I

111TH CONGRESS
1ST SESSION

H. R. 714

To authorize the Secretary of the Interior to lease certain lands in Virgin Islands National Park, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 27, 2009

Mrs. CHRISTENSEN introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To authorize the Secretary of the Interior to lease certain lands in Virgin Islands National Park, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CANEEL BAY LEASE AUTHORIZATION.

(a) DEFINITIONS.—In this section:

(1) PARK.—The term "Park" means the Virgin Islands National Park.

(2) RESORT.—The term "resort" means the Caneel Bay resort on the island of St. John in the Park.

(3) RETAINED USE ESTATE.—The term "retained use estate" means the retained use estate for the Caneel Bay property on the island of St. John entered into between the Jackson Hole Preserve and the United States on September 30, 1983.

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

(b) LEASE AUTHORIZATION.—

(1) IN GENERAL.—If the Secretary determines that the long-term benefit to the Park would be greater by entering into a lease with the owner of the retained use estate than by authorizing a concession contract upon the termination of the retained use estate, the Secretary may enter into a lease for the operation and management of the resort.

(2) ACQUISITIONS.—The Secretary may—

(A) acquire associated property from the owner of the retained use estate; and

(B) on the acquisition of property under subparagraph (A), administer the property as part of the Park.

(3) AUTHORITY.—Except as otherwise provided by this section, a lease shall be in accordance with subsection (k) of section 3 of Public Law 91–383

(16 U.S.C. 1a–2(k)), notwithstanding paragraph (2) of that subsection.

(4) TERMS AND CONDITIONS.—A lease authorized under this section shall—

(A) be for the minimum number of years practicable, taking into consideration the need for the lessee to secure financing for necessary capital improvements to the resort, but in no event shall the term of the lease exceed 40 years;

(B) prohibit any transfer, assignment, or sale of the lease or otherwise convey or pledge any interest in the lease with prior written notification to, and approval by the Secretary;

(C) ensure that the general character of the resort property remains unchanged, including a prohibition against—

(i) any increase in the overall size of the resort; or

(ii) any increase in the number of guest accommodations available at the resort;

(D) prohibit the sale of partial ownership shares or timeshares in the resort; and

(E) include any other provisions determined by the Secretary to be necessary to protect the Park and the public interest.

(5) RENTAL AMOUNTS.—In determining the fair market value rental of the lease required under section 3(k)(4) of Public Law 91–383 (16 U.S.C. 1a–2(k)(4)), the Secretary shall take into consideration—

(A) the value of any associated property conveyed to the United States; and

(B) the value, if any, of the relinquished term of the retained use estate.

(6) USE OF PROCEEDS.—Rental amounts paid to the United States under a lease shall be available to the Secretary, without further appropriation, for visitor services and resource protection within the Park.

(7) CONGRESSIONAL NOTIFICATION.—The Secretary shall submit a proposed lease under this section to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives at least 60 days before the effective date of the lease.

(8) RENEWAL.—A lease entered into under this section may not be extended or renewed.

(9) TERMINATION.—Upon the termination of a lease entered into under this section, if the Secretary determines the continuation of commercial services at the resort to be appropriate, the services shall be provided in accordance with the National Park Service Concessions Management Improvement Act of 1998 (16 U.S.C. 5951 et seq.).

(c) RETAINED USE ESTATE.—

(1) IN GENERAL.—As a condition of the lease, the owner of the retained use estate shall terminate, extinguish, and relinquish to the Secretary all rights under the retained use estate and shall transfer, without consideration, ownership of improvements on the retained use estate to the National Park Service.

(2) APPRAISAL.—

(A) IN GENERAL.—The Secretary shall require an appraisal by an independent, qualified appraiser that is agreed to by the Secretary and the owner of the retained use estate to determine the value, if any, of the relinquished term of the retained use estate.

(B) REQUIREMENTS.—An appraisal under paragraph (1) shall be conducted in accordance with—

(i) the Uniform Appraisal Standards for Federal Land Acquisitions; and

(ii) the Uniform Standards of Professional Appraisal Practice.

○

Calendar No. 296

111TH CONGRESS
2D SESSION

H. R. 714

[Report No. 111–146]

IN THE SENATE OF THE UNITED STATES

FEBRUARY 24, 2009
Received; read twice and referred to the Committee on Energy and Natural Resources

MARCH 2, 2010
Reported by Mr. BINGAMAN, with amendments
[Omit the part struck through and insert the part printed in italic]

AN ACT

To authorize the Secretary of the Interior to lease certain lands in Virgin Islands National Park, and for other purposes.

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(1) IN GENERAL.—If the Secretary determines that the long-term benefit to the Park would be greater by entering into a lease with the owner of the retained use estate than by authorizing a concession contract upon the termination of the retained use estate, the Secretary may enter into a lease *with the owner of the retained use estate* for the operation and management of the resort.

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(B) on the acquisition of property under subparagraph (A), administer the property as part of the Park.

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(i) any increase in the overall size of the resort; or

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(D) prohibit the sale of partial ownership shares or timeshares in the resort; ~~and~~

(E) include provisions to ensure the protection of the natural, cultural, and historic features of the resort and associated property, consistent with the laws and policies applicable to property managed by the National Park Service; and

~~(E)~~*(F)* include any other provisions determined by the Secretary to be necessary to protect the Park and the public interest.

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Calendar No. 296

111TH CONGRESS
2D SESSION

H. R. 714

[Report No. 111–146]

AN ACT

To authorize the Secretary of the Interior to lease certain lands in Virgin Islands National Park, and for other purposes.

MARCH 2, 2010

Reported with amendments

IIB

111TH CONGRESS
1ST SESSION

H. R. 714

IN THE SENATE OF THE UNITED STATES

FEBRUARY 24, 2009

Received; read twice and referred to the Committee on Energy and Natural Resources

AN ACT

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(i) the Uniform Appraisal Standards for Federal Land Acquisitions; and

(ii) the Uniform Standards of Professional Appraisal Practice.

Passed the House of Representatives February 23, 2009.

Attest: LORRAINE C. MILLER,

Clerk.

AMENDMENT NO.________ Calendar No.______

Purpose: To improve the bill.

IN THE SENATE OF THE UNITED STATES—111th Cong., 1st Sess.

H. R. 714

To authorize the Secretary of the Interior to lease certain lands in Virgin Islands National Park, and for other purposes.

Referred to the Committee on ____________________ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by ______________

Viz:

On page 2, line 12, insert "(as amended, assigned, and assumed)" before the period.

On page 2, line 21, insert "with the owner of the retained use estate" before "for".

On page 3, line 19, strike "with" and insert "without".

On page 4, line 5, strike "and".

On page 4, between lines 5 and 6, insert the following:

(E) include provisions to ensure the protection of the natural, cultural, and historic features of the resort and associated property, consistent with the laws and policies applicable to property managed by the National Park Service; and

On page 4, line 6, strike "(E)" and insert "(F)".

On page 5, line 3, strike "effective date" and insert "award".

On page 5, line 24, strike "that" and insert "who".

NOTICE OF HEARING

Committee on Energy and Natural Resources

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before Committee on Energy and Natural Resources Subcommittee on National Parks.

The hearing will be held on Wednesday, July 15, 2009, at 2:30 p.m. in room SD-366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on the following bills:

S. 227, to establish the Harriet Tubman National Historical Park in Auburn, New York, and the Harriet Tubman Underground Railroad National Historical Park in Caroline, Dorchester, and Talbot Counties, Maryland, and for other purposes;

S. 625, to authorize the Secretary of the Interior to establish the Waco Mammoth National Monument in the State of Texas;

S. 853, to designate additional segments and tributaries of White Clay Creek, in the States of Delaware and Pennsylvania, as a component of the National Wild and Scenic Rivers System;

S. 1053, to amend the National Law Enforcement Museum Act to extend the termination date;

S. 1117, to authorize the Secretary of the Interior to provide assistance in implementing cultural heritage, conservation, and recreational activities in the Connecticut River watershed of the States of New Hampshire and Vermont;

S. 1168 and H.R. 1694, to authorize the acquisition and protection of nationally significant battlefields and associated sites of the Revolutionary War and the War of 1812 under the American Battlefield Protection Program; and

H.R. 714, to authorize the Secretary of the Interior to lease certain lands in Virgin Islands National Park, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510-6150, or by email to anna_fox@energy.senate.gov.

For further information, please contact David Brooks at (202) 224-9863 or Anna Fox at (202) 224-1219.

STATEMENT OF KATHERINE H. STEVENSON, ACTING DEPUTY DIRECTOR, SUPPORT SERVICES, NATIONAL PARK SERVICE, U.S. DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON NATIONAL PARKS OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES CONCERNING H.R. 714, A BILL TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO LEASE CERTAIN LANDS IN VIRGIN ISLANDS NATIONAL PARK, AND FOR OTHER PURPOSES.

JULY 15, 2009

Mr. Chairman, thank you for the opportunity to provide the Department of the Interior's views on H.R.714, a bill to authorize the Secretary of the Interior to lease certain lands in Virgin Islands National Park, and for other purposes.

The Department supports H.R. 714, with some minor amendments.

This legislation would allow the Secretary of the Interior to enter into a lease with the current holder of a retained use estate for property at Caneel Bay within Virgin Islands National Park after the termination of the retained use estate and donation of all improvements to the National Park Service (NPS). The Caneel Bay resort is one of two large resorts on the island of St. John. Located on a 150-acre peninsula on the northwest side of the island, this luxury resort has approximately 425 to 450 employees and serves as one of the primary economic engines for the U.S. Virgin Islands. A large number of employees travel daily to St. John from their residences on neighboring St. Thomas. The resort is also an Economic Development Center beneficiary and, as such, receives various tax exemptions from the Government of the Virgin Islands.

Lawrence Rockefeller established the Caneel Bay resort in 1956. In 1983, Jackson Hole Preserve, a Rockefeller corporation, donated the land at Caneel Bay to the United States Government for inclusion within Virgin Islands National Park and reserved to itself the right to continue its operations for 40 years under a retained use estate. Jackson Hole Preserve did not convey the improvements on the land to the United States at that time. The retained use estate will expire on September 30, 2023. The warranty deed stipulates that when the retained use estate terminates, the owner of the retained use estate must donate the buildings and other improvements to the NPS.

Enactment of H.R. 714 would allow the current holder of the retained use estate to negotiate a long-term lease, up to 40 years, with the NPS that could extend the Caneel Bay Resort operation well beyond the year 2023. Such an extension could allow the leaseholder to secure financing to undertake capital improvements that would most likely not be possible financially under the remaining term of the current retained use estate.

The NPS has evaluated various options for the future use and management of the Caneel Bay property. Based upon a value analysis, we believe that the continued future operation of Caneel Bay as a resort under a lease would provide the greatest advantage to the NPS and the U.S. Virgin Islands. A lease could provide economic and administrative benefits to the NPS and the lessee that are not available or not as viable as under a retained use estate or a concession contract, two of the other options that were examined.

Legislation is necessary because the NPS does not have the authority to enter into a noncompetitive lease under existing regulations (36 CFR §18, Leasing of Properties in Park Areas). The only exceptions to competitive leasing under the regulations are for leases to nonprofit organizations or units of government, and for leases of duration of 60 days or less.

We would like to stress that we are supporting this legislation because the Caneel Bay resort is an exceptional case. In general, where leasing has been determined to be appropriate in a national park unit, we support leasing through the usual competitive process, consistent with existing law and regulations.

H.R. 714 requires that the operations and maintenance of the resort be conducted in a manner consistent with the preservation and conservation of the resources and values of the park. Additionally, the lease authorized by the bill would address the continued protection, preservation, and restoration of the property's structures, many of which are more than 50 years old, and may be eligible for the National Register of Historic Places. The lease also would address the fair market value rent of the property, constraints on development of property during the term of the lease, and the ability to transfer the lease in the future.

The legislation also provides for the rental proceeds to be retained by the Virgin Islands National Park and used for visitor services and resource protection. It would require congressional notification at least 60 days prior to the effective date of the lease, similar to the requirement for large concession contracts. And, it would require the property's conversion to a concession operation after the lease expires if the Secretary determines continuation of commercial services at the resort to be appropriate. When the current retained use estate was created, there were three small properties that are integral to the operation of the Caneel Bay resort that were not included. These properties could be acquired by the NPS and included under the terms of the lease that would be authorized by H.R. 714.

We appreciate the many changes that have been made to this legislation since it was first introduced in the 110th Congress to help assure that the interests of Virgin Islands National Park, and the general public, would be protected if the Caneel Bay resort property is leased on a noncompetitive basis. We would like to work with the subcommittee on a few minor changes that would further clarify the bill language.

Mr. Chairman, this concludes my prepared remarks. I would be pleased to answer any questions you or other members of the subcommittee may have.

Background on HR 714, Virgin Islands NP Lease

H.R. 714, authorizing a lease of the Caneel Bay property at Virgin Islands National Park, was introduced by Del. Donna Christiansen (D-VI) in January. The House passed the bill February 24. No committee action occurred prior to passage.

This is the second Congress this bill has been considered. From the time it was introduced in the 110th Congress until the time it was reintroduced and passed in the House this Congress, the legislation was amended significantly – first in the House, prior to House passage, and then when House and Senate staff met on it after the Senate held a hearing on it. NPS had significant input into the amendments.

The bill provides for a noncompetitive lease for the Caneel Bay resort, which our Commercial Services office and Budget offices have concluded is the most beneficial option for NPS, given the difficulties presented by the terms of the retained use estate and the importance of this resort to the economy of the Virgin Islands.

While there has been hesitancy/skepticism about the noncompetitive lease idea for Caneel Bay from committee staff and within NPS, a lot of the concerns have been worked through. There should not be a lot of controversy from this point forward.

The amendments referred to in the testimony are relatively minor clarifications and are noncontroversial. They were given to the Senate committee last year but did not make it into H.R. 714.

Contact: Melissa Kuckro, 208-5682

Caneel Bay Retained Use Estate / Lease Proposed Questions

QUESTION 1) What is so special about Caneel Bay that would require us to use a lease instead of a concessions contract?

ANSWER: Caneel Bay is a special situation due to the existence of the Retained Use Estate. In 1983, Jackson Hole Preserve donated the land at Caneel Bay to the United States Government for inclusion within Virgin Islands National Park and reserved the right to continue its operations under a retained use estate (RUE). Jackson Hole Preserve did not convey the improvements on the land to the United States at that time. The RUE is scheduled to expire on September 30, 2023.

The current operator, CBI Acquisition, holds the CUA through 2023 and cannot be required to convert to a concession contract nor a lease. CBIA initially approached the NPS requesting a 50-year extension of the existing RUE in 2005. They stated they needed additional time on the RUE in order to make needed improvements to the property and to remain profitable and competitive in the local hotel market. Initially, the NPS was opposed to the concept of extending the RUE, and opposed to legislation enabling a sole source lease. However, the current operator has stated they are not interested in a concession contract and after review of the indenture agreement revealed limited operational oversight and control over the size of the resort, as well as ambiguous language regarding how the improvements would transfer to the NPS at the end of the RUE, the NPS reconsidered its position.

QUESTION 2) The Caneel Bay property is being run as a private resort. However, it is parkland and it does not seem to be great Park Service policy that no requirements have been placed on the resort operator to allow the land to be accessed by the public. Can you explain why this is so?

ANSWER: Under the current RUE, the NPS does not have the opportunity to place these types of requirements on the operator. It is important to note, however, that the grounds are open to the public as is the restaurant and bar facilities.

QUESTION 3) Who made the determination that a concessions contract would not work for the operation at this site?

ANSWER: No final determination has been made that a concession contract would not work. After review of the RUE, and preliminary conversations with the holder of the RUE, the NPS concluded that a concession contract is not a viable solution at this time. The existence of a RUE provides the operator certain rights that allow them to operate under the agreement until 2023. In this regard, they cannot be forced to terminate the RUE and enter into a concession contract. Transitioning from a RUE to a lease has benefits currently unavailable to the park:

- fair market value rent
- maintenance standards
- restrictions on expanding the size of the resort
- ensure all property transfers to the Government at the end of the lease at no cost

An additional factor is that CBI currently owns three parcels of property necessary to the operation of the RUE in fee simple ownership, and CIB has indicated a willingness to sell these parcels to the United States as part of this transaction.

QUESTION 4) Why and how is the Caneel Bay site different than similar lodging facilities in other parks?

ANSWER: The site itself is not that different. The existence of the RUE gives the operators certain rights that make it different.

The resort has approximately 450 employees and serves as one of the primary economic engines for the U.S. Virgin Islands.

QUESTION 5) How are other concessioners with similar lodging facilities able to obtain financing for their operations and for upkeep of the properties by using concessions contracts and why can this concessioner not do the same?

ANSWER: It is our understanding that financing in the Virgin Islands is considered a higher risk than financing similar facilities in the United States, primarily due to the risk factors associated with extreme weather.

QUESTION 6) Can you name any similar lodging operations in other parks that are using a lease instead of a concessions contract and how are they similar or different than the Caneel Bay operations?

ANSWER: There are two similar lodging facilities operating under a lease. Both of these operations are located in the Pacific West Region: the Argonaut Hotel in the San Francisco Maritime National Historic Park, and at Fort Baker in the Golden Gate National Recreation Area. Both facilities were historic buildings that were considered excess to park needs, and to preserve and restore them, the parks entered into long-term leasing agreements.

Follow-up responses after 2008 hearing

L58 (0120)

The Honorable Daniel K. Akaka
Chairman, Subcommittee on National Parks
Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Enclosed are responses to the follow-up questions from the hearing on several bills held by the Subcommittee on National Parks on June 17, 2008. These responses have been prepared by the National Park Service.

Thank you for giving us the opportunity to respond to you on these matters.

Sincerely,

Jane M. Lyder
Legislative Counsel
Office of Legislative and Congressional Affairs

Enclosure

cc: Honorable Richard Burr, Ranking Minority Member

S:OLCA/reference/Follow up hearing info/110th - 6/17/2008- Diamond Kelly- 8/11/2008

Questions from Chairman Jeff Bingaman:

H.R. 1143 - Caneel Bay Resort Lease in Virgin Islands National Park

Introduction to responses: In order to answer the questions posed by the Committee, we are providing some background information regarding the Caneel Bay retained use estate (RUE) and actions taken to date by the National Park Service (NPS).

CBI Acquisitions, LLC (CBI) acquired the RUE from Caneel Bay, Inc. in 2004. In 2005, CBI approached the NPS requesting a 50-year extension of the existing RUE. CBI stated that they needed additional time on the RUE in order to make needed improvements to the property and to remain profitable and competitive in the local hotel market. The NPS is opposed to the concept of extending the RUE, and initially proposed the use of a concession contract for operations at Caneel Bay. CBI stated that they were not interested in a concession contract, but would be interested in a long-term lease. To analyze CBI's request and NPS' options, NPS hired a consulting firm, PriceWaterhouseCoopers, and their lodging expert, Lodging Investment Advisors (LIA). LIA analyzed the main options available to the NPS regarding the RUE, including conversion to a concession contract now or at the termination of the RUE, conversion to a lease now, and a land exchange coupled with the establishment of a new RUE with CBI. LIA also explored a status quo or no-action scenario, as well as demolition of the improvements at the end of the RUE. The consultants noted the following:

- Given the Caneel Bay resort's condition and operating constraints, it is likely that none of the potential options available to the NPS regarding the RUE would create near-term significant financial benefit to the NPS. This is because the resort experienced financial difficulties beginning in 1989 and was under bank ownership for approximately 15 years. During this period, capital reinvestment in the resort was limited and today significant deferred maintenance exists for the resort infrastructure. In addition, the resort has very high fixed operating costs, limiting profitability.
- There are three parcels of land owned by CBI in fee simple outside of the RUE that are important to the resort operations that complicate any resolution of these issues.
- The existing RUE does not provide adequate authorization for NPS oversight over maintenance and construction within the RUE.

After reviewing LIA's analysis, and after further conversations with CBI regarding its inability to obtain financing, the NPS reexamined its position regarding a lease. The NPS also determined that a sole-source lease to CBI would require legislation.

1. H.R. 1143 provides for a lease for a term not to exceed 40 years. Has the National Park Service conducted any analysis to determine what the appropriate length of the lease should be?

Answer: The NPS has conducted an initial analysis. However, the final determination of the term would occur as part of any negotiation, and in accordance with the language of the statute authorizing the lease.

2. It's my understanding that a concession contract may not exceed a term of 20 years. Have companies providing lodging services in national park system units under concession contracts been able to obtain financing for capital improvements?

Answer: Yes, concessioners have been able to obtain financing.

3. H.R. 1143 requires the Secretary of the Interior to require appraisals to determine the property's fair market value rent, as determined by appraisals. Given the unique nature and location of the Caneel Bay property, what do you expect to use as comparable properties?

Answer: We believe there are several similar properties in the Virgin Islands. The appraiser would be responsible for determining the comparables.

4. Section 2(b) of H.R. 1143 requires any lease to include "the property covered by the RUE and any associated property owned by CBI donated to the National Park Service." What associated property is CBI planning to donate to the Park Service? Does this paragraph cover different associated property than that described in paragraph 3(e), which requires the lease to take into account the value of any associated property transferred by CBI to the National Park Service?

Answer: We believe that the intent of the legislation is that the term "property covered by the RUE" includes the real property improvements constructed on the RUE, and that the term "associated property" which may be donated or otherwise conveyed to the NPS identifies the three parcels of real property currently held in fee simple ownership by CBI.

5. Section 3 of H.R. 1143 provides that "as a condition of the lease, CBI shall relinquish to the Secretary all rights under the RUE and transfer, without compensation, ownership of improvements covered by the RUE to the United States." Section 2(c) requires the lease to require payment to the United States of the property's fair market value rent, taking into account the value of any associated property transferred by CBI…"

a Does the National Park Service interpret these provisions to require that CBI will receive no compensation for any property or improvements covered by the RUE, but will receive compensation for any associated property conveyed to the National Park Service?

Answer: Yes.

b. Under the terms of the RUE, is CBI entitled to any compensation for any structures or improvements covered by the RUE?

Answer: No. The RUE and related documents provide that the improvements must be transferred without compensation by CBI to the NPS at the termination of the RUE.

6. Please provide a list of the specific properties owned by CBI that would be conveyed to the National Park Service as "associated property".

Answer: CBI owns in fee three parcels that are outside of the RUE:

- Parcel 5 comprises 1.01 acres. There are three houses on the site used for executive housing.
- Parcel 12 comprises 1.69 acres. There is an apartment building on the site with 24 units used for employee housing.
- Parcel 12D comprises 0.31 acres. There is a marina on the site used for ferry docking and maintenance, as well as fuel sales, and a support building.

7. Please provide a copy of the retained use estate referenced in H.R. 1143.

Answer: We will provide the document to the committee under separate cover.

8. If Caneel Bay operates under the lease authorized under H.R. 1143, will the resort grounds and beaches be limited to use by guests of the resort, or will they be available for use by park visitors in general? If the general public (other than resort guests) will not be allowed use of the Caneel Bay grounds and beaches, please explain how that restriction is in the public interest.

Answer: The NPS could negotiate public access as part of the lease terms.

9. Does the National Park Service allow any concession operators of hotels or lodging establishments at any other park to preclude public access (other than guests of the lodge) to large areas of public parkland?

Answer: We are not aware of any concessions with such restrictions.

Questions from Senator Richard Burr:

10. Sequoia-Kings Canyon Wilderness Designation (S. 1774):

United States Department of the Interior

NATIONAL PARK SERVICE
1849 C Street, N.W.
Washington, D.C. 20240

IN REPLY REFER TO:

MAR 11 2009

L58 (0120)

Memorandum

To: Legislative Counsel

Through: ~~Assistant Secretary~~ FWP Jane Lyder

From: Acting Director Daniel N. Wenk

Subject: Views on H.R. 714, Virgin Island NP Caneel Bay Resort lease authority

This memo is in response to a request from the Office of Management and Budget for views on H.R. 714 (Donna Christensen, D-VI), to authorize the Secretary of the Interior to lease certain lands in Virgin Islands National Park. The bill passed the House on February 23, 2009 without prior committee action. If this legislation had been the subject of a hearing, the National Park Service (NPS) would have recommended that the Department testify in support the bill.

H.R. 714 would allow the NPS to enter into a lease with the current holder of the retained use estate (RUE) for the Caneel Bay resort property on the island of St. John, subject to certain terms and conditions. The RUE, which dates to 1983 when Laurance S. Rockefeller and the Jackson Hole Preserve donated the land at Caneel Bay to the United States for inclusion in the Virgin Islands National Park, is scheduled to expire in 2023. Enactment of H.R. 714 would enable the holder of the RUE to negotiate a long-term lease (up to 40 years) with NPS.

Although the issuance of a non-competitive lease to a commercial operator within a national park unit would not be permitted under current law, the NPS believes that issuance of a lease for this particular property merits an exception. NPS has evaluated various options for the future use and management of the Caneel Bay property and has identified leasing to the current holder of the RUE as the one that would likely provide greater advantages to the NPS and to the U.S. Virgin Islands than other options A long-term lease would allow the leaseholder to secure the necessary financing for needed improvements and other operational measures that would help ensure the viability of the resort while giving NPS the immediate ability to ensure protection of park resources as well as the potential to receive a financial return on the property. Without such a lease, the RUE would continue under its current terms until 2023.

During the 110th Congress, the Department testified in the House and Senate on legislation similar to H.R. 714. In both cases the testimony supported the intent of the legislation but sought additional terms and conditions for the lease. NPS believes that the revised language authorizing the lease contained in H.R. 714 meets our concerns about protecting both park resources and the financial interests of the Federal government. While there are some relatively minor amendments we would recommend if the opportunity presented itself, we do not anticipate any problems implementing the legislation if Congress enacts it in its current form.

Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

□ 1530

VIRGIN ISLANDS NATIONAL PARK LAND LEASE

Ms. BORDALLO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 714) to authorize the Secretary of the Interior to lease certain lands in Virgin Islands National Park, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 714

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CANEEL BAY LEASE AUTHORIZATION.

(a) DEFINITIONS.—In this section:

(1) PARK.—The term "Park" means the Virgin Islands National Park.

(2) RESORT.—The term "resort" means the Caneel Bay resort on the island of St. John in the Park.

(3) RETAINED USE ESTATE.—The term "retained use estate" means the retained use estate for the Caneel Bay property on the island of St. John entered into between the Jackson Hole Preserve and the United States on September 30, 1983.

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

(b) LEASE AUTHORIZATION.—

(1) IN GENERAL.—If the Secretary determines that the long-term benefit to the Park would be greater by entering into a lease with the owner of the retained use estate than by authorizing a concession contract upon the termination of the retained use estate, the Secretary may enter into a lease for the operation and management of the resort.

(2) ACQUISITIONS.—The Secretary may—

(A) acquire associated property from the owner of the retained use estate; and

(B) on the acquisition of property under subparagraph (A), administer the property as part of the Park.

(3) AUTHORITY.—Except as otherwise provided by this section, a lease shall be in accordance with subsection (k) of section 3 of Public Law 91–383 (16 U.S.C. 1a–2(k)), notwithstanding paragraph (2) of that subsection.

(4) TERMS AND CONDITIONS.—A lease authorized under this section shall—

(A) be for the minimum number of years practicable, taking into consideration the need for the lessee to secure financing for necessary capital improvements to the resort, but in no event shall the term of the lease exceed 40 years;

(B) prohibit any transfer, assignment, or sale of the lease or otherwise convey or pledge any interest in the lease with prior written notification to, and approval by the Secretary;

(C) ensure that the general character of the resort property remains unchanged, including a prohibition against—

(i) any increase in the overall size of the resort; or

(ii) any increase in the number of guest accommodations available at the resort;

(D) prohibit the sale of partial ownership shares or timeshares in the resort; and

(E) include any other provisions determined by the Secretary to be necessary to protect the Park and the public interest.

(5) RENTAL AMOUNTS.—In determining the fair market value rental of the lease required under section 3(k)(4) of Public Law 91–383 (16 U.S.C. 1a–2(k)(4)), the Secretary shall take into consideration—

(A) the value of any associated property conveyed to the United States; and

(B) the value, if any, of the relinquished term of the retained use estate.

(6) USE OF PROCEEDS.—Rental amounts paid to the United States under a lease shall be available to the Secretary, without further appropriation, for visitor services and resource protection within the Park.

(7) CONGRESSIONAL NOTIFICATION.—The Secretary shall submit a proposed lease under this section to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives at least 60 days before the effective date of the lease.

(8) RENEWAL.—A lease entered into under this section may not be extended or renewed.

(9) TERMINATION.—Upon the termination of a lease entered into under this section, if the Secretary determines the continuation of commercial services at the resort to be appropriate, the services shall be provided in accordance with the National Park Service Concessions Management Improvement Act of 1998 (16 U.S.C. 5951 et seq.).

(c) RETAINED USE ESTATE.—

(1) IN GENERAL.—As a condition of the lease, the owner of the retained use estate shall terminate, extinguish, and relinquish to the Secretary all rights under the retained use estate and shall transfer, without consideration, ownership of improvements on the retained use estate to the National Park Service.

(2) APPRAISAL.—

(A) IN GENERAL.—The Secretary shall require an appraisal by an independent, qualified appraiser that is agreed to by the Secretary and the owner of the retained use estate to determine the value, if any, of the relinquished term of the retained use estate.

(B) REQUIREMENTS.—An appraisal under paragraph (1) shall be conducted in accordance with—

(i) the Uniform Appraisal Standards for Federal Land Acquisitions; and

(ii) the Uniform Standards of Professional Appraisal Practice.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Guam (Ms. BORDALLO) and the gentleman from Utah (Mr. BISHOP) each will control 20 minutes.

The Chair recognizes the gentlewoman from Guam.

GENERAL LEAVE

Ms. BORDALLO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Guam?

There was no objection.

Ms. BORDALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to commend our distinguished colleague from the Virgin Islands, a valuable member of the Committee on Natural Resources, DONNA CHRISTENSEN, for sponsoring H.R. 714. This legislation would authorize the National Park Service to continue its successful relationship with Caneel Bay Resort, ensure that park resources are protected, and allow the resort to undertake needed maintenance and improvement programs that will benefit visitors to the Virgin Islands National Park and the Caneel Bay Resort well into the future.

Mr. Speaker, this legislation was approved by the House in the previous Congress, but was not considered in the other body. It should be noted, however, that H.R. 714 includes some technical changes suggested by our colleagues in the Senate after hearings were conducted on the bill last year.

Congresswoman CHRISTENSEN deserves our thanks for her work in ensuring that visitor services at the Virgin Islands National Park are available and that the park's stunning natural resources are always protected.

I urge my colleagues to support the passage of H.R. 714.

Mr. Speaker, I reserve the balance of my time.

Mr. BISHOP of Utah. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill has been adequately explained by the other side and we support this legislation.

I reserve my time.

Ms. BORDALLO. Mr. Speaker, I yield such time as she may consume to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN), the author of this legislation.

Mrs. CHRISTENSEN. Mr. Speaker, I thank Congresswoman BORDALLO for those kind words and for yielding me time.

I rise, of course, in strong support of H.R. 714, legislation that I introduced to authorize the Secretary of the Interior to enter into a lease with the owners of Caneel Bay Resort in my congressional district. I want to begin by thanking Chairman RAHALL, as well as Chairman GRIJALVA, for their strong and steadfast support of this bill. Chairman GRIJALVA actually traveled to my district to see for himself how important the resort is to the island and the people of St. John and to meet with not only the management, but the employees, because it is important to the entire Virgin Islands.

Mr. Speaker, Caneel Bay traces its roots to Lawrence Rockefeller's coming to the Island of St. John in 1952. He purchased the then-existing resort facilities and also acquired more than 5,000 surrounding acres to protect the area. In 1956, he donated the additional land to create the Virgin Islands National Park. At the same time, he created Caneel Bay Resort, comprising 170 acres, which continues to complement and be environmentally consistent with the natural beauty of the park's setting.

Mr. Rockefeller subsequently decided to transfer the land underlying Caneel Bay to the National Park Service while retaining the improvements and continuing the Caneel Bay operations. He accomplished this through the execution of a series of unique agreements generally known as a retained use estate, or RUE.

The bill before us is necessary because the RUE is slated to expire in 2023 and its current owners require more than the remaining 15 years to provide the capital and long-term financing necessary to reverse the decline of the facilities over the years and to return it to the grandeur and stature that it deserves. It has been impossible for them to get that financing with just 15 years remaining in the RUE.

Mr. Speaker, I have spent the last 4 years meeting with the National Park Service officials, representatives of the Rockefeller group, and various public officials and business partners to work out an equitable framework for the long-term lease with the National Park Service which will ensure the viability of the Caneel Bay Resort, the largest employer on St. John in the U.S. Virgin Islands.

In return for a long-term lease needed to ensure the infusion of capital funds, the owners have agreed to pay consideration to the government based on independent appraisals commissioned by the parties, which will include valuable land and buildings held by them outside the park but which are necessary for resort operations. No consideration is currently being paid to the government under the existing retained use estate which expires in 2023.

Mr. Speaker, Caneel Bay, along with virtually every business in the Virgin Islands, and I would say across the country, has suffered a dramatic decline in revenue and, in our case, future bookings. The company is being forced to make some very difficult decisions in an attempt to preserve its solvency so that it may survive this economic downturn. They are currently reducing employees' hours, have been forced to eliminate some positions and are laying off employees. They are making every effort to minimize losses due to the deepening economic recession as well as alleviate the impact on our long-term employees who are also struggling in this economic environment.

The bill was supported by the administration at hearings both in the House and Senate as the best means of conclusively addressing this issue.

In conclusion, Mr. Speaker, I want to thank the Natural Resources staff director, Jim Zoia, and the staff of the National Parks, Forest and Public Lands Subcommittee, in particular former staff director Rick Healy and current staff director Dave Watkins, for their hard work in making it possible for H.R. 714 to be on the floor today. I also want to thank the full committee ranking member, DOC HASTINGS, and subcommittee ranking member, ROB BISHOP, and their staffs for their support as well.

I urge my colleagues to support the passage of this bill, which is very important to the economy of my district and the U.S. Virgin Islands.

Mr. BISHOP Of Utah. Mr. Speaker, I yield back the balance of my time.

Ms. BORDALLO. Mr. Speaker, I again urge Members to support H.R. 714, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Guam (Ms. BORDALLO) that the House suspend the rules and pass the bill, H.R. 714.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

HONORING APACHE LEADER GOYATHLAY

Ms. BORDALLO. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 132) honoring the life and memory of the Chiricahua Apache leader Goyathlay or Goyaale, also known as Geronimo, and recognizing the 100th anniversary of his death on February 17, 2009, as a time of reflection and the commencement of a "Healing" for all Apache people.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 132

Whereas Goyathlay or Goyaalé, called Geronimo by the soldiers against whom he fought, was born in June 1829 to the Bedonkohe band of the Apache people in No-Doyohn Canyon on the Gila River, which was then part of Mexico;

Whereas in 1858, Mexican soldiers attacked the Bedonkohe people within the current borders of Mexico, setting in motion a war between that nation and the Apache that would last for three decades;

Whereas Goyathlay, a spiritual and intellectual leader, became recognized as a great military leader by his people because of his courage, determination, and skill;

Whereas Goyathlay led his people in a war of self-defense as their homeland was invaded by the citizens and armies first of Mexico, and then of the United States;

Whereas that homeland was healthy, thriving, and beautiful with ample running water, extensive grasslands, and ancient forests and was a place beloved and revered by the Apache people, who had lived there for countless generations;

Whereas Goyathlay's band, along with other Apache peoples, were forcibly removed by the United States Army, interned at San Carlos, Arizona, subjugated, and deprived of their rights as a free people, including the right to practice their traditional spiritual beliefs and maintain long-standing political and social structures;

Whereas Goyathlay led fewer than 150 men, women, and children out of captivity and for several years evaded fighting forces consisting of one-quarter of the standing United States Army, as well as thousands of Mexican soldiers;

Whereas upon surrendering to Unites States forces, Goyathlay and his band were promised a return to their homeland but were instead interned in military prisons in Florida and Alabama, far from their homeland;

Whereas Goyathlay, promised respect as a prisoner of war, was put to hard labor for eight years;

Whereas Goyathlay and other Apache prisoners of war were removed to Fort Sill, Oklahoma, in 1894;

Whereas after his death on February 17, 1909, Goyathlay was not granted the promised return to his homeland but instead was buried in the military cemetery at Fort Sill;

Whereas Goyathlay's byname, "Geronimo", became a war cry uttered by paratroopers fighting against the totalitarian enemies of the United States during World War II, a name used with respect and honor for a great warrior and leader;

Whereas to this day, the Apache people continue to honor and hold sacred what Goyathlay represented to a people separated and destroyed by historic and disruptive United States governmental policies of the past; and

Whereas there still exists a need for spiritual healing among Apache people, stemming from the captivity and mistreatment of their ancestors under past policies of the United States Government, that can commence by honoring the memory of Goyathlay and his valiant efforts to preserve traditional Apache ways of life and the health of Ni'gosdzá'n, the Earth: Now, therefore, be it

Resolved, That the House of Representatives—

(1) honors the life of Goyathlay, his extraordinary bravery, and his commitment to the defense of his homeland, his people, and Apache ways of life; and

(2) recognizes the 100 anniversary of the death of Goyathlay as a time of reflection of his deeds on behalf of his people.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Guam (Ms. BORDALLO) and the gentleman from Utah (Mr. BISHOP) each will control 20 minutes.

The Chair recognizes the gentlewoman from Guam.

GENERAL LEAVE

Ms. BORDALLO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Guam?

There was no objection.

Ms. BORDALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 132 honors the life and the memory of the great Apache leader known to many of us as Geronimo. Last week, February 17 marked the 100th anniversary of his death.

Geronimo began as the spiritual and intellectual leader of his people. Circumstance, in the manner of attack by the armies of first Mexico and then the United States, cultivated his keen military skill and determination.

The story of Geronimo shows us some of the paradox that is the United States. We hunted this man as a perceived threat to the security of our young, developing Nation in the West. When he surrendered, we broke promises and mistreated him, ensuring he would never see his homeland again. Yet, half a century later, our U.S. paratroopers used the name of Geronimo as a battle cry against our enemies in World War II. Using the name "Geronimo" was meant to instill fear in

THE FUTURE OF CANEEL BAY RESORT

Background

Caneel Bay Resort was established in 1956 by Laurance S. Rockefeller and Jackson Hole Preserve. In 1983, Jackson Hole Preserve donated approximately 150 acres of land at Caneel Bay to the United States Government for inclusion within Virgin Islands National Park. The hotel operation was permitted to continue under a "Retained Use Estate" which is scheduled to terminate no later than September 30, 2023. The Warranty Deed presently stipulates that when the Retained Use Estate terminates, the owner of the Retained Use Estate will be required to convey the buildings and other improvements to the National Park Service (NPS).

Caneel Bay has been established as a "Rockresort" and caters to an upscale clientele that stay an average of 6 nights and 7 days. The resort has a high repeat clientele. The amenities and services available at Caneel includes, 166 guest rooms, 3 restaurants,1 beach bar, 11 tennis courts, one pool, 7 beaches, a fitness center, and a self centre offering yoga, pilates, and 4 massage therapy rooms. In addition to these services, Caneel Bay also offers a variety of watersports equipment and activities for their guests' use and enjoyment, ranging from sailing to snorkeling.

The hotel consists of all single rooms, with small seating areas as well as a balcony or patio for each room. There are no televisions or telephones in the rooms. Air conditioning was recently added to all units. During the peak winter season, rates range from $450 upwards to $1,350 per night per room. Summer rates span from $350 to $875 per room per night based on double occupancy. Rates do not include meals, but does include the use of non-motorized watersports equipment e. g. kayaks, windsurfing boards, floats, snorkel gear, and sunfish boats.

The resort employs approximately 425 to 450 employees and serves as one of the primary economic engines for the island of St. John and employs a large number of employees from St. Thomas. The resort also has a unionized workforce covering the wait staff, grounds and maintenance, as well as the housekeeping staff. Caneel Bay currently is an Economic Development Center (EDC) beneficiary and receives various tax exemptions from the V.I. Government. It is one of two resorts on the island of St. John.

Options for the future use and management of Caneel Bay Resort

Option I: **Continued private operation of Caneel Bay through an extended retained use estate.**

Caneel Bay would continue to operate independently and be eligible for any tax incentive benefits from the V.I. government. Its significant contributions to the economy of St. John and the Virgin Islands as a whole would remain in tact. Caneel's relationship with the Park would continue; it would also continue to maintain the premises in a manner consistent with NPS conservation and preservation values. The resort plays an important role in the St. John community and partners with several local and government agencies to effect positive change. However, the NPS would receive very little economic benefit as owner of the property.

Option II: **Operation of Caneel Bay under a Category I Concessions Contract.**

The NPS would maintain operational oversight and ensure contract compliance and financial accountability. The possibility exists that Caneel would not be eligible for EDC benefits as a concessionaire, making it less lucrative to operate. As a concessions operation, the Park would benefit from the collection of a significant amount of franchise fees. It is important to note that if Caneel is operated under a concessions contract, the Park will be burdened with the payout of possessory interest at the closure of the contract, which could possibly amount to millions of dollars. Under this option the Park Service concessions staffing levels would have to be increased to oversee an operation of such magnitude and complexity. Concessions contracts are generally limited to periods of 10 years, which may not give the operator reasonable time to make a return on their capital investments. Concessions contracts are competitively awarded and current owners may not necessarily be awarded the contract. The NPS will also have to conduct a Feasibility Study to determine the economic sustainability/viability of such a venture.

Option III: **Operation of Caneel Bay under a Historic Property Lease.**

The NPS would lease the property through a cooperative agreement ensuring the continued preservation of the property. The leasee would pay the NPS fair market value for the lease taking into consideration the necessary adjustments for the leasee's investments. The NPS would not provide any operational oversight of the operation. The buildings and structures contained therein would be maintained, repaired, or constructed by the leasee, in accordance with NPS standards, policies and guidelines. Historic leases are also competitively offered.

The Historic Leasing option, if applicable, would provide the following to NPS:

- The Park would receive fair market value for this lease with minimal impacts to Park operations and concessions staffing.
- The operations, grounds, buildings etc. would be kept in a manner that is consistent with NPS conservation and preservation values.
- The operator would be entitled to receive tax incentive packages.
- The leasing option does not have to withstand the scrutiny of a resort being considered a "necessary and appropriate" concessions contract.

- The Park will not be liable for a multi-million dollar payout in possessory interest once a concessions contract is terminated.

- The precedent for extension of the existing Retained Use Estate would not be established.

- Lease and cooperative agreements may extend up to 50 years.

Finally, it is recommended that the NPS enter into a contract with a consulting firm that will fully analyze the various options available for the future operation of Caneel Bay. If not, then perhaps a team of NPS subject-matter experts be assembled to analyze and study the future use of the resort. Moreover, at some point the DOI's Solicitor's Office should be contacted for the purpose of rendering a legal opinion to ensure that the options would be consistent with the terms and conditions of the warranty deed.

United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

AUG 2 4 2009

L58 (0120)

BY SPECIAL MESSENGER

The Honorable Jeff Bingaman
Chairman
Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Enclosed is the transcript of the hearing on several bills relating to the National Park Service held on July 15, 2009, before the Subcommittee on National Parks of the Senate Committee on Energy and Natural Resources.

The transcript has been reviewed and corrected by the Department's witness, Ms. Katherine H. Stevenson, Acting Deputy Director, Support Services of the National Park Service.

Thank you for the opportunity to review the transcript.

Sincerely,

Christopher P. Salotti
Legislative Counsel
Office of Congressional and
Legislative Affairs

Enclosure

ORIGINAL FOUND IN HR 1694

Stenographic Transcript
Before the

SUBCOMMITTEE ON
NATIONAL PARKS

COMMITTEE ON ENERGY & NATURAL
RESOURCES

UNITED STATES SENATE

HEARING TO RECEIVE TESTIMONY ON
S. 227, S. 625, S. 853, S. 1053, S. 1117, S. 1168,
H.R. 1694, AND H.R. 714

Wednesday, July 15, 2009

Washington, D.C.

ALDERSON REPORTING COMPANY
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WASHINGTON, D.C. 20036
(202) 289-2260

United States Senate

COMMITTEE ON
ENERGY AND NATURAL RESOURCES
WASHINGTON, DC 20510-6150

ENERGY.SENATE.GOV

July 28, 2009

Katherine H. Stevenson
Acting Deputy Director
National Park Service
Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Dear Ms. Stevenson:

I would like to take this opportunity to thank you for testifying at the July 15, 2009 Subcommittee on National Parks hearing to consider several bills, including S. 227, to establish the Harriet Tubman National Historical Park in Auburn, New York, and the Harriet Tubman Underground Railroad National Historical Park in Caroline, Dorchester, and Talbot Counties, Maryland, and for other purposes; S. 625, to authorize the Secretary of the Interior to establish the Waco Mammoth National Monument in the State of Texas; S. 853, to designate additional segments and tributaries of White Clay Creek, in the States of Delaware and Pennsylvania, as a component of the National Wild and Scenic Rivers System; S. 1053, to amend the National Law Enforcement Museum Act to extend the termination date; S. 1117, to authorize the Secretary of the Interior to provide assistance in implementing cultural heritage, conservation, and recreational activities in the Connecticut River watershed of the States of New Hampshire and Vermont; S. 1168 and H.R. 1694, to authorize the acquisition and protection of nationally significant battlefields and associated sites of the Revolutionary War and the War of 1812 under the American Battlefield Protection Program; and H.R. 714, to authorize the Secretary of the Interior to lease certain lands in Virgin Islands National Park, and for other purposes.

I am enclosing a list of questions which have been submitted for the record. If possible, please respond to these questions by Tuesday, August 11, 2009. Thank you for your assistance. If you have any questions, please have your staff contact David Brooks by phone at (202) 224-9863 or by email at david_brooks@energy.senate.gov.

Sincerely,

Mark Udall

Mark Udall
Chairman
Subcommittee on National Parks

United States Department of the Interior

NATIONAL PARK SERVICE
1849 C Street, N.W.
Washington, D.C. 20240

IN REPLY REFER TO:

NOV 0 4 2010

Memorandum

To: Regional Director, Southeast Region
Associate Director, Business Services

From: Director

Subject: Activation: P.L. 111-261, Virgin Islands National Park Lease Authority

On October 8, 2010, President Obama approved H.R. 714, to authorize the Secretary of the Interior to lease certain lands in Virgin Islands National Park, and for other purposes, as Public Law 111-261. The act authorizes the Secretary to lease the Caneel Bay resort within the park to the current owner of the property's reserved use estate, for up to 40 years, if the owner relinquishes the reserved use estate.

Delegate Donna M. Christensen (D-VI) introduced H.R. 714 on January 27, 2009. The House passed the bill by voice vote on February 23, 2009. No committee action occurred in the House, but during the 110th Congress, the House Natural Resources Committee held a hearing on and reported a similar bill, H.R. 1143.

The Subcommittee on National Parks of the Senate Committee on Energy and Natural Resources held a hearing on H.R. 714 on July 15, 2009. On December 16, 2009, the committee approved the bill with amendments. The Senate passed the bill, amended, by unanimous consent on May 13, 2010. The House agreed to the Senate-amended bill on September 28, 2010.

Summary of Public Law 111-261:

Section 1(a) provides definitions used in the act.

Section 1(b) authorizes the Secretary to enter into a lease with the owner of the retained use estate for operation of the Caneel Bay resort, if the Secretary determines that the long-term benefit to Virgin Islands National Park would be greater than by authorizing a concession contract upon termination of the retained use estate. This subsection also allows the Secretary to acquire associated property from the owner of the resort. It specifies certain terms and conditions for the lease including a limit of 40 years, a prohibition on changing the size of the resort, and a requirement to include provisions to ensure the protection of the natural, cultural, and historic features of the resort. It provides for proceeds from the lease to be used for visitor services and resource protection within the park. It also provides for the conversion to a concession contract at the end of the lease if the Secretary determines that a continuation of commercial services at the property is appropriate.

Section 1(c) requires the owner of the retained use estate, as a condition of the lease, to terminate all rights of the retained use estate and transfer ownership of the improvements on the property to the National Park Service. It also provides for the Secretary and the owner of the retained used estate to agree on the appraiser used to value the property.

Responsibility: Regional Director, Southeast Region
Associate Director, Business Services

Attachments:

P.L. 111-261
Congressional Record: February 23, 2009, House passage
Senate Report 111-146
Congressional Record: May 13, 2010, Senate passage
Congressional Record: September 28, 2010, House passage of Senate-amended bill

Public Law 111–261
111th Congress

An Act

To authorize the Secretary of the Interior to lease certain lands in Virgin Islands National Park, and for other purposes.

Oct. 8, 2010
[H.R. 714]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CANEEL BAY LEASE AUTHORIZATION.

16 USC 398d note.

(a) DEFINITIONS.—In this section:

(1) PARK.—The term "Park" means the Virgin Islands National Park.

(2) RESORT.—The term "resort" means the Caneel Bay resort on the island of St. John in the Park.

(3) RETAINED USE ESTATE.—The term "retained use estate" means the retained use estate for the Caneel Bay property on the island of St. John entered into between the Jackson Hole Preserve and the United States on September 30, 1983 (as amended, assigned, and assumed).

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

(b) LEASE AUTHORIZATION.—

(1) IN GENERAL.—If the Secretary determines that the long-term benefit to the Park would be greater by entering into a lease with the owner of the retained use estate than by authorizing a concession contract upon the termination of the retained use estate, the Secretary may enter into a lease with the owner of the retained use estate for the operation and management of the resort.

(2) ACQUISITIONS.—The Secretary may—

(A) acquire associated property from the owner of the retained use estate; and

(B) on the acquisition of property under subparagraph (A), administer the property as part of the Park.

(3) AUTHORITY.—Except as otherwise provided by this section, a lease shall be in accordance with subsection (k) of section 3 of Public Law 91–383 (16 U.S.C. 1a–2(k)), notwithstanding paragraph (2) of that subsection.

(4) TERMS AND CONDITIONS.—A lease authorized under this section shall—

(A) be for the minimum number of years practicable, taking into consideration the need for the lessee to secure financing for necessary capital improvements to the resort, but in no event shall the term of the lease exceed 40 years;

(B) prohibit any transfer, assignment, or sale of the lease or otherwise convey or pledge any interest in the lease without prior written notification to, and approval by the Secretary;

(C) ensure that the general character of the resort property remains unchanged, including a prohibition against—

(i) any increase in the overall size of the resort; or

(ii) any increase in the number of guest accommodations available at the resort;

(D) prohibit the sale of partial ownership shares or timeshares in the resort;

(E) include provisions to ensure the protection of the natural, cultural, and historic features of the resort and associated property, consistent with the laws and policies applicable to property managed by the National Park Service; and

(F) include any other provisions determined by the Secretary to be necessary to protect the Park and the public interest.

(5) RENTAL AMOUNTS.—In determining the fair market value rental of the lease required under section 3(k)(4) of Public Law 91–383 (16 U.S.C. 1a–2(k)(4)), the Secretary shall take into consideration—

(A) the value of any associated property conveyed to the United States; and

(B) the value, if any, of the relinquished term of the retained use estate.

(6) USE OF PROCEEDS.—Rental amounts paid to the United States under a lease shall be available to the Secretary, without further appropriation, for visitor services and resource protection within the Park.

Deadline.

(7) CONGRESSIONAL NOTIFICATION.—The Secretary shall submit a proposed lease under this section to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives at least 60 days before the award of the lease.

(8) RENEWAL.—A lease entered into under this section may not be extended or renewed.

(9) TERMINATION.—Upon the termination of a lease entered into under this section, if the Secretary determines the continuation of commercial services at the resort to be appropriate, the services shall be provided in accordance with the National Park Service Concessions Management Improvement Act of 1998 (16 U.S.C. 5951 et seq.).

(c) RETAINED USE ESTATE.—

Transfer authority.

(1) IN GENERAL.—As a condition of the lease, the owner of the retained use estate shall terminate, extinguish, and relinquish to the Secretary all rights under the retained use estate and shall transfer, without consideration, ownership of improvements on the retained use estate to the National Park Service.

(2) APPRAISAL.—

(A) IN GENERAL.—The Secretary shall require an appraisal by an independent, qualified appraiser who is agreed to by the Secretary and the owner of the retained use estate to determine the value, if any, of the relinquished term of the retained use estate.

(B) REQUIREMENTS.—An appraisal under paragraph (1) shall be conducted in accordance with—

(i) the Uniform Appraisal Standards for Federal Land Acquisitions; and

(ii) the Uniform Standards of Professional Appraisal Practice.

Approved October 8, 2010.

LEGISLATIVE HISTORY—H.R. 714:

SENATE REPORTS: No. 111–146 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 155 (2009): Feb. 23, considered and passed House.
Vol. 156 (2010): May 13, considered and passed Senate, amended.
Sept. 28, House concurred in Senate amendments.

○

Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

☐ 1530

VIRGIN ISLANDS NATIONAL PARK LAND LEASE

Ms. BORDALLO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 714) to authorize the Secretary of the Interior to lease certain lands in Virgin Islands National Park, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 714

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CANEEL BAY LEASE AUTHORIZATION.

(a) DEFINITIONS.—In this section:

(1) PARK.—The term "Park" means the Virgin Islands National Park.

(2) RESORT.—The term "resort" means the Caneel Bay resort on the island of St. John in the Park.

(3) RETAINED USE ESTATE.—The term "retained use estate" means the retained use estate for the Caneel Bay property on the island of St. John entered into between the Jackson Hole Preserve and the United States on September 30, 1983.

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

(b) LEASE AUTHORIZATION.—

(1) IN GENERAL.—If the Secretary determines that the long-term benefit to the Park would be greater by entering into a lease with the owner of the retained use estate than by authorizing a concession contract upon the termination of the retained use estate, the Secretary may enter into a lease for the operation and management of the resort.

(2) ACQUISITIONS.—The Secretary may—

(A) acquire associated property from the owner of the retained use estate; and

(B) on the acquisition of property under subparagraph (A), administer the property as part of the Park.

(3) AUTHORITY.—Except as otherwise provided by this section, a lease shall be in accordance with subsection (k) of section 3 of Public Law 91-383 (16 U.S.C. 1a-2(k)), notwithstanding paragraph (2) of that subsection.

(4) TERMS AND CONDITIONS.—A lease authorized under this section shall—

(A) be for the minimum number of years practicable, taking into consideration the need for the lessee to secure financing for necessary capital improvements to the resort, but in no event shall the term of the lease exceed 40 years;

(B) prohibit any transfer, assignment, or sale of the lease or otherwise convey or pledge any interest in the lease with prior written notification to, and approval by the Secretary;

(C) ensure that the general character of the resort property remains unchanged, including a prohibition against—

(i) any increase in the overall size of the resort; or

(ii) any increase in the number of guest accommodations available at the resort;

(D) prohibit the sale of partial ownership shares or timeshares in the resort; and

(E) include any other provisions determined by the Secretary to be necessary to protect the Park and the public interest.

(5) RENTAL AMOUNTS.—In determining the fair market value rental of the lease required under section 3(k)(4) of Public Law 91-383 (16 U.S.C. 1a-2(k)(4)), the Secretary shall take into consideration—

(A) the value of any associated property conveyed to the United States; and

(B) the value, if any, of the relinquished term of the retained use estate.

(6) USE OF PROCEEDS.—Rental amounts paid to the United States under a lease shall be available to the Secretary, without further appropriation, for visitor services and resource protection within the Park.

(7) CONGRESSIONAL NOTIFICATION.—The Secretary shall submit a proposed lease under this section to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives at least 60 days before the effective date of the lease.

(8) RENEWAL.—A lease entered into under this section may not be extended or renewed.

(9) TERMINATION.—Upon the termination of a lease entered into under this section, if the Secretary determines the continuation of commercial services at the resort to be appropriate, the services shall be provided in accordance with the National Park Service Concessions Management Improvement Act of 1998 (16 U.S.C. 5951 et seq.).

(c) RETAINED USE ESTATE.—

(1) IN GENERAL.—As a condition of the lease, the owner of the retained use estate shall terminate, extinguish, and relinquish to the Secretary all rights under the retained use estate and shall transfer, without consideration, ownership of improvements on the retained use estate to the National Park Service.

(2) APPRAISAL.—

(A) IN GENERAL.—The Secretary shall require an appraisal by an independent, qualified appraiser that is agreed to by the Secretary and the owner of the retained use estate to determine the value, if any, of the relinquished term of the retained use estate.

(B) REQUIREMENTS.—An appraisal under paragraph (1) shall be conducted in accordance with—

(i) the Uniform Appraisal Standards for Federal Land Acquisitions; and

(ii) the Uniform Standards of Professional Appraisal Practice.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Guam (Ms. BORDALLO) and the gentleman from Utah (Mr. BISHOP) each will control 20 minutes.

The Chair recognizes the gentlewoman from Guam.

GENERAL LEAVE

Ms. BORDALLO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Guam?

There was no objection.

Ms. BORDALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to commend our distinguished colleague from the Virgin Islands, a valuable member of the Committee on Natural Resources, DONNA CHRISTENSEN, for sponsoring H.R. 714. This legislation would authorize the National Park Service to continue its successful relationship with Caneel Bay Resort, ensure that park resources are protected, and allow the resort to undertake needed maintenance and improvement programs that will benefit visitors to the Virgin Islands National Park and the Caneel Bay Resort well into the future.

Mr. Speaker, this legislation was approved by the House in the previous Congress, but was not considered in the other body. It should be noted, however, that H.R. 714 includes some technical changes suggested by our colleagues in the Senate after hearings were conducted on the bill last year.

Congresswoman CHRISTENSEN deserves our thanks for her work in ensuring that visitor services at the Virgin Islands National Park are available and that the park's stunning natural resources are always protected.

I urge my colleagues to support the passage of H.R. 714.

Mr. Speaker, I reserve the balance of my time.

Mr. BISHOP of Utah. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill has been adequately explained by the other side and we support this legislation.

I reserve my time.

Ms. BORDALLO. Mr. Speaker, I yield such time as she may consume to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN), the author of this legislation.

Mrs. CHRISTENSEN. Mr. Speaker, I thank Congresswoman BORDALLO for those kind words and for yielding me time.

I rise, of course, in strong support of H.R. 714, legislation that I introduced to authorize the Secretary of the Interior to enter into a lease with the owners of Caneel Bay Resort in my congressional district. I want to begin by thanking Chairman RAHALL, as well as Chairman GRIJALVA, for their strong and steadfast support of this bill. Chairman GRIJALVA actually traveled to my district to see for himself how important the resort is to the island and the people of St. John and to meet with not only the management, but the employees, because it is important to the entire Virgin Islands.

Mr. Speaker, Caneel Bay traces its roots to Lawrence Rockefeller's coming to the Island of St. John in 1952. He purchased the then-existing resort facilities and also acquired more than 5,000 surrounding acres to protect the area. In 1956, he donated the additional land to create the Virgin Islands National Park. At the same time, he created Caneel Bay Resort, comprising 170 acres, which continues to complement and be environmentally consistent with the natural beauty of the park's setting.

Mr. Rockefeller subsequently decided to transfer the land underlying Caneel Bay to the National Park Service while retaining the improvements and continuing the Caneel Bay operations. He accomplished this through the execution of a series of unique agreements generally known as a retained use estate, or RUE.

The bill before us is necessary because the RUE is slated to expire in 2023 and its current owners require more than the remaining 15 years to provide the capital and long-term financing necessary to reverse the decline of the facilities over the years and to return it to the grandeur and stature that it deserves. It has been impossible for them to get that financing with just 15 years remaining in the RUE.

Mr. Speaker, I have spent the last 4 years meeting with the National Park Service officials, representatives of the Rockefeller group, and various public officials and business partners to work out an equitable framework for the long-term lease with the National Park Service which will ensure the viability of the Caneel Bay Resort, the largest employer on St. John in the U.S. Virgin Islands.

In return for a long-term lease needed to ensure the infusion of capital funds, the owners have agreed to pay consideration to the government based on independent appraisals commissioned by the parties, which will include valuable land and buildings held by them outside the park but which are necessary for resort operations. No consideration is currently being paid to the government under the existing retained use estate which expires in 2023.

Mr. Speaker, Caneel Bay, along with virtually every business in the Virgin Islands, and I would say across the country, has suffered a dramatic decline in revenue and, in our case, future bookings. The company is being forced to make some very difficult decisions in an attempt to preserve its solvency so that it may survive this economic downturn. They are currently reducing employees' hours, have been forced to eliminate some positions and are laying off employees. They are making every effort to minimize losses due to the deepening economic recession as well as alleviate the impact on our long-term employees who are also struggling in this economic environment.

The bill was supported by the administration at hearings both in the House and Senate as the best means of conclusively addressing this issue.

In conclusion, Mr. Speaker, I want to thank the Natural Resources staff director, Jim Zoia, and the staff of the National Parks, Forest and Public Lands Subcommittee, in particular former staff director Rick Healy and current staff director Dave Watkins, for their hard work in making it possible for H.R. 714 to be on the floor today. I also want to thank the full committee ranking member, DOC HASTINGS, and subcommittee ranking member, ROB BISHOP, and their staffs for their support as well.

I urge my colleagues to support the passage of this bill, which is very important to the economy of my district and the U.S. Virgin Islands.

Mr. BISHOP Of Utah. Mr. Speaker, I yield back the balance of my time.

Ms. BORDALLO. Mr. Speaker, I again urge Members to support H.R. 714, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Guam (Ms. BORDALLO) that the House suspend the rules and pass the bill, H.R. 714.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

HONORING APACHE LEADER GOYATHLAY

Ms. BORDALLO. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 132) honoring the life and memory of the Chiricahua Apache leader Goyathlay or Goyaale, also known as Geronimo, and recognizing the 100th anniversary of his death on February 17, 2009, as a time of reflection and the commencement of a "Healing" for all Apache people.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 132

Whereas Goyathlay or Goyaalé, called Geronimo by the soldiers against whom he fought, was born in June 1829 to the Bedonkohe band of the Apache people in No-Doyohn Canyon on the Gila River, which was then part of Mexico;

Whereas in 1858, Mexican soldiers attacked the Bedonkohe people within the current borders of Mexico, setting in motion a war between that nation and the Apache that would last for three decades;

Whereas Goyathlay, a spiritual and intellectual leader, became recognized as a great military leader by his people because of his courage, determination, and skill;

Whereas Goyathlay led his people in a war of self-defense as their homeland was invaded by the citizens and armies first of Mexico, and then of the United States;

Whereas that homeland was healthy, thriving, and beautiful with ample running water, extensive grasslands, and ancient forests and was a place beloved and revered by the Apache people, who had lived there for countless generations;

Whereas Goyathlay's band, along with other Apache peoples, were forcibly removed by the United States Army, interned at San Carlos, Arizona, subjugated, and deprived of their rights as a free people, including the right to practice their traditional spiritual beliefs and maintain long-standing political and social structures;

Whereas Goyathlay led fewer than 150 men, women, and children out of captivity and for several years evaded fighting forces consisting of one-quarter of the standing United States Army, as well as thousands of Mexican soldiers;

Whereas upon surrendering to Unites States forces, Goyathlay and his band were promised a return to their homeland but were instead interned in military prisons in Florida and Alabama, far from their homeland;

Whereas Goyathlay, promised respect as a prisoner of war, was put to hard labor for eight years;

Whereas Goyathlay and other Apache prisoners of war were removed to Fort Sill, Oklahoma, in 1894;

Whereas after his death on February 17, 1909, Goyathlay was not granted the promised return to his homeland but instead was buried in the military cemetery at Fort Sill;

Whereas Goyathlay's byname, "Geronimo", became a war cry uttered by paratroopers fighting against the totalitarian enemies of the United States during World War II, a name used with respect and honor for a great warrior and leader;

Whereas to this day, the Apache people continue to honor and hold sacred what Goyathlay represented to a people separated and destroyed by historic and disruptive United States governmental policies of the past; and

Whereas there still exists a need for spiritual healing among Apache people, stemming from the captivity and mistreatment of their ancestors under past policies of the United States Government, that can commence by honoring the memory of Goyathlay and his valiant efforts to preserve traditional Apache ways of life and the health of Ni'gosdzá'n, the Earth: Now, therefore, be it

Resolved, That the House of Representatives—

(1) honors the life of Goyathlay, his extraordinary bravery, and his commitment to the defense of his homeland, his people, and Apache ways of life; and

(2) recognizes the 100 anniversary of the death of Goyathlay as a time of reflection of his deeds on behalf of his people.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Guam (Ms. BORDALLO) and the gentleman from Utah (Mr. BISHOP) each will control 20 minutes.

The Chair recognizes the gentlewoman from Guam.

GENERAL LEAVE

Ms. BORDALLO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Guam?

There was no objection.

Ms. BORDALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 132 honors the life and the memory of the great Apache leader known to many of us as Geronimo. Last week, February 17 marked the 100th anniversary of his death.

Geronimo began as the spiritual and intellectual leader of his people. Circumstance, in the manner of attack by the armies of first Mexico and then the United States, cultivated his keen military skill and determination.

The story of Geronimo shows us some of the paradox that is the United States. We hunted this man as a perceived threat to the security of our young, developing Nation in the West. When he surrendered, we broke promises and mistreated him, ensuring he would never see his homeland again. Yet, half a century later, our U.S. paratroopers used the name of Geronimo as a battle cry against our enemies in World War II. Using the name "Geronimo" was meant to instill fear in

Calendar No. 296

111TH CONGRESS, 2d Session — SENATE — REPORT 111–146

VIRGIN ISLANDS NATIONAL PARK

MARCH 2, 2010.—Ordered to be printed

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

REPORT

[To accompany H.R. 714]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 714) to authorize the Secretary of the Interior to lease certain lands in Virgin Islands National Park, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the Act, as amended, do pass.

The amendments are as follows:

1. On page 2, line 12, insert "(as amended, assigned, and assumed)" before the period.
2. On page 2, line 21, insert "with the owner of the retained use estate" before "for".
3. On page 3, line 19, strike "with" and insert "without".
4. On page 4, line 5, strike "and".
5. On page 4, between lines 5 and 6, insert the following:

    (E) include provisions to ensure the protection of the natural, cultural, and historic features of the resort and associated property, consistent with the laws and policies applicable to property managed by the National Park Service; and

6. On page 4, line 6, strike "(E)" and insert "(F)".
7. On page 5, line 3, strike "effective date" and insert "award".
8. On page 5, line 24, strike "that" and insert "who".

PURPOSE

The purpose of H.R. 714 is to authorize the Secretary of the Interior to lease the Caneel Bay resort in Virgin Islands National Park.

BACKGROUND AND NEED

The Caneel Bay resort is located on a 170-acre peninsula within Virgin Islands National Park, on the island of St. John. The resort was established in 1956 by Laurance Rockefeller and the Jackson Hole Preserve, a non-profit organization supported by the Rockefeller family. The Jackson Hole Preserve also purchased and donated most of the land that is now included within the park, although initially, the Caneel Bay parcel was not included within the park.

In 1983, the Jackson Hole Preserve donated the land at Caneel Bay to the Federal Government for inclusion in the park; however, it created a retained use estate and reserved the right to continue the resort operations through 2023. Under the terms of the reserved use estate, once it expires in 2023 the owner of the estate must cease operations and donate the buildings and other property covered by the retained use estate to the National Park Service.

In 2004, Jackson Hole Preserve sold the retained use estate to CBI Acquisition LLC, which now operates the Caneel Bay resort. CBI has a management contract with Rosewood Hotels & Resorts to provide the day-to-day operation of the resort.

H.R. 714 authorizes the Secretary of the Interior to enter into a non-competitive lease with the owner of the retained use estate for a term of up to 40 years, to provide for the continued operation and management of the Caneel Bay resort, if the Secretary determines that the lease will provide a greater long-term benefit to the park than allowing the retained use estate to expire.

LEGISLATIVE HISTORY

H.R. 714, sponsored by Delegate Christensen, passed the House of Representatives by a voice vote on February 23, 2009. During the 110th Congress, the Committee considered similar legislation, H.R. 1143. The Subcommittee on National Parks of the Senate Energy and Natural Resources Committee held a hearing on that bill on June 17, 2008 (S. Hrg. 110–539), although no further action was taken.

The Subcommittee on National Parks held a hearing on H.R. 714 on July 15, 2009. (S. Hrg. 111–92). At its business meeting on December 16, 2009, the Committee on Energy and Natural Resources ordered H.R. 714 favorably reported with amendments.

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on December 16, 2009, by a voice vote of a quorum present, recommends that the Senate pass H.R. 714, if amended as described herein.

COMMITTEE AMENDMENTS

During its consideration of H.R. 714, the Committee adopted 8 amendments which reflect the recommendations made by the National Park Service at the subcommittee hearing. Amendment #5 adds a requirement that any lease entered into under this Act include provisions to ensure the protection of the natural, cultural, and historic features of the Caneel Bay resort and associated property, consistent with the laws and policies applicable to National

Park System lands. The other seven amendments make technical, clarifying, or conforming changes.

SECTION-BY-SECTION ANALYSIS

Section 1(a) defines key terms used in the bill.

Subsection (b) authorizes the Secretary of the Interior to enter into a lease with the owner of the retained use estate for a period not to exceed 40 years, to provide for the continued management and operation of the Caneel Bay resort in Virgin Islands National Park, if the Secretary determines that the long-term benefit to the park would be greater by entering into the lease rather than allowing the retained use estate to expire and subsequently issuing a concessions contract.

A lease entered into under the authority of this Act must comply with the terms and conditions specified in paragraph (b)(4), including that the lease be for the minimum number of years practicable; that the lease prohibit any transfer of the lease to another party without the written approval of the Secretary of the Interior; that the general character of the resort property remain unchanged, with no increase in the overall size of the resort or the number of guest accommodations; that the lease prohibit the sale of partial ownership shares or timeshares; that the lease include provisions to ensure the protection of the natural, cultural, and historic features of the resort, consistent with National Park System laws; and that the lease include any other terms and conditions the Secretary determines necessary to protect Virgin Islands National Park and the public interest.

Subsection (c) requires the owner of the retained use estate, as a condition of the lease, to extinguish and relinquish to the Secretary of the Interior all rights under the retained use estate, and to transfer, without consideration, ownership of improvements on the retained use estate to the National Park Service.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

H.R. 714—An act to authorize the Secretary of the Interior to lease certain lands in Virgin Islands National Park

H.R. 714 would authorize the National Park Service (NPS) to execute a lease with property owners at Caneel Bay on St. John in the Virgin Islands. Based on information provided by the NPS, CBO estimates that implementing the legislation would have no effect on discretionary spending. Enacting the legislation would increase both offsetting receipts (from lease payments) and direct spending of those receipts beginning in fiscal year 2010, but CBO estimates that any net effect on the federal budget would be negligible. Enacting H.R. 714 would not affect revenues.

The legislation contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

Under the lease authorized by H.R. 714, the owners of the Caneel Bay Resort would continue to operate the facility, which is located within the boundary of the Virgin Islands National Park, for up to 40 years. The resort is currently operated under a retained use estate (RUE) that will expire at the end of fiscal year 2023. The RUE was granted by the original owners of the resort when they donated the land under that facility to the NPS in 1983. The original RUE agreement did not provide for any lease payments to the federal government; the lease authorized by H.R. 714 would both require such payments and authorize the NPS to use the proceeds without further appropriation for visitor services and other park expenses.

The CBO staff contact for this estimate is Deborah Reis. The estimate was approved by Theresa Gullo, 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 H.R. 714.

The Act 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 H.R. 714, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

H.R. 714, as reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

EXECUTIVE COMMUNICATIONS

The testimony provided by the National Park Service at the July 15, 2009, Subcommittee hearing on H.R. 714 follows:

STATEMENT OF KATHERINE H. STEVENSON, ACTING DEPUTY DIRECTOR, SUPPORT SERVICES, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman, thank you for the opportunity to provide the Department of the Interior's views on H.R.714, a bill to authorize the Secretary of the Interior to lease certain lands in Virgin Islands National Park, and for other purposes.

The Department supports H.R. 714, with some minor amendments.

This legislation would allow the Secretary of the Interior to enter into a lease with the current holder of a retained use estate for property at Caneel Bay within Virgin Islands National Park after the termination of the retained use estate and donation of all improvements to the National Park Service (NPS). The Caneel Bay resort is one of two large resorts on the island of St. John. Located on a 150-acre peninsula on the northwest side of the island, this luxury resort has approximately 425 to 450 employees and serves as one of the primary economic engines for the

U.S. Virgin Islands. A large number of employees travel daily to St. John from their residences on neighboring St. Thomas. The resort is also an Economic Development Center beneficiary and, as such, receives various tax exemptions from the Government of the Virgin Islands.

Laurance Rockefeller established the Caneel Bay resort in 1956. In 1983, Jackson Hole Preserve, a Rockefeller corporation, donated the land at Caneel Bay to the United States Government for inclusion within Virgin Islands National Park and reserved to itself the right to continue its operations for 40 years under a retained use estate. Jackson Hole Preserve did not convey the improvements on the land to the United States at that time. The retained use estate will expire on September 30, 2023. The warranty deed stipulates that when the retained use estate terminates, the owner of the retained use estate must donate the buildings and other improvements to the NPS.

Enactment of H.R. 714 would allow the current holder of the retained use estate to negotiate a long-term lease, up to 40 years, with the NPS that could extend the Caneel Bay Resort operation well beyond the year 2023. Such an extension could allow the leaseholder to secure financing to undertake capital improvements that would most likely not be possible financially under the remaining term of the current retained use estate.

The NPS has evaluated various options for the future use and management of the Caneel Bay property. Based upon a value analysis, we believe that the continued future operation of Caneel Bay as a resort under a lease would provide the greatest advantage to the NPS and the U.S. Virgin Islands. A lease could provide economic and administrative benefits to the NPS and the lessee that are not available or not as viable as under a retained use estate or a concession contract, two of the other options that were examined.

Legislation is necessary because the NPS does not have the authority to enter into a noncompetitive lease under existing regulations (36 CFR § 18, Leasing of Properties in Park Areas). The only exceptions to competitive leasing under the regulations are for leases to nonprofit organizations or units of government, and for leases of duration of 60 days or less.

We would like to stress that we are supporting this legislation because the Caneel Bay resort is an exceptional case. In general, where leasing has been determined to be appropriate in a national park unit, we support leasing through the usual competitive process, consistent with existing law and regulations.

H.R. 714 requires that the operations and maintenance of the resort be conducted in a manner consistent with the preservation and conservation of the resources and values of the park. Additionally, the lease authorized by the bill would address the continued protection, preservation, and restoration of the property's structures, many of which are more than 50 years old, and may be eligible for the National Register of Historic Places. The lease also would address the fair market value rent of the property, constraints on development of property during the term of the lease, and the ability to transfer the lease in the future.

The legislation also provides for the rental proceeds to be retained by the Virgin Islands National Park and used for visitor services and resource protection. It would require congressional notification at least 60 days prior to the effective date of the lease, similar to the requirement for large concession contracts. And, it would require the property's conversion to a concession operation after the lease expires if the Secretary determines continuation of commercial services at the resort to be appropriate. When the current retained use estate was created, there were three small properties that are integral to the operation of the Caneel Bay resort that were not included. These properties could be acquired by the NPS and included under the terms of the lease that would be authorized by H.R. 714.

We appreciate the many changes that have been made to this legislation since it was first introduced in the 110th Congress to help assure that the interests of Virgin Islands National Park, and the general public, would be protected if the Caneel Bay resort property is leased on a noncompetitive basis. We would like to work with the subcommittee on a few minor changes that would further clarify the bill language.

Mr. Chairman, this concludes my prepared remarks. I would be pleased 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, the Committee notes that no changes in existing law are made by H.R. 714 as ordered reported.

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and that, prior to destruction of unclaimed possessions, a reasonable attempt will be made to notify the family of each passenger within 60 days of any planned destruction date.".

(b) FAMILY ASSISTANCE IN COMMERCIAL AVIATION ACCIDENTS INVOLVING FOREIGN CARRIERS.—Section 41313(c)(7) of title 49, United States Code, is amended by striking "accident." and inserting "accident and that, prior to destruction of unclaimed possessions, a reasonable attempt will be made to notify the family of each passenger within 60 days of any planned destruction date.".

SEC. 6. ACCIDENT-RELATED INFORMATION RELEASE POLICY REPORT.

Within 180 days after the date of enactment of this Act, the National Transportation Safety Board shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report describing the policies, procedures, and guidelines used by the Board in the expedited release of factual accident-related information to victims and their families, Federal, State, and local accident investigators and agencies, private or third party investigation partners, the public, and other stakeholders.

SA 4039. Mr. DORGAN (for Mr. DODD (for himself and Mr. ROCKEFELLER)) proposed an amendment to the bill S. 2768, to amend title 49, United States Code, to authorize appropriations for the National Transportation Safety Board for fiscal years 2011 and 2012, and for other purposes; as follows:

Amend the title so as to read "A Bill To amend title 49, United States Code, to authorize appropriations for the National Transportation Safety Board for fiscal years 2011 and 2012, and for other purposes."

SA 4040. Mrs. MCCASKILL (for herself and Mr. GRASSLEY) submitted an amendment intended to be proposed by her to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title I, insert the following:

SEC. 122. ADDITIONAL OVERSIGHT OF FINANCIAL REGULATORY SYSTEM.

(a) COUNCIL OF INSPECTORS GENERAL ON FINANCIAL OVERSIGHT.—

(1) ESTABLISHMENT AND MEMBERSHIP.—There is established a Council of Inspectors General on Financial Oversight (in this section referred to as the "Council of Inspectors General") chaired by the Inspector General of the Department of the Treasury and composed of the inspectors general of the following:

(A) The Board of Governors of the Federal Reserve System.

(B) The Commodity Futures Trading Commission.

(C) The Department of Housing and Urban Development.

(D) The Department of the Treasury.

(E) The Federal Deposit Insurance Corporation.

(F) The Federal Housing Finance Agency.

(G) The National Credit Union Administration.

(H) The Securities and Exchange Commission.

(I) The Troubled Asset Relief Program (until the termination of the authority of the Special Inspector General for such program under section 121(k) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5231(k))).

(2) DUTIES.—

(A) MEETINGS.—The Council of Inspectors General shall meet not less than once each quarter, or more frequently if the chair considers it appropriate, to facilitate the sharing of information among inspectors general and to discuss the ongoing work of each inspector general who is a member of the Council of Inspectors General, with a focus on concerns that may apply to the broader financial sector and ways to improve financial oversight.

(B) ANNUAL REPORT.—Each year the Council of Inspectors General shall submit to the Council and to Congress a report including—

(i) for each inspector general who is a member of the Council of Inspectors General, a section within the exclusive editorial control of such inspector general that highlights the concerns and recommendations of such inspector general in such inspector general's ongoing and completed work, with a focus on issues that may apply to the broader financial sector; and

(ii) a summary of the general observations of the Council of Inspectors General based on the views expressed by each inspector general as required by clause (i), with a focus on measures that should be taken to improve financial oversight.

(3) WORKING GROUPS TO EVALUATE COUNCIL.—

(A) CONVENING A WORKING GROUP.—The Council of Inspectors General may, by majority vote, convene a Council of Inspectors General Working Group to evaluate the effectiveness and internal operations of the Council.

(B) PERSONNEL AND RESOURCES.—The inspectors general who are members of the Council of Inspectors General may detail staff and resources to a Council of Inspectors General Working Group established under this paragraph to enable it to carry out its duties.

(C) REPORTS.—A Council of Inspectors General Working Group established under this paragraph shall submit regular reports to the Council and to Congress on its evaluations pursuant to this paragraph.

(b) RESPONSE TO REPORT BY COUNCIL.—The Council shall respond to the concerns raised in the report of the Council of Inspectors General under subsection (a)(2)(B) for such year.

SA 4041. Mr. REED submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 392, between lines 22 and 23, insert the following:

"(G) to coordinate with other Federal agencies (including the Federal Emergency Management Agency), States (including State insurance regulators), and insurance companies efforts to facilitate the timely processing of flood insurance claims by insurance companies and agents (including through recommending best practices such as telephone hotlines for victims or deployment of personnel of the Office to flood areas) in any area for which the President declares a major disaster under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) relating to flooding; and

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on May 13, 2010, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on May 13, 2010, at 10 a.m., in room 215 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate on May 13, 2010, at 9:30 a.m. in room 628 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Judiciary be authorized to meet during the session of the Senate on May 13, 2010, at 10 a.m., in SD–226 of the Dirksen Senate Office Building, to conduct an executive business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on May 13, 2010, at 2:30 p.m., in room SD–226 of the Dirksen Senate Office Building, to conduct a hearing entitled "Nominations."

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Intelligence be authorized to meet during the session of the Senate on May 13, 2010, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

VIRGIN ISLAND NATIONAL PARK LEASE ACT

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 296, H.R. 714, the Virgin Islands National Park.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H R 714) to authorize the Secretary of the Interior to lease certain lands in Virgin Islands National Park, and for other purposes

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics)

H R 714

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1 CANEEL BAY LEASE AUTHORIZATION

(a) DEFINITIONS —In this section

(1) PARK —The term "Park" means the Virgin Islands National Park

(2) RESORT —The term "resort" means the Caneel Bay resort on the island of St John in the Park

(3) RETAINED USE ESTATE —The term "retained use estate" means the retained use estate for the Caneel Bay property on the island of St John entered into between the Jackson Hole Preserve and the United States on September 30, 1983 *(as amended, assigned, and assumed)*

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

(b) LEASE AUTHORIZATION —

(1) IN GENERAL —If the Secretary determines that the long-term benefit to the Park would be greater by entering into a lease with the owner of the retained use estate than by authorizing a concession contract upon the termination of the retained use estate, the Secretary may enter into a lease *with the owner of the retained use estate* for the operation and management of the resort

(2) ACQUISITIONS —The Secretary may—

(A) acquire associated property from the owner of the retained use estate, and

(B) on the acquisition of property under subparagraph (A), administer the property as part of the Park

(3) AUTHORITY —Except as otherwise provided by this section, a lease shall be in accordance with subsection (k) of section 3 of Public Law 91–383 (16 U S C 1a–2(k)), notwithstanding paragraph (2) of that subsection

(4) TERMS AND CONDITIONS —A lease authorized under this section shall—

(A) be for the minimum number of years practicable, taking into consideration the need for the lessee to secure financing for necessary capital improvements to the resort, but in no event shall the term of the lease exceed 40 years,

(B) prohibit any transfer, assignment, or sale of the lease or otherwise convey or pledge any interest in the lease **[with]** *without* prior written notification to, and approval by the Secretary,

(C) ensure that the general character of the resort property remains unchanged, including a prohibition against—

(i) any increase in the overall size of the resort, or

(ii) any increase in the number of guest accommodations available at the resort,

(D) prohibit the sale of partial ownership shares or timeshares in the resort, **[and]**

(E) include provisions to ensure the protection of the natural, cultural, and historic features of the resort and associated property, consistent with the laws and policies applicable to property managed by the National Park Service, and

[(E)]*(F)* include any other provisions determined by the Secretary to be necessary to protect the Park and the public interest

(5) RENTAL AMOUNTS —In determining the fair market value rental of the lease required under section 3(k)(4) of Public Law 91–383 (16 U S C 1a–2(k)(4)), the Secretary shall take into consideration—

(A) the value of any associated property conveyed to the United States, and

(B) the value, if any, of the relinquished term of the retained use estate

(6) USE OF PROCEEDS —Rental amounts paid to the United States under a lease shall be available to the Secretary, without further appropriation, for visitor services and resource protection within the Park

(7) CONGRESSIONAL NOTIFICATION —The Secretary shall submit a proposed lease under this section to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives at least 60 days before the **[effective date]** *award* of the lease

(8) RENEWAL —A lease entered into under this section may not be extended or renewed

(9) TERMINATION —Upon the termination of a lease entered into under this section, if the Secretary determines the continuation of commercial services at the resort to be appropriate the services shall be provided in accordance with the National Park Service Concessions Management Improvement Act of 1998 (16 U S C 5951 et seq)

(c) RETAINED USE ESTATE —

(1) IN GENERAL —As a condition of the lease, the owner of the retained use estate shall terminate, extinguish, and relinquish to the Secretary all rights under the retained use estate and shall transfer, without consideration, ownership of improvements on the retained use estate to the National Park Service

(2) APPRAISAL —

(A) IN GENERAL —The Secretary shall require an appraisal by an independent, qualified appraiser **[that]** *who* is agreed to by the Secretary and the owner of the retained use estate to determine the value, if any, of the relinquished term of the retained use estate

(B) REQUIREMENTS —An appraisal under paragraph (1) shall be conducted in accordance with—

(i) the Uniform Appraisal Standards for Federal Land Acquisitions, and

(ii) the Uniform Standards of Professional Appraisal Practice

Mr DODD Mr President, I ask unanimous consent that the committee-reported amendments be considered and agreed to, the bill, as amended, be read three times, passed, and the motions to reconsider be laid upon the table en bloc, and that any statements relating to the bill be printed in the RECORD

The PRESIDING OFFICER Without objection, it is so ordered

The committee amendments were agreed to

The amendments were ordered to be engrossed and the bill to be read a third time

The bill (H R 714), as amended, was read the third time and passed

LAW ENFORCEMENT OFFICERS SAFETY ACT IMPROVEMENTS ACT OF 2010

Mr DODD Mr President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No 315, S 1132

The PRESIDING OFFICER The clerk will report the bill by title

The assistant legislative clerk read as follows

A bill (S 1132) to amend title 18, United States Code, to improve the provisions relating to the carrying of concealed weapons by law enforcement officers, and for other purposes

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and insert in lieu thereof the following

SECTION 1 SHORT TITLE

This Act may be cited as the "Law Enforcement Officers Safety Act Improvements Act of 2010"

SEC 2 AMENDMENTS TO LAW ENFORCEMENT OFFICER SAFETY PROVISIONS OF TITLE 18

(a) IN GENERAL —Section 926B of title 18, United States Code, is amended—

(1) in subsection (c)(3), by inserting "which could result in suspension or loss of police powers" after "agency", and

(2) by adding at the end the following

"(f) For the purposes of this section, a law enforcement officer of the Amtrak Police Department, a law enforcement officer of the Federal Reserve, or a law enforcement or police officer of the executive branch of the Federal Government qualifies as an employee of a governmental agency who is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and has statutory powers of arrest "

(b) ACTIVE LAW ENFORCEMENT OFFICERS —Section 926B of title 18, United States Code is amended by striking subsection (e) and inserting the following

"(e) As used in this section, the term 'firearm'—

"(1) except as provided in this subsection, has the same meaning as in section 921 of this title,

"(2) includes ammunition not expressly prohibited by Federal law or subject to the provisions of the National Firearms Act, and

"(3) does not include—

"(A) any machinegun (as defined in section 5845 of the National Firearms Act),

"(B) any firearm silencer (as defined in section 921 of this title), and

"(C) any destructive device (as defined in section 921 of this title) "

(c) RETIRED LAW ENFORCEMENT OFFICERS —Section 926C of title 18 United States Code is amended—

(1) in subsection (c)—

(A) in paragraph (1)—

(i) by striking "retired" and inserting "separated from service", and

(ii) by striking " other than for reasons of mental instability",

(B) in paragraph (2), by striking "retirement" and inserting "separation",

(C) in paragraph (3)—

(i) in subparagraph (A), by striking "retirement, was regularly employed as a law enforcement officer for an aggregate of 15 years or more" and inserting "separation, served as a law enforcement officer for an aggregate of 10 years or more", and

(ii) in subparagraph (B), by striking "retired" and inserting "separated",

(D) by striking paragraph (4) and inserting the following

"(4) during the most recent 12-month period, has met, at the expense of the individual, the standards for qualification in firearms training for active law enforcement officers, as determined by the former agency of the individual, the State in which the individual resides or, if the State has not established such standards, either a law enforcement agency within the State in which the individual resides or the standards

4 billion kilowatt hours of hydroelectric power each year, for the next 50 years. I would want to reiterate our support for the enactment of this important legislation.

Mr. Speaker, I ask my colleagues to support the passage of this bipartisan resolution. Hoover Dam is truly a marvel of engineering, of technology and human endeavor. And tomorrow this reenactment of its 75-year dedication will take place in Las Vegas.

Mr. Speaker, I reserve the balance of my time.

□ 1250

Mr. HASTINGS of Washington. I yield myself such time as I may consume.

Mr. Speaker, generations ago water and power visionaries came up with the idea of making the West bloom by harnessing our rivers. The Hoover Dam is a legendary example of that vision.

When completed in 1935, it was the tallest dam and the largest hydroelectric generator in the world. It literally helped create cities in the arid West and to this day, as my friend from California pointed out, still provides numerous benefits: emissions-free hydropower, drinking and irrigation water, and recreation and flood control.

This bipartisan resolution is a fitting honor to the Hoover Dam and to those who had the foresight to create one of the world's best-known engineering marvels.

Mr. Speaker, I yield back the balance of my time.

Mrs. NAPOLITANO. Mr. Speaker, very, very swiftly and quickly, before I yield back the balance of my time, I thank my staff and the minority staff on this beautiful resolution that is going to commemorate some magnificent achievements by the United States to really promote what we now know as the Southwest.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from California (Mrs. NAPOLITANO) that the House suspend the rules and agree to the resolution, H. Res. 1636.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

VIRGIN ISLANDS NATIONAL PARK LAND LEASE

Mrs. CHRISTENSEN. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the bill (H.R. 714) to authorize the Secretary of the Interior to lease certain lands in Virgin Islands National Park, and for other purposes.

The Clerk read the title of the bill.

The text of the Senate amendments is as follows:

Senate amendments:

On page 2, line 12 before the period insert: "as amended, assigned, and assumed".

On page 2, line 21 after "lease" insert: "with the owner of the retained use estate".

On page 3, line 19, strike "with" and insert: "without".

On page 4, line 5, strike "and" and insert:

"(E) include provisions to ensure the protection of the natural, cultural, and historic features of the resort and associated property, consistent with the laws and policies applicable to property managed by the National Park Service; and".

On page 4, line 6, strike "(E)" and insert: "(F)".

On page 5, line 3, strike "effective date" and insert: "award".

On page 5, line 24, strike "that" and insert: "who".

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) and the gentleman from Washington (Mr. HASTINGS) each will control 20 minutes.

The Chair recognizes the gentlewoman from the Virgin Islands.

GENERAL LEAVE

Mrs. CHRISTENSEN. I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from the Virgin Islands?

There was no objection.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 417, legislation that I introduced to authorize the Secretary of the Interior to enter into a lease with the owners of Caneel Bay Resort in my congressional district.

I have a longer statement which I will submit for the RECORD, but I want to begin by thanking Natural Resources Committee Chairman NICK RAHALL and Subcommittee Chairman RAÚL GRIJALVA for their strong and steadfast support of this bill. I also want to thank Ranking Member HASTINGS and Subcommittee Ranking Member BISHOP for their support as well.

Mr. Speaker, H.R. 714 passed the House in February of 2009 and was approved by the other body, with an amendment, on May 14 of this year. We have been working to secure the enactment of this or a similar bill for more than 4 years, which will mean that the largest employer on the island of St. John in my district will be able to make badly needed upgrades to its facilities and keep operating and save jobs of over 400 employees during these challenging economic times.

In conclusion, Mr. Speaker, I want to thank the Natural Resources Committee Chief of Staff Jim Zoia, Chief Counsel Rick Healy, and National Parks, Forest and Public Land Subcommittee Staff Director David Watkins for all their hard work and assistance on this bill. H.R. 714 is an example of an effective public-private partnership, and I urge my colleagues to support its adoption.

I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, H.R. 714 has been adequately explained by the gentlelady from the Virgin Islands, and we have no objections at all to this legislation.

I yield back the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) that the House suspend the rules and concur in the Senate amendments to the bill, H.R. 714.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the Senate amendments were concurred in.

A motion to reconsider was laid on the table.

HOUSING, EMPLOYMENT, AND LIVING PROGRAMS FOR VETERANS ACT OF 2010

Mr. FILNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5360) to amend title 38, United States Code, to modify the standard of visual acuity required for eligibility for specially adapted housing assistance provided by the Secretary of Veterans Affairs, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 5360

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Housing, Employment, and Living Programs for Veterans Act of 2010" or the "HELP Veterans Act of 2010".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

United States Department of the Interior

NATIONAL PARK SERVICE
1849 C Street, N.W.
Washington, D.C. 20240

IN REPLY REFER TO:

MAR 11 2009

L58 (0120)

Memorandum

To: Legislative Counsel
Through: Assistant Secretary
From: Acting Director

Subject: Views on H.R. 714, Virgin Island NP Caneel Bay Resort lease authority

This memo is in response to a request from the Office of Management and Budget for views on H.R. 714 (Donna Christensen, D-VI), to authorize the Secretary of the Interior to lease certain lands in Virgin Islands National Park. The bill passed the House on February 23, 2009 without prior committee action. If this legislation had been the subject of a hearing, the National Park Service (NPS) would have recommended that the Department testify in support the bill.

H.R. 714 would allow the NPS to enter into a lease with the current holder of the retained use estate (RUE) for the Caneel Bay resort property on the island of St. John, subject to certain terms and conditions. The RUE, which dates to 1983 when Laurance S. Rockefeller and the Jackson Hole Preserve donated the land at Caneel Bay to the United States for inclusion in the Virgin Islands National Park, is scheduled to expire in 2023. Enactment of H.R. 714 would enable the holder of the RUE to negotiate a long-term lease (up to 40 years) with NPS.

Although the issuance of a non-competitive lease to a commercial operator within a national park unit would not be permitted under current law, the NPS believes that issuance of a lease for this particular property merits an exception. NPS has evaluated various options for the future use and management of the Caneel Bay property and has identified leasing to the current holder of the RUE as the one that would likely provide greater advantages to the NPS and to the U.S. Virgin Islands than other options A long-term lease would allow the leaseholder to secure the necessary financing for needed improvements and other operational measures that would help ensure the viability of the resort while giving NPS the immediate ability to ensure protection of park resources as well as the potential to receive a financial return on the property. Without such a lease, the RUE would continue under its current terms until 2023.

During the 110th Congress, the Department testified in the House and Senate on legislation similar to H.R. 714. In both cases the testimony supported the intent of the legislation but sought additional terms and conditions for the lease. NPS believes that the revised language authorizing the lease contained in H.R. 714 meets our concerns about protecting both park resources and the financial interests of the Federal government. While there are some relatively minor amendments we would recommend if the opportunity presented itself, we do not anticipate any problems implementing the legislation if Congress enacts it in its current form.