AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

**Calendar No. 395**

109TH CONGRESS, 2d Session | SENATE | REPORT 109–233

# NATURAL RESOURCE PROTECTION COOPERATIVE AGREEMENT ACT

APRIL 20, 2006.—Ordered to be printed

Filed, under authority of the order of the Senate of April 7, 2006

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

## R E P O R T

[To accompany S. 1288]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1288) to authorize the Secretary of the Interior to enter into cooperative agreements to protect natural resources of units of the National Park System through collaborative efforts on land inside and outside of units of the National Park System, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. On page 2, line 6, insert "other Federal agencies," before "other public entities".

2. On page 2, strike lines 14 and 15 and insert the following:

> (A) clear and direct benefits to natural resources of a unit of the National Park System;

3. On page 4, line 6, strike "(b)" and insert "(a)".

### PURPOSE OF THE MEASURE

The purpose of S. 1288 is to authorize the Secretary of the Interior to enter into cooperative agreements to protect natural resources in units of the National Park System through collaborative efforts on land inside and outside of units of the National Park System.

49–010

## BACKGROUND AND NEED

According to the Department of Agriculture, the cost of the damage inflicted by invasive species in the United States totals billions of dollars. Often, an invasive species will be a threat to both lands and waters protected by our parks and neighboring lands used for production. For example, leafy spurge and spotted knapweed ruin both native grasslands and pasture. Tamarisk, or saltcedar, an ornamental introduced into the American West in the 1800s, sucks precious water out of fragile desert rivers and ruins habitat for nesting birds.

Because invasive species can damage both national parks and neighboring lands, there is a great incentive for the National Park Service and neighboring landowners to work together. Most invasive species easily cross property lines. Collaboration allows neighbors to pool their efforts to save money and time on projects to protect their own lands.

The National Park Service does not currently have the authority to enter into cooperative efforts with adjacent land owners to control invasive species or to do other mutually beneficial restoration work like tree planting for flood control and habitat restoration. A 2005 Government Accountability Office report documented that the National Park Service is the only Federal land management agency that lacks this authority. Private landowners and other agencies have remarked that this lack of authority makes it very difficult to control invasive plants in and around national parks.

S. 1288 would grant the National Park Service the authority to enter into cooperative agreements with other public and private landowners. Provisions in the bill guarantee protection for private property owners. The cooperative agreements are between two willing parties and cannot be used for land acquisition or regulatory actions.

## LEGISLATIVE HISTORY

S. 1288 was introduced by Senators Wyden and Akaka on June 22, 2005. The Subcommittee on National Parks held a hearing on S. 1288 on November 15, 2005. At its business meeting on March 8, 2006, the Committee on Energy and Natural Resources ordered S. 1288 favorably reported as amended.

## COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on March 8, 2006, by unanimous voice vote of a quorum present, recommends that the Senate pass S. 1288, if amended as described herein.

## COMMITTEE AMENDMENT

During consideration of S. 1288, the Committee adopted an amendment to require that the terms of the cooperative agreement provide clear and direct benefits to resources of a unit of the National Park System. The amendment also authorizes the National Park Service to enter into agreements with other Federal agencies.

## SECTION-BY-SECTION ANALYSIS

Section 1 entitles the bill the "Natural Resource Protection Cooperative Agreement Act."

Section 2(a) grants the Secretary of the Interior authority to enter into cooperative agreements with State, local, or tribal governments, other public entities, educational institutions, private nonprofit organizations, or willing private landowners to protect natural resource units of the National Park System inside and outside of their boundaries through collaborative efforts.

Subsection (b) sets forth terms and conditions for the cooperative agreements. The cooperative agreements must provide clear and direct benefits to resources of a unit of the National Park System and provide for the control of invasive species, the restoration or protection of water resources, or the restoration of wildlife habitat. The agreements must specify the contributions made by each party and how the agreement would benefit each party.

Subsection (c) sets forth limitations such that any resources contributed by the Secretary of the Interior shall not be used for land acquisition, regulatory activity, or the development, maintenance, or operation of buildings or infrastructure, except for ancillary support facilities as determined necessary by the Secretary to complete projects specified in the agreement.

Subsection (d) authorizes appropriations as necessary to carry out this Act.

## COST AND BUDGETARY CONSIDERATIONS

The Congressional Budget Office estimate of the costs of this measure has been requested but was not received at the time the report was filed. When the report is available, the Chairman will request it to be printed in the Congressional Record for the advice of the Senate.

## 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. 1288. 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. 1288, as ordered reported.

## EXECUTIVE COMMUNICATIONS

The views of the Administration on S. 1288 were included in testimony received by the Committee at a hearing on the bill on November 15, 2005. This testimony follows:

### STATEMENT OF DON MURPHY, DEPUTY DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman, thank you for the opportunity to appear before your committee to present the views of the Depart-

ment of the Interior on S. 1288, a bill to authorize the Secretary of the Interior to enter into cooperative agreements to protect park natural resources through collaborative efforts on land inside and outside of units of the National Park System.

The Department supports enactment of this bill with amendments to make it consistent with the language contained in the Administration proposal transmitted to Congress on August 5, 2005.

S. 1288 would authorize the Secretary to enter into cooperative agreements with willing State, local, or tribal governments, other public entities, educational institutions, private nonprofit organizations, and private landowners to protect natural resources of units of the National Park System. These cooperative agreements would benefit the partners and enhance science-based natural resource stewardship through such projects as preservation and restoration of coastal and riparian watersheds, prevention and control of invasive species, and restoration of natural systems including wildlife habitat. The scope of the cooperative agreements would cover projects that include management of the natural resources, as well as inventory, monitoring, and restoration activities for preserving park natural resources.

The bill would prohibit the use of appropriated funds for land acquisition, regulatory activity, or the development, maintenance, or operation of infrastructure, except for ancillary support facilities that the Secretary determines to be necessary for the completion of projects or activities identified in the cooperative agreements. All cooperative agreements authorized by this bill would be voluntary.

According to a Government Accountability Office (GAO) report from February 2005, the National Park Service is the only major Federal land management agency that does not have authority to expend resources outside its boundaries when there is a benefit to the natural resources within the boundaries of these lands. This lack of consistency among Federal agencies was cited by GAO as a barrier to effective control of invasive species on Federal and non-Federal lands. This bill would provide authority to the National Park Service (NPS), similar to that already held by the Bureau of Land Management and the U.S. Forest Service, to use appropriated funds to enter into cooperative agreements with various partners when such activities provide clear and direct benefits to park natural resources through collaborative efforts on lands inside and outside of National Park System units. For example, at the Grand Canyon National Park, if NPS had this authority, resource managers could work with the Hulapai Indian Tribe to control tamarisk, an invasive tree, to mutually protect the reservation and the park from further infestation.

Of the 83 million acres managed by NPS, 2.6 million acres are infested by invasive plants such as mile-a-minute, kudzu, and knapweed, reducing the natural diversity of these areas. When populations of native plants are

decreased, the animals that depend upon them lack the food and shelter needed for survival. This is especially a concern for threatened and endangered species found on parklands. In the case of plants, these single species stands are also more vulnerable to disease and can serve as fuel for wildfires. Because invasive plants and animals cross geographic and jurisdictional boundaries, it is more efficient to control these invasive species through collaborative efforts both inside and outside of park boundaries. If the NPS can rapidly respond and prevent invasive species from entering our parks instead of trying to control and eradicate them once they are within our borders, we can better protect our park natural resources and in many cases, avoid the problem altogether. In addition, by partnering with willing private landowners, local entities, universities and nonprofit organizations, we can recognize a cost savings through shared inventory, monitoring and control activities.

The authority in S. 1288 would also benefit the NPS in areas beyond invasive species. For example, at Cape Cod National Seashore in Massachusetts, three large wetlands within the park have been impaired from salt marsh levees on adjacent lands causing a restricted tidal flow to these systems; some of these impairments date back 100 years. With no fresh water entering the wetlands, the water quality has been degraded resulting in large fish kills and the production of nuisance insects, as well as the loss of storm surge protection. Using this authority, the NPS would be able to assist local towns in improving water control structures outside the park, which in turn would help improve the park's wetlands.

The GAO report also found that collaboration and coordination among Federal agencies, and between Federal and non-Federal entities, is critical to battling invasive species. Treating invasive plants in one area, but not on neighboring lands, can limit its effectiveness. Because the NPS does not have the authority to work outside of its boundaries, the NPS is often perceived as unwilling to be a partner in grassroots efforts to address shared natural resource management issues at the local or regional level. In many of our parks, the NPS manages only the downstream portion of a river. By working with upstream communities to improve water quality and to decrease sedimentation and runoff, the entire watershed can benefit from these partnerships. For example, at Morristown National Historical Park, Primrose Brook contains a genetically pure strain of brook trout. Ninety five percent of the watershed outside the park is protected. Through cooperative agreements with private landowners, best management practices could be implemented to protect the entire watershed.

An informal survey conducted by NPS of our parks indicates that the natural resources in at least 63 parks in 28 states would benefit as a result of having this authority. Potential projects would include working with the Montana Fish, Wildlife and Parks and the U.S. Forest Service

to put up fencing along the border of Glacier National Park to restore white and limber pine and conduct wetlands surveys; at Hagerman Fossil Beds National Monument in Idaho, the NPS could work with adjacent private landowners to prevent irrigation canal seepage that negatively impacts the Snake River; at Yellowstone National Park, the NPS could partner with the State of Wyoming to initiate groundwater studies in the larger Yellowstone groundwater area that is located north of the park; and at the Ozark National Scenic Riverways in Missouri, the NPS could undertake an educational program on the importance and protection of the karst environment.

Although the bill focuses on the benefits to natural resources within parks from collaborative efforts, there are also economic benefits that could be realized through this authority. Many of our recreation, lakeshore and seashore parks attract visitors for water-based activities such as boating, canoeing, and fishing. If NPS can improve the water quality in these parks by working with nearby landowners and communities to protect the larger watersheds, then visitors will have a more positive experience that includes a variety of recreational activities. Other visitors enjoy the diverse plant and animal species living in our parklands and spend their time watching and photographing wildlife in their native habitat. With this authority, the NPS can restore riparian areas, replant native grasses, shrubs and trees, and eliminate invasive species that compete and replace native wildlife. In addition, communities surrounding our parks depend upon the dollars that visitors pump into the local economies while visiting these areas. Having a diverse natural system of resources within parks draws larger numbers of tourists to these communities.

Currently, there are some narrowly defined activities for which the Secretary has the authority to expend NPS resources beyond those lands owned by the NPS. These limited authorities include cooperative agreements for work on national trails; work with state and local parks that either adjoin or are in the vicinity of units of the National Park System; or assistance to nearby law enforcement and fire prevention agencies for emergency situations related to law enforcement, fire fighting and rescue.

In the short time since this bill was introduced, the North American Weed Management Association, a network of public and private professional weed managers who are involved in implementing county, municipal, district, state, provincial or Federal noxious weed laws, has voiced their support for this authority. Other organizations are currently reviewing the legislation, and we anticipate similar support from these groups.

Finally, we propose amendments, mostly of a technical nature only, to ensure that S. 1288 is consistent with the language contained in our Administration proposal.

Mr. Chairman, thank you for the opportunity to comment. This concludes my prepared remarks and I will be

happy to answer any questions you or other committee members might have.

*Proposed amendments to S. 1288*

On p. 2, line 12, strike "shall—" insert "shall provide clear and direct benefits to park natural resources and—".

On p. 2, lines 14–15, strike subparagraph (A) and renumber subsequent paragraphs accordingly.

On p. 4, line 6, strike "(b)" and insert "(a)".

On p. 4, lines 12–14, strike "There are authorized to be appropriated such sums as are necessary to carry out this Act" and insert "Funds available to carry out the provisions of this Act shall be limited to programs and amounts specified in statute for such use in the annual appropriation act for the National Park Service.".

## 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. 1288, as ordered reported.

○