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111TH CONGRESS, 1st Session | HOUSE OF REPRESENTATIVES | REPORT 111–310

SAGUARO NATIONAL PARK BOUNDARY EXPANSION AND STUDY ACT OF 2009

OCTOBER 21, 2009.—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. 715]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 715) to expand the boundary of Saguaro National Park, to study additional land for future adjustments to the boundary of the Park, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 715 is to expand the boundary of Saguaro National Park, to study additional land for future adjustments to the boundary of the Park, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

President Herbert Hoover established Saguaro National Monument in 1933 by proclamation. The 63,500-acre monument, centered on Rincon Mountain east of Tucson, Arizona, was created due to "outstanding scientific interest because of the exceptional growth thereon of various species of cacti, including the so-called giant cactus."

In 1961, President John F. Kennedy added to the national monument (also by proclamation) a separate area west of Tucson, the

89–006

Tucson Mountain District, to protect its "remarkable display of relatively undisturbed lower Sonoran desert vegetation, including a saguaro stand which equals or surpasses saguaro stands elsewhere in the Nation."

Congress adjusted the boundaries of the monument in 1976 (P.L. 94–578) and added more land to both districts in 1991 (P.L. 102–61) and 1994 (P.L. 103–364); the 1994 legislation also changed the designation of the unit from national monument to national park. The park currently encompasses 91,440 acres.

Directly between the park's two districts lies the city of Tucson, which is growing rapidly. Subdivisions and other development drawing ever nearer to both Rincon Mountain and Tucson Mountain threaten to isolate park lands, block wildlife corridors, and eliminate riparian areas near the park.

H.R. 715 would expand the boundary of the park to allow the acquisition of three parcels totaling 674.41 acres adjacent to the Rincon Mountain District, and eight parcels totaling 300.18 acres adjacent to the Tucson Mountain District. All of the landowners have expressed their willingness to sell or donate their property.

The parcels located along the southern boundary of the Rincon Mountain District include three miles of Rincon Creek, which flows through the only riparian hardwood forest in the park and provides habitat for rare species such as gray hawks, yellow-bill cuckoos, giant spotted whiptail lizards, and lowland leopard frogs.

The proposed additions to the Tucson Mountain District will protect wildlife corridors (and may aid the area's dwindling mountain lion population) and protect park viewsheds.

In addition, H.R. 715 directs the NPS to study lands adjacent to the park to determine whether further boundary adjustments are warranted. The study would consider not only lands that might be suitable for inclusion in the park, but also examine properties that were included inside the park boundary in earlier additions but which have not been acquired. Some of those parcels have been developed in the interim, and the study would determine whether such properties should be excluded from the park.

COMMITTEE ACTION

H.R. 715 was introduced January 27, 2009 by National Parks, Forests and Public Lands Subcommittee Chairman Raúl Grijalva (D–AZ). 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 3, 2009, the Subcommittee held a hearing on the bill. Representatives of the Department of the Interior and the Tucson office of the National Parks Conservation Association testified in favor of the legislation.

On July 9, 2009, the National Parks, Forests and Public Lands Subcommittee was discharged from further consideration of H.R. 715 and the full Natural Resources Committee met to consider the bill. Subcommittee Ranking Member Rob Bishop (R–UT) offered an amendment regarding law enforcement "within the boundaries, buffer zone, viewscape or soundscape of the park." The amendment was not agreed to by a roll call vote of 17 yeas and 22 nays, as follows:

COMMITTEE ON NATURAL RESOURCES
U.S. House of Representatives
111th Congress

Date: July 9, 2009 Convened:10:04 Adjourned:1:44

Meeting on: **Markup of HR 715 - Bishop Amendment #3 was NOT AGREED TO by a roll call vote of 17 yeas and 22 nays.**

Recorded Vote #_____

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Rahall, WV		✔		*Mr. Wittman, VA*	✔		
Mr. Doc Hastings, WA	✔			Mr. Boren, OK		✔	
Mr. Miller, CA		✔		*Mr. Broun, GA*	✔		
Mr. Don Young, AK				Mr. Sablan, MP		✔	
Mr. Markey, MA				*Mr. Fleming, LA*	✔		
Mr. Gallegly, CA	✔			Mr. Heinrich, NM		✔	
Mr. Kildee, MI		✔		*Mr. Coffman, CO*	✔		
Mr. Duncan, TN				Mr. Hinchey, NY		✔	
Mr. DeFazio, OR		✔		*Mr. Chaffetz, UT*	✔		
Mr. Flake, AZ	✔			Mrs. Christensen, VI			
Mr. Faleomavaega, AS				*Mrs. Lummis, WY*	✔		
Mr. Brown, SC	✔			Ms. DeGette, CO			
Mr. Abercrombie, HI				*Mr. McClintock, CA*	✔		
Mrs. McMorris Rodgers, WA	✔			Mr. Kind, WI			
Mr. Pallone, NJ		✔		*Mr. Cassidy, LA*	✔		
Mr. Gohmert, TX				Mrs. Capps, CA		✔	
Mrs. Napolitano, CA		✔		Mr. Inslee, WA			
Mr. Bishop, UT	✔			Mr. Baca, CA		✔	
Mr. Holt, NJ		✔		Ms. Herseth Sandlin, SD		✔	
Mr. Shuster, PA	✔			Mr. Sarbanes, MD		✔	
Mr. Grijalva, AZ		✔		Ms. Shea-Porter, NH		✔	
Mr. Lamborn, CO	✔			Ms. Tsongas, MA		✔	
Mrs. Bordallo, GU		✔		Mr. Kratovil, Jr., MD		✔	
Mr. Smith, NE	✔			Mr. Pierluisi, PR		✔	
Mr. Costa, CA		✔					
				Total	17	22	

Markups - 1/3 to meet (16), 25 to report
October 20, 2009 (12:21pm)

Representative Bishop then offered an amendment to delete language in current law that allows the Secretary of the Interior to acquire land by eminent domain if the Secretary determines that the land is being developed, or is proposed to be developed in a manner which is detrimental to the integrity of the park. The amendment was not agreed to by a roll call vote of 19 yeas and 24 nays, as follows:

COMMITTEE ON NATURAL RESOURCES
U.S. House of Representatives
111th Congress

Date: July 9, 2009 Convened:10:04 Adjourned:1:44

Meeting on: **Markup of HR 715 -Bishop Amendment #1 was NOT AGREED TO by a roll call vote of 19 yeas and 24 nays.**

Recorded Vote #_____

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Rahall, WV		✔		*Mr. Wittman, VA*	✔		
Mr. Doc Hastings, WA	✔			Mr. Boren, OK	✔		
Mr. Miller, CA		✔		*Mr. Broun, GA*	✔		
Mr. Don Young, AK				Mr. Sablan, MP		✔	
Mr. Markey, MA				*Mr. Fleming, LA*	✔		
Mr. Gallegly, CA	✔			Mr. Heinrich, NM		✔	
Mr. Kildee, MI		✔		*Mr. Coffman, CO*	✔		
Mr. Duncan, TN				Mr. Hinchey, NY		✔	
Mr. DeFazio, OR		✔		*Mr. Chaffetz, UT*	✔		
Mr. Flake, AZ	✔			Mrs. Christensen, VI			
Mr. Faleomavaega, AS		✔		*Mrs. Lummis, WY*	✔		
Mr. Brown, SC	✔			Ms. DeGette, CO		✔	
Mr. Abercrombie, HI		✔		*Mr. McClintock, CA*	✔		
Mrs. McMorris Rodgers, WA	✔			Mr. Kind, WI			
Mr. Pallone, NJ		✔		*Mr. Cassidy, LA*	✔		
Mr. Gohmert, TX				Mrs. Capps, CA		✔	
Mrs. Napolitano, CA		✔		Mr. Inslee, WA		✔	
Mr. Bishop, UT	✔			Mr. Baca, CA		✔	
Mr. Holt, NJ		✔		Ms. Herseth Sandlin, SD		✔	
Mr. Shuster, PA	✔			Mr. Sarbanes, MD		✔	
Mr. Grijalva, AZ		✔		Ms. Shea-Porter, NH		✔	
Mr. Lamborn, CO	✔			Ms. Tsongas, MA		✔	
Mrs. Bordallo, GU		✔		Mr. Kratovil, Jr., MD		✔	
Mr. Smith, NE	✔			Mr. Pierluisi, PR		✔	
Mr. Costa, CA	✔						
				Total	19	24	

Markups - 1/3 to meet (16), 25 to report
July 10, 2009 (10:08am)

The bill was then ordered favorably reported to the House of Representatives by voice vote.

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.

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 expand the boundary of Saguaro National Park, to study additional land for future adjustments to the boundary of the Park, and for other purposes.

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. 715—Saguaro National Park Boundary Expansion and Study Act of 2009

H.R. 715 would expand the boundaries of the Saguaro National Park in Arizona by about 975 acres. The bill also would require the National Park Service (NPS), which manages the park, to conduct a study to identify other property that should be included in future boundary adjustments.

Based on information provided by the NPS and assuming appropriation of the necessary amounts, CBO estimates that implementing H.R. 715 would cost the federal government about $30 million over the next five years. Most of that amount would be used to acquire the proposed acreage, assuming all 11 properties in the acquisition area were purchased rather than acquired by exchange or donation. (The NPS may be able to acquire some parcels by donation; if so, total costs would be lower.) We estimate that the cost of developing and administering the added acreage would not

be significant. Enacting the legislation would not affect revenues or direct spending.

H.R. 715 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

If the Secretary of the Interior acquires any of the property within the expansion area by means of condemnation, H.R. 715 would impose a private-sector mandate as defined in UMRA. The cost of the mandate would be equal to the value of the property. Since that aggregate value is about $30 million, the cost of the mandate, if imposed, would fall well below the annual threshold established in UMRA for private-sector mandates ($139 million in 2009, adjusted annually for inflation). However, testimony from affected parties indicates the landowners want to be included in the park; therefore, CBO estimates that the bill would likely impose no mandate.

The CBO staff contacts for this estimate are Deborah Reis (for federal costs) and Amy Petz (for the private-sector impact). The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

EARMARK STATEMENT

H.R. 715 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 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 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 4 OF THE SAGUARO NATIONAL PARK ESTABLISHMENT ACT OF 1994

SEC. 4. EXPANSION OF PARK BOUNDARIES.

(a) IN GENERAL.—*(1)* The boundaries of the park are hereby modified to reflect the addition of approximately 3,460 acres of land and interests therein as generally depicted on the map entitled "Saguaro National Monument Additions" and dated April, 1994.

(2) The boundary of the park is further modified to include approximately 975 acres, as generally depicted on the map titled "Saguaro National Park Proposed Boundary Adjustment", numbered 151/80,045A, and dated August 2008. The map shall be on file and available for inspection in the appropriate offices of the National Park Service.

(b) LAND ACQUISITION.—(1) Within the lands added to the park pursuant to subsection (a), the Secretary is authorized to acquire lands and interests therein by donation, purchase with donated or appropriated funds, transfer, or exchange: *Provided,* That no such lands or interests therein may be acquired without the consent of the owner thereof unless the Secretary determines that the land is being developed, or is proposed to be developed in a manner which is determental to the integrity of the park.

[(2) Lands or interests therein owned by the State of Arizona or a political subdivision thereof may only be acquired by donation or exchange.**]**

(2) The Secretary may, with the consent of the State and in accordance with Federal and State law, acquire from the State land or interests in land within the boundary of the park.

(3) If the Secretary is unable to acquire the State land under paragraph (2), the Secretary may enter into an agreement that would allow the National Park Service to manage State land within the boundary of the park.

* * * * * * *

(d) BOUNDARY STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study to identify lands that would be a part of any future boundary adjustments for the park.

(2) CRITERIA.—The study shall examine the natural, cultural, recreational, and scenic values and characters of lands identified under paragraph (1).

(3) REPORT.—Not later than 2 years after the date funds are made available for the study under this subsection, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the findings, conclusions, and recommendations of the study.

DISSENTING VIEWS

We oppose H.R. 715 because it fails to protect property rights and leaves intact impediments to securing our nation's borders against criminal incursions and the environmental degradation that is now occurring along the border as a result.

This legislation will expand Saguaro National Park by 975 acres, nearly all of it private, except for one parcel owned by a county. These property owners will face new limitations on their property. Specifically, the Secretary of the Interior will have the authority to take private land if he determines the owner's use of the land is detrimental to the park. The federal government already has more land than it can adequately manage and yet this Congress keeps expanding boundaries and providing endless funding mechanisms to acquire even more. Under these circumstances, there is no reason to continue providing the National Park Service with the hammer of condemnation that it wields to create so-called "willing sellers."

At the full Committee markup, Congressman Rob Bishop offered an amendment to remove the threatening authority and provide a degree of security to property owners in line with current standards for recent park expansion bills. Unfortunately, this common sense amendment was defeated on a largely partisan vote.

Saguaro National Park used to be a crown jewel in our National Park system. Recently, however, the Fraternal Order of Police named it one of the top 10 most dangerous parks in the country, stating that Saguaro is "home to body dumping, smuggling and poaching after rangers go home at night." The National Park Service's own website alerts visitors to be on the lookout for arson, vandalism, theft of cactus, poaching, dumping of debris, marijuana cultivation and drug labs. With these growing new threats to the environment of the park along the borderlands, it is imperative that Congress re-define and balance the roles of the Interior Department and the Department of Homeland Security. It is now apparent that the undue prohibitions and restrictions being imposed on needed Border Patrol enforcement activities harm both border security and the park environment.

When arguing against an amendment offered by Congressman Rob Bishop that would have prevented the Park Service from placing restrictions on the Border Patrol from securing the park, the sponsor of H.R. 715 stated that it should be up to the individual parks to negotiate what is and isn't permissible. It is our belief that Congress, not bureaucrats, should establish our national security strategy. Unfortunately, this sound policy, border security amendment was defeated by the Majority Democrats on a party-line vote.

We are also concerned with the cost of the legislation. The National Park Service has a well-publicized backlog estimated at

nearly $9 billion, and this expansion could cost as much as $30 million. When will this Democrat Majority show restraint and take care of the neglected land we already have?

Despite the refusal to accept Republican amendments in committee that would have corrected these issues, we are hopeful that careful analysis of these shortcomings on the Floor of the House of Representatives, under an open rule, will allow us to pass these amendments with strong bipartisan support.

DOC HASTINGS.
ROB BISHOP.

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