current time, this authority provides the flexibility for them to make that decision in the future if circumstances change. Before the National Park Service would seek to acquire any property, whether by purchase, donation, or exchange, it would take into consideration the condition of any structures on the property that would add to the Service's deferred maintenance backlog. Any funding to purchase land would be subject to future appropriations from Congress.

Second, H.R. 5979, but not S. 3176, includes two conditions for establishing Mill Springs Battlefield National Monument as a unit of the National Park System: (1) entering into an agreement for donation of the property, and (2) acquiring sufficient land to constitute a manageable unit. Because land must be acquired prior to the establishment of the Monument, an agreement evidencing an intent to donate land is a precondition that needs to be included in the legislation. We recommend that H.R. 5979 be amended to conform the language for establishing the unit to that used in S. 3176, which provides for only the second condition. Third, H.R. 5979, but not S. 3176, includes language stipulating that no private or non-Federal property shall be managed as part of the Monument without the written consent of the landowner. This provision is unnecessary as the National Park Service does not currently have authority to manage non-Federal property as part of a unit in this manner. Furthermore, the addition of this language could be read to suggest that it does have such authority. The Department recommends striking this provision from H.R. 5979.

Mr. Chairman, this concludes my statement. I would be pleased to answer any questions you or 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 H.R. 5979 as ordered reported.