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SENATE

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PETTAQUAMSCUTT COVE NATIONAL WILDLIFE REFUGE

JUNE 25, 1996.—Ordered to be printed

Mr. CHAFEE, from the Committee on Environment and Public Works, submitted the following

REPORT

[To accompany S. 1871]

The Committee on Environment and Public Works, to which was referred the bill (S. 1871), a bill to expand the Pettaquamscutt Cove National Wildlife Refuge, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill do pass.

GENERAL STATEMENT

The purpose of S. 1871 is to expand the Pettaquamscutt Cove National Wildlife Refuge in Rhode Island by approximately 100 acres. The bill also provides the Secretary of the Interior with the authority to expand the refuge in the future through acquisition of other properties where appropriate.

BACKGROUND

The Pettaquamscutt Cove National Wildlife Refuge was established in 1988 through enactment of Public Law 100-610 to protect and enhance the populations of black ducks and other waterfowl, and for other purposes. Pettaquamscutt Cove is located between the towns of Narragansett and South Kingstown, Rhode Island. The Refuge boundary encompasses 460 acres of salt marsh and surrounding forest habitat that support a diversity of species of waterfowl, wading birds, shore birds, small mammals, reptiles and amphibians. Pettaquamscutt Cove has been identified as the most important migration and wintering habitat in Rhode Island for the black duck population under the North American Waterfowl Management Plan.

The second most densely populated state, Rhode Island has lost almost 40 percent of its original wetlands. Open space and wetland areas, such as Pettaquamscutt Cove, are under increasing threat of development. The Fish and Wildlife Service has been working diligently to protect property within the Refuge. To date, approximately 175 acres of habitat have already been acquired by the Service for inclusion within the Pettaquamscutt Cove National Wildlife Refuge. The Service continues to work with private and public landowners to ensure, through acquisition and other means, that important habitat within the Refuge is secured for conservation purposes.

S. 1871 would authorize the acquisition of approximately 100 acres known as “Foddering Farm Acres” for inclusion within the Pettaquamscutt Cove National Wildlife Refuge. Foddering Farm Acres is located along the northern shoreline of Point Judith Pond and includes a portion of large, unfragmented and undeveloped tracts of shoreline habitat along the state’s southern coastal zone. The northern portion of Point Judith Pond is part of an overall complex of tidal ponds and related coastal habitats and provides nesting, feeding, spawning, migration or wintering habitat for a diversity of wildlife, including waterfowl, wading and shorebirds, terns, gulls, rails and other wetland and upland-related wildlife species. Foddering Farm Acres consists of a mixture of deciduous forested upland, reverting upland shrub, and wetland in the form of forested swamp. Species utilizing this coastal pond site during migration and for wintering include black ducks, mallards, pintail, teal, canvasback, and Canadian geese. The site is also used as nesting habitat by the piping plover, a species listed as threatened under the Endangered Species Act.

The Fish and Wildlife Service has been working cooperatively with the property owners of Foddering Farm Acres for a number of years. The property owners have indicated their willingness to donate a portion of the value of the property to the Service.

SECTION-BY-SECTION ANALYSIS

Section 1. Expansion of Pettaquamscutt Cove National Wildlife Refuge

Section 1 authorizes the Secretary of the Interior to acquire an approximately 100-acre parcel known as the “Foddering Farm Acres” for inclusion within the Pettaquamscutt Cove National Wildlife Refuge. Foddering Farm Acres is located adjacent to Long Cove and borders on Foddering Farm Road to the south and Point Judith Road to the east. The boundaries of the refuge are revised to include this area. Section 1 also authorizes the Secretary to expand the refuge boundaries in the future through acquisition of other properties where appropriate.

Section 2. Authorization of appropriations

Section 2 clarifies that the authorization of appropriations applies to the expanded Pettaquamscutt Cove refuge boundaries, pursuant to Section 1.

Section 3. Technical amendments

Section 3 makes a series of technical amendments.

COMMITTEE ACTION

S. 1871 was introduced on June 13, 1996 by Senator Chafee and was referred to the Committee on Environment and Public Works. The committee held no hearings on S. 1871. The committee met to consider S. 1871 on June 18, 1996 and June 20, 1996. On June 20, the committee passed an amendment in the nature of a substitute to S. 1871, offered by Senator Chafee. By voice vote S. 1871 was ordered to be reported to the Senate. There are no agency reports.

EVALUATION OF REGULATORY IMPACT

Section 11(b) of rule XXVI of the Standing Rules of the Senate requires publication in the report the committee's estimate of the regulatory impact made by the bill as reported. No regulatory impact is expected by the passage of this bill.

The bill will not affect the personal privacy of individuals.

UNFUNDED MANDATES

Public Law 104-4 requires the committee to publish in its report any unfunded mandates upon private citizens. The passage of this legislation will cause no unfunded mandates.

COST OF LEGISLATION

Section 403 of the Congressional Budget and Impoundment Act requires that a statement of the cost of a reported bill, prepared by the Congressional Budget Office, be included in the report. That statement follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 25, 1996.

Hon. JOHN H. CHAFEE,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 1871, a bill to expand the Pettaquamscutt Cove National Wildlife Refuge, and for other purposes, as ordered reported by the Senate Committee on Environment and Public Works on June 20, 1996. The costs of implementing this bill are uncertain and could range from zero to several million dollars, depending on future boundary determinations for this refuge, the types of acquisition used, and the results of property appraisals. In any case, the potential spending would be subject to appropriations of the necessary amounts. The bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply to the bill.

S. 1871 would revise the boundaries of the Pettaquamscutt Cove National Wildlife Refuge in Rhode Island to include a parcel of land know as the Foddering Farm Acres. The bill also would authorize the appropriation of whatever amounts are necessary to ac-

quire the 100-acre site as well as any additional property that the Secretary of the Interior determines should be added to the refuge.

The costs of implementing this bill would depend primarily on whether the U.S. Fish and Wildlife Service (USFWS) adds other land besides the Foddering Farm Acres to the refuge. If the agency acquires only that site, implementing the bill would have no impact on Federal spending because funds have already been appropriated for that purpose. Alternatively, if the agency determines that other areas should be included within the refuge, additional appropriations would be needed. CBO cannot predict how much property might be acquired and at what cost, or whether some would be protected through purchases of conservation easements. Therefore, we cannot estimate the potential cost of this bill with any precision. Based on information provided by the agency, however, we can expect that such costs could total several million dollars.

S. 1871 contains no intergovernmental or private-sector mandates as defined in Public Law 104-4 and would impose no direct costs on State, local, or tribal governments.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Deborah Reis (for Federal costs), and Marjorie Miller (for the State and local impact).

Sincerely,

JUNE E. O'NEILL, *Director.*

CHANGES IN EXISTING LAW

In compliance with section 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows: Existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman:

[Public Law 100-610, 100th Congress]

AN ACT To amend title III of the Outer Continental Shelf Lands Act Amendments of 1978 to provide for indemnification and hold harmless agreements

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

TITLE I

SECTION I. SHORT TITLE.

This Act may be cited as the "Outer Continental Shelf Operations Indemnification Clarification Act of 1988".

SEC. 2. INDEMNITY AGREEMENTS.

Section 305 of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1802 et seq.) is amended by adding at the end the following new subsection:

"(e) Any owner or operator of an offshore facility may enter into an indemnity, hold harmless, or similar agreement with any person holding a lease on the Outer Continental Shelf with respect to any liability arising under this title. Notwithstanding the provision of this subsection, any such indemnity, hold harmless, or similar agreement shall not relieve such owner, operator, or person from liability arising under this title. Nothing in this subsection shall be

construed to alter or in any way affect the financial responsibility requirements imposed under this section.”.

SEC. 3. GUARANTOR'S LIABILITY.

Section 305 of the Outer Continental Shelf Lands Act Amendments of 1978 is amended by redesignating subsection (c) as (c)(1) and adding a new subsection (c)(2) to read as follows:

“(2) The total liability of any guarantor in a direct action suit brought under this section shall be limited to the aggregate amount of the monetary limits of the policy of insurance, guarantee, surety bond, letter of credit, or similar instrument obtained from the guarantor by the person subject to liability. Nothing in this subsection shall be construed, interpreted or applied to diminish the liability of any person under this Act or other applicable law.”.

TITLE II—PETTAQUAMSCUTT COVE NATIONAL WILDLIFE REFUGE

SEC. 201. FINDINGS.

The Congress finds that—

(1) Pettaquamscutt Cove, [and the associated] *including the associated* tidal marshes and mudflats, [and] dividing the towns of Narragansett and South Kingstown, Rhode Island, has been identified as the most important black duck migration and wintering habitat in Rhode Island, in accordance with the objectives of the North American Waterfowl Plan;

(2) Pettaquamscutt Cove provides important migration and wintering habitat for various other species of waterfowl, valuable feeding habitat for shorebirds, terns, gulls, and wading birds, and habitat for many species of finfish and shellfish;

(3) Pettaquamscutt Cove is home to several State-listed Rare and Uncommon animal and plant species; and

(4) designation of this area as a National Wildlife Refuge would significantly aid in the conservation of these fish and wildlife resources.

SEC. 202. PURPOSES.

The purposes for which the Pettaquamscutt Cove National Wildlife Refuge is established and shall be managed include—

(1) to protect and enhance the populations of black ducks and other waterfowl, geese, shorebirds, terns, wading birds, and other wildlife using the refuge;

(2) to provide for the conservation and management of fish and wildlife within the refuge;

(3) to fulfill the international treaty obligations of the United States respecting fish and wildlife; and

(4) to provide opportunities for scientific research, environmental education, and fish and wildlife-oriented recreation.

SEC. 203. DEFINITIONS.

For the purposes of this [Act] *title*—

(1) the term “refuge” means the Pettaquamscutt Cove National Wildlife Refuge;

(2) the term “Secretary” means the Secretary of the Interior; and

(3) the term “selection area” means the lands and waters of the Pettaquamscutt Watershed in the State of Rhode Island.

SEC. 204. ESTABLISHMENT OF REFUGE.

(a)(1) Within one year after the effective date of this [Act] *title*—the Secretary shall designate approximately 600 acres of land and waters within the selection area which the Secretary considers appropriate for the refuge.

(2) After making such designation, the Secretary shall publish in the Federal Register, and in newspapers of local circulation, a notice of availability of a detailed map depicting the boundaries of the land so designated, which map shall be on file and available for inspection in the office of the Director of the United States Fish and Wildlife Service, Department of the Interior, and in appropriate offices of the United States Fish and Wildlife Service in the State of Rhode Island.

(b) BOUNDARY REVISIONS.—The Secretary may make such minor revisions in the boundaries designated under this section as may be appropriate to carry out the purpose of the [Act] *title* or to facilitate the acquisition of property within the refuge.

(c) ACQUISITION.—After determination of the boundaries of the refuge in accordance with the provisions of subsection (a) of this section, the Secretary is authorized to acquire the lands and waters, or interests therein, within the boundary of the refuge.

(d) ESTABLISHMENT.—The Secretary shall establish the National Wildlife Refuge, by publication of a notice to that effect in the Federal Register and publications of local circulation, whenever sufficient property has been acquired within the boundary of the refuge to constitute an area that can be effectively managed as a National Wildlife Refuge.

(e) EXPANSION OF REFUGE.—

(1) ACQUISITION.—*The Secretary may acquire for addition to the refuge the area in Rhode Island known as “Foddering Farm Acres”, consisting of approximately 100 acres, adjacent to Long Cove and bordering on Foddering Farm Road to the south and Point Judith Road to the east, as depicted on a map entitled “Pettaquamscutt Cove NWR Expansion Area”, dated May 13, 1996, and available for inspection in appropriate offices of the United States Fish and Wildlife Service.*

(2) BOUNDARY REVISION.—*The boundaries of the refuge are revised to include the area described in paragraph (1).*

(f) FUTURE EXPANSION.—

(1) IN GENERAL.—*The Secretary may acquire for addition to the refuge such lands, waters, and interests in land and water as the Secretary considers appropriate and shall adjust the boundaries of the refuge accordingly.*

(2) APPLICABLE LAWS.—*Any acquisition described in paragraph (1) shall be carried out in accordance with all applicable laws.*

SEC. 205. ADMINISTRATION.

The Secretary shall administer all lands, waters, and interests therein acquired under this [Act] *title* in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1968 (16 U.S.C. 668dd–668ee). The Secretary may utilize such

additional statutory authority as may be available to him for the conservation and development of wildlife and natural resources, the development of recreation opportunities, and interpretive education, as he deems appropriate to carry out the purposes of this [Act] *title*.

SEC. 206. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of the Interior—

(a) such funds as may be necessary for the acquisition of lands and waters [designated in section 4(a)(1)] *designated or identified under section 204*; and

(b) such funds as may be necessary for the development, operation and maintenance of the refuge.

SEC. 207. EFFECTIVE DATE.

This [Act] *title* shall take effect on the date of its enactment.
Approved November 5, 1988.

