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110TH CONGRESS
1st Session

HOUSE OF REPRESENTATIVES

REPORT
110–219

NIAGARA FALLS NATIONAL HERITAGE AREA ACT

JULY 10, 2007.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. RAHALL, from the Committee on Natural Resources, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 713]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 713) to establish the Niagara Falls National Heritage Area in the State of New York, 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 "Niagara Falls National Heritage Area Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) Niagara Falls and the Niagara River Gorge are natural phenomena that are—

(A) overwhelming in physical magnitude; and

(B) deeply embedded in the popular consciousness;

(2) the Niagara River Gorge is an exceptionally scenic corridor carved by the movement of Niagara Falls due to erosion from the original location of Niagara Falls near Lewiston, New York, a process that began more than 10,000 years ago;

(3) Niagara Falls has been a leading international tourist attraction for 200 years, influencing the development of tourism and nature conservation in North America;

(4) in approximately 1895, Niagara Falls became the foremost source of hydroelectric power in North America, stimulating the development of innovative heavy industries in Niagara Falls and Buffalo, New York;

(5) the 3 National Historic Landmarks along or near the Niagara River are—

(A) the Adams Power Transformer House, in Niagara Falls, which is the birthplace of the modern hydroelectric power station;

(B) the Niagara Reservation, designed by landscape architect Frederick Law Olmsted, which is considered to be the oldest State park in the United States; and

(C) the Colonial Niagara Historic District, in Lewiston and Youngstown, New York, which includes Old Fort Niagara;

(6) the Niagara River area, a boundary between the United States and Canada—

(A) has played an important role in Indian culture, the French and English colonial struggle to control North America, the American Revolution, the War of 1812, and the Underground Railroad; and

(B) reflects national differences and similarities between the United States and Canada; and

(7) although concentrated primarily along the Niagara River in Niagara County, New York, there are also important thematically related sites located throughout Niagara and Erie Counties, New York, that support and reinforce the important stories and heritage of the Niagara region.

SEC. 3. DEFINITIONS.

In this Act:

(1) COMMISSION.—The term "Commission" means the Niagara Falls National Heritage Area Commission established by section 5(a).

(2) GOVERNOR.—The term "Governor" means the Governor of the State of New York.

(3) HERITAGE AREA.—The term "Heritage Area" means the Niagara Falls National Heritage Area established by section 4(a).

(4) LOCAL COORDINATING ENTITY.—The term "local coordinating entity" means the local coordinating entity for the Heritage Area designated by section 4(d)(1).

(5) MANAGEMENT PLAN.—The term "management plan" means the management plan for the Heritage Area developed under section 6.

(6) MAP.—The term "map" means the map entitled "Niagara Falls National Heritage Area", numbered P76/80,000, and dated July 2006.

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

(8) STATE.—The term "State" means the State of New York.

SEC. 4. NIAGARA FALLS NATIONAL HERITAGE AREA.

(a) ESTABLISHMENT.—There is established in the State the Niagara Falls National Heritage Area.

(b) BOUNDARIES.—The Heritage Area shall consist of—

(1) the area from the western boundary of the town of Wheatfield, New York, extending to the mouth of the Niagara River on Lake Ontario, as depicted on the map, including—

(A) the city of Niagara Falls, New York;

(B) the villages of Youngstown and Lewiston, New York; and

(C) land and water within the boundaries of the Heritage Area in Niagara County, New York; and

(2) any additional thematically related sites within Erie and Niagara Counties, New York, that are identified in the management plan under section 6(b)(6).

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

(d) LOCAL COORDINATING ENTITY.—

(1) DESIGNATION.—The local coordinating entity for the Heritage Area shall be—

(A) for the 5-year period beginning on the date of enactment of this Act, the Commission; and

(B) on expiration of the 5-year period described in subparagraph (A), a private nonprofit or governmental organization designated by the Commission.

(2) AUTHORITIES.—For purposes of implementing the management plan, the local coordinating entity designated under paragraph (1)(B) may use funds made available under this Act, subject to the prior approval of the Secretary, to—

(A) make grants to, and enter into cooperative agreements with, the State (including a political subdivision of the State), nonprofit organizations, or any person;

(B) hire and compensate staff; and

(C) enter into contracts for goods and services.

(3) DUTIES.—Beginning on the date described in paragraph (1)(B), the local coordinating entity designated by the Commission under paragraph (1)(B) shall assume the duties of the Commission described in section 5(h), other than the duties described in paragraphs (1) and (8) of section 5(h).

SEC. 5. NIAGARA FALLS NATIONAL HERITAGE AREA COMMISSION.

(a) ESTABLISHMENT.—There is established within the Department of the Interior the Niagara Falls National Heritage Area Commission.

(b) MEMBERSHIP.—The Commission shall be composed of 17 members, of whom—

(1) 1 member shall be the Director of the National Park Service (or a designee);

(2) 5 members shall be appointed by the Secretary, after consideration of the recommendation of the Governor, from among individuals with knowledge and experience of—

(A) the New York State Office of Parks, Recreation and Historic Preservation, the Niagara River Greenway Commission, the New York Power Authority, the USA Niagara Development Corporation, and the Niagara Tourism and Convention Corporation; or

(B) any successors of the agencies described in subparagraph (A);

(3) 1 member shall be appointed by the Secretary, after consideration of the recommendation of the mayor of Niagara Falls, New York;

(4) 1 member shall be appointed by the Secretary, after consideration of the recommendation of the mayor of the village of Youngstown, New York;

(5) 1 member shall be appointed by the Secretary, after consideration of the recommendation of the mayor of the village of Lewiston, New York;

(6) 1 member shall be appointed by the Secretary, after consideration of the recommendation of the Tuscarora Nation;

(7) 1 member shall be appointed by the Secretary, after consideration of the recommendation of the Seneca Nation of Indians; and

(8) 6 members shall be individuals that have an interest in, support for, and expertise appropriate to tourism, regional planning, history and historic preservation, cultural or natural resource management, conservation, recreation, and education, or museum services, of whom—

(A) 4 members shall be appointed by the Secretary, after consideration of the recommendation of the 2 members of the Senate from the State; and

(B) 2 members shall be appointed by the Secretary, after consideration of the recommendation of the member of the House of Representatives whose district encompasses the Heritage Area.

(c) TERMS; VACANCIES.—

(1) TERM.—A member of the Commission shall be appointed for a term not to exceed 5 years.

(2) VACANCIES.—

(A) PARTIAL TERM.—A member appointed to fill a vacancy on the Commission shall serve for the remainder of the term for which the predecessor of the member was appointed.

(B) IN GENERAL.—A vacancy on the Commission shall be filled in the same manner as the original appointment was made.

(d) CHAIRPERSON AND VICE CHAIRPERSON.—

(1) SELECTION.—The Commission shall select a Chairperson and Vice Chairperson from among the members of the Commission.

(2) VICE CHAIRPERSON.—The Vice Chairperson shall serve as the Chairperson in the absence of the Chairperson.

(e) QUORUM.—

(1) IN GENERAL.—A majority of the members of the Commission shall constitute a quorum.

(2) TRANSACTION.—For the transaction of any business or the exercise of any power of the Commission, the Commission shall have the power to act by a majority vote of the members present at any meeting at which a quorum is in attendance.

(f) MEETINGS.—

(1) IN GENERAL.—The Commission shall meet at least quarterly at the call of—

(A) the Chairperson; or

(B) a majority of the members of the Commission.

(2) NOTICE.—Notice of Commission meetings and agendas for the meetings shall be published in local newspapers that are distributed throughout the Heritage Area.

(3) APPLICABLE LAW.—Meetings of the Commission shall be subject to section 552b of title 5, United States Code.

(g) POWERS OF THE COMMISSION.—To the extent that Federal funds are appropriated, the Commission may—

(1) enter into contracts and execute any instruments necessary or appropriate to carry out the purposes for which the Commission is established, including the authority to procure temporary and intermittent services and administrative facilities at rates determined to be reasonable by the Commission to carry out the duties of the Commission;

(2) appoint and fix the compensation of any staff that may be necessary to carry out the duties of the Commission;

(3) request and accept from the head of any Federal agency, on a reimbursable or nonreimbursable basis, any personnel of the Federal agency to the Commission to assist in carrying out the duties of the Commission;

(4) request and accept from the head of any State agency or any agency of a political subdivision of the State, on a reimbursable or nonreimbursable basis, any personnel of the agency to the Commission to assist in carrying out the duties of the Commission;

(5) make grants to assist in the development and implementation of the management plan;

(6) negotiate and enter into any cooperative agreement, lease, contract, or other arrangement with any person, firm, association, organization, corporation, or governmental entity, including Federal, State, tribal, and local government entities, that is necessary to carry out the activities of the Commission;

(7) seek, accept, and dispose of gifts, bequests, grants, or donations of money, personal property, or services;

(8) assist in—

(A) developing educational, informational, and interpretive programs and facilities; and

(B) any other activities that may promote the implementation of the management plan;

(9) use the United States mails in the same manner as other agencies of the Federal Government;

(10) establish any advisory groups that the Commission determines to be necessary; and

(11) adopt, amend, and enforce bylaws and rules governing the manner in which—

(A) the business of the Commission may be conducted; and

(B) the powers vested in the Commission may be exercised.

(h) DUTIES OF THE COMMISSION.—To further the purposes of the Heritage Area, the Commission shall—

(1) in accordance with section 6, develop and submit to the Secretary for approval a management plan;

(2) assist units of local government, regional planning organizations, and nonprofit organizations in implementing the management plan by—

(A) carrying out programs and projects that recognize, protect, and enhance important resource values within the Heritage Area;

(B) establishing and maintaining interpretive exhibits and programs within the Heritage Area;

(C) developing recreational and educational opportunities in the Heritage Area;

(D) increasing public awareness of, and appreciation for, natural, historic, scenic, and cultural resources of the Heritage Area;

(E) protecting and restoring historic sites and buildings in the Heritage Area that are consistent with the themes of the Heritage Area;

(F) ensuring that clear, consistent, and appropriate signs identifying points of public access and sites of interest are posted throughout the Heritage Area; and

(G) promoting a wide range of partnerships among governments, organizations, and individuals to further the purposes of the Heritage Area;

(3) consider the interests of diverse units of government, businesses, organizations, and individuals in the Heritage Area in the development and implementation of the management plan;

(4) conduct meetings open to the public regarding the development and implementation of the management plan;

(5) coordinate projects, activities, and programs with the Erie Canalway National Heritage Corridor;

(6) for any fiscal year for which Federal funds have been received by the Commission under this Act—

(A) submit an annual report to the Secretary that describes—

(i) the specific performance goals and accomplishments of the local coordinating entity;

(ii) the expenses and income of the local coordinating entity;

(iii) the amounts and sources of matching funds;

(iv) the amounts leveraged with Federal funds and the sources of the leveraging; and

(v) any grants made to any other entities during the fiscal year; and

(B) make available to the Secretary for audit any records containing information relating to the expenditure of Federal funds and any matching funds;

(7) encourage, by appropriate means and consistent with the purposes of the Heritage Area, the economic viability of the Heritage Area; and

(8) assist in the transition of the management of the Heritage Area from the Commission to the local coordinating entity designated under section 4(d)(1)(B).

(i) COMPENSATION OF MEMBERS.—

(1) IN GENERAL.—A member of the Commission shall serve without compensation.

(2) TRAVEL EXPENSES.—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(j) GIFTS.—For purposes of section 170(c) of the Internal Revenue Code of 1986, any gift or charitable contribution to the Commission shall be considered to be a charitable contribution or gift to the United States.

(k) USE OF FEDERAL FUNDS.—Except as provided for the leasing of administrative facilities under subsection (g)(1), the Commission may not use Federal funds made available to the Commission under this Act to acquire any real property or interest in real property.

SEC. 6. MANAGEMENT PLAN.

(a) IN GENERAL.—Not later than 3 years after the date on which funds are first made available to carry out this Act, the Commission shall submit to the Secretary for approval a management plan for the Heritage Area.

(b) REQUIREMENTS.—The management plan shall—

(1) include comprehensive policies, strategies, and recommendations for conservation, funding, managing, and developing the Heritage Area;

(2) take into consideration existing State, county, and local plans;

(3) include a description of actions that governments, private organizations, and individuals have agreed to take to protect the natural, historic, and cultural resources of the Heritage Area;

(4) identify any existing and potential sources of funding or economic development strategies to protect, manage, and develop the Heritage Area;

(5) include an inventory of the natural, historic, scenic, cultural, educational, and recreational resources of the Heritage Area relating to the themes of the Heritage Area that should be preserved, restored, managed, developed, or maintained;

(6) establish criteria and identify thematically related sites in Niagara and Erie Counties, New York, that—

(A) may participate in the Heritage Area; and

(B) shall be included in the boundary of the Heritage Area;

(7) include recommended policies and strategies for resource management that consider the application of appropriate land and water management techniques, including the development of intergovernmental and interagency cooperative agreements to protect the natural, historic, scenic, cultural, educational, and recreational resources of the Heritage Area;

(8) describe a program of implementation for the management plan, including a description of—

(A) performance goals;

(B) plans for resource protection, restoration, interpretation, enhancement, management, and development; and

(C) any specific commitments for implementation that have been made by the local coordinating entity or any government, organization, or individual;

(9) include an analysis of, and recommendations for ways in which, Federal, State, tribal, and local programs would best be coordinated to further the purposes of this Act, including an analysis of the role of the National Park Service in the Heritage Area;

(10) include an interpretive plan for the Heritage Area;

(11) include a business plan that—

(A) describes the role, operation, financing, and functions of—

(i) the local coordinating entity; and

(ii) each of the major activities addressed in the management plan; and

(B) provides adequate assurances that the local coordinating entity has the partnerships and financial and other resources necessary to implement the management plan; and

(12) includes provisions for—

(A) the designation under section 4(d)(1)(B) of a nonprofit or governmental organization as the local coordinating entity to administer the Heritage Area consistent with the management plan; and

(B) the transition of the management of the Heritage Area from the Commission to the organization designated as the local coordinating entity at the end of the 5-year period specified in section 4(d)(1)(A).

(c) TERMINATION OF FUNDING.—If the Commission does not submit the management plan to the Secretary by the date that is 3 years after the date on which funds are first made available to carry out this Act, the local coordinating entity shall be ineligible to receive additional funding under this Act until the date on which the management plan is submitted to and approved by the Secretary.

(d) APPROVAL AND DISAPPROVAL OF MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 180 days after the date of receipt of the management plan under subsection (a), the Secretary shall approve or disapprove the management plan.

(2) CONSIDERATIONS.—In determining whether to approve or disapprove the management plan under paragraph (1), the Secretary shall consider whether—

(A) the organization proposed to succeed the Commission as the local coordinating entity would be representative of the diverse interests of the Heritage Area, including governments, natural and historic resource protection organizations, educational institutions, businesses, and recreational organizations;

(B) the local coordinating entity has afforded adequate opportunity for public and governmental involvement, including public meetings, in the preparation of the management plan;

(C) the resource protection and interpretation strategies contained in the management plan, if implemented, would adequately protect the natural, historic, and cultural resources of the Heritage Area;

(D) the Secretary has received adequate assurances from the appropriate State, tribal, and local officials whose support is needed to ensure the effective implementation of the State, tribal, and local aspects of the management plan; and

(E) the local coordinating entity has demonstrated the financial capability, in partnership with others, to carry out the plan.

(3) ACTION FOLLOWING DISAPPROVAL.—If the Secretary disapproves the management plan under paragraph (1), the Secretary shall—

(A) advise the local coordinating entity in writing of the reasons for the disapproval;

(B) make recommendations for revisions to the management plan; and

(C) not later than 180 days after the receipt of any proposed revision of the management plan, approve or disapprove the proposed revision.

(e) AMENDMENTS.—

(1) IN GENERAL.—The Secretary shall review and approve any substantial amendments to the management plan in accordance with subsection (d).

(2) USE OF FUNDS.—Funds made available under this Act shall not be expended by the local coordinating entity to implement any changes made by an amendment described in paragraph (1) until the Secretary approves the amendment.

SEC. 7. DUTIES AND AUTHORITIES OF THE SECRETARY.

(a) TECHNICAL AND FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—On request of the local coordinating entity, the Secretary may provide technical and financial assistance, on a reimbursable or nonreimbursable basis, to the Heritage Area for the development and implementation of the management plan.

(2) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with the local coordinating entity and other public or private entities to provide assistance under paragraph (1).

(3) PRIORITY FOR ASSISTANCE.—In providing assistance under paragraph (1), the Secretary shall give priority to actions that assist in—

(A) conserving the significant natural, historic, scenic, and cultural resources of the Heritage Area; and

(B) providing educational, interpretive, and recreational opportunities, consistent with the purposes of the Heritage Area.

(b) DETAIL OF DEPARTMENT OF THE INTERIOR EMPLOYEES.—

(1) IN GENERAL.—On request of the Commission, the Secretary may detail to the Commission for each fiscal year in which the Commission is in existence, on a nonreimbursable basis, 2 employees of the Department of the Interior to enable the Commission to carry out the duties of the Commission.

(2) CIVIL SERVICE STATUS.—The detail of an employee under paragraph (1) shall be without interruption or loss of civil service status or privilege.

(c) EVALUATION.—

(1) IN GENERAL.—Not later than 3 years before the date on which authority for Federal funding terminates for the Heritage Area, the Secretary shall conduct an evaluation of the accomplishments of the Heritage Area and prepare a report with recommendations for the National Park Service's future role, if any, with respect to the Heritage Area.

(2) EVALUATION COMPONENTS.—An evaluation prepared under paragraph (1) shall—

(A) assess the progress of the local coordinating entity with respect to—

(i) accomplishing the purposes of the authorizing legislation for the Heritage Area; and

(ii) achieving the goals and objectives of the approved management plan for the Heritage Area;

(B) analyze the Federal, State, local, and private investments in the Heritage Area to determine the leverage and impact of the investments; and

(C) review the management structure, partnership relationships, and funding of the Heritage Area for purposes of identifying the critical components for sustainability of the Heritage Area.

(3) RECOMMENDATIONS.—Based upon the evaluation under paragraph (1), the Secretary shall prepare a report with recommendations for the National Park Service's future role, if any, with respect to the Heritage Area. If the report recommends that Federal funding for the Heritage Area be reauthorized, the report shall include an analysis of—

(A) ways in which Federal funding for the Heritage Area may be reduced or eliminated; and

(B) the appropriate time period necessary to achieve the recommended reduction or elimination.

(4) SUBMISSION TO CONGRESS.—On completion of a report under this subsection, the Secretary shall submit the report to—

(A) the Committee on Energy and Natural Resources of the Senate; and

(B) the Committee on Natural Resources of the House of Representatives.

SEC. 8. RELATIONSHIP TO OTHER FEDERAL AGENCIES.

(a) IN GENERAL.—This Act shall not affect the authority of any Federal official to provide technical or financial assistance under any other law.

(b) CONSULTATION AND COORDINATION.—The head of any Federal agency planning to conduct an activity that may have an impact on the Heritage Area shall, to the maximum extent practicable—

(1) consult with the Secretary and the local coordinating entity regarding the activity; and

(2) coordinate the activity with the Secretary and the local coordinating entity.

(c) EFFECT ON OTHER FEDERAL AGENCIES.—Nothing in this Act—

(1) modifies, alters, or amends any law (including a regulation) authorizing a Federal agency to manage Federal land under the jurisdiction of the Federal agency;

(2) limits the discretion of a Federal land manager to implement an approved land use plan within the boundaries of the Heritage Area; or

(3) modifies, alters, or amends any authorized use of Federal land under the jurisdiction of a Federal agency.

SEC. 9. PRIVATE PROPERTY AND REGULATORY PROTECTIONS.

Nothing in this Act—

(1) abridges the rights of any property owner (whether public or private), including the right to refrain from participating in any plan, project, program, or activity conducted within the Heritage Area;

(2) requires any property owner to permit public access (including access by Federal, State, or local agencies) to the property of the property owner, or to

modify public access or use of property of the property owner under any other Federal, State, or local law;

(3) alters any duly adopted land use regulation, approved land use plan, or other regulatory authority of any Federal, State, or local agency, or conveys any land use or other regulatory authority to any local coordinating entity;

(4) authorizes or implies the reservation or appropriation of water or water rights;

(5) diminishes the authority of the State to manage fish and wildlife, including the regulation of fishing and hunting within the Heritage Area; or

(6) creates any liability, or affects any liability under any other law, of any private property owner with respect to any person injured on the private property.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this Act $10,000,000, of which not more than $1,000,000 may be appropriated for any fiscal year.

(b) COST-SHARING REQUIREMENT.—The Federal share of the cost of any activity carried out using any assistance made available under this Act shall be not more than 50 percent.

SEC. 11. TERMINATION OF AUTHORITY.

The authority of the Secretary to provide financial assistance under this Act terminates on the date that is 15 years after the date of enactment of this Act.

PURPOSE OF THE BILL

The purpose of H.R. 713 is to establish the Niagara Falls National Heritage Area in the State of New York.

BACKGROUND AND NEED FOR LEGISLATION

National Heritage Areas (NHA) are locally-driven projects which conserve and interpret historic and cultural resources through coordinated efforts by federal, state and local governmental entities and private parties. The Department of the Interior, acting through the National Park Service, provides limited matching funds and technical assistance to a designated local entity responsible for coordinating management of the area. Heritage areas require Congressional authorization and must have completed a study, acceptable to the Secretary of Interior, supporting designation. Congress has approved 37 national heritage areas in 27 states.

In 2002, Congress passed the Niagara Falls National Heritage Area Study Act (P.L. 107–256) directing the Secretary to study the feasibility of establishing a Niagara Falls NHA. The National Park Service began work on the study in May 2003, interviewing local stakeholders, state agencies, local communities, historians, and tourism and business interests along the Niagara corridor. The Niagara Falls National Heritage Area Study report, published in November 2005, found that the Niagara region met the necessary criteria. The majority of public comments in response to the study expressed support for the proposed NHA. The National Park Service formally recommended establishment of a Niagara Falls NHA on May 26, 2006. H.R. 713 would implement that recommendation.

The Niagara Falls National Heritage Area would stretch from the western boundary of the town of Wheatfield, NY to the mouth of the Niagara River, and from the river to Lake Ontario. It would include the city of Niagara Falls and the villages of Youngstown and Lewiston.

The unique geologic resources, including misting from the falls and the native limestone, nourish one of the greatest collections of rare plants and animals in New York, including both state and fed-

erally listed species. The area has significant historical associations with Native Americans, early European exploration, the French and Indian War, the American Revolution, the War of 1812, the Underground Railroad and the development of hydroelectricity.

The proposed area encompasses three national historic landmarks; 23 sites and districts on the National Register of Historic Places, plus another 52 in nearby Buffalo; 14 state parks, including one designed by Frederick Law Olmsted and numerous existing and proposed trails and greenways.

COMMITTEE ACTION

H.R. 713 was introduced on January 29, 2007, by Representative Louise Slaughter (D–NY). 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 March 15, 2007, the Subcommittee held a hearing on the bill. On May 2, 2007, the Subcommittee was discharged from further consideration of the bill and the full Natural Resources Committee met to consider the measure.

National Parks, Forests and Public Lands Subcommittee Chairman Raul Grijalva (D–AZ) offered an amendment in the nature of a substitute to make technical and conforming changes to the bill as introduced.

Representative Rob Bishop (R–UT) offered an amendment to the Grijalva substitute designated "Bishop #4," requiring individualized, written notice to land owners within the heritage area and removal of any private property from the boundary upon written request. The amendment was not adopted by a rollcall vote of 9 yeas to 18 nays as follows:

Committee on Natural Resources
U.S. House of Representatives
110th Congress

Date: May 2, 2007 Convened: Adjourned:

Meeting on: Markup of HR 713 - amendment offered by Mr. Bishop #4 to the amendment in the nature of a substitute was not agreed to by a roll call vote of 9 yeas and 18 nays.

☒Recorded Vote Vote # 5 Total: Yeas: 9 Nays: 18

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Rahall, WV		✓		*Mrs. McMorris Rodgers, WA*			
Mr. Young, AK				Mrs. Bordallo, VI		✓	
Mr. Miller, CA		✓		*Mr. Jindal, LA*	✓		
Mr. Saxton, NJ				Mr. Costa, CA		✓	
Mr. Markey, MA		✓		*Mr. Gohmert, TX*			
Mr. Gallegly, CA				Mr. Boren, OK		✓	
Mr. Kildee, MI		✓		*Mr. Cole, OK*	✓		
Mr. Duncan, TN				Mr. Sarbanes, MD		✓	
Mr. DeFazio, OR				*Mr. Bishop, UT*	✓		
Mr. Gilchrest, MD				Mr. Hinchey, NY		✓	
Mr. Faleomavaega, AS		✓		*Mr. Shuster, PA*			
Mr. Calvert, CA				Mr. Kennedy, RI			
Mr. Abercrombie, HI		✓		*Mr. Heller, NV*	✓		
Mr. Cannon, UT				Mr. Kind, WI			
Mr. Ortiz, TX				*Mr. Sali, ID*	✓		
Mr. Tancredo, CO	✓			Mrs. Capps, CA		✓	
Mr. Pallone, NJ				*Mr. Lamborn, CO*	✓		
Mr. Flake, AZ	✓			Mr. Inslee, WA			
Mrs. Christensen, VI				Mr. Mark Udall, CO		✓	
Mr. Pearce, NM				Mr. Baca, CA		✓	
Mrs. Napolitano, CA				Ms. Solis, CA		✓	
Mr. Brown, SC				Ms. Herseth, SD		✓	
Mr. Holt, NJ		✓		Mr. Shuler, NC			
Mr. Fortuño, PR	✓						
Mr. Grijalva, AZ		✓					
				Total	9	18	

Markups - 1/3 to meet (16), 25 to report
May 3, 2007 (3:27pm)

Representative Bishop offered a further amendment to the Grijalva substitute designated "Bishop #6," prohibiting funding for "tribal or governmental gaming activities." The amendment was not adopted by a rollcall vote of 9 yeas to 18 nays as follows:

Committee on Natural Resources
U.S. House of Representatives
110th Congress

Date: May 2, 2007 Convened: Adjourned:

Meeting on: Markup of HR 713 - amendment offered by **Mr. Bishop #6** to the amendment in the nature of a substitute was not agreed to by a roll call vote of 9 yeas and 18 nays.

☒Recorded Vote Vote # 6 Total: Yeas: 9 Nays: 18

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Rahall, WV		✓		*Mrs. McMorris Rodgers, WA*			
Mr. Young, AK				Mrs. Bordallo, VI		✓	
Mr. Miller, CA		✓		*Mr. Jindal, LA*	✓		
Mr. Saxton, NJ				Mr. Costa, CA		✓	
Mr. Markey, MA		✓		*Mr. Gohmert, TX*			
Mr. Gallegly, CA				Mr. Boren, OK		✓	
Mr. Kildee, MI		✓		*Mr. Cole, OK*	✓		
Mr. Duncan, TN				Mr. Sarbanes, MD		✓	
Mr. DeFazio, OR				*Mr. Bishop, UT*	✓		
Mr. Gilchrest, MD				Mr. Hinchey, NY		✓	
Mr. Faleomavaega, AS		✓		*Mr. Shuster, PA*			
Mr. Calvert, CA				Mr. Kennedy, RI			
Mr. Abercrombie, HI		✓		*Mr. Heller, NV*	✓		
Mr. Cannon, UT				Mr. Kind, WI			
Mr. Ortiz, TX				*Mr. Sali, ID*	✓		
Mr. Tancredo, CO	✓			Mrs. Capps, CA		✓	
Mr. Pallone, NJ				*Mr. Lamborn, CO*	✓		
Mr. Flake, AZ	✓			Mr. Inslee, WA			
Mrs. Christensen, VI				Mr. Mark Udall, CO		✓	
Mr. Pearce, NM				Mr. Baca, CA		✓	
Mrs. Napolitano, CA				Ms. Solis, CA		✓	
Mr. Brown, SC				Ms. Herseth, SD		✓	
Mr. Holt, NJ		✓		Mr. Shuler, NC			
Mr. Fortuño, PR	✓						
Mr. Grijalva, AZ		✓					
				Total	9	18	

Markups - 1/3 to meet (16), 25 to report
May 3, 2007 (3:27pm)

Representative Jeff Flake (R–AZ) offered an amendment to the Grijalva substitute designated "Flake.042" delaying the effective date of H.R. 713 until the Secretary of Interior certifies to Congress that all backlogged maintenance in the National Park System in New York State has been eliminated. The amendment was not adopted by a vote of 9 yeas and 18 nays as follows:

Committee on Natural Resources
U.S. House of Representatives
110th Congress

Date: May 2, 2007 Convened: Adjourned:

Meeting on: Markup of HR 713 - amendment offered by **Mr. Flake.042** to the amendment in the nature of a substitute was not agreed to by a roll call vote of 9 yeas and 18 nays.

☒Recorded Vote Vote # 7 Total: Yeas: 9 Nays: 18

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Rahall, WV		✓		*Mrs. McMorris Rodgers, WA*			
Mr. Young, AK				Mrs. Bordallo, VI		✓	
Mr. Miller, CA		✓		*Mr. Jindal, LA*	✓		
Mr. Saxton, NJ				Mr. Costa, CA		✓	
Mr. Markey, MA		✓		*Mr. Gohmert, TX*			
Mr. Gallegly, CA				Mr. Boren, OK		✓	
Mr. Kildee, MI		✓		*Mr. Cole, OK*	✓		
Mr. Duncan, TN				Mr. Sarbanes, MD		✓	
Mr. DeFazio, OR				*Mr. Bishop, UT*	✓		
Mr. Gilchrest, MD				Mr. Hinchey, NY		✓	
Mr. Faleomavaega, AS		✓		*Mr. Shuster, PA*			
Mr. Calvert, CA				Mr. Kennedy, RI			
Mr. Abercrombie, HI		✓		*Mr. Heller, NV*	✓		
Mr. Cannon, UT				Mr. Kind, WI			
Mr. Ortiz, TX				*Mr. Sali, ID*	✓		
Mr. Tancredo, CO	✓			Mrs. Capps, CA		✓	
Mr. Pallone, NJ				*Mr. Lamborn, CO*			
Mr. Flake, AZ	✓			Mr. Inslee, WA			
Mrs. Christensen, VI				Mr. Mark Udall, CO		✓	
Mr. Pearce, NM				Mr. Baca, CA		✓	
Mrs. Napolitano, CA				Ms. Solis, CA		✓	
Mr. Brown, SC				Ms. Herseth, SD		✓	
Mr. Holt, NJ		✓		Mr. Shuler, NC			
Mr. Fortuño, PR	✓						
Mr. Grijalva, AZ		✓					
				Total	9	18	

Markups - 1/3 to meet (16), 25 to report
May 3, 2007 (3:28pm)

Representative Flake offered a further amendment to the Grijalva substitute designated "Flake #7," which was ruled non-germane.

Representative Flake offered a further amendment to the Grijalva substitute designated "Flake #1," prohibiting funds for "lobbying" federal, state or local officials. The amendment was not adopted by a vote of 10 yeas and 16 nays as follows:

Committee on Natural Resources
U.S. House of Representatives
110th Congress

Date: May 2, 2007 Convened: Adjourned:

Meeting on: Markup of HR 713 - amendment offered by **Mr. Flake #1** to the amendment in the nature of a substitute was not agreed to by a roll call vote of 10 yeas and 16 nays.

☒Recorded Vote Vote # 8 Total: Yeas: 10 Nays: 16

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Rahall, WV		✓		*Mrs. McMorris Rodgers, WA*			
Mr. Young, AK	✓			Mrs. Bordallo, VI		✓	
Mr. Miller, CA				*Mr. Jindal, LA*	✓		
Mr. Saxton, NJ				Mr. Costa, CA		✓	
Mr. Markey, MA		✓		*Mr. Gohmert, TX*			
Mr. Gallegly, CA				Mr. Boren, OK		✓	
Mr. Kildee, MI				*Mr. Cole, OK*	✓		
Mr. Duncan, TN				Mr. Sarbanes, MD			
Mr. DeFazio, OR				*Mr. Bishop, UT*	✓		
Mr. Gilchrest, MD				Mr. Hinchey, NY			
Mr. Faleomavaega, AS		✓		*Mr. Shuster, PA*			
Mr. Calvert, CA	✓			Mr. Kennedy, RI		✓	
Mr. Abercrombie, HI		✓		*Mr. Heller, NV*	✓		
Mr. Cannon, UT				Mr. Kind, WI		✓	
Mr. Ortiz, TX				*Mr. Sali, ID*			
Mr. Tancredo, CO	✓			Mrs. Capps, CA		✓	
Mr. Pallone, NJ		✓		*Mr. Lamborn, CO*			
Mr. Flake, AZ	✓			Mr. Inslee, WA		✓	
Mrs. Christensen, VI				Mr. Mark Udall, CO			
Mr. Pearce, NM	✓			Mr. Baca, CA		✓	
Mrs. Napolitano, CA		✓		Ms. Solis, CA		✓	
Mr. Brown, SC	✓			Ms. Herseth, SD			
Mr. Holt, NJ				Mr. Shuler, NC			
Mr. Fortuño, PR							
Mr. Grijalva, AZ		✓					
				Total	10	16	

Markups - 1/3 to meet (16), 25 to report
May 3, 2007 (3:28pm)

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

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 entitles the bill the "Niagara Falls National Heritage Area Act."

Section 2. Findings

Section 2 includes findings regarding the area to be included in the national heritage area.

Section 3. Definitions

Section 3 contains definitions for several key terms in the legislation.

Section 4. Niagara Falls National Heritage Area

Section 4(a) establishes the new national heritage area. Section 4(b) delineates the official boundaries of the area and Section 4(c) requires that the official map of the area be on file in the appropriate National Park Service offices.

Section 4(d)(1)(A) designates the Niagara Falls National Heritage Area Commission as the management entity for the area for the first five years after enactment of H.R. 713. Section 4(d)(1)(B) requires that, after the initial five-year period, management of the area be transferred to a private, non-profit organization designated by the Commission.

Section 4(d)(2) outlines the authorities of the management entity, once it takes over. These include making grants for specified purposes and assuming all duties originally assigned to the Commission.

Section 5. Niagara Falls National Heritage Area Commission

Section 5(a) establishes the Commission and Sections 5(b) through 5(f) govern technical aspects of the Commission's make-up and functions. Section 5(g) lists the Commission's powers, including entering into contracts and cooperative agreements under certain terms, compensating staff, making grants and seeking and accepting gifts.

Section 5(h) enumerates the duties of the Commission. These include development and submission to the Secretary of the management plan for the heritage area as well as coordination of management responsibilities. This subsection also requires the Commission to assist in the transition to the local coordinating entity which will succeed the Commission.

Section 5(i) stipulates that Commission members will serve without compensation but may be reimbursed for official travel expenses. Section 5(j) specifies that any gift to the Commission shall be considered to be a charitable contribution to the United States.

Section 5(k) prohibits the use of federal funds by the Commission to acquire real property, other than for leasing administrative facilities.

Section 6. Management plan

Section 6(a) requires the Commission to submit a proposed management plan to the Secretary three years after the date funds are first made available to carry out H.R. 713. Section 6(b) lists the necessary components of the management plan while the remainder of Section 6 governs the process for approval and amendment of the plan.

Section 7. Duties and authorities of the Secretary

Section 7(a) allows the Secretary to provide technical and financial assistance while Section 7(b) allows Department of the Interior employees to be detailed to the heritage area.

Section 7(c) requires the Secretary to conduct an evaluation of the heritage area three years before the date on which federal funding is terminated. The study is to evaluate the area's progress with respect to accomplishing its stated goals and purposes, analyze federal, state and local investments in the area and review the management structure and any partnerships involving the area. The Secretary is required to make recommendations to Congress regarding the National Park Service's future role in the area, if any, based on the results of the evaluation.

Section 8. Relationship to other federal agencies

Section 8(a) makes clear that nothing in this act effects the authority of any other federal agency to provide technical or financial assistance under existing law. Sections 8(b) and (c) govern coordination between federal agencies of actions affecting the heritage area.

Section 9. Private property and regulatory protections

Section 9 makes clear that nothing in H.R. 713 has any impact on private property rights or on any existing federal, state or local regulatory authority.

Section 10. Authorization of appropriations

Section 10 authorizes $10 million for the purposes of this act, not more than $1 million of which may be appropriated in any one fiscal year. The federal share of any cost for any activity carried out under this act may not exceed fifty percent.

Section 11. Termination of authority

Section 11 specifies that the Secretary's authority to provide financial assistance for the area terminates 15 years after the date of enactment of H.R. 713.

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.

FEDERAL ADVISORY COMMITTEE STATEMENT

The functions of the proposed advisory committee authorized in the bill are not currently being nor could they be performed by one

or more agencies, an advisory committee already in existence or by enlarging the mandate of an existing advisory committee.

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, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

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 is to establish the Niagara Falls National Heritage Area.

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. 713—Niagara Falls National Heritage Area Act

Summary: H.R. 713 would establish the Niagara Falls National Heritage Area (NHA) in the state of New York. The bill would create a 17-member commission to serve as the first local coordinating entity for the proposed NHA. The commission would be responsible for developing a management plan for the NHA and to assist local governments and nonprofit agencies in implementing the plan.

The legislation would authorize the appropriation of $10 million, not to exceed $1 million annually, for financial assistance to the commission or other eligible entities over the next 15 years. CBO estimates that implementing H.R. 713 would cost $5 million over the 2008–2012 period, with additional amounts spent after 2012. Enacting H.R. 713 would have no effect on direct spending or revenues.

H.R. 713 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the federal government: The estimated budgetary impact of H.R. 713 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—				
	2008	2009	2010	2011	2012
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Estimated Authorization Level	1	1	1	1	1
Estimated Outlays	1	1	1	1	1

Basis of estimate: Assuming appropriation of the authorized amounts, CBO estimates that implementing H.R. 713 would cost $5 million over the 2008–2012 period and $10 million over the following five to 10 years. Such amounts would be used to cover a portion of the costs of planning, establishing, operating, and interpreting the heritage area.

Intergovernmental and private-sector impact: H.R. 713 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Federal costs: Deborah Reis; Impact on state, local, and tribal governments: Marjorie Miller; Impact on the private sector: Amy Petz.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

EARMARK STATEMENT

H.R. 713 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e) or 9(f) of rule XXI.

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 ON H.R. 713

We oppose H.R. 713 in its current form and are dismayed by the rush to consider this legislation out of regular order. While this bill had a hearing on March 15, 2007, it was subsequently withdrawn from the April 19, 2007 subcommittee markup schedule. It is our understanding, based on Chairman Rahall's announcement on February 7, 2007 at the committee organizational meeting that the committee would precede with business under "regular order."

The Majority has again displayed its cavalier attitude towards private property rights. Mr. Bishop offered an amendment to restore private property rights protections which have been included in the twelve most recently established heritage areas. This amendment was rejected on a straight party-line vote based on the Majority's Byzantine explanation that securing property rights could be burdensome to the management entity. We are intrigued by the massive resistance to this legislative language that enjoyed bipartisan support in previous Congresses and that the bill's sponsor, Representative Slaughter, confirmed she would not oppose at the legislative hearing.

This bill establishes a commission consisting of 17 members which will be empowered to operate the heritage area with federal funds. Normally heritage areas are run by nonprofit organizations, but this bill goes as far as requiring that the Department of the Interior supply two fulltime, all expenses paid employees to the management of the heritage area. Why have previous heritage areas been denied such preferential treatment?

Mr. Flake offered a common sense amendment that reiterates the prohibition on lobbying using federal funds. While the Majority acknowledged that such a law exists, they offered a contradictory argument that the limitation is an unjustified obstacle to seek more federal funds. Unfortunately, the Majority rejected this taxpayer friendly, good government amendment on a straight party-line vote.

H.R. 713 is intended to promote tourism in the Niagara Falls region. We question how this bill will attract additional visitors to a place that is already known worldwide, and according to the National Park Service, receives 8 to 10 million visitors a year.

We understand the proponents of this legislation hope this heritage area will play a role in the economic redevelopment of the Niagara Falls region. However, this bill also provides significant assistance to organizations that are currently involved in using eminent domain to remove small landowners from their property to establish a casino. The casino is at the heart of the economic redevelopment plan that this bill is designed to promote. There are reports of developers allegedly using unsavory tactics and intimidation to push citizens off their land. It has also come to light that land values have dropped in areas targeted for acquisition. If the same or-

ganizations that are pushing the casino project are the ones to be involved in the heritage area, it would provide them with yet another hammer to intimidate lawful landowners. Clearly, many of these issues will be resolved at the state level.

This raises the question: What role will the national heritage area play in the promotion of a casino? We believe advocacy of gaming should never be part of legislation to establish heritage areas. If the heritage area is to play an integral role in the redevelopment plans of the Niagara Falls region, and the center of that plan is the casino, Congress must create a firewall between the heritage area and gaming. Mr. Bishop offered an amendment to delineate those interests and to our astonishment, the Majority ruled on a straight party-line vote that such separation was unnecessary. We hope the Majority extends the courtesy of investigating these issues before further railroading this bill.

In short, this legislation's failure to follow regular order dramatically reduced the opportunity to improve this legislation. Consequently, we look forward to resolving these issues with an open process on the House Floor rather than very restrictive suspension of the rules.

ROB BISHOP.
BILL SALI.
DOUG LAMBORN.
HENRY E. BROWN, Jr.
JOHN J. DUNCAN, Jr.
CATHY MCMORRIS RODGERS.
LOUIE GOHMERT.
STEVAN PEARCE.
DON YOUNG.
CHRIS CANNON.
DEAN HELLER.
BILL SHUSTER.

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