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108TH CONGRESS, 2d Session | HOUSE OF REPRESENTATIVES | REPORT 108–738

CUMBERLAND ISLAND WILDERNESS BOUNDARY ADJUSTMENT ACT OF 2004

OCTOBER 6, 2004.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. POMBO, from the Committee on Resources, submitted the following

REPORT

together with

DISSENTING VIEWS

[To accompany H.R. 4887]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 4887) to adjust the boundary of the Cumberland Island Wilderness, to authorize tours of the Cumberland Island National Seashore, 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 "Cumberland Island Wilderness Boundary Adjustment Act of 2004".

SEC. 2. CUMBERLAND ISLAND WILDERNESS BOUNDARY ADJUSTMENT.

Public Law 97–250 (96 Stat. 709) is amended by striking section 2 and inserting the following:

"SEC. 2. CUMBERLAND ISLAND WILDERNESS.

"(a) DEFINITIONS.—In this section:

"(1) MAP.—The term 'map' means the map entitled 'Cumberland Island Wilderness', numbered 640/20,038I, and dated September 2004.

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

"(3) WILDERNESS.—The term 'Wilderness' means the Cumberland Island Wilderness established by subsection (b).

"(4) POTENTIAL WILDERNESS.—The term 'Potential Wilderness' means the 10,500 acres of potential wilderness described in subsection (c)(2), but does not

include the area at the north end of Cumberland Island known as the 'High Point Half-Moon Bluff Historic District'.

"(b) ESTABLISHMENT.—

"(1) IN GENERAL.—Approximately 9,886 acres of land in the Cumberland Island National Seashore depicted on the map as 'Wilderness' is designated as a component of the National Wilderness Preservation System and shall be known as the 'Cumberland Island Wilderness'.

"(2) EXCLUSIONS.—The 25-foot wide roadways depicted on the map as the 'Main Road', 'Plum Orchard', and the 'North Cut Road' shall not be included in the Wilderness and shall be maintained by the Secretary for continued vehicle use.

"(c) ADDITIONAL LAND.—In addition to the land designated under subsection (b), the Secretary shall—

"(1) on acquisition of the approximately 231 acres of land identified on the map as 'Areas Become Designated Wilderness upon Acquisition by the NPS'; and

"(2) on publication in the Federal Register of a notice that all uses of the approximately 10,500 acres of land depicted on the map as 'Potential Wilderness' that are prohibited under the Wilderness Act (16 U.S.C. 1131 et seq.) have ceased, adjust the boundary of the Wilderness to include the land.

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

"(e) ADMINISTRATION.—Subject to valid existing rights, the Wilderness shall be administered by the Secretary, in accordance with the applicable provisions of the Wilderness Act (16 U.S.C. 1131 et seq.) governing areas designated by that Act as wilderness areas, except that—

"(1) any reference in such provisions to the effective date of that Act shall be deemed to be a reference to the effective date of this Act; and

"(2) where appropriate, any reference in that Act to the Secretary of Agriculture shall be deemed to be a reference to the Secretary.

"(f) EFFECT.—Any person with a right to utility service on Cumberland Island on the date of enactment of this subsection shall continue to have the right to utility service in the Wilderness after the date of enactment of this subsection.

"(g) MANAGEMENT PLAN FOR ACCESS TO MAIN ROAD AND NORTH CUT ROAD.—Not later than one year after the date of the enactment of the Cumberland Island Wilderness Boundary Adjustment Act of 2004, the Secretary shall complete a management plan to ensure that not more than 8 and not less than 5 round trips are made available daily on the Main Road north of the Plum Orchard Spur and the North Cut Road by the National Park Service or a concessionaire for the purpose of transporting visitors to and from the historic sites located adjacent to Wilderness.".

SEC. 3. TOURS OF CUMBERLAND ISLAND NATIONAL SEASHORE.

Section 6 of Public Law 92–536 (86 Stat. 1066) is amended—

(1) in subsection (b), by inserting ", except as provided in subsection (c)," before "no development of the project"; and

(2) by adding at the end the following:

"(c) TOURS OF THE SEASHORE.—Notwithstanding subsection (b), the Secretary may enter into not more than 3 concession contracts, as the Secretary determines appropriate, for the provision of tours for visitors to the seashore that are consistent with—

"(1) this Act;

"(2) the Wilderness Act (16 U.S.C. 1131 et seq.); and

"(3) Public Law 97–250 (96 Stat. 709).".

PURPOSE OF THE BILL

The purpose of H.R. 4887 is to adjust the boundary of the Cumberland Island Wilderness, to authorize tours of the Cumberland Island National Seashore, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

Cumberland Island National Seashore, located on the State of Georgia's largest and southernmost barrier island, was established in 1972 by Public Law 92–536. In 1982, through the enactment of Public Law 97–250, Congress designated approximately 8,840 acres in the center of the Island as wilderness under the Wilderness Act

and designated an additional 11,718 acres in the northern and western part of the Island as potential wilderness. At the time, the proponents of the wilderness designation—primarily those who lived and worked on the Island—believed that wilderness designation was the only way to prevent anticipated development on the Island. Today, the current wilderness designation covers a majority of the Main Road that runs north and south on the Island as well as the North Cut Road and the Plum Orchard Spur. Because of the inclusion of these principal roads in the wilderness, access to many important historical and cultural resources is severely restricted, particularly for the National Park Service. The consequence of the wilderness designation was a dissection of the Seashore into three sections—making unfettered access to the Island's cultural and historic resources in the central and north near impossible for the typical visitor to the Island. Meanwhile, in terms of the designated potential wilderness, once the nonconforming uses prohibited by the Wilderness Act have ceased in the area, the acreage will become designated wilderness. H.R. 4887 would remove the Main Road, Plum Orchard Spur Road and North Cut Road—approximately 25 acres total (based on a 25 foot width)—from the designated wilderness area. This would allow for controlled vehicular access to Plum Orchard, the Settlement (a historic African American community) and the beach at the north end of the Island.

H.R. 4887 would also allow any person with the right to utility service on the Island to continue to have the right to utility service in the wilderness area, and permit the Secretary to enter into one or more contracts with concession companies as the Secretary of the Interior determines to be appropriate for tours and visitors to the Seashore. As of now, Greyfield Inn, a historic bed and breakfast on the southern part of the Island, has a pre-existing right to conduct motorized tours on the Island.

COMMITTEE ACTION

H.R. 4887 was introduced on July 21, 2004, by Congressman Jack Kingston (R–GA). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on National Parks, Recreation and Public Lands. On September 14, 2004, the Subcommittee held a hearing on the bill. On September 22, 2004, the Full Resources Committee met to consider the bill. Congressman George Radanovich (R–CA) offered an amendment in the nature of a substitute that made the following changes to the original text: (1) Added a new map and number to the bill; (2) removed the proposed wilderness designation from the southern part of the Island; (3) directed the Secretary of the Interior to develop a management plan for vehicle use of the Main Road and the North Cut Road; and (4) limited the number of concession contracts for tours of the Seashore to no more than three. The amendment was adopted by voice vote. The bill, as amended, was ordered favorably reported to the House of Representatives by a rollcall vote of 23 to 15, as follows:

COMMITTEE ON RESOURCES
U.S. House of Representatives
108th Congress

Date: 9/22/04

Convened: 10:14
Adjourned: 11:54

Meeting on: **HR 4887 - Ordered reported to the House, as amended, by a Roll Call Vote of 23 yeas and 15 nays**

☐ Attendance ☒ Recorded Vote Vote Number #28 Total: Yeas 23 Nays 15

	YEA	NAY	PRESENT		YEA	NAY	PRESENT
Mr. Pombo, CA, Chairman	✓			Mr. Peterson, PA	✓		
Mr. Rahall, WV		✓		*Mr. Tom Udall, NM*		✓	
Mr. Young, AK				Mr. Gibbons, NV	✓		
Mr. Miller, CA		✓		*Mr. Mark Udall, CO*		✓	
Mr. Tauzin, LA				Mr. Souder, IN	✓		
Mr. Markey, MA		✓		*Mr. Acevedo-Vilá, PR*			
Mr. Saxton, NJ	✓			Mr. Walden, OR	✓		
Mr. Kildee, MI		✓		*Mr. Carson, OK*			
Mr. Gallegly, CA				Mr. Tancredo, CO			
Mr. Faleomavaega, AS		✓		*Mr. Grijalva, AZ*		✓	
Mr. Duncan, TN				Mr. Hayworth, AZ	✓		
Mr. Abercrombie, HI	✓			*Mr. Cardoza, CA*	✓		
Mr. Gilchrest, MD	✓			Mr. Osborne, NE	✓		
Mr. Ortiz, TX		✓		*Ms. Bordallo, GU*			
Mr. Calvert, CA				Mr. Flake, AZ	✓		
Mr. Pallone, NJ				*Ms. Herseth, SD*	✓		
Mr. McInnis, CO				Mr. Rehberg, MT	✓		
Mr. Dooley, CA				*Mr. Hinojosa, TX*		✓	
Mrs. Cubin, WY	✓			Mr. Renzi, AZ	✓		
Mrs. Christensen, VI		✓		*Mr. Rodriguez, TX*		✓	
Mr. Radanovich, CA	✓			Mr. Cole, OK	✓		
Mr. Kind, WI		✓		*Mr. Baca, CA*	✓		
Mr. Jones, NC				Mr. Pearce, NM	✓		
Mr. Inslee, WA		✓		Mr. Bishop, UT	✓		
Mr. Cannon, UT				Mr. Nunes, CA	✓		
Mrs. Napolitano, CA		✓		Mr. Neugebauer, TX	✓		
				Total	23	15	

18 to meet, 27 to report

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 Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) 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)(3)(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.

2. 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, credit authority, or an increase or decrease in revenues or tax expenditures. According to the Congressional Budget Office, enactment of this bill could result in additional franchise fee payments to the federal government, which could then be spent by the National Park Service. This results in no net budgetary impact.

3. General Performance Goals and Objectives. This bill does not authorize funding and therefore, clause 3(c)(4) of rule XIII of the Rules of the House of Representatives does not apply.

4. Congressional Budget Office Cost Estimate. 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. 4887—Cumberland Island Wilderness Boundary Adjustment Act of 2004

H.R. 4887 would exclude three roads from land designated as wilderness or potential wilderness on Cumberland Island, a national seashore in Georgia. Under the bill, the National Park Service (NPS) would have to provide island visitors with between five and eight round-trips daily over these roads and would be authorized to enter into a limited number of concessions contracts for this purpose. Finally, the bill would authorize the NPS to add about 230 acres to the wilderness area if that land is acquired by the agency under existing authority.

Eliminating the national wilderness designations from the island's roads and allowing private concessioners to use them would likely facilitate the development of Plum Orchard, an historic estate owned by the NPS that currently has little recreational use because it is only accessible to visitors by boat or on foot. The NPS has already spent more than $2 million to restore the mansion.

CBO expects that the agency would spend another $6 million to complete the mansion's restoration even without legislation, but we believe that the project would become more expensive if the old estate is developed for visitor uses—a scenario that is likely under this legislation. As a result, we estimate that the cost of implementing the bill would be about $5 million over the next five years, assuming appropriation of the necessary amounts. This amount would be used to convert the mansion for visitor use and to provide a staging area for tourist traffic at an existing boat landing area. Alternatively, the necessary amounts could be provided by a future concessioner or lessee in exchange for lower franchise fees, but CBO has no basis for predicting such an outcome.

CBO estimates that adding the 230 acres of property to the wilderness area of the island would have no significant cost. The NPS is already authorized to accept donation of the acreage, which is currently owned by a nonprofit organization. Finally, by allowing concession companies to operate on the island's roads, enacting the bill could result in additional franchise-fee income to the federal government. Any such increases in offsetting receipts would be offset by additional direct spending, however, resulting in no net budgetary impact.

H.R. 4887 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 Deborah Reis. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

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 MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 2 OF THE ACT OF SEPTEMBER 8, 1982

(Public Law 97–250)

AN ACT To correct the boundary of Crater Lake National Park in the State of Oregon, and for other purposes.

[SEC. 2. (a) In accordance with section 3(c) of the Wilderness Act (78 Stat. 890, 892; 16 U.S.C. 1132(c)), certain lands in the Cumberland Island National Seashore, Georgia, which comprise about eight thousand eight hundred and forty acres, and which are depicted on the map entitled "Wilderness Plan, Cumberland Island National Seashore, Georgia", dated November 1981, and numbered 640–20038E, are hereby designated as wilderness and therefor, as components of the National Wilderness Preservation System. Cer-

tain other lands in the Seashore, which comprise about eleven thousand seven hundred and eighteen acres, and which are designated on such map as "Potential Wilderness", are, effective upon publication in the Federal Register of a notice by the Secretary of the Interior that all uses thereon prohibited by the Wilderness Act have ceased, designated wilderness. Such notice shall be published with respect to any tract within such eleven thousand seven hundred and eighteen acre area after the Secretary has determined that such uses have ceased on that tract. The map and a description of the boundaries of the areas designated by this section as wilderness shall be on file and available for public inspection in the office of the Director of the National Park Service, Department of the Interior, and in the office of the Superintendent of the Cumberland Island National Seashore.

[(b) Within six months after the enactment of this Act, a map and a description of the boundaries of the Cumberland Island Wilderness shall be filed with the Energy and Natural Resources Committee of the United States Senate and with the Interior and Insular Affairs Committee of the United States House of Representatives. Such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in such map and description may be made.

[(c) The wilderness area designated by this section shall be known as the Cumberland Island Wilderness. Subject to valid existing rights, the wilderness areas shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act, and where appropriate, any reference in that Act to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.]

SEC. 2. CUMBERLAND ISLAND WILDERNESS.

(a) DEFINITIONS.—In this section:

(1) MAP.—The term "map" means the map entitled "Cumberland Island Wilderness", numbered 640/20,038I, and dated September 2004.

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

(3) WILDERNESS.—The term "Wilderness" means the Cumberland Island Wilderness established by subsection (b).

(4) POTENTIAL WILDERNESS.—The term "Potential Wilderness" means the 10,500 acres of potential wilderness described in subsection (c)(2), but does not include the area at the north end of Cumberland Island known as the "High Point Half-Moon Bluff Historic District".

(b) ESTABLISHMENT.—

(1) IN GENERAL.—Approximately 9,886 acres of land in the Cumberland Island National Seashore depicted on the map as "Wilderness" is designated as a component of the National Wilderness Preservation System and shall be known as the "Cumberland Island Wilderness".

(2) EXCLUSIONS.—The 25-foot wide roadways depicted on the map as the "Main Road", "Plum Orchard", and the "North Cut

Road" shall not be included in the Wilderness and shall be maintained by the Secretary for continued vehicle use.

(c) ADDITIONAL LAND.—In addition to the land designated under subsection (b), the Secretary shall—

(1) on acquisition of the approximately 231 acres of land identified on the map as "Areas Become Designated Wilderness upon Acquisition by the NPS"; and

(2) on publication in the Federal Register of a notice that all uses of the approximately 10,500 acres of land depicted on the map as "Potential Wilderness" that are prohibited under the Wilderness Act (16 U.S.C. 1131 et seq.) have ceased, adjust the boundary of the Wilderness to include the land.

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

(e) ADMINISTRATION.—Subject to valid existing rights, the Wilderness shall be administered by the Secretary, in accordance with the applicable provisions of the Wilderness Act (16 U.S.C. 1131 et seq.) governing areas designated by that Act as wilderness areas, except that—

(1) any reference in such provisions to the effective date of that Act shall be deemed to be a reference to the effective date of this Act; and

(2) where appropriate, any reference in that Act to the Secretary of Agriculture shall be deemed to be a reference to the Secretary.

(f) EFFECT.—Any person with a right to utility service on Cumberland Island on the date of enactment of this subsection shall continue to have the right to utility service in the Wilderness after the date of enactment of this subsection.

(g) MANAGEMENT PLAN FOR ACCESS TO MAIN ROAD AND NORTH CUT ROAD.—Not later than one year after the date of the enactment of the Cumberland Island Wilderness Boundary Adjustment Act of 2004, the Secretary shall complete a management plan to ensure that not more than 8 and not less than 5 roundtrips are made available daily on the Main Road north of the Plum Orchard Spur and the North Cut Road by the National Park Service or a concessionaire for the purpose of transporting visitors to and from the historic sites located adjacent to Wilderness.

SECTION 6 OF THE ACT OF OCTOBER 23, 1972

(Public Law 92–536)

AN ACT To establish the Cumberland Island National Seashore in the State of Georgia, and for other purposes.

SEC. 6. (a) * * *

(b) Except for certain portions of the seashore deemed to be especially adaptable for recreational uses, particularly swimming, boating, fishing, hiking, horseback riding, and for other recreational activities of similar nature, which shall be developed for such uses as needed, the seashore shall be permanently preserved in its primitive state, and, *except as provided in subsection (c),* no development of the project or plan for the convenience of visitors shall be undertaken which would be incompatible with the preservation of the

unique flora and fauna or the physiographic conditions not prevailing, nor shall any road or causeway connecting Cumberland Island to the mainland be constructed.

(c) TOURS OF THE SEASHORE.—Notwithstanding subsection (b), the Secretary may enter into not more than 3 concession contracts, as the Secretary determines appropriate, for the provision of tours for visitors to the seashore that are consistent with—

(1) this Act;

(2) the Wilderness Act (16 U.S.C. 1131 et seq.); and

(3) Public Law 97–250 (96 Stat. 709).

DISSENTING VIEWS

We oppose H.R. 4887 because the legislation would overturn the clear prohibitions on development and roads in wilderness contained in the 1972 Act establishing the Cumberland Island National Seashore and the 1982 Act designating the Cumberland Island Wilderness.

Reopening roads in wilderness and allowing commercial operations to use those roads would fragment the wilderness and undermine the fundamental purpose of the 1972 and 1982 Acts which was to permanently preserve a significant portion of this unique island in its primitive state.

The existing and potential wilderness on Cumberland Island is not very large, totaling less than 20,000 acres. Reopening three roads, including a road down the center of the wilderness would be a significant degradation of that wilderness. A contiguous block of wilderness would, under H.R. 4887, be sliced and diced into fragments. Further, the bill would also delete from potential wilderness all the beach frontage, and thus open that area to motorized use.

By allowing concession tours of the island, the bill overturns a significant provision of the 1972 Act regarding uses of the area. This is a very important point. It is not just the Wilderness Act that prohibits commercial operations, it is also the 1972 Act establishing the National Seashore which restricted commercial operations so that the seashore "shall be permanently preserved in its primitive state."

On June 28, 2004, the 11th Circuit Court of Appeals issued a stinging rebuke to the National Park Service on transportation in the Cumberland Island wilderness. Rather than comply with that decision the proponents of H.R. 4887 seek to overturn the court decision legislatively.

One of the main arguments that proponents make is that there should be access to African-American historic resources on the northern part of the island. However, there are numerous historic resources in the National Park System and in wildernesses across the country that are not accessible by motorized vehicles. Using that accessibility logic, do we believe the National Park Service should provide commercial motorized access to all historic resources in the National Park System?

In fact, many of the historic African-American resources on Cumberland Island, like the Dungeness Ruins and the slave cemetery are easily accessible by car and probably the most important site, "The Chimneys" is located approximately one-half mile within the wilderness.

In Committee the legislation was made worse by the adoption of an amendment that made numerous changes to the bill. These changes include the deletion of 952 acres that in the original bill would be added to wilderness on the southern end of the island.

The National Park Service testimony on H.R. 4887 stated that the Administration's support "is based in large part on the addition of these lands at the southern end of the island to the designated wilderness." The amendment also specifies 25-foot road corridors opening the way for one lane roads to be turned into two lane roads.

With or without the Committee amendment, H.R. 4887 is a misguided piece of legislation that would severely compromise the wilderness and overturn a fundamental purpose of the National Seashore dating back to its establishment in 1972. We oppose this bill and recommend our colleagues do likewise.

NICK RAHALL.
DONNA M. CHRISTENSEN.

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