



Legislative Bulletin.....June 24, 2002

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H.R. 3937—Cibola National Wildlife Refuge Boundary and Management Adjustment Act (Hunter)

Order of Business: The bill is scheduled to be considered on Monday, June 24th, under a motion to suspend the rules and pass the bill.

Summary: H.R. 3937 would adjust the boundary of the Cibola National Wildlife Refuge (in Imperial Valley, California) to exclude a 140-acre portion that was mistakenly included in the designation of the Refuge in 1964. The mistaken portion is commonly know as "Walter's Camp," which consists of a recreational vehicle park, a small marina, and a store. The Bureau of Land Management estimates that Walter's Camp receives 11,000 visitors per year.

If this legislation is not enacted, the U.S. Fish and Wildlife Service (which manages the Refuge) would be forced to evict the concessionaire, since it is not compatible with the mission of the refuge. Walter's Camp existed on that land prior to the Refuge designation.

The owner of Walter's Camp has testified before Congress in support of H.R. 3937:
<http://resourcescommittee.house.gov/107cong/fisheries/2002may16/dokter.htm>

Additional Background: According to the U.S. Fish and Wildlife Service, there are no listed species inhabiting the 140 acres, and the area in question is, "at best, marginal wildlife habitat."

Bush Administration Position: The U.S. Fish and Wildlife Service, during a Fisheries Subcommittee hearing on May 16, 2002, offered its full support of H.R. 3937. To read more background on the Administration's position, visit this Resources Committee website:
<http://resourcescommittee.house.gov/107cong/fisheries/2002may16/ellis.htm>

Cost to Taxpayers: Since the federal government had not been managing the erroneously-included land anyway, removing the land from the boundaries of the Refuge would not affect federal expenditures or revenues.

Does the Bill Create New Federal Programs or Rules?: The bill would adjust the boundary of a wildlife refuge to exclude a mistakenly-included 140-acre tract.

Constitutional Authority: A committee report citing constitutional authority is unavailable.

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H.R. 3858—New River Gorge Boundary Act (*Rahall*)

Order of Business: The bill is scheduled to be considered on Monday, June 24th, under a motion to suspend the rules and pass the bill.

Summary: H.R. 3858 would modify the boundaries of the New River Gorge National River in West Virginia. Specifically, the bill would add to the National River six tracts of land (totaling 1,962 acres) held by five willing sellers. This addition would result in an approximately 3% increase in the size of the park.

According to the Resources Committee (in House Report 107-509), “The tracts would add to the scenic values of the park, as well as to help alleviate parking and trespassing concerns associated with a popular rock climbing site. One tract would also help insulate the park from development problems in the area, while including a trail that would remain open to the public.”

H.R. 3858 would also settle an encroachment issue in the vicinity of Beauty Mountain, West Virginia. A land exchange (a third of an acre for a third of an acre) would resolve a boundary issue in which half of a private home was inside the park and the other half was on private land.

Additional Background: The New River Gorge National River was established in 1978 to preserve and protect 53 miles of the New River. The park encompasses 70,000 acres of land along the river between Hinton and Fayetteville in Southern West Virginia. The River was designated as an American Heritage River in 1998.

Bush Administration Position: During a Parks Subcommittee hearing on May 16, 2002, a representative of the National Park Service said that the Interior Department is “unable to support H.R. 3858 in its entirety.” While the Department supports the land-exchange portion of the bill, it does not support the land-acquisition and boundary-adjustment portion of the bill, saying that the Department has “not yet completed a formal study with public involvement to determine the appropriateness of including these lands within the park.”

To read more of the Administration’s views on H.R. 3858, visit this Resources Committee website: <http://resourcescommittee.house.gov/107cong/parks/2002may16/stevenson.htm>

Cost to Taxpayers: CBO estimates that H.R. 3858 would cost the federal government “between \$2 million and \$3 million over the next few years” to buy the lands. Since most of the land will not be developed, new administrative costs will be minimal.

Does the Bill Create New Federal Programs or Rules?: The bill would increase federal land-holdings by about 1,962 acres.

Constitutional Authority: The Resources Committee, in House Report 107-509, cites constitutional authority in Article I, Section 8 (though does not cite a specific clause), and in Article IV, Section 3 (Clause 2 gives Congress the power to “dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States.”).

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H.R. 3786 — Glen Canyon National Recreation Area Boundary Revision Act of 2002 (Cannon)

Order of Business: The bill is scheduled to be considered on Monday, June 24, under a motion to suspend the rules and pass the bill.

Summary: H.R. 3786 gives the Secretary of the Interior authority to “acquire approximately 152 acres of private land in exchange for approximately 370 acres of land within the boundary of Glen Canyon National Recreation Area.”

Additional Background: Located along the Arizona-Utah border, Glen Canyon consists of 1.25 million acres of land and water. The owner of the private land, Page One L.L.C., initiated the transfer of land authorized in the bill. Area communities also support the transfer.

Bush Administration Position: In testimony given May 7, 2002, before the Subcommittee on National Parks, Recreation & Public Lands of the Committee on Resources, the National Park Service stated the Administration’s support for H.R. 3786.

Cost to Taxpayers: No cost estimate is available. However, H.R. 3786 authorizes the exchange of land, which the National Park Service stated “should remove the need for any land acquisition funds.”

Does the Bill Create New Federal Programs or Rules?: No.

Constitutional Authority: No committee report citing constitutional authority is available.

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H. R. 3971—To provide for an independent investigation of Forest Service firefighter deaths that are caused by wildfire entrapment or burnover (Hastings (WA))

Order of Business: The bill is scheduled to be considered on Monday, June 24, 2002, under a motion to suspend the rules and pass the bill.

Summary: H.R. 3971 establishes a procedure that, in the event of a fatality of an officer or employee of the Forest Service due to wildfire entrapment or burnover, the Department of Agriculture's Inspector General shall conduct an independent investigation of the fatality and submit it to Congress and the Agriculture Secretary.

Additional Information: This bill is a result of last year's Thirtymile Fire in Washington State's Okanogan National Forest, where on July 10, 2001, four firefighters (Tom Craven, 30; Karen FitzPatrick, 18; Jessica Johnson, 19; and Devin Weaver, 21) died, possibly in part, due to the Forest Service's delay in getting water to the fire because of the risk a helicopter bucket dipping into the river could trap an endangered species of fish.

In sworn affidavits, surviving firemen stated, "I heard the Okanogan dispatch deny permission to take water from the Chewuch River because it is a 'protected stream' for salmon" and "I heard the Forest Service dispatchers respond that they did not yet have clearance to use Chewuch River water for fire fighting and they had to deny permission for the heli-attack crews...." The water was originally requested at 5:30AM but a helicopter with water did not reach the site until 2:38 PM. All four firefighters died from asphyxia from superheated air after their fire shelters failed to protect them.

According to the bill sponsor, the Forest Service has proposed administrative actions for eleven employees that were involved in or had oversight responsibility in fighting the Thirtymile Fire. The agency stated the proposed actions range from a "letter of reprimand to removal from federal service." The employees have the right to review and appeal the agency's decisions.

Cost to Taxpayers: A CBO cost estimate is unavailable, but there likely will be a minimal cost for the IG to complete an independent investigation for each wildfire fatality.

Does the Bill Create New Federal Programs or Rules?: The bill creates an automatic independent investigation and reporting requirement for the IG of the Department of Agriculture in the event of a Forest Service personnel death from a wildfire.

Constitutional Authority: A Committee Report citing Constitutional Authority is unavailable.

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