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HOUSE OF REPRESENTATIVES
REPORT
112–430

WACO MAMMOTH NATIONAL MONUMENT ESTABLISHMENT ACT OF 2011

APRIL 16, 2012.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HASTINGS of Washington, from the Committee on Natural Resources, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 1545]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 1545) to establish the Waco Mammoth National Monument in the State of Texas, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Waco Mammoth National Monument Establishment Act of 2011".

SEC. 2. FINDINGS.

Congress finds that—

(1) the Waco Mammoth Site area is located near the confluence of the Brazos River and the Bosque River in central Texas, near the city of Waco;

(2) after the discovery of bones emerging from eroding creek banks leading to the uncovering of portions of 5 mammoths, Baylor University began investigating the site in 1978;

(3) several additional mammoth remains have been uncovered making the site the largest known concentration of mammoths dying from the same event;

(4) the mammoth discoveries have received international attention; and

(5) Baylor University and the city of Waco, Texas, have been working together—

(A) to protect the site; and

(B) to develop further research and educational opportunities at the site.

SEC. 3. DEFINITIONS.

In this Act:

(1) CITY.—The term "City" means the city of Waco, Texas.

(2) MANAGEMENT PLAN.—The term "management plan" means the management plan for the Monument prepared under section 5(c)(1).

(3) MAP.—The term "map" means the map entitled "Proposed Boundary Waco-Mammoth National Monument", numbered T21/80,000, and dated April 2009.

(4) MONUMENT.—The term "Monument" means the Waco Mammoth National Monument established by section 4(a).

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(6) STATE.—The term "State" means the State of Texas.

(7) UNIVERSITY.—The term "University" means Baylor University in the State.

SEC. 4. WACO MAMMOTH NATIONAL MONUMENT, TEXAS.

(a) ESTABLISHMENT.—There is established in the State, as a unit of the National Park System, the Waco Mammoth National Monument, as generally depicted on the map.

(b) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

SEC. 5. ADMINISTRATION OF MONUMENT.

(a) IN GENERAL.—The Secretary shall administer the Monument in accordance with—

(1) this Act; and

(2) any cooperative agreements entered into under subsection (b)(1).

(b) AUTHORITIES OF SECRETARY.—

(1) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative management agreements with the University and the City, in accordance with section 3(l) of Public Law 91–383 (16 U.S.C. 1a–2(l)).

(2) ACQUISITION OF LAND.—The Secretary may acquire by donation only from the City any land or interest in land owned by the City within the proposed boundary of the Monument.

(c) GENERAL MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Secretary, in consultation with the University and the City, shall complete a general management plan for the Monument.

(2) INCLUSIONS.—The management plan shall include, at a minimum—

(A) measures for the preservation of the resources of the Monument;

(B) requirements for the type and extent of development and use of the Monument;

(C) identification of the capacity of the Monument for accommodating visitors; and

(D) opportunities for involvement by the University, City, State, and other local and national entities in—

(i) developing educational programs for the Monument; and

(ii) developing and supporting the Monument.

(d) PROHIBITION OF USE OF FEDERAL FUNDS.—No Federal funds may be used to pay the costs of—

(1) carrying out a cooperative agreement under subsection (b)(1);

(2) acquiring land for inclusion in the Monument under subsection (b)(2);

(3) developing a visitor center for the Monument;

(4) operating or maintaining the Monument;

(5) constructing exhibits for the Monument; or

(6) developing the general management plan under subsection (c).

(e) USE OF NON-FEDERAL FUNDS.—Non-Federal funds may be used to pay any costs that may be incurred by the Secretary or the National Park Service in carrying out this section.

(f) EFFECT ON ELIGIBILITY FOR FINANCIAL ASSISTANCE.—Nothing in this Act affects the eligibility of the Monument for Federal grants or other forms of financial assistance that the Monument would have been eligible to apply for had National Park System status not been conferred to the Monument under this Act.

(g) TERMINATION OF NATIONAL PARK SYSTEM STATUS.—

(1) IN GENERAL.—Designation of the Monument as a unit of the National Park System shall terminate if the Secretary determines that Federal funds are required to operate and maintain the Monument.

(2) REVERSION.—If the designation of the Monument as a unit of the National Park System is terminated under paragraph (1), any land acquired by the Secretary from the City under subsection (b)(2) shall revert to the City.

(h) PRIVATE PROPERTY PROTECTION.—No private property may be made part of the Monument without the written consent of the owner of that private property.

SEC. 6. NO BUFFER ZONES.

Nothing in this Act, the establishment of national monument, or the management plan shall be construed create buffer zones outside of the national monument. That an activity or use can be seen or heard from within the Monument shall not preclude the conduct of that activity or use outside the Monument.

PURPOSE OF THE BILL

The purpose of H.R. 1545, as ordered reported, is to establish the Waco Mammoth National Monument in the State of Texas.

BACKGROUND AND NEED FOR LEGISLATION

Currently the City of Waco, Texas, and Baylor University jointly own a 109-acre site that contains the largest known concentration of mammoths dying from the same event. The mammoth remains were first discovered in 1978 and since then, Baylor University has been the lead investigator of the remains. The 109 acres were acquired over the past two decades from private donations and from buying parcels of land as they became available. The site is located near the center of Waco and is surrounded by agricultural lands, housing developments, the Brazos and the Bosque Rivers, and some additional lands owned by the University and the City of Waco.

This legislation would designate the 109-acre site a national monument and would direct the National Park Service (NPS) to administer the site, and to enter into cooperative agreements. However, the 109 acres would not immediately transfer to NPS, but it may later acquire them by donation.

The legislation is unique because it establishes a new unit of the Park System, but prohibits the use of federal funds and requires a management plan to be developed with Baylor University and the City of Waco. The Waco community has demonstrated an ability to manage the site, but anticipates that the partnership with NPS will contribute to the preservation and exposure of the resource.

During markup of the bill, the Natural Resources Committee adopted an amendment offered by Congressman Bill Flores (R–TX) to protect private property rights. The amendment clarifies that NPS can only acquire property through donation, and that no property can be included in the boundary of the monument without written consent of the owner. Finally, the amendment adds language to prevent the creation of buffer zones around the monument, thus protecting uses outside the boundaries from being impeded by NPS interference.

COMMITTEE ACTION

H.R. 1545 was introduced on April 14, 2011, by Congressman Bill Flores (R–TX). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on National Parks, Forests and Public Lands. On June 14, 2011, the Subcommittee held a hearing on the bill. On November 17, 2011, the Natural Resources Committee met to consider the bill. The Subcommittee on National Parks, Forests and Public Lands was discharged by unanimous consent. Congressman Bill Flores offered amendment designated .991 to the bill; the amendment was adopt-

ed by voice vote. Congressman Raul Grijalva (D–AZ) offered amendment designated .040 to the bill; the amendment was not adopted by a bipartisan roll call vote of 15 to 28, as follows:

Committee on Natural Resources
U.S. House of Representatives
112th Congress

Date: November 17, 2011 Recorded Vote #: 7

Meeting on / Amendment: **HR 1545** – An amendment in the nature of a substitute was NOT AGREED TO by a roll call vote of 15 yeas and 28 nays.

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Hastings, WA Chairman		X		*Mr. Heinrich, NM*	X		
Mr. Markey, MA Ranking	X			**Mr. Benishek, MI**		X	
Mr. Young, AK		X		*Mr. Lujan, NM*	X		
Mr. Kildee, MI	X			**Mr. Rivera, FL**		X	
Mr. Duncan of TN		X		*Mr. Sarbanes, MD*	X		
Mr. Defazio, OR	X			**Mr. Duncan of SC**		X	
Mr. Gohmert, TX				*Ms. Sutton, OH*	X		
Mr. Faleomavaega, AS				**Mr. Tipton, CO**		X	
Mr. Bishop, UT		X		*Ms. Tsongas*	X		
Mr. Pallone, NJ	X			**Mr. Gosar, AZ**		X	
Mr. Lamborn, CO		X		*Mr. Pierluisi, PR*	X		
Mrs. Napolitano, CA				**Mr. Labrador, ID**		X	
Mr. Wittman, VA		X		*Mr. Garamendi, CA*	X		
Mr. Holt, NJ	X			**Ms. Noem, SD**		X	
Mr. Broun, GA		X		*Ms. Hanabusa, HI*	X		
Mr. Grijalva, AZ	X			**Mr. Southerland, FL**		X	
Mr. Fleming, LA		X		**Mr. Flores, TX**		X	
Ms. Bordallo, GU				**Mr. Harris, MD**		X	
Mr. Coffman, CO		X		**Mr. Landry, LA**		X	
Mr. Costa, CA		X		**Mr. Runyan, NJ**		X	
Mr. McClintock, CA		X		**Mr. Johnson, OH**		X	
Mr. Boren, OK		X		**Mr. Amodei, NV**		X	
Mr. Thompson, PA		X					
Mr. Sablan, CNMI	X						
Mr. Denham, CA		X					
				TOTALS	15	28	

The bill, as amended, was then ordered favorably reported to the House of Representatives by voice vote.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of Rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 1545—Waco Mammoth National Monument Establishment Act of 2011

H.R. 1545 would establish the Waco Mammoth National Monument in Texas. The legislation would prohibit the use of federal funds to implement the bill, and the site's designation as a unit of the National Park System would terminate if the Secretary of the Interior determines that federal funds are required to operate and maintain the monument. The legislation would authorize the National Park Service (NPS) to acquire land for the monument by donation. H.R. 1545 also would require the NPS to prepare a management plan for the monument within three years of enactment of the legislation. Enacting H.R. 1545 could affect direct spending if funds for the monument's operation are donated and spent by the NPS; therefore, pay-as-you-go procedures apply. CBO estimates, however, that any net impact in direct spending would be insignificant. Enacting the bill would not affect revenues.

For this estimate, CBO assumes that about 5 acres of land owned by the city of Waco would be donated to the NPS within the next three years; the remainder of the approximately 110-acre site would remain in nonfederal ownership. We further assume that other costs to develop visitor facilities within the monument—an estimated $8 million—would be borne by the city or other nonfederal entities.

Based on information provided by the NPS, CBO estimates that implementing H.R. 1545 would cost $1 million over the next three years and about $400,000 a year thereafter. The $1 million would be used to develop a management plan and to establish the site as a national monument. Beginning in 2015, $400,000 would be needed for the federal share of annual operating costs. The bill's prohibition on the use of federal funds for operations would require that those costs be financed through nonfederal sources. If nonfederal funds do not become available to implement the legislation, owner-

ship of the site would revert back to the city of Waco, and the site would terminate as a unit of the National Park System. In any event, CBO estimates that the legislation would have an insignificant impact on the federal budget.

H.R. 1545 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.

The CBO staff contact for this estimate is Martin von Gnechten. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

2. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures. Enacting H.R. 1545 could affect direct spending if funds for the monument's operation are donated and spent by the NPS; therefore, pay-as-you-go procedures apply. CBO estimates, however, that any net impact in direct spending would be insignificant. Enacting the bill would not affect revenues.

Based on information provided by the NPS, CBO estimates that implementing H.R. 1545 would cost $1 million over the next three years and about $400,000 a year thereafter. The $1 million would be used to develop a management plan and to establish the site as a national monument. Beginning in 2015, $400,000 would be needed for the federal share of annual operating costs. The bill's prohibition on the use of federal funds for operations would require that those costs be financed through nonfederal sources. If nonfederal funds do not become available to implement the legislation, ownership of the site would revert back to the city of Waco, and the site would terminate as a unit of the National Park System. In any event, CBO estimates that the legislation would have an insignificant impact on the federal budget.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill, as ordered reported, is to establish the Waco Mammoth National Monument in the State of Texas.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

DISSENTING VIEWS

The 107th Congress authorized a Special Resources Study, conducted by the National Park Service, to assess various options for the long-term management of the Waco Mammoth site. The study was transmitted to Congress in 2008 and found the site was suitable and feasible as a unit of the National Park System. The study concluded that a partnership, including the City of Waco and Baylor University, and led by the National Park Service, would be the most effective and efficient management strategy for the site.

Last Congress, legislation (H.R. 1376) implementing the study recommendations and sponsored by then-Representative Chet Edwards (D–TX), passed the House under suspension of the rules by a vote of 308 to 74, with 85 Republicans voting in favor of the measure.

Rather than building on that progress this Congress, the Majority has insisted on taking an enormous step backward. H.R. 1545 would still designate the site as a national monument and unit of the National Park System, but drops specific reference to the applicability of laws governing units of the National Park System, requires that any new land for the monument be donated by the City, rather than purchased or exchanged, and specifically prohibits the use of any federal funds for management or operation of the site. Finally, H.R. 1545 requires that, if the Secretary determines federal funds are required to operate the monument, its designation as a unit of the National Park System shall terminate and any land acquired by the Secretary revert to the City.

Given that the legislation designates the site as a unit of the National Park System, a prohibition on federal funding for the monument is nonsensical, as is the idea that the monument's status as a unit of the National Park System could be turned off or on like a switch. Democrats offered the text of the legislation approved overwhelmingly by the House during the previous Congress as a substitute but the amendment was defeated on a largely party line vote.

The Majority is attempting to appear supportive of a new national park while working behind the scenes to cripple the unit. The debilitating changes Republicans have made to this once-popular bill demonstrate that the Majority is more committed to defunding the National Park System than expanding it.

EDWARD MARKEY.
RUSH HOLT.
MADELEINE BORDALLO.
JOHN GARAMENDI.
GRACE NAPOLITANO.
NIKI TSONGAS.
DALE E. KILDEE.
GREGORIO SABLAN.

BEN LUJÁN.
RAUL GRIJALVA.

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