Public Law 94-549
94th Congress

An Act

To amend the Act establishing the Indiana Dunes National Lakeshore to provide for the expansion of the lakeshore, and for other purposes.

Oct. 18, 1976
[H.R. 11455]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966 (80 Stat. 1309), as amended (16 U.S.C. 460u), is further amended as follows:

Indiana Dunes National Lakeshore. Expansion.

(1) The last sentence of the first section of such Act is amended by striking out "'A Proposed Indiana Dunes National Lakeshore', dated September 1966, and bearing the number 'LNPNE-1008-ID'" and inserting in lieu thereof "'Boundary Map, Indiana Dunes National Lakeshore', dated September 1976 and bearing the number '626-91007'".

16 USC 460u-2.

(2) Section 3 of such Act is amended by inserting the following at the end of the first sentence: "By no later than October 1, 1977, the Secretary shall publish in the Federal Register a detailed description of the boundaries of the lakeshore and shall from time to time so publish any additional boundary changes as may occur.".

Publication in Federal Register.

Repeal.

16 USC 460u-3.

(3)(a) Subsection 4(a) of such Act is repealed, subsection 4(b) is redesignated as section 4, and the following sentence is added to new section 4: "All rights of use and occupancy shall be subject to such terms and conditions as the Secretary deems appropriate to assure the use of such property in accordance with the purposes of this Act.".

(b) The first sentence of section 4 of such Act is amended by inserting immediately after "was begun before" the following: "February 1, 1973, or, in the case of improved property located within the boundaries delineated on a map identified as 'A Proposed Indiana Dunes National Lakeshore', dated September 1966, and bearing the number 'LNPNE-1008-ID', which map is on file and available for public inspection in the Office of the Director of the National Park Service, Department of the Interior, before".

16 USC 460u-5.

Right of use and occupancy.

(4)(a) Section 6(a) of such Act is amended by revising the first sentence thereof to read as follows: "Except for owners of property within the area on the map referred to in the first section of this Act as area II-B, any owner or owners, having attained the age of majority, of improved property on the date of its acquisition by the Secretary may, as a condition to such acquisition, retain the rights of use and occupancy of the improved property for noncommercial residential purposes for a term of twenty years, or for such lesser term as the owner or owners may elect at the time of acquisition by the Secretary".

(b) Section 6(b) of such Act is amended to read as follows:

Termination.

"(b) Upon his determination that the property, or any portion thereof, has ceased to be used in accordance with the applicable terms and conditions, the Secretary may terminate a right of use and occupancy. Nonpayment of property taxes, validly assessed, on any retained right of use and occupancy shall also be grounds for termination of such right by the Secretary. In the event the Secretary terminates a right of use and occupancy under this subsection he shall

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pay to the owners of the retained right so terminated an amount equal to the fair market value of the portion of said right which remained unexpired on the date of termination. With respect to any right of use and occupancy in existence on the effective date of this sentence, standards for retention of such rights in effect at the time such rights were reserved shall constitute the terms and conditions referred to in section 4.".

16 USC 460u-3. Indiana Dunes National Lakeshore Advisory Commission, membership. 16 USC 460u-7.

(5) Section 8(b) of such Act is amended (a) by striking out "seven members" and inserting in lieu thereof "eleven members", and (b) by striking out "and" immediately after "State of Indiana;", and (c) by striking out "Portage," immediately after "Dune Acres.", and (d) by inserting immediately after "designated by the Secretary" the following: "; (7) one member who is a year-round resident of the city of Gary to be appointed from recommendations made by the mayor of such city; (8) one member to be appointed from recommendations made by a regional planning agency established under the authority of the laws of the State of Indiana and composed of representatives of local and county governments in northwestern Indiana; (9) one member who is a year-round resident of the city of Portage to be appointed from recommendations made by the mayor of such city; and (10) one member who holds a reservation of use and occupancy and is a year-round resident within the lakeshore to be designated by the Secretary.".

(6) Section 8 of such Act is further amended by inserting the following new subsection (f):

Coal-fired powerplant, Porter County, Ind.

"(f) The Advisory Commission is authorized to assist with the identification of economically and environmentally acceptable areas, outside of the boundaries of the lakeshore, for the handling and disposal of industrial solid wastes produced by the coal-fired powerplant in Porter County, Indiana, section 21, township 37 north, range 6 west.".

Appropriation authorization. 16 USC 460u-9.

(7) Section 10 of such Act is amended to read as follows: "The Secretary may not expend more than $60,812,100 from the Land and Water Conservation Fund for the acquisition of lands and interests in lands nor more than $8,500,000 for development. By October 1, 1979, the Secretary shall develop and transmit to the Committees on Interior and Insular Affairs of the United States Congress a general management plan detailing the development of the national lakeshore consistent with the preservation objectives of this Act, indicating:

General management plan, submittal to congressional committees.

"(1) the facilities needed to accommodate the health, safety, and recreation needs of the visiting public;

"(2) the location and estimated costs of all facilities, together with a review of the consistency of the master plan with State, areawide, and local governmental development plans;

"(3) the projected need for any additional facilities within the national lakeshore; and

"(4) specific opportunities for citizen participation in the planning and development of proposed facilities and in the implementation of the general management plan generally.".

(8) Such Act is amended by adding at the end thereof the following:

Rights-of-way or easements. 16 USC 460u-10.

"SEC. 11. Nothing in this Act shall diminish any existing (as of March 1, 1975) rights-of-way or easements which are necessary for high voltage electrical transmission, pipelines, water mains, or line-haul railroad operations and maintenance.

"SEC. 12. (a) Nothing in the Act shall be construed as prohibiting any otherwise legal cooling, process, or surface drainage into the part of the Little Calumet River located within the lakeshore: *Provided*, That this subsection shall not affect nor in any way limit the Secretary's authority and responsibility to protect park resources. Little Calumet River. 16 USC 460u-11.

"(b) The authorization of lands to be added to the lakeshore by the Ninety-fourth Congress and the administration of such lands as part of the lakeshore shall in and of itself in no way operate to render more restrictive the application of Federal, State, or local air and water pollution standards to the uses of property outside the boundaries of the lakeshore, nor shall it be construed to augment the control of water and air pollution sources in the State of Indiana beyond that required pursuant to applicable Federal, State, or local law.

"SEC. 13. The Secretary shall acquire the area on the map referred to in the first section of this Act as area III-B within two years from the effective date of this section only if such area can be acquired for not more than $800,000, exclusive of administrative costs of acquisition, as adjusted by the Consumer Price Index: *Provided*, That the Secretary may not acquire such area by any means after two years from the effective date of this section. Land acquisition. 16 USC 460u-12.

"SEC. 14. The Secretary may acquire that portion of area I-C which is shaded on the map referred to in the first section of this Act only with the consent of the owner unless the present owner attempts to sell or otherwise dispose of such area. 16 USC 460u-13.

"SEC. 15. Within one year after the date of the enactment of this section, the Secretary shall submit, in writing, to the Committees on Interior and Insular Affairs and to the Committees on Appropriations of the United States Congress a detailed plan which shall indicate— Plan, submittal to congressional committees. 16 USC 460u-14.

"(1) the lands which he has previously acquired by purchase, donation, exchange, or transfer for administration for the purpose of the lakeshore; and

"(2) the annual acquisition program (including the level of funding) which he recommends for the ensuing five fiscal years.

"SEC. 16. The Secretary may acquire only such interest in the right-of-way designated 'Crossing A' on map numbered 626-91007 as he determines to be necessary to assure public access to the banks of the Little Calumet River within fifty feet north and south of the centerline of said river. "Crossing A" right-of-way. 16 USC 460u-15.

"SEC. 17. The Secretary shall enter into a cooperative agreement with the landowner of those lands north of the Little Calumet River between the Penn Central Railroad bridge within area II-E and 'Crossing A' within area IV-C. Such agreement shall provide that any roadway constructed by the landowner south of United States Route 12 within such vicinity shall include grading, landscaping, and plantings of vegetation designed to prevent soil erosion and to minimize the aural and visual impacts of said construction, and of traffic on such roadway, as perceived from the Little Calumet River. 16 USC 460u-16.

"SEC. 18. (a) The Secretary may not acquire such lands within the western section of area I-E, as designated on map numbered 626-91007, which have been used for solid waste disposal until he has received a commitment, in accordance with a plan acceptable to him, to reclaim such lands at no expense to the Federal Government. 16 USC 460u-17.

"(b) With respect to the property identified as area I-E on map numbered 626-91007, the Secretary may enter into a cooperative agree-

ment whereby the State of Indiana or any political subdivision thereof may undertake to develop, manage, and interpret such area in a manner consistent with the purposes of this Act.

Study, transmittal to congressional committees. 16 USC 460u-18.

"SEC. 19. By July 1, 1977, the Secretary shall prepare and transmit to the Committees on Interior and Insular Affairs of the United States Congress a study of areas III–A, III–C, and II–A, as designated on map numbered 626–91007. The Secretary shall make reasonable provision for the timely participation of the State of Indiana, local public officials, affected property owners, and the general public in the formulation of said study, including, but not limited to, the opportunity to testify at a public hearing. The record of such hearing shall accompany said study. With respect to areas III–A and III–C, the study shall (a) address the desirability of acquisition of any or all of the area from the standpoint of resource management, protection, and public access; (b) develop alternatives for the control of beach erosion if desirable, including recommendations, if control is necessary, of assessing the costs of such control against those agencies responsible for such erosion; (c) consider and propose options to guarantee public access to and use of the beach area, including the location of necessary facilities for transportation, health, and safety; (d) detail the recreational potential of the area and all available alternatives for achieving such potential; (e) review the environmental impact upon the lakeshore resulting from the potential development and improvement of said areas; and (f) assess the cost to the United States from both the acquisition of said areas together with the potential savings from the retention of rights of use and occupancy and from the retention of the boundaries of the lakeshore, as designated on map numbered 626–91007, including the costs of additional administrative responsibilities necessary for the management of the lakeshore, including the maintenance of public services in the town of Beverly Shores, Indiana. With respect to area II–A, the Secretary shall study and report concerning the following objectives: (a) preservation of the remaining dunes, wetlands, native vegetation, and animal life within the area; (b) preservation and restoration of the watersheds of Cowles Bog and its associated wetlands; (c) appropriate public access to and use of lands within the area; (d) protection of the area and the adjacent lakeshore from degradation caused by all forms of construction, pollution, or other adverse impacts including, but not limited to, the discharge of wastes and any excessive subsurface migration of water; and (e) the economic consequences to the utility and its customers of acquisition of such area.

Land acquisition, notice to congressional committees; publication in Federal Register. 16 USC 460u-19.

"SEC. 20. After notifying the Committees on Interior and Insular Affairs of the United States Congress, in writing, of his intentions to do so and of the reasons therefor, the Secretary may, if he finds that such lands would make a significant contribution to the purposes for which the lakeshore was established, accept title to any lands, or interests in lands, located outside the present boundaries of the lakeshore but contiguous thereto or to lands acquired under this section, such lands the State of Indiana or its political subdivisions may acquire and offer to donate to the United States or which any private person, organization, or public or private corporation may offer to donate to the United States and he shall administer such lands as a part of the lakeshore after publishing notice to that effect in the Federal Register.".

(9) Section 5 of such Act is hereby repealed, and the succeeding sections are redesignated accordingly. Repeal. 16 USC 460u-4.

Approved October 18, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-818 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 94-1189 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 122 (1976):
Feb. 17, considered and passed House.
Sept. 24, considered and passed Senate, amended.
Sept. 29, House agreed to Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 43:
Oct. 19, Presidential statement.