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LEWIS AND CLARK NATIONAL HISTORICAL PARK ACT OF 2004

AUGUST 25, 2004.—Ordered to be printed

Filed, under authority of the order of the Senate of July 22, 2004

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

R E P O R T

[To accompany S. 2167]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2167) to establish the Lewis and Clark National Historical Park in the States of Washington and Oregon, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

The amendments are as follows:

On page 3, strike line 24 and insert the following: (C) “Cape disappointment”.

On page 5, strike lines 7 through 18 and insert the following:

(5) CAPE DISAPPOINTMENT.—

(A) TRANSFER.—

(i) IN GENERAL.—Subject to valid rights (including withdrawals), the Secretary shall transfer to the Director of the National Park Service management of any Federal land at Cape Disappointment, Washington, that is within the boundary of the Park.

(ii) WITHDRAWN LAND.—

(I) NOTICE.—The head of any Federal agency that has administrative jurisdiction over withdrawn land at Cape Disappointment, Washington, within the boundary of the Park shall notify the Sec-

retary in writing if the head of the Federal agency does not need the withdrawn land.

(II) TRANSFER.—On receipt of a notice under subclause (I), the withdrawn land shall be transferred to the administrative jurisdiction of the Secretary, to be administered as part of the Park.

(B) MEMORIAL TO THOMAS JEFFERSON.—

(i) IN GENERAL.—All withdrawals of the 20-acre parcel depicted on the map as “Memorial to Thomas Jefferson” are revoked.

(ii) ESTABLISHMENT.—The Secretary shall establish a memorial to Thomas Jefferson on the parcel referred to in clause (i).

(C) MANAGEMENT OF CAPE DISAPPOINTMENT STATE PARK LAND.—The Secretary may enter into an agreement with the State of Washington providing for the administration by the State of the land within the boundary of the Park known as “Cape Disappointment State Park”.

PURPOSE OF THE MEASURE

The purpose of S. 2167 is to establish the Lewis and Clark National Historical Park in the States of Washington and Oregon.

BACKGROUND AND NEED

In the summer of 1803, President Thomas Jefferson commissioned Meriwether Lewis and William Clark “to explore the Missouri River, and such principal streams of it by its course and communication with the waters of the Pacific Ocean” in the hope of finding “the most direct and practicable water across the continent, for the purpose of commerce.” Lewis and Clark and their “Corps of Volunteers for Northwestern Discovery” embarked on this mission on May 14, 1804. The Expedition followed the Missouri River from its confluence with the Mississippi to the Rocky Mountains, then crossed the Continental Divide, and traveled down the Clearwater, Snake, and Columbia Rivers to the Pacific Ocean.

After an epic journey lasting 18 months and traversing over four thousand miles, the Corps arrived at “Clark’s Dismal Nitch,” on the north shore of the Columbia River, near the present-day Megler Safety Rest Area, in southwestern Washington, on November 10, 1805. Believing themselves to be “in view of the ocean,” they were, in fact, several miles short of their goal. They remained trapped there for six days, pinned against the shoreline by a fierce storm. Waves broke “with great fury against the rocks” on which they sheltered, and the wind drove uprooted trees into the camp. For the only time during the entire Expedition, Clark described their situation as “dangerous.”

On November 15, 1805, when the weather lifted, the Corps proceeded three miles west, around Point Ellice, to a sandy beach, which they named Station Camp. From here, they were at last able to see the Pacific Ocean and declare “the end of our voyage.” They

remained at Station Camp for ten days, making it one of the longest stops on the Expedition.

While based at Station Camp, Lewis and Clark led separate excursions across Cape Disappointment, which is now Fort Canby State Park, in the hope of sighting a trading ship. During his excursion, on the morning of November 19, 1805, William Clark reached the sandy shore of Long Beach Peninsula. It was the westernmost point of the entire Expedition.

Back at Station Camp, on November 24, 1805, Lewis and Clark polled the members of the Corps on where they wanted to camp for the winter. Significantly, both Sacagawea, a Native American woman, and York, an African American slave, voted with the other members of the Corps.

Pursuant to the vote on November 25, the Corps left Station Camp and, the following day, crossed the Columbia River to the Oregon shore. After camping for a week and a half near the site of the present-day Astoria, Oregon, the Corps settled on a small bluff about a mile from the mouth of what is now called the Lewis and Clark River. They named the place Fort Clatsop after the Native American tribe that inhabited the area and traded with them. The Corps remained at Fort Clatsop until they began their return journey on March 23, 1806.

In 1958, Congress enacted Public Law 85-435, making the site of Fort Clatsop a national memorial, “commemorating the culmination, and the winter encampment, of the Lewis and Clark Expedition.” In 1995, the National Park Service recommended expansion of the Fort Clatsop National Memorial to include the trail used by the members of the Expedition to reach the Pacific Ocean from Fort Clatsop. In response to this recommendation, Congress enacted the Fort Clatsop National Memorial Expansion Act of 2002, Public Law 107-221. The Expansion Act authorized the Park Service to acquire the trail, shore, and forest lands surrounding the fort. In addition to authorizing these acquisitions in Oregon, the Act also directed the Secretary of the Interior to study the Dismal Nitch, Station Camp, and Cape Disappointment sites in Washington to determine their suitability, feasibility, and national significance for inclusion in the National Park System.

In response to this directive, the National Park Service submitted a boundary study on the sites in September 2003. The Park Service concluded that all three sites “possess nationally significant resources relating to the Lewis and Clark story,” and found them “suitable and feasible to include within Fort Clatsop National Memorial.” The study concluded that the three sites “provide a unique opportunity to highlight the historic culmination of the Corps of Discovery’s expedition across the continent to the Pacific Ocean.”

S. 2167 implements the recommendations of the boundary study. It establishes the Lewis and Clark National Historical Park as a unit of the National Park System, consisting of the original Fort Clatsop National Memorial, the additional parcels in Oregon authorized by 2002 Expansion Act, and the three new sites in Washington. It also authorizes the Park Service to acquire land and improvements within the Park’s boundaries.

According to the testimony of the Park Service, approximately 30 acres of the Dismal Nitch site will be donated by the State of Washington, and up to 160 acres may be acquired in fee or ease-

ment from a willing seller; about 15 acres of the Station Camp site will be donated by the State of Washington, and 455 acres may be acquired in easement form a willing seller; and administrative jurisdiction of the 1,140 acres of the Cape Disappointment site, which is already owned by the Federal Government, will be transferred to the National Park Service. Twenty acres of the Cape Disappointment site will be managed by the Park Service as a memorial to Thomas Jefferson, and the remainder will continue to be operated as a State park.

LEGISLATIVE HISTORY

S. 2167 was introduced by Senators Cantwell, Murray, Wyden and Smith on March 4, 2004, with cosponsors Senators Murray, Smith and Wyden. The Subcommittee on National Parks held a hearing on S. 2167 on May 20, 2004. The Committee on Energy and National Resources ordered S. 2167, as amended, favorably reported on July 14, 2004.

A similar bill, H.R. 3819, was introduced in the House of Representatives by Representative Baird on February 24, 2004. H.R. 3819, was amended, was favorably reported by the House Committee on Resources on May 5, 2004 and passed the House of Representatives on July 19, 2004.

COMMITTEE RECOMMENDATION

The Committee on Energy and National Resources, in an open business session on July 14, 2004, by a voice vote of a quorum present, recommends that the Senate pass S. 2167, if amended as described herein.

COMMITTEE AMENDMENT

During its consideration of S. 2167, the Committee adopted amendments to address the disposition of land at Cape Disappointment, including the establishment of a Thomas Jefferson Memorial. The amendment also authorizes the Secretary of the Interior to enter into an agreement with the State of Washington to allow the State to continue to administer the Cape Disappointment site.

SECTION-BY-SECTION ANALYSIS

Section 1 entitles this Act the “Lewis and Clark National Historic Park Act of 2004.”

Section 2 describes the purposes of the Act and is self explanatory.

Section 3 defines terms used in the Act.

Section 4(a) establishes the Lewis and Clark National Historical Park as a unit of the National Park System.

Subsection (b) describes the land components to be included in the Park, including specific locations and map references.

Subsection (c) requires that the map of lands described in subsection (b) be made available for public inspection at appropriate National Park Service offices.

Subsection (d)(1) authorizes the Secretary of the Interior (Secretary) to acquire land and any improvements to land located within the boundary of the park only with the consent of the owner. An

exception is made for corporately-owned timberland, which could be acquired without the consent of the owner.

Paragraph (4) authorizes the Secretary to enter into a memorandum of understanding with the owner of the timberland described in paragraph (2)(b) with respect to the manner in which the land is to be managed after acquisition by the Secretary.

Paragraph (5)(A) requires that subject to valid rights, within the Park boundary, any land at Cape Disappointment, Washington, that is under the jurisdiction of another Federal Agency be transferred to the Secretary. The Secretary must be notified in writing by the head of the Federal Agency having jurisdiction over the withdrawn land if the land is not needed. When such a notice is received by the Secretary the withdrawn land may be transferred to the administrative jurisdiction of the Secretary.

Subsection (B) revokes the order withdrawing the 20 acre parcel referenced in section (3)(1) as the "Memorial to Thomas Jefferson". The Secretary is directed to establish the memorial on the land referred to in paragraph 5(A).

Paragraph (c) authorizes the Secretary to enter into an agreement with the State of Washington that allows the land within the park boundary known as Cape Disappointment State Park to be administered by the State.

Section 5(a) requires the Secretary to administer the park in accordance with this law and others applicable to units of the National Park System.

Subsection (b) requires the Secretary to amend the general management plan for the Memorial to address the management of the park, within 3 years after funds are made available to carry out this Act.

Subsection (c) authorizes the Secretary to enter into cooperative management agreements with the States of Washington and Oregon to facilitate efficient management of sites associated with the park and to facilitate a consistent and comprehensive interpretive message.

Section 6 repeals Public Law 85-435 (72 Stat. 153; 16 U.S.C. 450mm et seq.) and requires that any printed reference to Fort Clatsop National Memorial is to be considered a reference to the Lewis and Clark National Historical Park.

Section 7 authorizes to be appropriated such sums as are necessary to carry out this Act.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 2167—Lewis and Clark National Historical Park Act of 2004

S. 2167 would redesignate the Fort Clatsop National Memorial in Oregon as the Lewis and Clark National Historical Park and expand its boundaries to include three sites in the state of Washington. The bill would authorize the National Park Service (NPS) to acquire real property within the boundaries of the historical park by purchase, donation, exchange, or transfer. Under the bill, the NPS (after receiving funding) would have three years to de-

velop a general management plan for the new historical park. Finally, the bill would authorize the appropriation of whatever amounts are necessary for these purposes.

Based on information provided by the NPS and assuming appropriation of the necessary amounts, CBO estimates that implementing S. 2167 would cost the federal government \$7.2 million over the next four years. Of this amount, we estimate that the NPS would use \$2 million in 2006 to purchase land (or other property interests such as easements) in Washington. The NPS would need an estimated \$4 million over the following two years to develop new interpretive and visitor facilities on that property and on lands to be donated by the state or transferred by other federal agencies. We expect that spending of the remaining \$1.2 million would be spread over the 2005–2008 period to revise or develop planning documents and manage newly acquired areas. Finally, CBO estimates that managing the new sites would increase annual park operating and maintenance costs by \$400,000 a year beginning in 2009, also assuming the availability of appropriated funds. Enacting this legislation would have no effect on federal revenues or direct spending.

S. 2167 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no significant costs on state, local, or tribal governments.

On June 17, 2004, CBO transmitted a cost estimate for H.R. 3819, the Lewis and Clark National Historical Park Designation Act, as ordered reported by the House Committee on Resources on May 5, 2004. The two versions of the legislation are very similar, but the Senate version does not contain the study of eastern sites associated with the Lewis and Clark expedition included in H.R. 3819. The CBO cost estimate for S. 2167 is lower than that for the House version by \$250,000, reflecting this difference.

The CBO staff contact for this estimate is Deborah Reis. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

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. 2167.

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. 2167.

EXECUTIVE COMMUNICATIONS

On March 30, 2004, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth Executive agency recommendations on S. 2167. These reports had not been received when this report was filed. The testimony pro-

vided by the Department of the Interior at the Subcommittee hearing on S. 2167 follows:

STATEMENT OF PAUL HOFFMAN, DEPUTY ASSISTANT SECRETARY, FISH AND WILDLIFE AND PARKS, U.S. DEPARTMENT OF THE INTERIOR

Mr. Chairman, we appreciate the opportunity to appear before you today on S. 2167, to establish the Lewis and Clark National Historic Park in the States of Washington and Oregon.

The Department supports enactment of S. 2167. This bill, which would expand Fort Clatsop National Memorial to include sites in the state of Washington as well as Oregon and rename the unit the Lewis and Clark National Historical Park, is an Administrative initiative, submitted to Congress in February of this year. S. 2167 would facilitate a promising partnership between the National Park Service and the two states for coordinating management and interpretation of all the federal and state sites related to the Lewis and Clark Expedition in the lower Columbia River region. We urge the committee to move this legislation as quickly as possible in order to increase the likelihood of its enactment before the start of the Lewis and Clark Expedition 200th Anniversary events in Washington and Oregon, which are scheduled to begin in the summer of 2005.

S. 2167 would implement the recommendations that resulted from the Fort Clatsop National Memorial boundary expansion study the National Park Service conducted of three sites along the lower Columbia River in the State of Washington that are important to the story of the Lewis and Clark Expedition. The study found that the three sites are nationally significant, and that they are suitable and feasible for addition to Fort Clatsop National Memorial. It recommended that two of the sites and part of the third site be added to Fort Clatsop. It also called for changing the name of Fort Clatsop to the "Lewis and Clark National Historic Park," to reflect not only the addition of the Washington sites, but also the fact that the Fort Clatsop National Memorial now includes a much larger area in Oregon than just the site where Fort Clatsop stood. The study further recommended that the National Park Service enter into partnership with the states of Oregon and Washington to coordinate management and interpretation at all of the federal and state sites in the area related to the Lewis and Clark Expedition, both for management efficiencies and to provide a more cohesive presentation to the public of the Expedition's experiences upon their arrival and encampment on the Pacific coast.

For the three Washington sites, the cost to the federal government for land acquisition is estimated to range from \$1.5 million to \$2.3 million, and for development, between \$2.1 million and \$4 million. Annual operating costs are estimated at about \$127,000.

Fort Clatsop National Memorial, near Astoria, Oregon, was established to commemorate the 1805–1806 winter encampment of the Lewis and Clark Expedition. The original site consists of a replica of the fort that was constructed through the efforts of the Junior Chamber of Commerce, Oregon and Clatsop County Historical Societies, Crown-Zellerbach, other civic organizations and many individual volunteers. The donation of the reconstructed fort and acres of surrounding land in 1958 allowed the establishment of the memorial. Public Law 107–221, the Fort Clatsop National Memorial Expansion Act of 2002, expanded the memorial from 125 acres to up to 1,500 acres of land adjacent to the site. These lands are a priority for acquisition in the Administration’s budget request for Fiscal Year 2005. The expansion also provides for a five-mile Fort To Sea Trail, which will enable park visitors to walk from Fort Clatsop to Sunset Beach. Like the original park, the trail is being designed and will be constructed largely through donated resources and volunteer labor.

In addition to the expansion of Fort Clatsop, Public Law 107–221 also authorized the boundary study of three sites in Washington that became the basis for S. 2167. These sites are Clark’s Dismal Nitch, Station Camp, and Cape Disappointment. They would form the Washington state part of the new Lewis and Clark National Historical Park.

Clark’s Dismal Nitch is the place where the Expedition nearly foundered as they were pinned against the cliffs by a fierce Pacific storm, just a few short miles from the mouth of the Columbia River. Approximately 30 acres would be donated by the State of Washington, and up to 160 acres would be acquired in fee or easement from a willing seller.

Station Camp is the site where the Lewis and Clark Expedition finally reached the mouth of the Columbia River. It was at that location that Captain William Clark completed the most detailed survey of the entire journey, and the members of the Expedition launched reconnaissance trips north along what is now known as the Long Beach Peninsula in Washington. It is also the site where the members of the Expedition, including Clark’s slave York and the young Shoshone Indian woman Sacagawea, voted to decide where they would spend the winter. As a result of the vote, the Expedition crossed over the Columbia River and built what we now know as Fort Clatsop. Washington State is currently investing approximately \$6.5 million in realigning a highway and creating a riverside park at Station Camp that will be dedicated to commemorating this part of the Lewis and Clark story. If S. 2167 is enacted, the state would donate the key portion of the site, about 15 acres, along with the new improvements to the National Park Service. About 455 acres would be acquired in easement from a willing seller to protect the scenic backdrop.

Cape Disappointment was the furthest point west the Expedition explored. It was there that the members of the

Expedition first saw a full view of the Pacific Ocean. Land at Cape Disappointment is owned by the Federal government and managed as a state park. Under S. 2167, the National Park Service could be given administrative jurisdiction over 1,140 acres of Federal land at Cape Disappointment and, in that case, would enter into a cooperative management agreement with the state of Washington to allow that land to continue to be operated as a state park. Twenty acres within the state park would be managed by the National Park Service as a memorial to Thomas Jefferson to commemorate his vision of a country “from sea to shinning sea” and how the Lewis and Clark Expedition helped to achieve this vision.

The language in Section 4(d)(5) of the bill that pertains to the disposition of Cape Disappointment, as described above, needs amending to facilitate the transfer in a timely manner and to ensure that the intent of that provision is clear. We would be happy to work with the committee to develop an amendment for that purpose.

The boundary study was undertaken in partnership with the Washington State Historical Society, the Washington State Park and Recreation Department, and the Oregon State Park and Recreation Department. Through this collaboration, the study team determined that nationally significant sites associated with the Lewis and Clark story are also under the management of the both Washington and Oregon Parks and Recreation Departments. These sites are found within Cape Disappointment State Park and Fort Columbia in Washington, and Fort Stevens State Park and Ecola State Parks in Oregon.

As a result, the study called for the National Park Service to enter into cooperative management agreements with both states to operate the National Park Service units in close collaboration with these state park units, and S. 2167 specifically provides the authority for that purpose. Collectively, the parks would be identified as the “Lewis and Clark National and State Historical Parks.” This would be a similar arrangement to the one at Redwood National Park, where the federal and state park agencies share resources under a cooperative management agreement and identify the parks for public information purposes as “Redwood National and State Parks.”

Mr. Chairman, in summary, S. 2167 offers an exciting and timely opportunity to expand the American public’s appreciation of the great achievements of the Lewis and Clark Expedition, and to do so through a very promising partnership with two states that are extremely supportive of this effort. That concludes my statement. I will be happy to answer any questions you or other members of the subcommittee may have.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 2167, as ordered 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):

Public Law 85-435

AN ACT To provide for the establishment of Fort Clatsop National Memorial in the State of Oregon, and for other purposes

【Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purpose of commemorating the culmination, and the winter encampment, of the Lewis and Clark Expedition following its successful crossing of the North American Continent, there is hereby authorized to be established, in the manner provided herein, Fort Clatsop National Memorial.

【SEC. 2. The Secretary of the Interior shall designate for inclusion in Fort Clatsop National Memorial land and improvements thereon located in Clatsop County, Oregon, which are associated with the winter encampment of the Lewis and Clark Expedition, known as Fort Clatsop, and, also, adjacent portions of the old trail which led overland from the fort to the coast: *Provided*, That the total area so designated shall contain no more than one hundred and twenty-five acres.

【SEC. 3. Within the area designated pursuant to section 2, the Secretary of the Interior is authorized to acquire land and interests in land by purchase, donation, with donated funds, or by such other means as he deems to be in the public interest.

【SEC. 4. Establishment of Fort Clatsop National Memorial shall be effected when there is vested in the United States of America title to not less than one hundred acres of land associated with the historical events to be commemorated. Following its establishment, Fort Clatsop National Memorial shall be administered by the Secretary of the Interior pursuant to the Act of August 25, 1916 (39 Stat. 535), as amended.】

Approved May 29, 1958.

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