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104TH CONGRESS, 2d Session | HOUSE OF REPRESENTATIVES | REPORT 104–706

GRANTING THE CONSENT OF CONGRESS TO THE COMPACT BETWEEN GARRETT COUNTY, MARYLAND, AND MINERAL COUNTY, WEST VIRGINIA

JULY 24, 1996.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GEKAS, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.J. Res 113]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the joint resolution (H.J. Res. 113) granting the consent of Congress to the compact to provide for joint natural resource management and enforcement of laws and regulations pertaining to natural resources and boating at the Jennings Randolph Lake Project lying in Garrett County, Maryland, and Mineral County, West Virginia, entered into between the States of West Virginia and Maryland, having considered the same, report favorably thereon without amendment and recommend that the joint resolution do pass.

SUMMARY AND PURPOSE

H.J. Res. 113 grants the consent of the Congress to an interstate compact adopted by Maryland and West Virginia providing for joint natural resources management and enforcement of laws relating to boating and natural resources at the Jennings Randolph Lake Project situated in Garrett County, Maryland and Mineral County, West Virginia.

BACKGROUND AND NEED FOR THE LEGISLATION

Article I, Section 10, Clause 3 of the United States Constitution provides that: "No State shall without the Consent of Congress * * * enter into any Agreement or Compact with another State, or with a foreign power. * * *" Congressional consent is required for such agreements and compacts in order to determine whether they

work to the detriment of another state and to ensure that they do not conflict with Federal Law or Federal interests.

The Jennings Randolph Lake Project, authorized by Public Law 87–874, was completed in 1982. The lake is approximately 6.6 miles long, contains a surface area of 952 acres and a drainage area of 263 square miles. It is located astride the border between Maryland and West Virginia along the North Branch of the Potomac River approximately 230 miles upstream from the Washington, D.C. area.[1] According to testimony received by the Subcommittee on Commercial and Administrative Law, the project has been successful at correcting mine drainage and improving waste treatment of municipal and industrial point sources.[2]

However, the creation of the lake obliterated the border between the two states and made virtually impossible its reestablishment. There are currently five recreational sites at the lake and the fishing, boating and other recreational opportunities afforded by the lake are drawing an ever increasing number of visitors, of which there were some 55,000 in 1995. Over the past two years, boating use has increased by 42 percent (from 8,925 to 12,697) and fishing by 14 percent (from 6,442 to 7,376).[3] The lack of an identifiable boundary has raised jurisdictional questions, reportedly making enforcement of natural resources and boating laws and regulations difficult, a problem which only promises to heighten with increased recreational use.

Under the compact, the signatory states and the U.S. Army Corps of Engineers recognize their joint responsibility for the management and enforcement of laws and regulations relating to natural resources and boating at the Jennings Randolph Lake Project. In recognition of that joint responsibility, the compact provides for the concurrent jurisdiction of the signatories over the lands and waters in the Project concerning natural resources and boating laws and regulations, notwithstanding any boundary between Maryland and West Virginia that existed prior to the creation of the Jennings Randolph Lake. The Maryland legislature adopted the compact in 1993 and the West Virginia legislature did so in 1994.

HEARINGS

The Committee's Subcommittee on Commercial and Administrative Law held a hearing on H.J. Res. 113, on June 27, 1996. Testimony was received from Senator Paul Sarbanes; Congressmen Alan Mollohan and Roscoe Bartlett; Herbert Sachs, Executive Director, Interstate Commission on the Potomac River Basin; Lt. Col. Thomas Turner, Deputy Superintendent, Maryland Natural Resources Police; and Major William B. Daniel, Assistant Chief, Law Enforcement Section, Department of Natural Resources, State of West Virginia.

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[1] Testimony of Senator Paul S. Sarbanes at the hearing on H.J. Res. 113 before the Subcommittee on Commercial and Administrative Law, June 27, 1996.

[2] Statement of Hebert M. Sachs, Executive Director, Interstate Commission on the Potomac River Basin at the hearing on H.J. Res. 113, supra.

[3] Testimony of Senator Sarbanes, at the hearing on H.J. Res. 113, supra.

COMMITTEE CONSIDERATION

On June 27, 1996, the Subcommittee on Commercial and Administrative Law met in open session and ordered reported favorably the resolution H.J. Res. 113, without amendment by voice vote, a quorum being present. On July 16, 1996, the Committee met in an open session and ordered reported favorably the resolution H.J. Res. 113, without amendment by a recorded vote of 25 yeas to 0 nays, a quorum being present.

VOTE OF THE COMMITTEE

YEAS	NAYS
Mr. Hyde	
Mr. Moorhead	
Mr. McCollum	
Mr. Gekas	
Mr. Coble	
Mr. Smith	
Mr. Schiff	
Mr. Canady	
Mr. Goodlatte	
Mr. Buyer	
Mr. Hoke	
Mr. Bono	
Mr. Heineman	
Mr. Conyers	
Mrs. Schroeder	
Mr. Frank	
Mr. Boucher	
Mr. Reed	
Mr. Nadler	
Mr. Scott	
Mr. Watt	
Mr. Becerra	
Ms. Lofgren	
Ms. Jackson Lee	
Ms. Waters	

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT FINDINGS

No findings or recommendations of the Committee on Government Reform and Oversight were received as referred to in clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 2(l)(3)(B) of House rule XI is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 2(l)(C)(3) of rule XI of the Rules of the House of Representatives, the Committee sets forth, with respect to the resolution, H.J. Res. 113, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 18, 1996.

Hon. HENRY J. HYDE,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.J. Res. 113, as ordered reported by the House Committee on the Judiciary on July 16, 1996. CBO estimates that enacting this legislation would result in no cost to the federal government. Enacting H.J. Res. 113 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to this legislation.

H.J. Res. 113 would give Congressional consent to the Jennings Randolph Lake Project Compact entered into between the states of West Virginia and Maryland. This compact would provide for joint natural resource management and enforcement of laws and relations pertaining to natural resources and boating at the Jennings Randolph Lake Project in Garrett County, Maryland, and Mineral County, West Virginia.

The resolution contains no private-sector or intergovernmental mandates as defined in Public Law 104–4 and would have no impact on the budgets of state, local, or tribal governments.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz.

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, Director).

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that H.J. Res. 113 will have no significant inflationary impact on prices and costs in the national economy.

SECTION-BY-SECTION ANALYSIS

Section 1. Congressional consent

Section 1 provides consent of Congress to the Jennings Randolph Lake Project Compact between West Virginia and Maryland. The text of the compact is set out in the section. The compact begins

with a preamble which states the basis for the compact and sets forth the desire of the signatories to enter into it. It states the agreement of the two states with the concurrence of the U.S. Army Corps of Engineers to the compact.

Article I. Name, findings, and purpose

Article I of the compact states its name and the public purpose underlying it. It also describes the purposes of the compact to be that the parties thereto have and exercise concurrent jurisdiction over the Jennings Randolph Lake Project concerning natural resources and boating laws and regulation, notwithstanding any preexisting state boundary.

Article II. District responsibilities

Article II of the compact describes the responsibilities of the U.S. Army Corps of Engineers (Baltimore District). Under this article, the Corps of Engineers acknowledges the authorities and responsibilities of the Maryland and West Virginia Departments of Natural Resources (DNRs) in the establishment, administration and enforcement of natural resource laws and regulations applicable to the Project, provided that the laws and regulations promulgated by the states support and implement the intent of Corps of Engineers" regulations governing the project's public use.

The Corps of Engineers agrees to consult with the DNRs of the two states prior to the issuance of permits for special events and requires all permits to require the permittee to comply with all state laws and regulations. In addition, the Corps of Engineers agrees to consult with the state DNRs regarding recommendations for regulations affecting natural resources at the project which it believes desirable for public safety, administration for public use and enjoyment.

The Corps of Engineers agrees to consult with the states' DNRs with respect to the marking of the lake with buoys, aids to navigation and regulatory markers. The Corps agrees to provide, install and maintain these items. The Corps agrees to allow hunting, fishing, boating and trapping in the project and to provide, install and maintain public ramps, parking areas, docks and other amenities.

The Corps of Engineers agrees to provide prior notice of reservoir drawdowns to the states' DNRs except for drawdowns to establish normal lake levels after flood control operations and those resulting from routine water control management operations.

Article III. State responsibilities

Article III describes the responsibilities of Maryland and West Virginia under the compact. Each state agrees that it will have and exercise concurrent jurisdiction with the other and with the Corps of Engineers for the purpose of enforcing the civil and criminal laws of the respective states relating to natural resources and boating laws and regulations over the project. Each state agrees to enforce the natural resources and boating laws and regulations relating to the project and to provide training to employees from the Corps of Engineers to familiarize them with natural resources and boating laws and regulations as they relate to the project. Each agrees to inform the project manager of any emergencies or un-

usual activities occurring on the project and to supply the Corps of Engineers with the contact person for notifications of drawdowns from the lake.

The states agree that the existing natural resources and boating laws and regulations already in effect in each state shall remain in force on the project until either state amends, modifies or rescinds its laws and regulations.

Under the article, the states recognize the right and responsibility of the Corps of Engineers and other federal agencies to enforce within the project boundaries all Federal laws, rules, and regulations so as to provide safe and healthful recreational opportunities for the public and to provide for the protection of all Federal property in the project.

Article IV. Mutual cooperation

Article IV provides that the states and the Corps of Engineers pledge the mutual cooperation of representatives of their natural resources management and enforcement agencies to further the purposes of the compact. Such cooperation is to include, but is not limited to: (1) an annual meeting, with other meetings as necessary, for discussion of the management of natural resources in the project; (2) evaluating natural resources and boating and developing and implementing management plans and programs; (3) encouraging joint public information efforts and the free interchange between the parties of all relevant agency policies and objectives relating to the natural resources of the project; and (4) entering into working arrangements, as necessary, for the use of the project's lands and waters, and the construction and use of buildings and other facilities at the project.

Article V. General provisions

Article V provides that all provisions of the compact are deemed subject to the laws of the two states and the United States, and the enforcement and applicability of natural resources and boating laws and regulations covered by the compact are limited to the lands and waters of the project. The article also provides that the compact shall not be construed to obligate any party to expenditures in excess of lawfully authorized appropriations. Furthermore, the provisions of the compact are to be severable for purposes of constitutional interpretation and the provisions of the compact are to be reasonably and liberally construed to effectuate the compact's purposes.

The article also sets forth the procedures for making the compact effective and operative, for amending the compact and for withdrawing from it.

Section 2

Section 2 reserves to the Congress the right to alter, amend or repeal the Resolution. The consent granted by the Resolution is not to be construed as impairing or in any manner affecting any right or jurisdiction of the United States in and over the project.

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