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SENATE

{ REPORT
{ 105-392

CAPE COD NATIONAL SEASHORE

OCTOBER 9, (legislative day, OCTOBER 2), 1998.—Ordered to be printed

Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany H.R. 2411]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 2411) to provide for a land exchange involving the Cape Code National Seashore and to extend the authority for the Cape Code National Seashore Advisory Commission, having considered the same, reports favorably thereon without amendment and recommends that the Act do pass.

PURPOSE OF THE MEASURE

The purposes of H.R. 2411 are to authorize a land exchange between the town of Provincetown, Massachusetts and the Secretary of the Interior, and to extend the authorization for the Cape Code National Advisory Commission to the year 2008.

BACKGROUND AND NEED

Cape Code National Seashore was established in 1961 by Public Law 87-126. The land referred to in this legislation became part of Cape Code National Seashore in 1962 from the Commonwealth of Massachusetts, when the State conveyed the former Province Lands State Park. The conveyed lands came with deed restrictions, including a requirement that the Secretary of the Interior make available land to the town of Provincetown for a landfill. The park provided approximately 30 acres which was used for a landfill.

In 1992, Provincetown was ordered by the Commonwealth to close its septic lagoons, cap its landfill and build a new solid waste transfer station and recycling facility. In 1994, the National Park Service issued a Special Use Permit to the town to construct the solid waste transfer station. Under the conditions of the permit, the

town has been allowed to operate the transfer station while pursuing the land exchange and the necessary permits.

A land exchange agreement has been reached which would transfer the 7.6 acre solid waste transfer site to Provincetown in exchange for 11.6 acres of undeveloped State land to the park. However, Public Law 104-333 established a ceiling of \$750,000 on the value of the land that could be executed by an administrative boundary adjustment. The value of the land exceeds this amount; therefore, the minor boundary change authority cannot be used.

H.R. 2411 also extends the Cape Cod National Seashore Advisory Commission which has expired, to the year 2008. The National Park Service, Federal, State, and local officials all support the extension. The Commission has provided valuable guidance to the seashore and given local officials and the surrounding communities a voice in the management of the Seashore.

LEGISLATIVE HISTORY

H.R. 2411 was passed by the House of Representatives on June 22, 1998 and referred to the Committee on Energy and Natural Resources. The Subcommittee on National Parks, Historic Preservation, and Recreation held a hearing on H.R. 2411 on September 17, 1998.

At its business meeting on September 24, 1998, the Committee on Energy and Natural Resources ordered H.R. 2411 favorably reported.

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on September 24, 1998, by a unanimous voice vote of a quorum present, recommends that the Senate pass H.R. 2411, as described herein.

SUMMARY OF H.R. 2411

H.R. 2411 amends section 2 of Public Law 87-126 to authorize the Secretary of the Interior to convey to the town of Provincetown, Massachusetts, approximately 7.62 acres of Federal land within the boundary of Cape Cod National Seashore (Seashore) in exchange for approximately 11.157 acres of land outside of the Seashore as depicted on the map entitled Cape Cod National Seashore Boundary Revision Map, dated May, 1997, and numbered 609/80,801. The exchange would allow for the establishment of a municipal facility to serve the town of Provincetown who is restricted to solid waste transfer and recycling facilities, and for other municipal activities that are compatible with National Park Service laws and regulations. Upon completion of the exchange, the Secretary of the Interior should modify the boundary of the Cape Cod National Seashore to include the land that has been added.

H.R. 2411 also amends section 8 of Public Law 87-126 to extend the authorization for the Cape Cod National Seashore Advisory Commission through 2008.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 25, 1998.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2411, an act to provide for a land exchange involving the Cape Cod National Seashore and to extend the authority for the Cape Cod National Seashore Advisory Commission.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis.

Sincerely,

JUNE E. O'NEIL, *Director.*

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 2411—An act to provide for a land exchange involving the Cape Cod National Seashore and to extend the authority for the Cape Cod National Seashore Advisory Commission

Based on information provided by the National Park Service, CBO estimates that implementing H.R. 2411 would have no significant impact on the federal budget. This legislation would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. H.R. 2411 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

H.R. 2411 would provide for a land exchange at the Cape Cod National Seashore. Specifically, the legislation would convey about eight acres of federal land to Provincetown, Massachusetts, in exchange for approximately 11 acres of land outside the park. The act would modify the park boundary to include the added land. In addition, the act would extend the life of the Cape Cod National Seashore Advisory Commission by 10 years to September 26, 2008. The commission provides guidance to the Park Service at a current annual cost of less than \$5,000.

On May 29, 1998, CBO prepared an estimate for H.R. 2411, a bill to provide for a land exchange involving the Cape Cod National Seashore and to extend the authority for the Cape Cod National Seashore Advisory Commission, as ordered reported by the House Committee on Resources on May 21, 1998. The two versions of the legislation and the two estimates are identical.

The CBO staff contact for this estimate is Deborah Reis. This estimate was approved by Paul N. Van de Water, Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 2411. The bill is not a regulatory measure in the sense of imposing Government-established standards of significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from enactment of H.R. 2411, as ordered reported.

EXECUTIVE COMMUNICATIONS

On September 3, 1998, the Committee on Energy and Natural Resources requested legislative report from the Department of the Interior and the Office of Management and Budget setting forth Executive agency recommendations on H.R. 2411. These reports had not been received at the time the report on H.R. 2411 was filed. When these reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony of the Department of the Interior at the Subcommittee hearing follows:

STATEMENT OF DESTRY JARVIS, ASSISTANT DIRECTOR FOR
EXTERNAL AFFAIRS, NATIONAL PARK SERVICE, DEPARTMENT
OF THE INTERIOR

Mr. Chairman, thank you for the opportunity to present the Department of the Interior's views on H.R. 2411, a bill to authorize a land exchange between the town of Provincetown and Cape Cod National Seashore in the Commonwealth of Massachusetts. It would also reauthorize the Cape Code National Seashore Advisory Commission for a ten-year period. The Department of the Interior strongly supports this bill.

Cape Code—a slender spit of land curving some 60 miles out into the Atlantic Ocean—is an extraordinary resource, an area that is striking and unusual in its combination and diversity of resources. Its unsurpassed beaches, ponds, marshes, bays, pine barrens, inlets, and dunes combine with historic landscapes and thriving communities to create an intricate mosaic of significant resources. Cape Code National Seashore was authorized in 1961 to preserve a portion of this ever-changing landscape which boasts the largest glacial peninsula in the world, and the longest expanse of uninterrupted sandy shoreline on the East Coast. The fact that this area is so close to densely populated areas makes its special character more and more precious.

H.R. 2411 would authorize the Cape Code National Seashore to exchange approximately 7.65 acres of land within the park's boundary for approximately 11 acres of undeveloped land of equivalent value outside the boundary that has been offered in exchange by the Town of Provincetown. The purpose of the exchange is to remove from park own-

ership land that has for many years been used as an NPS-permitted solid waste facility and to allow the town to establish a permanent solid waste transfer station and recycling center. Upon completion of the exchange, the Seashore's boundary would be adjusted in accordance with a map dated May 1997 and numbered 609/80,801 entitled "Cape Code National Seashore Boundary Revision Map" to accommodate the added parcel.

Completion of the exchange will remove an inappropriate use from park-owned land, and will bring the park largely back into compliance with 36 CFR Part 6, Operation of Solid Waste Sites in Units of the National Park System. The land occupied by the transfer station originally came into the hands of the National Park Service in 1962, shortly after the Seashore was established, with the conveyance from the Commonwealth of Massachusetts of the former Province Lands State Park. The conveyed lands came with deed restrictions requiring the Secretary to make available land to be used by the Town for dumping purposes. Consistent with that restriction, the park provided approximately 30 acres, which for many years were used as a landfill. Approximately 7.65 of those acres are currently in use as a transfer station. The Town of Provincetown continues to need the transfer station and has no other viable site alternative. Because of its long-term use as a dumping site and transfer station and prior to that as septage lagoons, its most suitable future use is as a transfer station or for some other utilitarian purpose. The 11 acres the Seashore will receive are contiguous to the park. There will be no increase in operating costs to maintain this undeveloped land.

This exchange is consistent with the Seashore's new general management plan, which was adopted after extensive public review and comment. Work was underway to effect the exchange until passage of the Parks Omnibus Act of 1996 required congressional approval due to the approximately \$1.5 million total value of the parcels to be exchanged.

H.R. 2411 would also reauthorize the Cape Cod National Seashore Advisory Commission for a ten-year period. The Commission was originally authorized in 1961 as a part of Public Law 87-126, the Cape Cod National Seashore's enabling legislation. Its purpose is to advise park management on questions relating to municipal and private land ownership and occupancy inside the Seashore, and on the management of recreational activity. Membership consists of one representative from each of the six Lower Cape towns, two from the Commonwealth of Massachusetts, one from Barnstable County, and one selected by the Secretary of the Interior.

Initially chartered for ten years, the Commission has since been both legislatively and administratively reauthorized several times, for almost continuous service dur-

ing the existence of the national seashore. It expired June 20, 1998 and has not been administratively extended.

Support on the Lower Cape for the commission is strong and reaction to the proposal to reauthorize it has been universally positive.

Cape Cod National Seashore was established with a pattern of land ownership and management that is most unusual in the National Park System. The six "Lower Cape" towns, from whose lands the Cape Cod National Seashore was carved, retain ownership and operation of numerous parcels within the Seashore including ponds, beaches, parking lots and roads. In addition, over 600 parcels inside the Cape Cod National Seashore are privately owned. Under a unique landowner arrangement, sometimes referred to as the "Cape Cod Formula," these parcels are expected to remain in private hands. Activities on all these lands can have potentially profound effects on protected resources, and vice versa.

The need for constructive and creative dialogue with the local community is constant, and the potential for conflict and misunderstanding enormous. And, although the Cape Cod National Seashore was created over thirty years ago, there still remains a certain amount of suspicion and resentment of federal government activity. Because of the multiplicity of interests and voices to which the superintendent must respond, effective public involvement without a body such as the commission would be nearly impossible.

The Cape Code National Seashore Advisory Commission has established an excellent reputation as a facilitator of vital public/private dialogue. Frequent use of subcommittees dedicated to the exploration of specific questions allows local opinion leaders to remain involved on a regular and recurring basis. Also, it permits numerous parties to feel that they have had direct access to park management through dozens of hours of consultation.

In its recent past, the commission has addressed such contentious issues as: the drafting of the seashore's new general management plan, the use of off-road vehicles in the park, and the expiration of a number of reservations of use and occupancy that resulted from earlier purchases of improved properties by the National Park Service.

The composition of the Commission was originally defined in Public Law 87-126 and was specifically designed to represent all local and regional jurisdictions. Experience has shown that the original mix of constituencies represented was appropriate and should be continued. There would be no new administrative costs associated with extension of the Commission.

This concludes my prepared testimony. I would be happy to answer any questions that you or members of the subcommittee may have.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill H.R. 2411, as ordered 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 87-126, October 31, 1998)

SEC. 2. [(d)](e) As used in this Act the term “fair market value” shall mean the fair market value as determined by the Secretary, who may in his discretion base his determination on an independent appraisal obtained by him.

* * * * *

(d) The Secretary may convey to the town of Provincetown, Massachusetts, a parcel of real property consisting of approximately 7.62 acres of Federal land within such area in exchange for approximately 11.157 acres of land outside of such areas, as depicted on the map entitled Cape Cod National Seashore Boundary Revision Map, dated May, 1997, and numbered 609/80,801, to allow for the establishment of a municipal facility to serve the town that is restricted to solid waste transfer and recycling facilities and for other municipal activities that are compatible with National Park Service laws and regulations. Upon completion of the exchange, the Secretary shall modify the boundary of the Cape Cod National Seashore to include the land that has been added.

* * * * *

SEC. 8. (a) There is hereby establish a Cape Cod National Seashore Advisory Commission (hereinafter referred to as the “Commission”). [Said Commission shall terminate ten years after the date the seashore is established under section 3 of this Act.] *The Commission shall terminate September 26, 2008.*