

SEC. 4. CLOSURE.

(a) *IN GENERAL.*—If the Secretary of the Army notifies the Secretary that closure of the covered land is required because of a national emergency or for the purpose of national defense or national security, the Secretary shall—

(1) order the suspension of any activity authorized by this Act on the covered land; and

(2) close the covered land until the Secretary of the Army notifies the Secretary that the closure is no longer necessary.

(b) *LIABILITY.*—Neither the Secretary nor the Secretary of the Army shall be liable for damages from a closure of the covered land under subsection (a).

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 203), as amended, was read the third time and passed.

(b) *LIABILITY.*—Neither the Secretary nor the Secretary of the Army shall be liable for damages from a closure of the covered land under subsection (a).

The title was amended so as to read:

“A bill to provide for the sale of bentonite in Big Horn County, Wyoming.”.

FEDERAL LAND RECREATIONAL VISITOR PROTECTION ACT OF 2004

The Senate proceeded to consider the bill (S. 931) to direct the Secretary of the Interior to undertake a program to reduce the risks from and mitigate the effects of avalanches on visitors to units of the National Park System and on other recreational users of public land, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 931

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

[SECTION 1. SHORT TITLE.

[This Act may be cited as the “Federal Land Recreational Visitor Protection Act of 2003”.

[SEC. 2. DEFINITIONS.

[In this Act:

[(1) *PROGRAM.*—The term “program” means the avalanche protection program established under section 3(a).

[(2) *SECRETARY.*—The term “Secretary” means the Secretary of the Interior.

[SEC. 3. AVALANCHE PROTECTION PROGRAM.

[(a) *ESTABLISHMENT.*—The Secretary shall establish a coordinated avalanche protection program—

[(1) to provide early identification of the potential for avalanches that could endanger the safety of visitors to units of the National Park System and recreational users of public land, including skiers, backpackers, snowboarders, and campers; and

[(2) to reduce the risks and mitigate the effects of avalanches on visitors, recreational users, neighboring communities, and transportation corridors.

[(b) *COORDINATION.*—

[(1) *IN GENERAL.*—In developing and implementing the program, the Secretary shall consult with the Secretary of Agriculture, and coordinate the program, to ensure adequate levels of protection for recreational users of public land and forests under the jurisdiction of the Secretary of Agriculture, including National Recreation Areas, wilderness and backcountry areas, components of the National Wild and Scenic Rivers System, and other areas that are subject to the potential threat of avalanches.

[(2) *RESOURCES.*—In carrying out this section, the Secretary and the Secretary of Agriculture—

[(A) shall, to the maximum extent practicable, use the resources of the National Avalanche Center of the Forest Service; and

[(B) may use such other resources as the Secretary has available in the development and implementation of the program.

[(c) *ADVISORY COMMITTEE.*—

[(1) *IN GENERAL.*—The Secretary and the Secretary of Agriculture shall jointly establish an advisory committee to assist in the development and implementation of the program.

[(2) *MEMBERSHIP.*—

[(A) *IN GENERAL.*—The Advisory Committee shall consist of 11 members, appointed by the Secretaries, who represent authorized users of artillery, other military weapons, or weapons alternatives used for avalanche control.

[(B) *REPRESENTATIVES.*—The membership of the Advisory Committee shall include representatives of—

[(i) Federal land management agencies and concessionaires or permittees that are exposed to the threat of avalanches;

[(ii) State departments of transportation that have experience in dealing with the effects of avalanches; and

[(iii) Federal- or State-owned railroads that have experience in dealing with the effects of avalanches.

[(d) *CENTRAL DEPOSITORY.*—The Secretary, the Secretary of Agriculture, and the Secretary of the Army shall establish a central depository for weapons, ammunition, and parts for avalanche control purposes, including an inventory that can be made available to Federal and non-Federal entities for avalanche control purposes under the program.

[(e) *GRANTS.*—

[(1) *IN GENERAL.*—The Secretary and the Secretary of Agriculture may make grants to carry out projects and activities under the program—

[(A) to assist in the prevention, forecasting, detection, and mitigation of avalanches for the safety and protection of persons, property, and at-risk communities;

[(B) to maintain essential transportation and communications affected or potentially affected by avalanches;

[(C) to assist avalanche artillery users to ensure the availability of adequate supplies of artillery and other unique explosives required for avalanche control in or affecting—

[(i) units of the National Park System; and

[(ii) other Federal land used for recreation purposes; and

[(iii) adjacent communities, and essential transportation corridors, that are at risk of avalanches; and

[(D) to assist public or private persons and entities in conducting research and development activities for cost-effective and reliable alternatives to minimize reliance on military weapons for avalanche control.

[(2) *APPORTIONMENT OF FUNDS.*—

[(A) *IN GENERAL.*—Subject to subparagraph (B), for each fiscal year for which funds are made available under section 4, the Secretary shall apportion the amount of funds made available for the fiscal year among States with avalanche zones based on the ratio that the total area of avalanche zones located in each State bears to the total area of all avalanche zones in all States.

[(B) *PRIORITY.*—In providing grants under this subsection, the Secretary shall give priority to projects and activities carried out in avalanche zones—

[(i) with a high frequency or severity of avalanches; or

[(ii) in which deaths or serious injuries to individuals, or loss or damage to public facilities and communities, have occurred or are likely to occur.

[(f) *SURPLUS ORDINANCE.*—Section 549(c)(3) of title 40, United States Code, is amended—

[(1) in subparagraph (A), by striking “or” after the semicolon at the end;

[(2) in subparagraph (B), by striking the period at the end and inserting “; or”; and

[(3) by adding at the end the following:

[(“C) in the case of surplus artillery ordinance that is suitable for avalanche control purposes, to a user of such ordinance.”.

[SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Federal Land Recreational Visitor Protection Act of 2004”.

SEC. 2. DEFINITIONS.

In this Act:

(1) *PROGRAM.*—The term “program” means the avalanche protection program established under section 3(a).

(2) *SECRETARY.*—The term “Secretary” means the Secretary of Agriculture.

SEC. 3. AVALANCHE PROTECTION PROGRAM.

(a) *ESTABLISHMENT.*—The Secretary shall establish a coordinated avalanche protection program—

(1) to provide early identification of the potential for avalanches that could endanger the safety of recreational users of public land, including skiers, backpackers, snowboarders, and campers and visitors to units of the National Park System; and

(2) to reduce the risks and mitigate the effects of avalanches on visitors, recreational users, neighboring communities, and transportation corridors.

(b) *COORDINATION.*—

(1) *IN GENERAL.*—In developing and implementing the program, the Secretary shall consult with the Secretary of the Interior, and coordinate the program, to ensure adequate levels of protection for recreational users of public land under the jurisdiction of the Secretary of the Interior, including units of the National Park System, National Recreation Areas, wilderness and backcountry areas, components of the National Wild and Scenic Rivers System, and other areas that are subject to the potential threat of avalanches.

(2) *RESOURCES.*—In carrying out this section, the Secretary and the Secretary of the Interior—

(A) shall, to the maximum extent practicable, use the resources of the National Avalanche Center of the Forest Service; and

(B) may use such other resources as the Secretary has available in the development and implementation of the program.

(c) *ADVISORY COMMITTEE.*—

(1) *IN GENERAL.*—The Secretary and the Secretary of the Interior shall jointly establish an advisory committee to assist in the development and implementation of the program.

(2) *MEMBERSHIP.*—

(A) *IN GENERAL.*—The Advisory Committee shall consist of 11 members, appointed by the Secretaries, who represent authorized users of artillery, other military weapons, or weapons alternatives used for avalanche control.

(B) *REPRESENTATIVES.*—The membership of the Advisory Committee shall include representatives of—

(i) Federal land management agencies and concessionaires or permittees that are exposed to the threat of avalanches;

(ii) State departments of transportation that have experience in dealing with the effects of avalanches; and

(iii) Federal- or State-owned railroads that have experience in dealing with the effects of avalanches.

(d) *CENTRAL DEPOSITORY.*—The Secretary, the Secretary of the Interior, and the Secretary of

the Army shall establish a central depository for weapons, ammunition, and parts for avalanche control purposes, including an inventory that can be made available to Federal and non-Federal entities for avalanche control purposes under the program.

(e) GRANTS.—

(1) IN GENERAL.—The Secretary and the Secretary of the Interior may make grants to carry out projects and activities under the program—

(A) to assist in the prevention, forecasting, detection, and mitigation of avalanches for the safety and protection of persons, property, and at-risk communities;

(B) to maintain essential transportation and communications affected or potentially affected by avalanches;

(C) to assist avalanche artillery users to ensure the availability of adequate supplies of artillery and other unique explosives required for avalanche control in or affecting—

(i) units of the National Park System; and
(ii) other Federal land used for recreation purposes; and

(iii) adjacent communities, and essential transportation corridors, that are at risk of avalanches; and

(D) to assist public or private persons and entities in conducting research and development activities for cost-effective and reliable alternatives to minimize reliance on military weapons for avalanche control.

(2) PRIORITY.—For each fiscal year for which funds are made available under section 4, the Secretary shall give priority to projects and activities carried out in avalanche zones—

(A) with a high frequency or severity of avalanches; or

(B) in which deaths or serious injuries to individuals, or loss or damage to public facilities and communities, have occurred or are likely to occur.

(f) SURPLUS ORDINANCE.—Section 549(c)(3) of title 40, United States Code, is amended—

(1) in subparagraph (A), by striking “or” after the semicolon at the end;

(2) in subparagraph (B), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:
“(C) in the case of surplus artillery ordinance that is suitable for avalanche control purposes, to a user of such ordinance.”.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act \$15,000,000 for each of fiscal years 2005 through 2009.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 931), as amended, was read the third time and passed.

The title was amended so as read:

“A bill to direct the Secretary of Agriculture to undertake a program to reduce the risks from and mitigate the effects of avalanches on recreational users of public land.”.

EL CAMINO REAL DE LOS TEJAS NATIONAL HISTORIC TRAIL ACT

The Senate proceeded to consider the bill (S. 2052) to amend the National Trails System Act to designate El Camino Real de los Tejas as a National Historic Trail, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following: (Strike the part shown in black brackets and insert the part shown in italic.)

S. 2052

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

[SECTION 1. SHORT TITLE.]

[This Act may be cited as the “El Camino Real de los Tejas National Historic Trail Act of 2004”.]

[SEC. 2. AUTHORIZATION AND ADMINISTRATION.]

[Section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)) is amended by adding at the end the following:

[“(23) EL CAMINO REAL DE LOS TEJAS.—

[“(A) IN GENERAL.—Subject to subparagraph (B), El Camino Real de los Tejas (The Royal Road of historic Tejas) National Historic Trail, a combination of historic routes totaling 2,580 miles in length from the Rio Grande near Eagle Pass and Laredo, Texas, to Natchitoches, Louisiana, and including the Old San Antonio Road, as generally depicted on the maps entitled ‘El Camino Real de los Tejas’, contained in the report prepared pursuant to subsection (b) entitled ‘National Historic Trail Feasibility Study and Environmental Assessment: El Camino Real de los Tejas, Texas-Louisiana’, dated July 1998. The National Park Service is authorized to administer designated portions of this trail system as a national historic trail as set forth in this paragraph.

[“(B) ESTABLISHMENT.—

[“(i) PUBLICLY OWNED LANDS.—Congress authorizes the establishment of El Camino Real de los Tejas national historic trail and the respective administration on those portions of the historic trail routes and related historic sites within publicly owned lands when such trail related resources meet the purposes of this Act or certification criteria set by the Secretary of the Interior per section 3(a)(3) of this Act.

[“(ii) PRIVATELY OWNED LANDS.—Congress authorizes the establishment of El Camino Real de los Tejas national historic trail and the respective administration on those portions of the historic trail routes and related historic sites within privately owned lands only through the voluntary and expressed consent of the owner and when such trails and sites qualify for certification as officially established components of the national historic trail. The owner’s approval of a certification agreement satisfies the consent requirement. Certification agreements are not legally binding and may be terminated at any time. Should land ownership change at a certified site, the certification will cease to be valid unless the new owner consents to a new agreement.

[“(C) PRIVATE PROPERTY RIGHTS PROTECTION.—Nothing in this Act or in the establishment of any portion of the national historic trail authorizes any person to enter private property without the consent of the owner. Nothing in this Act or in the establishment of any portion of the national historic trail will authorize the Federal Government to restrict private property owner’s use or enjoyment of their property subject to other laws or regulations. Authorization of El Camino Real de los Tejas National Historic Trail under this Act does not itself confer any additional authority to apply other Federal laws and regulations on non-Federal lands along the trail. Laws or regulations requiring public entities and agencies to take into consideration a national historic trail shall continue to apply notwithstanding the foregoing. Notwithstanding section 7(g) of this Act, the United States is authorized to acquire privately owned real property or an interest in such property for purposes of the national historic trail only with the consent of the owner of such property and shall have no authority to condemn or otherwise appropriate privately owned real property or an interest in such property for the purposes of El Camino Real de los Tejas National Historic Trail.

[“(D) COORDINATION OF ACTIVITIES.—The Secretary of the Interior may coordinate

with United States and Mexican public and nongovernmental organizations, academic institutions, and, in consultation with the Secretary of State, the Government of Mexico and its political subdivisions, for the purpose of exchanging trail information and research, fostering trail preservation and educational programs, providing technical assistance, and working to establish an international historic trail with complementary preservation and education programs in each nation.

[“(E) CONSULTATION.—The Secretary of the Interior shall consult with appropriate State agencies in the the planning, development, and maintenance of El Camino Real de los Tejas National Historic Trail.”.]

SECTION 1. SHORT TITLE.

This Act may be cited as the “El Camino Real de los Tejas National Historic Trail Act”.

SEC. 2. DESIGNATION OF EL CAMINO REAL DE LOS TEJAS NATIONAL HISTORIC TRAIL.

Section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)) is amended by adding at the end the following:

“(24) EL CAMINO REAL DE LOS TEJAS NATIONAL HISTORIC TRAIL.—

“(A) IN GENERAL.—El Camino Real de los Tejas (the Royal Road to the Tejas) National Historic Trail, a combination of historic routes (including the Old San Antonio Road) totaling approximately 2,580 miles, extending from the Rio Grande near Eagle Pass and Laredo, Texas, to Natchitoches, Louisiana, as generally depicted on the map entitled ‘El Camino Real de los Tejas’ contained in the report entitled ‘National Historic Trail Feasibility Study and Environmental Assessment: El Camino Real de los Tejas, Texas-Louisiana’, dated July 1998.

“(B) MAP.—A map generally depicting the trail shall be on file and available for public inspection in the appropriate offices of the National Park Service.

“(C) ADMINISTRATION.—(i) The Secretary of the Interior (referred to in this paragraph as ‘the Secretary’) shall administer the trail.

“(ii) The Secretary shall administer those portions of the trail on non-Federal land only with the consent of the owner of such land and when such trail portion qualifies for certification as an officially established component of the trail, consistent with section 3(a)(3). An owner’s approval of a certification agreement shall satisfy the consent requirement. A certification agreement may be terminated at any time.

“(iii) The designation of the trail does not authorize any person to enter private property without the consent of the owner.

“(D) CONSULTATION.—The Secretary shall consult with appropriate State and local agencies in the planning and development of the trail.

“(E) COORDINATION OF ACTIVITIES.—The Secretary may coordinate with United States and Mexican public and nongovernmental organizations, academic institutions, and, in consultation with the Secretary of State, the Government of Mexico and its political subdivisions, for the purpose of exchanging trail information and research, fostering trail preservation and educational programs, providing technical assistance, and working to establish an international historic trail with complementary preservation and education programs in each nation.

“(F) LAND ACQUISITION.—The United States shall not acquire for the trail any land or interest in land outside the exterior boundary of any federally-administered area without the consent of the owner of the land or interest in land.”.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 2052), as amended, was read the third time and passed.