

107<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2238

---

IN THE SENATE OF THE UNITED STATES

DECEMBER 6, 2001

Received; read twice and referred to the Committee on Energy and Natural  
Resources

---

## A BILL

To authorize the Secretary of the Interior to acquire Fern Lake and the surrounding watershed in the States of Kentucky and Tennessee for addition to Cumberland Gap National Historical Park, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Fern Lake Conserva-  
3 tion and Recreation Act of 2001”.

4 **SEC. 2. FINDINGS AND PURPOSES.**

5 (a) FINDINGS.—The Congress finds the following:

6 (1) Fern Lake and its surrounding watershed  
7 in Bell County, Kentucky, and Claiborne County,  
8 Tennessee, is within the potential boundaries of  
9 Cumberland Gap National Historical Park as origi-  
10 nally authorized by the Act of June 11, 1940 (54  
11 Stat. 262; 16 U.S.C. 261 et seq.).

12 (2) The acquisition of Fern Lake and its sur-  
13 rounding watershed and its inclusion in Cumberland  
14 Gap National Historical Park would protect the  
15 vista from Pinnacle Overlook, which is one of the  
16 park’s most valuable scenic resources and most pop-  
17 ular attractions, and enhance recreational opportuni-  
18 ties at the park.

19 (3) Fern Lake is the water supply source for  
20 the city of Middlesboro, Kentucky, and environs.

21 (4) The 4500-acre Fern Lake watershed is pri-  
22 vately owned, and the 150-acre lake and part of the  
23 watershed are currently for sale, but the Secretary  
24 of the Interior is precluded by the first section of the  
25 Act of June 11, 1940 (16 U.S.C. 261), from using  
26 appropriated funds to acquire the lands.

1 (b) PURPOSES.—The purposes of the Act are—

2 (1) to authorize the Secretary of the Interior to  
3 use appropriated funds if necessary, in addition to  
4 other acquisition methods, to acquire from willing  
5 sellers Fern Lake and its surrounding watershed, in  
6 order to protect scenic and natural resources and en-  
7 hance recreational opportunities at Cumberland Gap  
8 National Historical Park; and

9 (2) to allow the continued supply of water from  
10 Fern Lake to the city of Middlesboro, Kentucky, and  
11 environs.

12 **SEC. 3. LAND ACQUISITION, FERN LAKE, CUMBERLAND GAP**

13 **NATIONAL HISTORICAL PARK.**

14 (a) DEFINITIONS.—In this section:

15 (1) FERN LAKE.—The term “Fern Lake”  
16 means Fern Lake located in Bell County, Kentucky,  
17 and Claiborne County, Tennessee.

18 (2) LAND.—The term “land” means land,  
19 water, interests in land, and any improvements on  
20 the land.

21 (3) PARK.—The term “park” means Cum-  
22 berland Gap National Historical Park, as authorized  
23 and established by the Act of June 11, 1940 (54  
24 Stat. 262; 16 U.S.C. 261 et seq.).

1           (4) SECRETARY.—The term “Secretary” means  
2           the Secretary of the Interior, acting through the Di-  
3           rector of the National Park Service.

4           (b) ACQUISITION AUTHORIZED.—The Secretary may  
5           acquire for addition to the park lands consisting of ap-  
6           proximately 4,500 acres and containing Fern Lake and  
7           its surrounding watershed, as generally depicted on the  
8           map entitled “Cumberland Gap National Historical Park,  
9           Fern Lake Watershed”, numbered 380/80,004, and dated  
10          May 2001. The map shall be on file in the appropriate  
11          offices of the National Park Service.

12          (c) AUTHORIZED ACQUISITION METHODS.—

13           (1) IN GENERAL.—Notwithstanding the Act of  
14           June 11, 1940 (16 U.S.C. 261 et seq.), the Sec-  
15           retary may acquire lands described in subsection (b)  
16           by donation, purchase with donated or appropriated  
17           funds, or exchange. However, the lands may be ac-  
18           quired only with the consent of the owner.

19           (2) EASEMENTS.—At the discretion of the Sec-  
20           retary, the Secretary may acquire land described in  
21           subsection (b) that is subject to an easement for  
22           water supply facilities and equipment associated  
23           with the withdrawal and delivery of water by a util-  
24           ity from Fern Lake to the city of Middlesboro, Ken-  
25           tucky, and environs.

1 (d) BOUNDARY ADJUSTMENT AND ADMINISTRA-  
2 TION.—Upon the acquisition of land under this section,  
3 the Secretary shall revise the boundaries of the park to  
4 include the land in the park. Subject to subsection (e),  
5 the Secretary shall administer the acquired lands as part  
6 of the park in accordance with the laws and regulations  
7 applicable to the park.

8 (e) SPECIAL ISSUES RELATED TO FERN LAKE.—

9 (1) PROTECTION OF WATER SUPPLY.—The Sec-  
10 retary shall manage public recreational use of Fern  
11 Lake, if acquired by the Secretary, in a manner that  
12 is consistent with the protection of the lake as a  
13 source of untreated water for the city of  
14 Middlesboro, Kentucky, and environs.

15 (2) SALE OF WATER.—

16 (A) CONTRACT WITH UTILITY.—Upon the  
17 Secretary's acquisition of land that includes  
18 Fern Lake, the Secretary shall enter into a con-  
19 tract to sell untreated water from the lake to a  
20 utility that delivers and distributes water to the  
21 city of Middlesboro, Kentucky, and environs.  
22 The Secretary shall ensure that the terms and  
23 conditions of the contract are equitable, ensur-  
24 ing a balance between the protection of park re-  
25 sources and the delivery and distribution of suf-

1           efficient water to continue meeting the water de-  
2           mands of the city of Middlesboro, Kentucky,  
3           and environs.

4           (B) PROCEEDS FROM WATER.—The Sec-  
5           retary shall negotiate a reasonable return to the  
6           United States for the sale of the water, which  
7           the Secretary may receive in the form of re-  
8           duced charges for water service. Proceeds from  
9           the sale of the water, reduced by any offsets for  
10          water service to the park, shall be available for  
11          expenditure by the Secretary at the park with-  
12          out further appropriation.

13          (f) CONSULTATION REQUIREMENTS.—In order to  
14          better manage Fern Lake and its surrounding watershed,  
15          if acquired by the Secretary, in a manner that will facili-  
16          tate the provision of water for municipal needs as well as  
17          the establishment and promotion of new recreational op-  
18          portunities made possible by the addition of Fern Lake  
19          to the park, the Secretary shall consult with—

20                 (1) appropriate officials in the States of Ken-  
21                 tucky, Tennessee, and Virginia, and political subdivi-  
22                 sions of these States;

23                 (2) organizations involved in promoting tourism  
24                 in these States; and

1 (3) other interested parties.

Passed the House of Representatives December 5,  
2001.

Attest: JEFF TRANDAHL,  
*Clerk.*