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LOWER MISSISSIPPI RIVER AREA STUDY ACT

APRIL 22, 2013.—Ordered to be printed

Mr. WYDEN, from the Committee on Energy and Natural Resources, submitted the following

R E P O R T

[To accompany S. 311]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 311) to direct the Secretary of the Interior to study the suitability and feasibility of designating sites in the Lower Mississippi River Area in the State of Louisiana as a unit of the National Park System, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass. The amendment is as follows:

On page 3, strike lines 9 through 11.

PURPOSE

The purpose of S. 311 is direct the Secretary of the Interior to study the suitability and feasibility of designating certain historic sites along the Lower Mississippi River in Louisiana as a unit of the National Park System.

BACKGROUND AND NEED

The Lower Mississippi River area in Plaquemines Parish in Louisiana has rich historical significance and cultural history. In the 1500s, Spanish explorers traveled along the banks of the river. In 1699, the area became the site of the first fortification on the Lower Mississippi River, Fort Mississippi. Since then, it has been home to ten different fortifications, including Fort St. Philip and Fort Jackson. The two forts are located on opposite banks at a turn in the river known as Plaquemines Bend in the Head of Passes. The Head of Passes, the section of the Mississippi River where the

main stem of the river branches into three distinct segments, is considered the mouth of the Mississippi River.

Fort St. Philip was originally built by the French in 1746 and rebuilt by the Spanish in 1791. President Andrew Jackson repaired the fort in anticipation of a British attack during the War of 1812. Fort Jackson, named after Andrew Jackson, was completed in 1832 to provide further protection for New Orleans.

Fort St. Philip and Fort Jackson were heavily fortified during the Civil War. The Confederate command felt that the presence of these two forts made enemy passage up the Mississippi River impossible. Union leadership determined that though considerable in strength, the two forts were not impenetrable and that opening the river to Union navigation from Memphis, Tennessee, downstream to the Gulf was necessary for the war effort. Eight days of heavy bombardment led to the bloodless surrender of both forts, giving the North control of the river, which was a crippling blow to the Confederacy.

Fort St. Philip was not regularly garrisoned after 1871 and was later sold at public auction. From 1978–1989 it served as the site of a nonsectarian spiritual community, and it remains in private ownership, today. Fort Jackson was badly damaged by the Civil War bombardment. It was repaired and used as a prison; then later a minor training base during the Spanish-American War and World War I; and then sold as surplus. The buyers donated the 82–acre site to the Parish of Plaquemines where after considerable renovation it was converted into a historical park and recreation area. Hurricanes Katrina and Rita completely flooded the fort destabilizing the walls that were further damaged by large trees that toppled some of the ramparts.

In addition to its rich military history, there are many other unique attributes of the Lower Mississippi region. This area is home to the longest continuous river road and levee system in the United States. The land known as Plaquemines Parish was created only 700 years ago when a natural levee eroded, causing the Mississippi River to change course. The Estuary of South Louisiana is considered one of North America's most dynamic ecosystems. Two National Wildlife Refuges, Delta and Breton, which together encompass nearly 56,000 acres, are located within the Lower Mississippi River area. The Breton National Wildlife Refuge, which was established by President Theodore Roosevelt in 1904, as a refuge and breeding ground for migratory birds and other wildlife, is the nation's second oldest refuge. It is also part of the National Wilderness Preservation System.

The Lower Mississippi River area is also home to a diverse array of cultures. The distinctive cultural history of Plaquemines Parish differs from most of the rest of the United States. While the French, Spanish, African, and Native Americans have interwoven the cultural fabric of the Parish, the more recent immigration of European Slavs, Germans, Italians, Irish, Portuguese, English, Danes, Swedes, Greeks, Filipinos, Chinese, Malays, Canary Islanders, and Vietnamese have contributed to make the parish even more culturally diverse.

S. 311 would authorize the National Park Service to study the feasibility of creating a unit of the National Park System to preserve and interpret the historic properties of Fort St. Philip and

Fort Jackson and the unique geological, biological, and ethnographic features of the Lower Mississippi River area.

LEGISLATIVE HISTORY

Senator Landrieu introduced S. 311 on February 13, 2013. At its business meeting on March 14, 2013, the Committee ordered S. 311 favorably reported with an amendment.

In the 112th Congress, Senator Landrieu introduced similar legislation, S. 1325, on July 5, 2011. The Subcommittee on National Parks held a hearing on October 19, 2011 (S. Hrg. 112–224). At its business meeting on November 10, 2011, the Committee on Energy and Natural Resources ordered S. 1325 favorably reported with an amendment (S. Rpt. 112–125).

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on March 14, 2013 by voice vote of a quorum present recommends that the Senate pass S. 311.

COMMITTEE AMENDMENT

During its consideration of S. 311, the Committee adopted an amendment to delete section 5, which authorized the appropriation of such sums as are necessary to carry out the Act. The section is not necessary because the bill carries with it an implied authorization of appropriations.

SECTION-BY-SECTION ANALYSIS

Section 1 provides the short title, the "Lower Mississippi River Area Study Act".

Section 2 defines key terms used in the bill.

Section 3(a) authorizes the Secretary of the Interior, in consultation with the State of Louisiana, to conduct a special resource study of Plaquemines Parish, Louisiana, including Fort St. Philip, Fort Jackson, the Head of Passes, and related resources to determine the national significance, suitability, and feasibility of designating the study area as a unit of the National Park System.

Subsection (b) directs the study to be conducted in accordance with section 8 of Public Law 91–383, which sets forth requirements for National Park Service studies.

Subsection (c) requires the study to include cost estimates for acquisition, development, operation, and maintenance associated with a range of management, administration, and protection alternatives of the study area.

Section 4 allows the Secretary to accept donated funds to conduct the study.

COST AND BUDGETARY CONSIDERATIONS

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

S. 311—Lower Mississippi River Area Study Act

S. 311 would direct the Secretary of the Interior to conduct a study to determine the suitability and feasibility of designating specified sites along the Lower Mississippi River in the state of

Lousiana as a unit of the National Park System. Based on information provided by the National Park Service and assuming the availability of appropriated funds, CBO estimates that carrying out the proposed study would cost about $400,000 over the next three years. Enacting S. 311 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

S. 311 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on states, 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.

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 S. 311.

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 S. 311, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 311, 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

Executive Communications were not requested by the Committee in the 113th Congress. The following Administration testimony references similar legislation introduced in the 112th Congress.

The testimony provided by the National Park Service at the October 19, 2011, Subcommittee on National Parks hearing on S. 1325 follows:

> STATEMENT OF WILLIAM D. SHADDOX, ACTING ASSOCIATE DIRECTOR FOR PARK PLANNING, FACILITIES AND LANDS, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR
>
> Mr. Chairman, thank you for the opportunity to present the views of the Department of the Interior on S. 1325, a bill to direct the Secretary of the Interior to study the suitability and feasibility of designating sites in the Lower Mississippi River Area in the State of Louisiana as a unit of the National Park System, and for other purposes.
>
> The Department supports this legislation with amendments that are described later in this statement. However, we feel that priority should be given to the 37 previously authorized studies for potential units of the National Park System, potential new National Heritage Areas, and potential additions to the National Trails System and National

Wild and Scenic Rivers System that have not yet been transmitted to Congress.

S. 1325 would authorize a study of natural, cultural, historical, and recreational resources in Plaquemines Parish, located south of the City of New Orleans, for potential designation as a unit of the National Park System. The study area would include Fort St. Philip and Fort Jackson, located on opposite sides of a bend in the Mississippi River about eight miles upstream from the town of Venice, Louisiana, and approximately 73 river miles downstream from New Orleans at an ancient "Head of Passes" site. The term "Head of Passes" refers to the site where the main stem of the Mississippi River branches off to the east, the south, and the southwest at its mouth in the Gulf of Mexico. The present day Head of Passes is just south of the town of Venice. The study is estimated to cost between $200,000 and $400,000.

Fort St. Philip was originally built in 1749, and the construction of Fort Jackson, named for Andrew Jackson, the hero of the Battle of New Orleans in 1815, began in 1822. Fort St. Philip played an important defensive role in the Battle of New Orleans and both forts were employed unsuccessfully to defend New Orleans and the Confederacy from Admiral Farragut's union fleet during the Civil War. Both Fort St. Philip and Fort Jackson have been designated as National Historic Landmarks, which attests to their national significance. Fort St. Philip, privately owned at the present time, is in ruins and overgrown with vegetation. Fort Jackson was operated by Plaquemines Parish as a historical museum until Hurricane Katrina caused extensive damage, and it has been closed to the public ever since.

While the Department supports S. 1325, we would like to recommend some amendments to the bill. We would be pleased to work with the committee and the bill's sponsor to develop language for these amendments.

First, we recommend tightening the definition of the study area in section 3(1). While it appears that the focus of the study is on the two historic forts and related resources, the bill defines the study area as the "Lower Mississippi River area in the State of Louisiana," which could be interpreted as a much broader area than what is intended. The scope of the study would be clarified by limiting the study area to the two forts and related and supporting resources in Plaquemines Parish.

Second, we recommend providing a three-year period for completing the study, rather than 18 months, as provided for in section 4(a). This change would provide for the full three years that a special resource study usually requires, and it would make the bill consistent with most of the other special resource study bills Congress has enacted in recent years.

Third, we are concerned about the reference in section 4(a) to "non-Federal sources" of funds made available to carry out the study, which suggests that the study could

be privately funded. We would like to carefully consider the issues that might arise from conducting a privately funded special resource study and, if we determine that any changes to the legislation are necessary, make the appropriate recommendation.

Finally, we recommend removing language in section 4(a)(1)(B) that suggests a specific designation for the area, the "Lower Mississippi River National Park," before the study is conducted. A special resource study that finds that an area meets the criteria for designation as a unit of the National Park System would also, as part of those findings, identify the most appropriate type of designation for the area. A study might also find that options other than designation of a new park unit might be more suitable or feasible.

Mr. Chairman, this concludes my statement. I would be happy to answer any questions that you 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 S. 311, as ordered reported.

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