

110TH CONGRESS  
1ST SESSION

# S. 2073

To amend the National Trails System Act relating to the statute of limitations that applies to certain claims.

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 20, 2007

Mrs. MCCASKILL (for herself and Mr. BOND) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To amend the National Trails System Act relating to the statute of limitations that applies to certain claims.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Trails Act Technical  
5 Correction Act of 2007”.

6 **SEC. 2. CLAIMS AGAINST UNITED STATES FOR INTERIM**  
7 **USE OF RIGHTS-OF-WAY.**

8 (a) AMENDMENT TO NATIONAL TRAILS SYSTEM  
9 ACT.—Section 8(d) of the National Trails System Act (16  
10 U.S.C. 1247(d)) is amended—

1           (1) by striking “The Secretary of Transpor-  
2           tation” and inserting “(1) The Secretary of Trans-  
3           portation”; and

4           (2) by adding at the end the following:

5           “(2) In any action brought against the United  
6           States, by the owner of property that is subject to  
7           a railroad right-of-way and to interim use described  
8           in paragraph (1), for damages sustained by reason  
9           of paragraph (1), the claim for damages shall not be  
10          deemed to first accrue for purposes of the limita-  
11          tions period prescribed by sections 2401 and 2501  
12          of title 28, United States Code, before the date on  
13          which the State, political subdivision, or qualified  
14          private organization enters into an agreement with  
15          the railroad to assume full responsibility for such  
16          right-of-way and interim use under paragraph (1).”.

17          (b) EFFECTIVE DATE.—

18                 (1) IN GENERAL.—The amendments made by  
19                 subsection (a) shall take effect on the date of the en-  
20                 actment of this Act and shall apply to any civil ac-  
21                 tion pending on, or commenced on or after, such  
22                 date of enactment.

23                 (2) PRIOR ORDERS VACATED UPON REQUEST.—

24                 If, not later than 1 year after the date of the enact-  
25                 ment of this Act, a party to the case or the party’s

1 successor in interest files with the court a request  
2 that an order be vacated, the order shall be vacated  
3 by the court if the order—

4 (A) was entered, before the date of the en-  
5 actment of this Act, by a court in a case pend-  
6 ing on such date of enactment; and

7 (B) is inconsistent with the amendments  
8 made by subsection (a).

9 (c) JUDICIAL REVIEW.—

10 (1) REVIEW OF CERTAIN CLAIMS.—Notwith-  
11 standing any other provision of law, the court in  
12 which the claim was originally filed shall review on  
13 the merits, without regard to the defense of res judi-  
14 cata or collateral estoppel, any claim that—

15 (A) was brought against the United States,  
16 by the owner of property that is subject to a  
17 railroad right-of-way and to interim use de-  
18 scribed in paragraph (1) of section 8(d) of the  
19 National Trails System Act, for damages sus-  
20 tained by reason of such section 8(d);

21 (B) was dismissed, before the date of the  
22 enactment of this Act, for not being brought  
23 within the time period provided under section  
24 2401 or 2501 of title 28, United States Code;  
25 and

1           (C) would have been considered to have  
2           been brought in a timely manner if the amend-  
3           ments made by subsection (a) had been in ef-  
4           fect when the claim was brought, if the claim-  
5           ant applies to the court for such review not  
6           later than 60 days after the date of the enact-  
7           ment of this Act.

8           (2) ACTION BY THE COURT.—In reviewing a  
9           claim under paragraph (1), the court shall receive  
10          and consider any additional evidence, including oral  
11          testimony, that any party may wish to provide and  
12          shall determine the issues de novo.

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