

# Union Calendar No. 189

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

# H. R. 2238

[Report No. 107-314]

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.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 19, 2001

Mr. ROGERS of Kentucky (for himself and Mr. HILLEARY) introduced the following bill; which was referred to the Committee on Resources

DECEMBER 4, 2001

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on June 19, 2001]

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## 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 Conservation*  
3 *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 in*  
7 *Bell County, Kentucky, and Claiborne County, Ten-*  
8 *nessee, is within the potential boundaries of Cum-*  
9 *berland Gap National Historical Park as originally*  
10 *authorized by the Act of June 11, 1940 (54 Stat. 262;*  
11 *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 vista*  
15 *from Pinnacle Overlook, which is one of the park’s*  
16 *most valuable scenic resources and most popular at-*  
17 *tractions, and enhance recreational opportunities at*  
18 *the park.*

19           (3) *Fern Lake is the water supply source for the*  
20 *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 of*  
24 *the Interior is precluded by the first section of the Act*  
25 *of June 11, 1940 (16 U.S.C. 261), from using appro-*  
26 *priated 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” means*  
 16       *Fern Lake located in Bell County, Kentucky, and*  
 17       *Claiborne County, Tennessee.*

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

20               **(3) PARK.**—*The term “park” means Cumberland*  
 21       *Gap National Historical Park, as authorized and es-*  
 22       *tablished by the Act of June 11, 1940 (54 Stat. 262;*  
 23       *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 approxi-*  
6           *mately 4,500 acres and containing Fern Lake and its sur-*  
7           *rounding watershed, as generally depicted on the map enti-*  
8           *tled “Cumberland Gap National Historical Park, Fern*  
9           *Lake Watershed”, numbered 380/80,004, and dated May*  
10          *2001. The map shall be on file in the appropriate offices*  
11          *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 Secretary*  
15               *may acquire lands described in subsection (b) by do-*  
16               *nation, purchase with donated or appropriated funds,*  
17               *or exchange. However, the lands may be acquired only*  
18               *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 water*  
22               *supply facilities and equipment associated with the*  
23               *withdrawal and delivery of water by a utility from*  
24               *Fern Lake to the city of Middlesboro, Kentucky, and*  
25               *environs.*

1       (d) *BOUNDARY ADJUSTMENT AND ADMINISTRATION.*—

2       *Upon the acquisition of land under this section, the Sec-*  
3       *retary shall revise the boundaries of the park to include the*  
4       *land in the park. Subject to subsection (e), the Secretary*  
5       *shall administer the acquired lands as part of the park in*  
6       *accordance with the laws and regulations applicable to the*  
7       *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 Middlesboro,*  
14       *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. The*  
22       *Secretary shall ensure that the terms and condi-*  
23       *tions of the contract are consistent with National*  
24       *Park Service policies for the protection of park*  
25       *resources, provided that the terms and conditions*

1           *do not adversely affect the delivery and distribu-*  
2           *tion of water to the city of Middlesboro, Ken-*  
3           *tucky, 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 the*  
7           *Secretary may receive in the form of reduced*  
8           *charges for water service. Proceeds from the sale*  
9           *of the water, reduced by any offsets for water*  
10          *service to the park, shall be available for expend-*  
11          *iture by the Secretary at the park without fur-*  
12          *ther appropriation.*

13          (f) *CONSULTATION REQUIREMENTS.*—*In order to bet-*  
14          *ter manage Fern Lake and its surrounding watershed, if*  
15          *acquired by the Secretary, in a manner that will facilitate*  
16          *the provision of water for municipal needs as well as the*  
17          *establishment and promotion of new recreational opportu-*  
18          *nities made possible by the addition of Fern Lake to the*  
19          *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*

25                   (3) *other interested parties.*



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