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KEWEENAW NATIONAL HISTORICAL PARK APPROPRIATIONS

APRIL 10, 2008.—Ordered to be printed

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

R E P O R T

[To accompany S. 189]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 189) to decrease the matching funds requirement and authorize additional appropriations for Keweenaw National Historical Park in the State of Michigan, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of S. 189 is to amend the enabling legislation for the Keweenaw National Historical Park in Michigan to decrease the non-Federal matching fund requirement from 4:1 to 1:1, and to increase the authorized funding level for development from \$25 million to \$50 million, and for financial and technical assistance from \$3 million to \$25 million.

BACKGROUND AND NEED

Keweenaw National Historical Park, located on Michigan's Upper Peninsula, was established by Congress in 1992 to preserve and interpret the natural and cultural resources related to the copper mining industry of the Keweenaw Peninsula. When the park was established, \$25 million was authorized for development at the park, and \$3 million was authorized for Federal grants to owners of property within the park containing significant historic or cultural resources, subject to a requirement that any Federal funding be matched on a four-to-one basis with non-Federal funds.

This matching requirement exceeds the standard applied for most Federal matches, which are usually on a one-to-one basis. S. 189 would amend Public Law 102-543, the park's enabling legislation, to reduce the non-Federal match requirements from four-to-one to one-to-one, and to increase the authorization for development at the park from \$25 million to \$50 million, and to increase the authorization for financial and technical assistance from \$3 million to \$25 million.

The legislation would also increase the annual authorization for the park's advisory commission from \$100,000 annually to \$250,000 and eliminate a requirement that Federal funding for the commission be matched with non-Federal funds.

LEGISLATIVE HISTORY

S. 189 was introduced by Senator Levin on January 4, 2007. The Subcommittee on National Parks held a hearing on the bill on September 27, 2007. (S. Hrg. 110-266.) At its business meeting on September 27, 2008, the Committee on Energy and Natural Resources ordered S. 189 favorably reported, without amendment.

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on January 30, 2008, by a voice vote of a quorum present, recommends that the Senate pass S. 189.

SECTION-BY-SECTION ANALYSIS

Section 1(a) amends section 4(d) of the enabling legislation for Keweenaw National Historical Park (Public Law 102-543; 16 U.S.C. 410yy-3) to eliminate a provision that prohibited the Secretary of the Interior from acquiring lands contaminated with hazardous substances. The National Park Service testified at the Subcommittee hearing that existing agency policies ensure that any acquired lands must be thoroughly examined for environmental contamination, but eliminating this provision would give the Park Service more flexibility to acquire lands which do not pose environmental threats.

Subsection (b) amends section 8(b) of the park's enabling legislation to decrease the matching requirement from four-to-one (non-Federal funds to Federal funds) to one-to-one.

Subsection (c) amends section 10 of the enabling legislation to increase the appropriation ceiling for land acquisition from \$25 million to \$50 million, and to increase the ceiling for the Secretary providing financial and technical assistance from \$3 million to \$25 million. The subsection also increases the annual authorization for the park's advisory commission from \$100,000 to \$250,000.

COST AND BUDGETARY CONSIDERATIONS

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

S. 189—A bill to decrease the matching funds requirement and authorize additional appropriations for the Keweenaw National Historical Park in the state of Michigan

S. 189 would authorize additional appropriations for the Keweenaw National Historical Park in Michigan. The bill also would repeal an existing prohibition against acquiring environmentally contaminated lands for the park. Assuming appropriation of the authorized amounts, CBO estimates that implementing S. 189 would cost \$24 million over the 2009–2013 period. An additional \$26 million would be spent after 2013 for park development, including possible environmental cleanup and restoration of contaminated lands if any are acquired as a result of this legislation. Enacting S. 189 would not affect revenues or direct spending.

S. 189 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

The legislation would raise the authorization levels for activities carried out at Keweenaw National Historical Park, including:

- Increasing the cap on assistance to nonfederal property owners from \$3 million (all of which has already been appropriated) to \$25 million,
- Raising the annual authorization of appropriations for the Keweenaw National Historical Park Advisory Commission from \$100,000 to \$250,000, and
- Raising the ceiling for park development from \$25 million to \$50 million. CBO estimates that raising the park's authorizations would cost \$24 million over the 2009–2013 period and \$26 million over the 2013–2018 period.

Nearly all spending over the first five years would be for assistance to nonfederal entities that would use the funds to restore and interpret historic properties within the park's boundaries. A small portion of the five-year costs (less than \$500,000 a year) would be for routine annual expenses to operate and maintain newly developed properties and to provide the advisory commission with the additional funds of \$150,000 a year authorized by the bill. That annual cost would continue in subsequent years.

We estimate that little of the additional \$25 million authorized for development would be appropriated before 2014 because we expect that development activities at the park would not exhaust the existing \$25 million authorization until that time. (Most of the existing ceiling has not yet been appropriated.) Spending of the \$25 million existing authorization could occur somewhat more quickly over the next year or two under the bill because the National Park Service (NPS) might use some of that amount to clean up or restore contaminated lands, which could be acquired under the bill. We expect that the NPS would minimize such costs, however, by avoiding the purchase of severely contaminated sites and by requiring clean-up of most sites before acquisition, resulting in no significant change in development costs over time.

In addition, the federal government could be liable for injuries caused by contamination on lands acquired as a result of this bill, but CBO has no basis for estimating such costs, if any.

The CBO staff contact for this estimate is Deborah Reis. The estimate was reviewed 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 S. 189. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 189, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

In accordance with paragraph 4(b) of rule XLIV of the Standing Rules of the Senate, the Committee provides the following identification of congressionally directed spending items contained in the bill, as reported:

Section	Provision	Member
1(C)	Authorization of appropriations	Sen. Levin

EXECUTIVE COMMUNICATIONS

The testimony provided by the National Park Service at the September 27, 2007 subcommittee hearing on S. 189 follows:

STATEMENT OF DANIEL N. WENK, DEPUTY DIRECTOR,
NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman and members of the subcommittee, thank you for the opportunity to appear before you today to present the Department of the Interior's views on S. 189, a bill to remove the restriction on land acquisition, to decrease the matching funds requirement and to authorize additional appropriations for Keweenaw National Historical Park in the State of Michigan.

The Department supports enactment of this legislation with one amendment described later in this statement.

S. 189 would amend P.L. 102-543 to remove the restriction on acquiring contaminated property and decrease the ratio for matching fund requirements. It also would increase the appropriation ceilings for development and for financial and technical assistance to owners of non-Federal property, and increase the ceiling for the operations of the Keweenaw National Historical Park Advisory Commission. These changes would enable Keweenaw National Historical Park to acquire land in a manner consistent with other national park units, to better preserve nationally significant resources inside as well as related resources outside of park boundaries, and to better implement the operation of the park's Advisory Commission as envisioned for this ground-breaking partnership park.

The Keweenaw National Historical Park was authorized by Congress in 1992 through Public Law 102-543 to preserve a portion of the Keweenaw Peninsula in the State of

Michigan where the prehistoric, aboriginal mining of copper occurred. Artifacts made from this copper were traded as far south as Alabama.

The ensuing copper mining industry “pioneered deep shaft, hard rock mining, milling, and smelting techniques and advancements in related mining technologies later used throughout the world.” The picture of copper mining is best represented in the Village of Calumet, the former Calumet and Hecla Mining Company properties, and the former Quincy Mining Company properties. The Calumet National Historic Landmark District and the Quincy Mining Company National Historic Landmark District comprise the vast majority of the land within park boundaries. However, other resources outside the park boundary significantly contribute to “interpret[ing] the historic synergism between the geological, aboriginal, sociological, cultural, technological, and corporate forces that relate the story of copper on the Keweenaw Peninsula.”

The park has been unable to acquire key historic sites within the park boundaries because of the park-specific restriction in Section 4(d) of Public Law 102–543 on acquiring contaminated property. For example, the park was unable to pursue acquisition of the “Coppertown” site, which includes the historic Calumet & Hecla (C&H) Pattern Shop, the C&H Pattern Storage Warehouse, and the associated lands contributing to the cultural landscape of Calumet’s core industrial area, due to contamination revealed in environmental site assessments. This acquisition restriction stopped the National Park Service (NPS) from further action on these important sites despite the limited extent of contaminants at this property and the desire of the park’s Advisory Commission and the local community to consider their acquisition.

Existing Department of the Interior policies and procedures require a thorough environmental assessment and review prior to acquisition of real property, with an additional review and professional assessment of those areas found to possess contamination issues. Those areas are then subjected to a graduated approval process, beginning at the Regional Director level, going through the NPS Director, and on up to the Secretary of the Interior, depending on the projected costs of remediation.

The park-specific ban from NPS ownership of contaminated property applies even when mitigation has been undertaken to meet U.S. Environmental Protection Agency and Michigan Department of Environmental Quality requirements. This ban also prevents the park from considering alternatives such as acquiring preservation easements. The current restriction would prohibit acquisition even after a common remediation action such as capping contaminated soils is completed since the site would still contain contaminants. S. 189 would strike Section 4(d) of Public Law 102–543, allowing the NPS to acquire or to enter into partnerships for the acquisition of at-risk sites and other historic properties within the park boundaries

while still requiring the areas to be subject to existing Servicewide safeguards. Those safeguards include a requirement in the National Park Service acquisition regulations that a contaminants study be prepared before the acquisition of park lands. In addition, the NPS will consider requiring indemnification agreements from current owners before acquisition of previously contaminated lands for this unit.

The Keweenaw region was built by and subsisted entirely on the wealth generated by the copper industry for more than 100 years. When the industry collapsed, the companies departed, leaving the Copper Country economically depressed. Community expectations of the establishment of a national park on the Keweenaw Peninsula included the development of heritage tourism to assist in economic recovery. In the fifteen years since the inception of the park, even though the park was given authority to provide financial assistance to owners of property containing nationally significant resources to foster historic preservation and visitor services development, there has rarely been an opportunity for the park to provide assistance due to the uncommonly high 4-to-1 match requirement. Depressed communities are hard pressed to provide four-fifths of the cost of preservation projects. The park's ability to foster a preservation ethic of nationally significant resources through partnerships rather than ownership and improve visitor services goals would be significantly enhanced by a decrease in the match requirement for financial and technical assistance to the more common 1-to-1 ratio. The increased ability to effect bricks-and-mortar preservation projects will, in turn, benefit the economic health of these communities. S. 189 would change the ratio from 4-to-1 to 1-to-1, providing a greater opportunity for the park to work with partners and to support the preservation and interpretation of the rapidly deteriorating resources of the park.

S. 189 also would raise the appropriations authorization ceiling for development from \$25 million to \$50 million. Since 2000, approximately \$6 million has been spent on park-owned facilities for administrative use, and it is anticipated that another \$7.5 million will be spent for both administrative and visitor use over the next three years. The park's General Management Plan (GMP) called for the early development of partnerships and assistance programs, followed by park-owned visitor facilities. The park is now poised to enter into this facility development phase as prescribed. While the park does not know the total amount that would be spent on implementing this phase of the GMP, having an increased ceiling would allow the park to proceed with the plan and not be hindered by reaching a specific ceiling in the midst of planned activities.

Additionally, S. 189 would authorize Congress to appropriate up to \$250,000 annually to meet the needs of the Keweenaw National Historical Park Advisory Commission

and would eliminate a required match of funds by the Commission. The Commission was authorized in 1992 to interface with the park's external partners and owners of historic properties and raise funds for park purposes. It has also been charged in part, to "carry out historical, educational, or cultural programs which encourage or enhance appreciation of the historic resources in the park, surrounding areas, and on the Keweenaw Peninsula." Although the Commission has put forth valiant efforts to meet its charge, it will be unable to effectively fulfill its mandates without recurring base funding. The present limit of \$100,000 on appropriations for the Commission would fund only the most minimal staff, or allow the Commission to only minimally reimburse the NPS for NPS-supplied-staff as required in the enabling legislation. This increase in the authorization ceiling and the elimination of matching requirements would allow for the sustained and viable operation of the Commission. With sustained operations, the Commission would be able to raise funds for park purposes, including financial and technical assistance to partner sites, and to fulfill its charge to carry out historical, educational, or cultural programs.

Finally, we recommend striking a provision in S. 189 concerning the ceiling on technical and financial assistance. The park has provided financial and technical assistance to owners of historic properties nearly entirely out of park operating funds. It is a primary function of this partnership park. It is expected that such assistance will continue through the use of discretionary park funds rather than specific appropriations for such purposes. Therefore, we recommend striking the language from the bill that seeks to increase the ceiling on financial and technical assistance from \$3 million to \$25 million and inserting language that eliminates this ceiling. This will result in the law not identifying a specific amount for the park to provide for such purposes and in having the park continue to fund this assistance through the park's base budget rather than providing a separate authorization for it. We have attached the proposed amendment to the testimony.

If enacted, the amendments in S. 189 would significantly enhance park development and operations by eliminating overly restrictive property acquisition criteria, by reducing unrealistic matching fund requirements, by increasing appropriation ceilings to levels that would support the mandates and purposes of the park, and by fulfilling the partnership provisions that are unique to this park unit.

Mr. Chairman, this concludes my testimony. I would be glad to answer any questions that you or other members of the subcommittee may have.

SUGGESTED AMENDMENT TO S. 189

On page 2, line 10 strike subparagraph (B) in its entirety and insert a new subparagraph (B):

“(B) by striking ‘, and \$3,000,000 for financial and technical assistance to owners of non-Federal property as provided in section 8’.”

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 189 as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

Public Law 102–543

AN ACT To establish the Keweenaw National Historical Park, and for other purposes. (Approved Oct. 27, 1992; 106 Stat. 3569)

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

* * * * *

SEC. 4. ACQUISITION OF PROPERTY.

* * * * *

[(d) HAZARDOUS SUBSTANCES.—The Secretary shall not acquire any lands pursuant to this Act if the Secretary determines that such lands, or any portion thereof, have become contaminated with hazardous substances (as defined in the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601)).]

* * * * *

SEC. 8. FINANCIAL AND TECHNICAL ASSISTANCE.

* * * * *

(b) MATCHING FUNDS.—Funds authorized to be appropriated to the Secretary for the purposes of this section shall be expended in the ratio of \$1 of Federal funds for each ~~[\$4]~~ \$1 of funds contributed by non-Federal sources. For the purposes of this subsection, the Secretary is authorized to accept from non-Federal sources, and to utilize for purposes of this Act, any money so contributed. Donations of land, or interests in land, by the State of Michigan may be considered as a contribution from non-Federal sources for the purposes of this subsection.

* * * * *

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

(a) Except as provided in subsection (b), there are authorized to be appropriated such sums as may be necessary to carry out this Act, but not to exceed \$ 5,000,000 for the acquisition of lands and interests therein, ~~[\$25,000,000]~~ \$50,000,000 for development, and ~~[\$3,000,000]~~ \$25,000,000 for financial and technical assistance to owners of non-Federal property as provided in section 8.

(b) There are authorized to be appropriated annually to the Commission to carry out its duties under this Act, ~~[\$100,000]~~ except that the Federal contribution to the Commission shall not exceed

50 percent of the annual costs to the Commission in carrying out those duties.】 \$250,000.

