

PUBLIC LAW 109-363—OCT. 17, 2006

TYLERSVILLE FISH HATCHERY CONVEYANCE

Public Law 109-363
109th Congress

An Act

Oct. 17, 2006
[H.R. 4957]

To direct the Secretary of the Interior to convey the Tylersville division of the Lamar National Fish Hatchery and Fish Technology Center to the State of Pennsylvania, and for other purposes.

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

Tylersville Fish
Hatchery
Conveyance Act.

**TITLE I—TYLERSVILLE FISH HATCHERY
CONVEYANCE**

SEC. 101. SHORT TITLE.

This title may be cited as the “Tylersville Fish Hatchery Conveyance Act”.

**SEC. 102. CONVEYANCE OF TYLERSVILLE NATIONAL FISH HATCHERY
TO THE STATE OF PENNSYLVANIA.**

Deadline.

(a) CONVEYANCE REQUIREMENT.—Within 180 days after the date of the enactment of this Act, the Secretary of the Interior shall convey to the State of Pennsylvania without reimbursement all right, title, and interest of the United States in and to the property described in subsection (b) for use by the Pennsylvania Fish and Boat Commission as part of the State of Pennsylvania fish culture program.

(b) PROPERTY DESCRIBED.—The property referred to in subsection (a) consists of—

(1) the Tylersville division of the Lamar National Fish Hatchery and Fish Technology Center comprised of approximately 40 acres leased to the State of Pennsylvania Fish and Boat Commission, located on 43 Hatchery Lane in Loganton, Pennsylvania, as described in the 1984 Cooperative Agreement between the United States Fish and Wildlife Service and the State of Pennsylvania;

(2) all improvements and related personal property under the control of the Secretary that is located on that property, including buildings, structures, equipment, and all easements and leases relating to that property; and

(3) all water rights relating to that property.

(c) REVERSIONARY INTEREST.—If any of the property conveyed to the State of Pennsylvania under this section is used for any purpose other than the use authorized under subsection (a), all right, title, and interest in and to all property conveyed under this section shall revert to the United States. The State of Pennsylvania shall ensure that all property reverting to the United States

under this subsection is in substantially the same or better condition as at the time of transfer to the State.

TITLE II—NATIONAL FISH AND WILDLIFE FOUNDATION

SEC. 201. SHORT TITLE.

This title may be cited as the “National Fish and Wildlife Foundation Reauthorization Act of 2006”.

National Fish and Wildlife Foundation Reauthorization Act of 2006. 16 USC 3701 note.

SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

Section 10(a)(1) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3709(a)(1)) is amended by striking “fiscal years 2001 through 2005” and inserting “fiscal years 2006 through 2010”.

SEC. 203. APPLICATION OF NOTICE REQUIREMENT LIMITED TO GRANTS MADE WITH FEDERAL FUNDS.

Section 4(i) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3703(i)) is amended by striking “grant of funds” and inserting “grant of Federal funds in an amount greater than \$10,000”.

SEC. 204. CLARIFICATION OF AUTHORITY TO USE FEDERAL FUNDS TO MATCH CONTRIBUTIONS MADE TO RECIPIENTS OF NATIONAL FISH AND WILDLIFE FOUNDATION GRANTS.

Section 10(a)(3) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3709(a)(3)) is amended by inserting “, or to a recipient of a grant provided by the Foundation,” after “made to the Foundation”.

TITLE III—NEOTROPICAL MIGRATORY BIRD CONSERVATION IMPROVEMENT

SEC. 301. SHORT TITLE.

This title may be cited as the “Neotropical Migratory Bird Conservation Improvement Act of 2006”.

Neotropical Migratory Bird Conservation Improvement Act of 2006. 16 USC 6101 note.

SEC. 302. AMENDMENTS TO NEOTROPICAL MIGRATORY BIRD CONSERVATION ACT.

(a) FINDINGS.—Section 2(1) of the Neotropical Migratory Bird Conservation Act (16 U.S.C. 6101(1)) is amended by inserting “but breed in Canada and the United States” after “the Caribbean”.

(b) PURPOSES.—Section 3(2) of such Act (16 U.S.C. 6102(2)) is amended by inserting “Canada,” after “United States.”.

(c) DEFINITION OF CARIBBEAN.—Section 4 of such Act (16 U.S.C. 6103) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (5), respectively;

(2) by inserting after paragraph (1) the following:

“(2) CARIBBEAN.—The term ‘Caribbean’ includes Puerto Rico and the United States Virgin Islands.”; and

(3) by inserting after paragraph (3), as so redesignated, the following:

“(4) FUND.—The term ‘Fund’ means the Neotropical Migratory Bird Conservation Fund established by section 9(a).”.

(d) AUTHORIZATION OF PROJECTS TO ENHANCE CONSERVATION IN CANADA.—Section 5(c)(2) of such Act (16 U.S.C. 6104(c)(2)) is amended by inserting “Canada,” after “the United States.”.

(e) COST SHARING.—Section 5(e)(2)(B) of such Act (16 U.S.C. 6104(e)(2)(B)) is amended to read as follows:

“(B) FORM OF PAYMENT.—

“(i) PROJECTS IN THE UNITED STATES AND CANADA.—The non-Federal share required to be paid for a project carried out in the United States or Canada shall be paid in cash.

“(ii) PROJECTS IN LATIN AMERICA AND THE CARIBBEAN.—The non-Federal share required to be paid for a project carried out in Latin America or the Caribbean may be paid in cash or in kind.”.

(f) ADVISORY GROUP.—

(1) COMPOSITION.—Section 7(b)(1) of such Act (16 U.S.C. 6106(b)(1)) is amended by adding at the end the following: “The advisory group as a whole shall have expertise in the methods and procedures set forth in section 4(2) in each country and region of the Western Hemisphere”.

(2) ENCOURAGEMENT TO CONVENE.—The Secretary of the Interior is encouraged to convene an advisory group under section 7(b)(1) of such Act by not later than 6 months after the effective date of this Act. This paragraph shall not be considered to authorize delay of the schedule previously established by the United States Fish and Wildlife Service for the submission, judging, and awarding of grants.

(g) REPORT.—Section 8 of such Act (16 U.S.C. 6107) is amended by striking “October 1, 2002,” and inserting “2 years after the date of the enactment of the Neotropical Migratory Bird Conservation Improvement Act of 2006”.

(h) NEOTROPICAL MIGRATORY BIRD CONSERVATION FUND.—

(1) IN GENERAL.—Section 9 of such Act (16 U.S.C. 6108) is amended by striking so much as precedes subsection (c) and inserting the following:

“SEC. 9. NEOTROPICAL MIGRATORY BIRD CONSERVATION FUND.

“(a) ESTABLISHMENT.—There is established in the Treasury a separate account, which shall be known as the ‘Neotropical Migratory Bird Conservation Fund’. The Fund shall consist of amounts deposited into the Fund by the Secretary of the Treasury under subsection (b).

“(b) DEPOSITS INTO THE FUND.—The Secretary of the Treasury shall deposit into the Fund—

“(1) all amounts received by the Secretary in the form of donations under subsection (d); and

“(2) other amounts appropriated to the Fund.”.

(2) ADMINISTRATIVE EXPENSES.—Section 9(c)(2) of such Act (16 U.S.C. 6108(c)(2)) is amended by striking “\$80,000” and inserting “\$100,000”.

(3) CONFORMING AMENDMENTS.—Such Act is amended further as follows:

(A) In section 4 (16 U.S.C. 6103), by striking paragraph

(1) and inserting the following:

“(1) FUND.—The term ‘Fund’ means the Neotropical Migratory Bird Conservation Fund established by section 9(a).”

(B) In section 9(d) (16 U.S.C. 6108(d)), by striking “Account” and inserting “Fund”.

(4) TRANSFER.—The Secretary of the Treasury may transfer to the Neotropical Migratory Bird Conservation Fund amounts that were in the Neotropical Migratory Bird Conservation Account immediately before the enactment of this Act.

(i) AUTHORIZATION OF APPROPRIATIONS.—Section 10 of such Act (16 U.S.C. 6109) is amended to read as follows:

(1) by inserting “(a) IN GENERAL.” before the first sentence;

(2) by striking “\$5,000,000 for each of fiscal years 2001 through 2005” and inserting “for each of fiscal years 2006 through 2010 the amount specified for that fiscal year in subsection (b)”; and

(3) by adding at the end the following:

“(b) AUTHORIZED AMOUNT.—The amount referred to in subsection (a) is—

“(1) \$5,000,000 for each of fiscal years 2006 and 2007;

“(2) \$5,500,000 for fiscal year 2008;

“(3) \$6,000,000 for fiscal year 2009; and

“(4) \$6,500,000 for fiscal year 2010.

“(c) AVAILABILITY.—Amounts appropriated under this section may remain available until expended.

“(d) ALLOCATION.—Of amounts appropriated under this section for each fiscal year, not less than 75 percent shall be expended for projects carried out outside the United States.”.

16 USC 6108
note.

TITLE IV—ED FOUNTAIN PARK EXPANSION ACT

Ed Fountain
Park Expansion
Act.

SEC. 401. SHORT TITLE.

This title may be cited as the “Ed Fountain Park Expansion Act”.

SEC. 402. DEFINITIONS.

In this title:

(1) ADMINISTRATIVE SITE.—The term “administrative site” means the parcel of real property identified as “Lands to be Conveyed to the City of Las Vegas; approximately, 7.89 acres” on the map entitled “Ed Fountain Park Expansion” and dated November 1, 2005.

(2) CITY.—The term “City” means the city of Las Vegas, Nevada.

(3) SECRETARY.—The term “Secretary” means the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service.

SEC. 403. CONVEYANCE OF UNITED STATES FISH AND WILDLIFE SERVICE ADMINISTRATIVE SITE, LAS VEGAS, NEVADA.

(a) IN GENERAL.—The Secretary shall convey to the City, without consideration, all right, title, and interest of the United States in and to the administrative site for use by the City—

(1) as a park; or

(2) for any other recreation or nonprofit-related purpose.

(b) ADMINISTRATIVE EXPENSES.—As a condition of the conveyance under subsection (a), the Secretary shall require that the City pay the administrative costs of the conveyance, including survey costs and any other costs associated with the conveyance.

(c) REVERSIONARY INTEREST.—

(1) IN GENERAL.—If the Secretary determines that the City is not using the administrative site for a purpose described in paragraph (1) or (2) of subsection (a), all right, title, and interest of the City in and to the administrative site (including any improvements to the administrative site) shall revert, at the option of the Secretary, to the United States.

(2) HEARING.—Any determination of the Secretary with respect to a reversion under paragraph (1) shall be made—

(A) on the record; and

(B) after an opportunity for a hearing.

Cahaba River
National Wildlife
Refuge
Expansion Act.
16 USC 668dd
note.

TITLE V—CAHABA RIVER NATIONAL WILDLIFE REFUGE EXPANSION

SEC. 501. SHORT TITLE.

This title may be cited as the “Cahaba River National Wildlife Refuge Expansion Act”.

SEC. 502. DEFINITIONS.

In this title:

(1) REFUGE.—The term “Refuge” means the Cahaba River National Wildlife Refuge and the lands and waters in such refuge in Bibb County, Alabama, as established by the Cahaba River National Wildlife Refuge Establishment Act (Public Law 106-331).

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

SEC. 503. EXPANSION OF BOUNDARIES.

(a) EXPANSION.—The boundaries of the Refuge are expanded to include land and water in Bibb County, Alabama, depicted as “Proposed National Wildlife Refuge Expansion Boundary” on the map entitled “Cahaba River NWR Expansion” and dated March 14, 2006.

(b) AVAILABILITY OF MAP.—The Secretary shall make the map referred to in subsection (a) available for inspection in appropriate offices of the United States Fish and Wildlife Service.

SEC. 504. ACQUISITION OF LAND AND WATER IN EXPANDED BOUNDARIES.

(a) IN GENERAL.—Subject to subsection (b), the Secretary may acquire by donation, purchase with donated or appropriated funds, or exchange the land and water, and interests in land and water (including conservation easements), within the boundaries of the Refuge as expanded by this title.

(b) MANNER OF ACQUISITION.—All acquisitions of land or waters under this section shall be made in a voluntary manner and shall not be the result of forced takings.

(c) INCLUSION IN REFUGE; ADMINISTRATION.—Any land, water, or interest acquired by the Secretary under this section—

(1) shall be part of the Refuge; and

(2) shall be administered by the Secretary in accordance with—
(A) the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.);
(B) the Cahaba River National Wildlife Refuge Establishment Act; and
(C) this Act.

TITLE VI—CHERRY VALLEY NATIONAL WILDLIFE REFUGE

Cherry Valley
National Wildlife
Refuge Study
Act.

SEC. 601. SHORT TITLE.

This title may be cited as the “Cherry Valley National Wildlife Refuge Study Act”.

SEC. 602. FINDINGS.

The Congress finds the following:

(1) The scenic Cherry Valley area of Northeastern Pennsylvania is blessed with more than 80 special-concern animal and plant species and natural habitats.

(2) In a preliminary assessment of Cherry Valley, United States Fish and Wildlife Service biologists ranked Cherry Valley very high as a potential national wildlife refuge.

(3) Six species that are listed as endangered species or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) have been documented within or near Cherry Valley: The bog turtle (possibly the most significant population of the listed subspecies), the dwarf wedge mussel, the northeastern bulrush, the small whorled pogonia, the bald eagle, and the Indiana bat (a historic resident, with efforts under way to re-establish favorable conditions).

(4) Cherry Valley provides habitat for at least 79 species of national or regional concern, which either nest in Cherry Valley or migrate through the area during critical times in their life cycle, including—
(A) neo-tropical migratory birds such as the Cerulean Warbler, the Worm-eating Warbler, and the Wood Thrush, all of which nest in Cherry Valley;
(B) waterfowl such as the American Black Duck;
(C) several globally rare plants, such as the spreading globeflower; and
(D) anadromous fish species.

(5) The Cherry Valley watershed encompasses a large segment of the Kittatinny Ridge, an important migration route for birds of prey throughout the Northeastern United States. Every migratory raptor species in the Northeast is regularly observed along the Kittatinny Ridge during the autumnal migration, including the bald eagle, the golden eagle, and the broad-winged hawk.

(6) The Kittatinny Ridge also includes a long segment of the Appalachian Trail, a nationally significant natural-cultural-recreational feature.

(7) Many of the significant wildlife habitats found in the Cherry Valley, especially the rare calcareous wetlands, have disappeared from other localities in their range.

(8) Ongoing studies have documented the high water quality of Cherry Creek.

(9) Public meetings over several years have demonstrated strong, deep, and growing local support for a Cherry Valley National Wildlife Refuge, as demonstrated by the following:

(A) Area landowners, business and community leaders, media, and elected officials have consistently voiced their enthusiasm for a Cherry Valley National Wildlife Refuge.

(B) Numerous local communities and public and private conservation entities share complementary goals for protecting Cherry Valley and are energetically conserving wildlife habitat and farmland. Along with State land-management agencies and the National Park Service, these local entities represent potential strong partners for the United States Fish and Wildlife Service, and view a Cherry Valley National Wildlife Refuge as a complement to existing private, county, municipal, and State efforts.

(C) A number of local landowners have already put their land into conservation easements or other conservation arrangements.

(D) A voter-approved Monroe County Open Space Fund and a voter-approved Stroud Township municipal land conservation fund have contributed to many of these projects.

(10) Two federally owned parcels of land are contiguous to the area to be studied under this title as for acquisition and inclusion in a future Cherry Valley National Wildlife Refuge: The Delaware Water Gap National Recreation Area and a 700-acre segment of the Appalachian Trail owned by the National Park Service.

SEC. 603. STUDY OF REFUGE POTENTIAL AND FUTURE REFUGE LAND ACQUISITION.

Deadline.

(a) **STUDY.**—The Secretary shall initiate within 30 days after the date of the enactment of this Act a study to evaluate the fish and wildlife habitat and aquatic and terrestrial communities located in Northeastern Pennsylvania and identified on the map entitled, “Proposed Cherry Valley National Wildlife Refuge—Authorization Boundary”, dated February 24, 2005, for their potential acquisition by the United States Fish and Wildlife Service through donation, exchange, or willing seller purchase and subsequent inclusion in a future Cherry Valley National Wildlife Refuge.

(b) **CONSULTATION.**—The Secretary, while conducting the study required under this section, shall consult appropriate State and local officials, private conservation organizations, major landowners and other interested persons, regarding the identification of eligible lands, waters, and interests therein that are appropriate for acquisition for a national wildlife refuge and the determination of boundaries within which such acquisitions should be made.

(c) **COMPONENTS OF STUDY.**—As part of the study under this section the Secretary shall do the following:

(1) Determine if the fish and wildlife habitat and aquatic and terrestrial communities to be evaluated are suitable for inclusion in the National Wildlife Refuge System and management under the policies of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.).

(2) Assess the conservation benefits to be gained from the establishment of a Cherry Valley National Wildlife Refuge including—

(A) preservation and maintenance of diverse populations of fish, wildlife, and plants, including species listed as threatened species or endangered species;

(B) protection and enhancement of aquatic and wetland habitats;

(C) opportunities for compatible wildlife-dependent recreation, scientific research, and environmental education and interpretation; and

(D) fulfillment of international obligations of the United States with respect to fish, wildlife, and their habitats.

(3) Provide an opportunity for public participation and give special consideration to views expressed by local public and private entities regarding lands, waters, and interests therein for potential future acquisition for refuge purposes.

(4) The total area of lands, water, and interests therein that may be acquired shall not in the aggregate exceed 30,000 acres.

(d) REPORT.—The Secretary shall, within 12 months after date of the enactment of this Act, complete the study required by this section and submit a report containing the results thereof to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate. The report shall include—

(1) a map that identifies and prioritizes specific lands, waters, and interests therein for future acquisition, and that delineates an acquisition boundary, for a potential Cherry Valley National Wildlife Refuge;

(2) a cost estimate for the acquisition of all lands, waters, and interests therein that are appropriate for refuge status; and

(3) an estimate of potentially available acquisition and management funds from non-Federal sources.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary \$200,000 to carry out the study.

SEC. 604. DEFINITIONS.

In this title the term “Secretary” means the Secretary of the Interior acting through the Director of the United States Fish and Wildlife Service.

TITLE VII—GREAT APE CONSERVATION

SEC. 701. GREAT APE CONSERVATION ASSISTANCE.

Section 4 of the Great Ape Conservation Act of 2000 (16 U.S.C. 6303) is amended—

(1) in subsection (d)—

(A) in paragraph (4)(C), by striking “or” after the semi-colon at the end;

(B) in paragraph (5), by striking the period at the end and inserting “; or”; and

(C) by adding at the end the following:

“(6) address root causes of threats to great apes in range states, including illegal bushmeat trade, diseases, lack of regional or local capacity for conservation, and habitat loss due to natural disasters.”; and

(2) in subsection (i)—

(A) by striking “Every” and inserting the following:

“(1) IN GENERAL.—Every”;

(B) in paragraph (1) (as designated by subparagraph (A)), by striking “shall” and inserting “may”; and

(C) by adding at the end the following:

“(2) APPLICABILITY OF FACA.—The Federal Advisory Committee Act (5 App. U.S.C.) shall not apply to a panel convened under paragraph (1).”.

SEC. 702. GREAT APE CONSERVATION FUND.

Section 5(b)(2) of the Great Ape Conservation Act of 2000 (16 U.S.C. 6304(b)(2)) is amended—

(1) by striking “expand” and inserting “expend”; and

(2) by striking “\$80,000” and inserting “\$100,000”.

SEC. 703. AUTHORIZATION OF APPROPRIATIONS.

Section 6 of the Great Ape Conservation Act of 2000 (16 U.S.C. 6305) is amended by striking “fiscal years 2001 through 2005” and inserting “fiscal years 2006 through 2010”.

Approved October 17, 2006.

LEGISLATIVE HISTORY—H.R. 4957:

HOUSE REPORTS: No. 109-612 (Comm. on Resources).

SENATE REPORTS: No. 109-339 accompanying S. 3551 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 152 (2006):

Sept. 20, considered and passed House.

Sept. 29, considered and passed Senate.

