

110TH CONGRESS
1ST SESSION

H. R. 3723

To establish the Raritan Bay Stewardship Initiative.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 2, 2007

Mr. FOSSELLA (for himself and Mr. HINCHEY) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish the Raritan Bay Stewardship Initiative.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Raritan Bay Steward-
5 ship Initiative of 2007”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

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

8 (1) Raritan Bay, located in New York and New
9 Jersey, is a national treasure of great cultural, envi-
10 ronmental, and ecological importance.

1 (2) 2,400,000 people live within the Raritan
2 Bay watershed.

3 (3) The portion of the shoreline of Raritan Bay
4 that is accessible to the general public (estimated at
5 less than 50 percent of the total shoreline) is not
6 adequate to serve the needs of the people living in
7 the area.

8 (4) Existing shoreline facilities are in many
9 cases overburdened and under funded.

10 (5) Large parcels of open space already in pub-
11 lic ownership are strained by the effort to balance
12 the demand for recreation with the needs of sensitive
13 natural resources.

14 (6) Approximately 80 percent of the tidal
15 marshes of Raritan Bay have been filled, and much
16 of the remaining marshes have been ditched, dyked,
17 or impounded, reducing the ecological value of the
18 marshes.

19 (7) Much of the remaining exemplary natural
20 landscape is vulnerable to further development.

21 (b) PURPOSE.—The purpose of this Act is to estab-
22 lish the Raritan Bay Stewardship Initiative to identify,
23 protect, and enhance sites within the Raritan Bay eco-
24 system with significant ecological, educational, open space,

1 public access, or recreational value through a bi-State net-
2 work of sites best exemplifying these values.

3 **SEC. 3. DEFINITIONS.**

4 In this Act:

5 (1) ADAPTIVE MANAGEMENT.—The term
6 “adaptive management” means a scientific proc-
7 ess—

8 (A) for—

9 (i) developing predictive models;

10 (ii) making management policy deci-
11 sions based upon the model outputs;

12 (iii) revising the management policies
13 as data become available with which to
14 evaluate the policies; and

15 (iv) acknowledging uncertainty, com-
16 plexity, and variance in the spatial and
17 temporal aspects of natural systems; and

18 (B) that requires that management be
19 viewed as experimental.

20 (2) ADMINISTRATOR.—The term “Adminis-
21 trator” means the Administrator of the Environ-
22 mental Protection Agency.

23 (3) ADVISORY COMMITTEE.—The term “Advi-
24 sory Committee” means the Raritan Bay Steward-
25 ship Advisory Committee established by section 5(a).

1 (4) REGION.—The term “Region” means the
2 Raritan Bay Stewardship Initiative Region estab-
3 lished by section 4(a).

4 (5) STATES.—The term “States” means the
5 States of New York and New Jersey.

6 (6) STEWARDSHIP SITE.—The term “steward-
7 ship site” means a site that—

8 (A) qualifies for identification by the Advi-
9 sory Committee under section 8; and

10 (B) is an area of land or water or a com-
11 bination of land and water—

12 (i) that is in the Region; and

13 (ii) that is—

14 (I) Federal, State, local, or tribal
15 land or water;

16 (II) land or water owned by a
17 nonprofit organization; or

18 (III) privately owned land or
19 water.

20 (7) SYSTEMATIC SITE SELECTION.—The term
21 “systematic site selection” means a process of select-
22 ing stewardship sites that—

23 (A) has explicit goals, methods, and cri-
24 teria;

1 (B) produces feasible, repeatable, and de-
2 fensible results;

3 (C) provides for consideration of natural,
4 physical, and biological patterns;

5 (D) addresses reserve size, replication,
6 connectivity, species viability, location, and pub-
7 lic recreation values;

8 (E) uses geographic information systems
9 technology and algorithms to integrate selection
10 criteria; and

11 (F) will result in achieving the goals of
12 stewardship site selection at the lowest cost.

13 (8) QUALIFIED APPLICANTS.—The term “quali-
14 fied applicant” means a person or governmental en-
15 tity applying for designation of a site as a steward-
16 ship site. The person or entity must own property
17 within the borders of the proposed stewardship site
18 or own property that is both physically or eco-
19 logically connected to the proposed site and would
20 benefit from management as part of the proposed
21 site.

22 (9) THREAT.—The term “threat” means a
23 threat that is likely to destroy or seriously degrade
24 a conservation target or a recreation area.

1 **SEC. 4. RARITAN BAY STEWARDSHIP INITIATIVE REGION.**

2 (a) ESTABLISHMENT.—There is established in the
3 States the Raritan Bay Stewardship Initiative Region.

4 (b) BOUNDARIES.—The Region shall encompass the
5 immediate coastal upland and underwater areas along
6 Raritan Bay, including those portions of the Bay with
7 coastally influenced vegetation.

8 **SEC. 5. RARITAN BAY STEWARDSHIP ADVISORY COM-**
9 **MITTEE.**

10 (a) ESTABLISHMENT.—There is established a com-
11 mittee to be known as the “Raritan Bay Stewardship Ad-
12 visory Committee”.

13 (b) CHAIRPERSON.—The Chairperson of the Advisory
14 Committee shall be the Director of the Region 2 Office
15 of the Environmental Protection Agency, or a designee of
16 the Director.

17 (c) MEMBERSHIP.—

18 (1) COMPOSITION.—

19 (A) APPOINTMENT OF MEMBERS.—

20 (i) IN GENERAL.—The Chairperson
21 shall appoint the members of the Advisory
22 Committee in accordance with this sub-
23 section and section 320(c) of the Federal
24 Water Pollution Control Act (33 U.S.C.
25 1330(c)); except that the Governor of a

1 State may appoint 2 members of the Advi-
2 sory Committee.

3 (ii) ADDITIONAL MEMBERS.—In addi-
4 tion to the requirements described in
5 clause (i), the Advisory Committee shall in-
6 clude—

7 (I) a representative from the Re-
8 gional Plan Association;

9 (II) a representative of the ma-
10 rine trade organizations; and

11 (III) a representative of private
12 landowner interests.

13 (B) REPRESENTATION.—In appointing
14 members to the Advisory Committee, the Chair-
15 person shall consider—

16 (i) Federal, State, and local govern-
17 ment interests;

18 (ii) the interests of nongovernmental
19 organizations;

20 (iii) academic interests;

21 (iv) private interests; and

22 (v) recreational and commercial fish-
23 ing interests

24 (2) DATE OF APPOINTMENTS.—Not later than
25 180 days after the date of enactment of this Act, the

1 appointment of all members of the Advisory Com-
2 mittee shall be made.

3 (d) TERM; VACANCIES.—

4 (1) TERM.—

5 (A) IN GENERAL.—A member shall be ap-
6 pointed for a term of 4 years.

7 (B) MULTIPLE TERMS.—A person may be
8 appointed as a member of the Advisory Com-
9 mittee for more than 1 term.

10 (2) VACANCIES.—A vacancy on the Advisory
11 Committee shall—

12 (A) be filled not later than 90 days after
13 the vacancy occurs;

14 (B) not affect the powers of the Advisory
15 Committee; and

16 (C) be filled in the same manner as the
17 original appointment was made.

18 (3) STAFF.—

19 (A) IN GENERAL.—The Chairperson of the
20 Advisory Committee may appoint and terminate
21 personnel as necessary to enable the Advisory
22 Committee to perform the duties of the Advi-
23 sory Committee.

24 (B) PERSONNEL AS FEDERAL EMPLOY-
25 EES.—

1 (i) IN GENERAL.—Any personnel of
2 the Advisory Committee who are employees
3 of the Advisory Committee shall be em-
4 ployees under section 2105 of title 5,
5 United States Code, for purposes of chap-
6 ters 63, 81, 83, 84, 85, 87, 89, and 90 of
7 that title.

8 (ii) MEMBERS OF ADVISORY COM-
9 MITTEE.—Clause (i) does not apply to
10 members of the Advisory Committee.

11 (e) INITIAL MEETING.—Not later than 30 days after
12 the date on which all members of the Advisory Committee
13 have been appointed, the Advisory Committee shall hold
14 the initial meeting of the Advisory Committee.

15 (f) MEETINGS.—

16 (1) IN GENERAL.—The Advisory Committee
17 shall meet at the call of the Chairperson, but no
18 fewer than 4 times each year.

19 (2) QUORUM.—A majority of the members of
20 the Advisory Committee shall constitute a quorum,
21 but a lesser number of members may hold hearings.

22 (g) TERMINATION OF ADVISORY COMMITTEE.—The
23 Advisory Committee shall terminate on December 31,
24 2014.

1 **SEC. 6. DUTIES OF THE ADVISORY COMMITTEE.**

2 The Advisory Committee shall—

3 (1) consistent with section 8—

4 (A) evaluate applications from government
5 or nonprofit organizations qualified to hold con-
6 servation easements for funds to purchase land
7 or development rights for stewardship sites;

8 (B) evaluate applications to develop and
9 implement management plans to address
10 threats;

11 (C) evaluate applications to act on oppor-
12 tunities to protect and enhance stewardship
13 sites; and

14 (D) recommend that the Administrator
15 award grants to qualified applicants;

16 (2) develop recommended guidelines, criteria,
17 schedules, and due dates for evaluating information
18 to identify stewardship sites;

19 (3) publish a list of sites that further the pur-
20 poses of this Act after—

21 (A) notifying the owners of the sites; and

22 (B) providing the owners an opportunity to
23 decline inclusion on the list;

24 (4) raise awareness of the values of and threats
25 to these sites; and

1 (5) leverage additional resources for improved
2 stewardship of the Region.

3 **SEC. 7. POWERS OF THE ADVISORY COMMITTEE.**

4 (a) HEARINGS.—The Advisory Committee may hold
5 such hearings, meet and act at such times and places, take
6 such testimony, and receive such evidence as the Advisory
7 Committee considers advisable to carry out this Act.

8 (b) INFORMATION FROM FEDERAL AGENCIES.—

9 (1) IN GENERAL.—The Advisory Committee
10 may secure directly from a Federal agency such in-
11 formation as the Advisory Committee considers nec-
12 essary to carry out this Act.

13 (2) PROVISION OF INFORMATION.—

14 (A) IN GENERAL.—Subject to subpara-
15 graph (C), on request of the Chairperson of the
16 Advisory Committee, the head of a Federal
17 agency shall provide the information requested
18 by the Chairperson to the Advisory Committee.

19 (B) ADMINISTRATION.—The furnishing of
20 information by a Federal agency to the Advi-
21 sory Committee shall not be considered a waiver
22 of any exemption available to the agency under
23 section 552 of title 5, United States Code.

24 (C) INFORMATION TO BE KEPT CONFIDEN-
25 TIAL.—

1 (i) IN GENERAL.—For purposes of
2 section 1905 of title 18, United States
3 Code—

4 (I) the Advisory Committee shall
5 be considered an agency of the Fed-
6 eral Government; and

7 (II) any individual employed by
8 an individual, entity, or organization
9 that is a party to a contract with the
10 Advisory Committee under this Act
11 shall be considered an employee of the
12 Advisory Committee.

13 (ii) PROHIBITION ON DISCLOSURE.—
14 Information obtained by the Advisory
15 Committee, other than information that is
16 available to the public, shall not be dis-
17 closed to any person in any manner except
18 to an employee of the Advisory Committee
19 as described in clause (i) for the purpose
20 of receiving, reviewing, or processing the
21 information.

22 (c) POSTAL SERVICES.—The Advisory Committee
23 may use the United States mails in the same manner and
24 under the same conditions as other agencies of the Federal
25 Government.

1 (d) DONATIONS.—The Advisory Committee may ac-
2 cept, use, and dispose of donations of services or property
3 that advance the goals of the Raritan Bay Stewardship
4 Initiative.

5 **SEC. 8. STEWARDSHIP SITES.**

6 (a) INITIAL SITES.—

7 (1) IDENTIFICATION.—

8 (A) IN GENERAL.—The Advisory Com-
9 mittee shall identify 20 initial Raritan Bay
10 stewardship sites that the Advisory Committee
11 has determined—

12 (i)(I) are natural resource-based
13 recreation areas; or

14 (II) are exemplary natural areas with
15 ecological value; and

16 (ii) best promote the purposes of this
17 Act.

18 (B) EXEMPTION.—Identification of initial
19 Raritan Bay Stewardship Sites described under
20 subparagraph (A) are not subject to the site
21 identification process described in subsection
22 (d).

23 (2) EQUITABLE DISTRIBUTION OF FUNDS FOR
24 INITIAL SITES.—In identifying initial sites under
25 paragraph (1), the Advisory Committee shall exert

1 due diligence to seek to ensure an equitable distribu-
2 tion of funds between the States for the initial sites.

3 (b) APPLICATION FOR IDENTIFICATION AS A STEW-
4 ARDSHIP SITE.—Subsequent to the identification of the
5 initial stewardship sites under subsection (a), owners of
6 sites may submit applications to the Advisory Committee
7 in accordance with subsection (c) to have the sites identi-
8 fied as stewardship sites.

9 (c) IDENTIFICATION.—The Advisory Committee shall
10 review applications submitted by owners of potential stew-
11 ardship sites to determine whether the sites should be
12 identified as exhibiting values consistent with the purposes
13 of this Act.

14 (d) SITE IDENTIFICATION PROCESS.—

15 (1) NATURAL RESOURCE-BASED RECREATION
16 AREAS.—The Advisory Committee shall identify ad-
17 ditional potential recreation areas as stewardship
18 sites using a selection technique that includes—

19 (A) public access;

20 (B) community support;

21 (C) areas with high population density;

22 (D) connectivity to existing protected areas
23 and open spaces;

24 (E) cultural, historic, and scenic areas;

25 and

1 (F) other criteria developed by the Advi-
2 sory Committee.

3 (2) NATURAL AREAS WITH ECOLOGICAL
4 VALUE.—The Advisory Committee shall identify ad-
5 ditional natural areas with ecological value and po-
6 tential as stewardship sites to recommend to the Ad-
7 ministrator—

8 (A) based on measurable conservation tar-
9 gets for the Region; and

10 (B) following a process for prioritizing new
11 sites using systematic site selection, that shall
12 include—

13 (i) ecological uniqueness;

14 (ii) species viability;

15 (iii) habitat heterogeneity;

16 (iv) size;

17 (v) quality;

18 (vi) connectivity to existing protected
19 areas and open spaces;

20 (vii) land cover;

21 (viii) scientific, research, or edu-
22 cational value;

23 (ix) threats; and

24 (x) other criteria developed by the Ad-
25 visory Committee.

1 (3) PUBLICATION OF LIST.—After completion
2 of the site identification process, the Advisory Com-
3 mittee shall—

4 (A) publish in the Federal Register a list
5 of sites that further the purposes of this Act;
6 and

7 (B) prior to publication of the list, provide
8 to owners of the sites to be published—

9 (i) a notification of publication; and

10 (ii) an opportunity to decline inclusion
11 of the site of the owner on the list.

12 (4) DEVIATION FROM PROCESS.—

13 (A) IN GENERAL.—The Advisory Com-
14 mittee may identify as a potential stewardship
15 site to recommend to the Administrator, a site
16 that does not meet the criteria in paragraph (1)
17 or (2), if the Advisory Committee—

18 (i) selects a site that makes signifi-
19 cant ecological or recreational contribu-
20 tions to the Region;

21 (ii) publishes the reasons that the Ad-
22 visory Committee decided to deviate from
23 the systematic site selection process; and

24 (iii) before identifying the potential
25 stewardship site, provides to the owners of

1 the site the notification of publication, and
2 the opportunity under paragraph (3)(B) to
3 decline inclusion of the site on the list pub-
4 lished under paragraph (3)(A).

5 (5) PUBLIC COMMENT.—In identifying potential
6 stewardship sites, the Advisory Committee shall con-
7 sider public comments.

8 (e) GENERAL GUIDELINES FOR MANAGEMENT.—

9 (1) IN GENERAL.—The Advisory Committee
10 shall use an adaptive management framework to
11 identify the best policy initiatives and actions
12 through—

13 (A) definition of strategic goals;

14 (B) definition of policy options for methods
15 to achieve strategic goals;

16 (C) establishment of measures of success;

17 (D) identification of uncertainties;

18 (E) development of informative models of
19 policy implementation;

20 (F) separation of the landscape into geo-
21 graphic units;

22 (G) monitoring key responses at different
23 spatial and temporal scales; and

24 (H) evaluation of outcomes and incorpora-
25 tion into management strategies.

1 (2) APPLICATION OF ADAPTIVE MANAGEMENT
2 FRAMEWORK.—The Advisory Committee shall apply
3 the adaptive management framework to the process
4 for updating the list of recommended stewardship
5 sites.

6 **SEC. 9. REPORTS.**

7 (a) IN GENERAL.—For each of fiscal years 2008
8 through 2015, the Advisory Committee shall submit to the
9 Administrator an annual report that contains—

10 (1) a detailed statement of the findings and
11 conclusions of the Advisory Committee since the last
12 report;

13 (2) a description of all sites identified and rec-
14 ommended by the Advisory Committee to be ap-
15 proved as stewardship sites;

16 (3) the recommendations of the Advisory Com-
17 mittee for such legislation and administrative actions
18 as the Advisory Committee considers appropriate;
19 and

20 (4) in accordance with subsection (b), the rec-
21 ommendations of the Advisory Committee for the
22 awarding of grants.

23 (b) GENERAL GUIDELINES FOR RECOMMENDA-
24 TIONS.—

1 (1) IN GENERAL.—The Advisory Committee
2 shall recommend that the Administrator award
3 grants to qualified applicants to help to secure and
4 improve the open space, public access, or ecological
5 values of stewardship sites, through—

6 (A) purchase of the property of the site;

7 (B) purchase of relevant property rights of
8 the site; or

9 (C) entering into any other binding legal
10 arrangement that ensures that the values of the
11 site are sustained, including entering into an
12 arrangement with a land manager or owner to
13 develop or implement an approved management
14 plan that is necessary for the conservation of
15 natural resources.

16 (2) EQUITABLE DISTRIBUTION OF FUNDS.—

17 The Advisory Committee shall exert due diligence to
18 recommend an equitable distribution of funds be-
19 tween the States.

20 (c) ACTION BY THE ADMINISTRATOR.—

21 (1) IN GENERAL.—Not later than 90 days after
22 receiving a report under subsection (a), the Adminis-
23 trator shall—

24 (A) review the recommendations of the Ad-
25 visory Committee; and

1 (B) take actions consistent with the rec-
2 ommendations of the Advisory Committee, in-
3 cluding the approval of identification of stew-
4 ardship sites and the award of grants under
5 this Act, unless the Administrator makes a
6 finding that any recommendation is unwar-
7 ranted by the facts.

8 (2) REPORT.—Not later than 1 year after the
9 date of enactment of this Act, the Administrator
10 shall develop and publish a report that—

11 (A) assesses the current resources of and
12 threats to Raritan Bay;

13 (B) assesses the role of the Raritan Bay
14 Stewardship Initiative in protecting Raritan
15 Bay;

16 (C) establishes guidelines, criteria, sched-
17 ules, and due dates for evaluating information
18 to identify stewardship sites;

19 (D) includes information about any grants
20 that are available for the purchase of land or
21 property rights to protect stewardship sites pur-
22 suant to this Act;

23 (E) accounts for funds received and ex-
24 pended during the previous fiscal year pursuant
25 to this Act;

1 (F) shall be made available to the public
2 on the Internet and in printed form; and

3 (G) shall be updated at least every other
4 year, except that information on funding and
5 any new stewardship sites identified shall be
6 published more frequently.

7 **SEC. 10. PRIVATE PROPERTY PROTECTION.**

8 (a) ACCESS TO PRIVATE PROPERTY.—Nothing in
9 this Act—

10 (1) requires any private property owner to allow
11 public access (including Federal, State, or local gov-
12 ernment access) to the private property; or

13 (2) modifies any provision of Federal, State, or
14 local law with regard to public access to or use of
15 private property, except as entered into by voluntary
16 agreement of the owner or custodian of the property.

17 (b) LIABILITY.—Establishment of the Raritan Bay
18 Stewardship Initiative Region under this Act does not cre-
19 ate any liability, or have any effect on any liability under
20 any other law, of any private property owner with respect
21 to any person injured on the private property.

22 (c) RECOGNITION OF AUTHORITY TO CONTROL
23 LAND USE.—Nothing in this Act modifies the authority
24 of Federal, State, or local governments to regulate land
25 use.

1 (d) PARTICIPATION OF PRIVATE PROPERTY OWNERS
2 IN THE RARITAN BAY STEWARDSHIP INITIATIVE RE-
3 GION.—Nothing in this Act requires the owner of any pri-
4 vate property located within the boundaries of the Region
5 to participate in or be associated with the Initiative.

6 (e) EFFECT OF ESTABLISHMENT.—

7 (1) IN GENERAL.—The boundaries of the Re-
8 gion under this Act constitute the only area within
9 which Federal funds appropriated for the purpose of
10 this Act may be expended.

11 (2) REGULATORY AUTHORITY.—The establish-
12 ment of the Region and the boundaries of the Re-
13 gion do not provide any authority to regulate land
14 use in the Region by any management entity, except
15 for such property rights as may be purchased from
16 or donated by the owner of the property (including
17 the Federal Government or a State or local govern-
18 ment, if applicable).

19 **SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

20 (a) IN GENERAL.—There is authorized to be appro-
21 priated to carry out this Act \$25,000,000 for each of fiscal
22 years 2007 through 2014 for use by the Administrator
23 pursuant to this Act, after reviewing the recommendations
24 of the Advisory Committee submitted under section 9,
25 for—

1 (1) award of grants for acquisition of land and
2 interests in land;

3 (2) development and implementation of site
4 management plans;

5 (3) site enhancements to reduce threats or pro-
6 mote stewardship; and

7 (4) administrative expenses of the Advisory
8 Committee.

9 (b) FEDERAL SHARE.—The Federal share of the cost
10 of an activity carried out using any grant or other assist-
11 ance under this Act shall not exceed 75 percent of the
12 total cost of the activity.

○