

Public Law 100-571
100th Congress

An Act

To establish the National Park of American Samoa.

Oct. 31, 1988

[H.R. 4818]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that:

- (1) Tropical forests are declining worldwide.
- (2) Tropical forests contain 50 percent of the world's plant and animal species, contribute significantly to the advancement of science, medicine, and agriculture and produce much of the earth's oxygen. The loss of these forests leads to the extinction of species, lessening the world's biological diversity, reduces the potential for new medicines and crops and increases carbon dioxide levels in the atmosphere contributing to the greenhouse effect that is altering the global climate.
- (3) The tropical forest of American Samoa is one of the last remaining undisturbed paleotropical forests.
- (4) The tropical forest in American Samoa is the largest such forest under direct control of the United States.
- (5) The tropical forest of American Samoa contains the habitat of one of the last remaining populations of Pacific flying foxes.
- (6) The flying foxes of American Samoa are responsible for a large part of the pollination which maintains a significant portion of the species which inhabit the Samoan tropical forest.
- (7) Information presently available indicates the existence of extensive archaeological evidence related to the development of the Samoan culture which needs to be examined and protected.
- (8) The people of American Samoa have expressed a desire to have a portion of the tropical forest protected as a unit of the National Park System.

(b) PURPOSE.—The purpose of this Act is to preserve and protect the tropical forest and archaeological and cultural resources of American Samoa, and of associated reefs, to maintain the habitat of flying foxes, preserve the ecological balance of the Samoan tropical forest, and, consistent with the preservation of these resources, to provide for the enjoyment of the unique resources of the Samoan tropical forest by visitors from around the world.

SEC. 2. ESTABLISHMENT.

(a) IN GENERAL.—In order to carry out the purposes expressed in section 1(b), the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") shall establish the National Park of American Samoa (hereinafter in this Act referred to as the "park"). The Secretary shall establish the park only when the Governor of American Samoa has entered into a lease with the Secretary under which the Secretary will lease for a period of 50 years the lands and waters generally referred to in subsection (b) for use solely for

Conservation.
Environmental
protection.
Forests and
forest products.
Historic
preservation.
Wildlife.
16 USC 410qq.

16 USC 410qq-1.

Contracts.

purposes of the park. Immediately after enactment of the Act, the Secretary shall commence negotiations with the Governor of American Samoa respecting such a lease agreement. On or before the expiration of the lease agreement as set forth in this subsection, the Governor of American Samoa is encouraged to extend the lease to maintain the area as a unit of the National Park System. At such time as the lease may terminate the Government of American Samoa is urged to provide assurances to the Secretary that the lands and waters generally referred to in subsection (b) will be protected and preserved to the same standards as are applicable to national parks.

Public
information.

(b) **AREA INCLUDED.**—The park shall consist of three units as generally depicted on the following maps entitled "Boundary Map, National Park of American Samoa": (1) map number NP-AS 80,000A, dated August 1988, (2) map number NP-AS 80,000B, dated August 1988, and (3) map number NP-AS 80,000C, dated August 1988. Before publication of the maps, the Secretary, after consultation with the Governor of American Samoa and other appropriate leaders, may adjust the boundaries of the park to correspond with the appropriate village boundaries and modify the maps accordingly. The maps shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary may at any time make revisions of the boundary of the park in accordance with section 7(c) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 and following), pursuant to agreement with the Governor of American Samoa, and contingent upon the lease to the Secretary of lands within the new boundaries.

Contracts.

(c) **MANAGEMENT BY AMERICAN SAMOA.**—Notwithstanding section 3(a), after 50 years after the enactment of this Act, the Secretary shall, if requested by the Governor of American Samoa, enter into an extension of the lease referred to in subsection (a). If the Governor does not request such an extension the Secretary shall transfer to the Governor the sole authority to administer the park. Whenever the Secretary makes such a transfer he shall also transfer any improvements constructed by the Secretary in the park to the Governor without compensation.

(d) **COMPENSATION UNDER LEASE AGREEMENT.**—(1) Notwithstanding any other provision of law, the Secretary is authorized and directed to negotiate with the Governor of American Samoa the amount of the payments to be made by the United States under the 50-year lease referred to in subsection (a). The Secretary shall make such payments as may be mutually agreed to by the Secretary and the Governor pursuant to such negotiations.

(2) The Secretary shall place all lease payments made by the United States under the lease in an interest bearing escrow account in American Samoa. Funds in such account may be disbursed only by the Governor, in amounts determined by the High Court of American Samoa, to those villages and families located within the boundaries of the park. The High Court of American Samoa shall have exclusive jurisdiction to determine the amount to be disbursed under this section to any person.

(3) If the amount of the lease payments to be made under the lease is not agreed upon within 1 year after the enactment of this Act, the Secretary shall establish the escrow account referred to in paragraph (2) within 30 days after the expiration of such 1-year period and shall make monthly payments of \$25,000 per month into the

account until such time as the full value of the lease payments is agreed to and deposited. Such deposits, together with the interest thereon, may be used only to cover the amounts of the lease payments due and payable pursuant to an agreement under this subsection. If the amounts deposited in such account, together with interest thereon, exceeds the amount of the lease payments due and payable at the time the agreement is entered into, notwithstanding any other provision of law, the excess shall be transferred to the accounts provided to the Secretary for operation and maintenance and for development of the park.

SEC. 3. ADMINISTRATION.

16 USC 410qq-2.

(a) **IN GENERAL.**—The Secretary shall administer the park in accordance with this Act and with the provisions of law generally applicable to units of the National Park System, including the Act entitled “An Act to establish a National Park Service, and for other purposes”, approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4). In the administration of the park, the Secretary may utilize such statutory authority available to him for the conservation of wildlife and natural and cultural resources as he deems necessary to carry out the purposes of this Act, except that he may not acquire any lands or waters or interests therein for purposes of the park other than by lease.

(b) **TRADITIONAL SUBSISTENCE USES.**—(1) Agricultural, cultural, and gathering uses shall be permitted in the park for subsistence purposes if such uses are generally prior existing uses conducted in areas used for such purposes as of the date of enactment of this Act and if such uses are conducted in the traditional manner and by traditional methods. No such uses shall be permitted in the park for other than subsistence purposes.

(2) Subsistence uses of the marine areas of the park shall also be permitted in accordance with paragraph (1), and no fishing or gathering shall be permitted in such marine areas for other than subsistence purposes.

Fish and fishing.

(c) **INTERPRETIVE FACILITIES, ETC.**—Interpretative activities and interpretative facilities for the park (including maps) shall be in at least the following languages: English and Samoan.

(d) **EMPLOYEES AND CONTRACTS.**—In addition to the Secretary's authority to employ persons to carry out provisions of this Act in accordance with the civil service laws, and notwithstanding any other provision of law, the Secretary is authorized to—

(1) hire employees for such purposes who shall not be subject to the civil service laws, including quotas, and

(2) enter into contracts with individuals for purposes of exercising any authority of the Secretary within the park.

(e) **NATIVE AMERICAN SAMOAN PERSONNEL.**—The Secretary shall establish a program to train native American Samoan personnel to function as professional park service employees, to provide services to visitors (including the interpretation of park resources), and operate and maintain park facilities. Notwithstanding any other provision of law, and to the extent practicable the Secretary shall extend a preference for the hiring of native American Samoans to carry out the Secretary's authorities under this Act (including both employees and persons operating under contract).

(f) **MANAGEMENT PLAN.**—The Secretary, in cooperation with the Governor of American Samoa, shall prepare a general management plan for the park. The plan shall comply with section 12(b) of the

Act of August 18, 1970 (16 U.S.C. 1a-1 through 1a-7) and shall contain specific measures for the protection and preservation of tropical forest resources and archaeological and cultural resources within the park, including, but not limited to, protection of flying foxes and measures to enhance visitation to the park from throughout the world, to the extent consistent with the protection and preservation of such resources.

(g) **ADVISORY BOARD.**—(1) The Secretary shall establish an Advisory Board to provide advice to the Secretary regarding the management of the park. The Advisory Board shall be comprised of 5 members, 3 of whom shall be nominated by the Governor of American Samoa. The Advisory Board shall designate one of its members as Chairman.

(2) The Advisory Board shall meet on a regular basis. Notice of meetings and agenda shall be announced in advance and meetings shall be held at locations and in such a manner as to insure adequate public involvement.

(3) Members of the Advisory Board shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this Act on vouchers signed by the Chairman.

(4) The provisions of section 14(b) of the Federal Advisory Committee Act (Act of October 6, 1972; 86 Stat. 776), are hereby waived with respect to this Advisory Board.

(h) **REVIEW.**—At least every 10 years, the Secretary and the Governor, or their designees, shall review the operation and management of the park. Such review shall include, but need not be limited to, consideration of how the objectives of the park can better be achieved, the need for additional technical or other assistance, cooperative arrangements between the Government of American Samoa and the National Park Service in the interpretation and management of the park, and the desirability of extension of the lease arrangement.

(i) **TECHNICAL ASSISTANCE.**—The Secretary, in providing technical or other assistance to the Government of American Samoa may use any authority otherwise provided to him, including requesting assistance from other Federal agencies.

16 USC 410qq-3.

SEC. 4. DEFINITION.

For purposes of this Act the term “native American Samoan” means a person who is a citizen or national of the United States and who is a lineal descendant of an inhabitant of the Samoan Islands on April 18, 1900. For purposes of this Act, Swains Island shall be considered part of the Samoan Islands.

SEC. 5. FUNDING.

16 USC 410qq-4.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

Approved October 31, 1988.

LEGISLATIVE HISTORY—H.R. 4818:

HOUSE REPORTS: No. 100-916 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):

Sept. 13, considered and passed House.

Oct. 12, considered and passed Senate.