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SENATE

{ REPORT
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KENNESAW MOUNTAIN NATIONAL BATTLEFIELD PARK BOUNDARY ADJUSTMENT ACT

MAY 16, 2017.—Ordered to be printed

Ms. MURKOWSKI, from the Committee on Energy and Natural
Resources, submitted the following

R E P O R T

[To accompany H.R. 558]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Natural Resources, to which was referred the bill (H.R. 558) to adjust the boundary of the Kennesaw Mountain National Battlefield Park to include the Wallis House and Harriston Hill, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends 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 “Kennesaw Mountain National Battlefield Park Boundary Adjustment Act”.

SEC. 2. DEFINITIONS.

In this section:

(1) MAP.—The term “map” means the map entitled “Kennesaw Mountain National Battlefield Park, Proposed Boundary Adjustment”, numbered 325/80,020, and dated February 2010.

(2) PARK.—The term “Park” means the Kennesaw Mountain National Battlefield Park.

(3) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

SEC. 3. KENNESAW MOUNTAIN NATIONAL BATTLEFIELD PARK BOUNDARY ADJUSTMENT.

(a) BOUNDARY ADJUSTMENT.—The boundary of the Park is modified to include the approximately 8 acres of land or interests in land identified as “Wallis House and Harriston Hill”, as generally depicted on the map.

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

(c) LAND ACQUISITION.—The Secretary may acquire land or interests in land described in subsection (a) by donation, purchase from willing sellers, or exchange.

(d) ADMINISTRATION OF ACQUIRED LAND.—The Secretary shall administer land and interests in land acquired under this Act as part of the Park in accordance with applicable laws (including regulations).

PURPOSE

The purpose of H.R. 558 is to adjust the boundary of the Kennesaw Mountain National Battlefield Park to include the Wallis House and Harriston Hill.

BACKGROUND AND NEED

Kennesaw Mountain Battlefield in Georgia was set aside for preservation and protection in 1917 to commemorate the Civil War Battle of Kennesaw Mountain, which proved to be a major turning point for the Union Army and the eventual fall of Atlanta. The battlefield was designated as a National Battlefield Park in 1935.

The Wallis House is one of the few original structures still remaining from the battle. Built by Josiah Wallis in 1853, the house served as the headquarters of Union General Oliver O. Howard, and was the scene of heavy fighting on July 27, 1864. Immediately north of the Wallis House is Harriston Hill, the site of a signal tower for General Howard's Army Corps during the battle.

H.R. 558 would expand the boundary of the Battlefield and authorize the Secretary of the Interior to acquire approximately eight acres of land, including the Wallis House and Harriston Hill, by donation or exchange to expand the park. Cobb County is the current owner of the eight acres of property and has expressed a desire to convey the land to National Park Service (NPS) once the NPS is authorized to receive it.

Currently, the battlefield enables visitors to view the Confederate Army positions during the battle. Adding the Wallis House and Harriston Hill will allow interpretation of the Union Army positions as well, improving visitor understanding of this conflict.

LEGISLATIVE HISTORY

Representative Loudermilk and 7 cosponsors introduced H.R. 558 on January 13, 2017. On January 30, 2017, H.R. 558 was passed by the House of Representatives.

Senators Isakson and Perdue introduced similar legislation, S. 136, on January 12, 2017.

In the 114th Congress, Senators Isakson and Perdue introduced a similar bill, S. 1930, on August 4, 2015. The Subcommittee on National Parks held a hearing on the bill on March 17, 2016. The Committee on Energy and Natural Resources met in open business session on July 13, 2016, and ordered S. 1930 favorably reported (S. Rept. 114–320). In the House of Representatives, Representative Loudermilk introduced a companion bill, H.R. 3371, on July 29, 2015. H.R. 3371 was ordered to be reported by the House Committee on Natural Resources on February 24, 2016. On the same day, H.R. 3371 passed by a voice vote in the House of Representatives.

In the 113th Congress, Senators Isakson and Chambliss introduced S. 2571, on July 9, 2014. Representative Gingrey introduced a companion bill, H.R. 5003, on June 26, 2014. The House Natural Resources Committee's Subcommittee on Public Lands and Environmental Regulation held a hearing on H.R. 5003 on September

9, 2014. On September 18, 2014, the Committee on Natural Resources ordered the bill to be reported as amended by unanimous consent.

The Committee on Energy and Natural Resources met in open business session on March 30, 2017, and ordered H.R. 558 favorably reported as amended.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on March 30, 2017, by a majority voice vote of a quorum present, recommends that the Senate pass H.R. 558, if amended as described herein.

COMMITTEE AMENDMENTS

During its consideration of H.R. 558, the Committee on Energy and Natural Resources adopted an amendment in the nature of a substitute to conform the bill to the version approved by the Committee during the 114th Congress. The amendment is further described in the section-by-section analysis.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 provides a short title for the measure.

Section 2. Definitions

Section 2 provides key definitions

Section 3. Kennesaw Mountain National Battlefield Park boundary adjustment

Section 3(a) modifies the boundary of the Kennesaw Mountain National Battlefield Park to include Wallis House and Harriston Hill.

Subsection (b) directs the map to be on file in appropriate National Park Service offices and available for public inspection.

Subsection (c) authorizes the Secretary of the Interior to acquire the approximately eight acres from by donation, purchase from willing sellers, or exchange.

Subsection (d) directs the Secretary to administer the new acquisitions as part of the Kennesaw Mountain National Battlefield Park in accordance with applicable law.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

H.R. 558 would adjust the boundary of the Kennesaw Mountain National Battlefield Park in the state of Georgia. The bill would authorize the National Park Service (NPS) to acquire about 8 acres of land, including the Wallis house and Harriston Hill, by donation or exchange. Based on an analysis of information provided by the NPS, CBO estimates that implementing H.R. 558 would cost \$2 million over the 2018–2022 period to develop and operate the new property. That spending would be subject to the availability of appropriated funds.

Enacting H.R. 558 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting H.R. 558 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 558 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 Jon Sperl. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 558. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of H.R. 558, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

H.R. 558, as ordered reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

EXECUTIVE COMMUNICATIONS

Because H.R. 558 is similar to legislation considered by the Committee in the 114th Congress, the Committee did not request Executive Agency views. The testimony provided by the National Park Service at the hearing before the Subcommittee on National Parks on March 17, 2016, follows:

STATEMENT OF PEGGY O'DELL, DEPUTY DIRECTOR FOR OPERATIONS, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman and members of the subcommittee, thank you for the opportunity to present the views of the Department of the Interior on S. 1930 and H.R. 3371, bills to authorize the Secretary of the Interior to adjust the boundary of the Kennesaw Mountain National Battlefield Park in the State of Georgia to include the Wallis House and Harriston Hill, and for other purposes.

The Department supports S. 1930 and would support H.R. 3371 if amended in accordance with this statement. This legislation would authorize the Secretary of the Interior to acquire by donation or exchange approximately 8 acres of land or interests in land known as the Wallis House property and Harriston Hill in Cobb County, Georgia.

The Wallis house is one of the few original structures remaining from the Battle of Kennesaw Mountain. The house is in its original location, ½ mile west of the park on Burnt Hickory Road. The Wallis house was built by Josiah Wallis in 1853 and occupied by his family until the Civil War, when it was used first as a Confederate hospital and then as the headquarters for Union General O.O. Howard during the Battle of Kennesaw Mountain. General William T. Sherman was stationed at the Wallis house during the Battle of Kolb's Farm that took place at the south end of the park and immediately preceded the Battle of Kennesaw Mountain. Adjacent to the Wallis house is Harriston Hill, which offers a sweeping vista of the valley leading to the Confederate line atop Kennesaw Mountain. From this position it is clear why General Howard picked this site for his headquarters and signaling position. The majority of the park's auto tour and trails interpret Confederate positions. The acquisition of this site would enhance visitor understanding of the Union strategy during the Battle of Kennesaw Mountain. This addition would enable the park to interpret a key Union position in the last major battle leading to the fall of Atlanta during the Civil War.

The Wallis house was in imminent danger of being demolished by a developer in 2002. The developer had purchased 26.66 acres including the Wallis house and adjoining Harriston Hill with plans to construct 43 homes on the property. In cooperation with the National Park Service, the Cobb Land Trust, and the Georgia Civil War Commission, Cobb County agreed to purchase the Wallis house property and the 5.5 acres encompassing Harriston Hill with the intent of donating the properties to Kennesaw Mountain National Battlefield Park. The Cobb Land Trust agreed to purchase 1.13 acres at the foot of Harriston Hill that are essential for providing visitor access to all properties and to donate this property to the NPS. Neither the county nor the Cobb Land Trust has the funds to restore, maintain or manage the site, and no other entity has indicated the interest or ability to do so.

The NPS estimates that the site would require an immediate one-time cost of \$1 million for repair and safety improvements, and an annual operational cost of \$204,000 for salaries, supplies, and maintenance. All finds would be subject to NPS priorities and the availability of appropriations.

The Department supports S. 1930 as introduced and would support H.R. 3371 as passed by the House if amended to conform to the language in S. 1930. As passed by the House, H.R. 3371 makes the establishment of the expanded boundary subject to the written consent of the owners of properties that would be included within the new boundary. This places landowners, rather than Congress or the Administration, in the position of determining the boundary of a federal park, which we believe is inappropriate. This provision has the potential to create legal

and practical confusion over the boundary since it is possible that a landowner could give consent, then change his or her mind and withdraw consent or convey the property to another owner who withdraws consent. If the intent of this language is to ensure that no land is included within the park boundary without the consent of the landowner, we recommend amending the bill to provide that the park boundary shall not be adjusted unless and until a specified property is acquired for the park. By waiting to include land in the boundary until it is acquired by the federal government, this approach avoids entirely the potential problems we see with the approach used in the House bill. Our recommended approach has precedent in other park laws.

H.R. 3371 prohibits acquisition by condemnation of any land or interests in land within the boundaries of the park. However, the bill already limits acquisition to donation or exchange. If the intent of this provision is to prohibit condemnation of the approximately 8 acres that would be included in the park boundary, we believe limiting acquisition to donation or exchange achieves the same goal.

H.R. 3371 also includes language that says that an activity outside the boundary shall not be precluded because it can be heard or seen inside the park boundary. The Department has concerns about this language. It is misleading, as it suggests that the NPS may have authority to preclude activities outside the boundaries, which it does not. Of even greater concern, however, is that the language could discourage park managers from addressing threats to park resources from external sources. Even though the NPS does not control what happens outside of its boundaries, park managers have a responsibility under the NPS Organic Act and other laws to work with owners of properties outside of park boundaries to resolve problems that could negatively impact the resources the NPS is responsible for protecting.

Mr. Chairman, this concludes my statement. I would be happy to answer any questions you or any members of the subcommittee may have.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill as ordered reported.

