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Statements on Introduced Bills and Joint Resolutions [The Congressional Record, Senate vol. 132, February 25, 1986, S1561-S1564]

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STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS
By Senator John Chafee

from The Congressional Record - Senate

A bill to provide for consistent Federal actions affecting resources of the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

External Development Affecting the National Parks:
Preserving "The Best Idea We Ever Had"
September 14-16, 1986
Estes Park, Colorado

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STATEMENTS ON INTRODUCED
BILLS AND JOINT RESOLUTIONS

By Mr. CHAFEE (for himself
and Mr. DURENBERGER):

S. 2092. A bill to provide for consistent Federal actions affecting resources of the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

NATIONAL PARK RESOURCES ACT

Mr. CHAFEE. Mr. President, today I am introducing the National Park System Resources Act. This bill will provide a clear and consistent policy with respect to activities on Federal lands which adversely affect resources in units of the National Park System.

Over the past several years it has become evident that our National Park System is facing serious problems. Although many of these problems are generated by activities within as well as outside the park boundaries, the majority of threats to park resources originate outside park boundaries. Congressional hearings, reports, and other data have identified a number of threats to the Park System. Here are a few examples:

In Yellowstone National Park, geothermal development, oil and gas leasing, and timber harvesting on adjacent lands may threaten Old Faithful and other geysers, as well as habitat important for the grizzly bear—one of three recoverable populations of this species in the lower 48 States. The park also faces air and water quality problems as a result of those activities.

In Glacier National Park, major resource exploration activities including coal, oil and gas exploration and extraction, and timber harvesting which pose major threats to park resources. Threats from these activities include degradation of park air and water quality, adverse effects on forest habitat for mammals, birds, and fish, as well as visitor experiences.

Although information on park threats continues to be generated, the most comprehensive study to date is the 1980 State of the Parks Report prepared by the National Park Service. This first-ever systemwide survey found that the scenic, natural, and historic resources in many park units are seriously threatened by numerous external and internal activities. The study identified 4,345 specific threats to park resources.

More than 50 percent of the reported threats were attributed to activities located external to the park. These external threats to parks often arise as a result of federally supported projects and activities on contiguous Federal lands. Testimony from the administration and other interested groups confirms that these external threats are a serious and real problem.

The House of Representatives has twice passed comprehensive park protection legislation, and Senate hearings on park problems have been held over the past 2 years.

In 1984 I introduced the Wildlife and Parks Act, which was aimed at protecting native fish and wildlife species found within the various Park System units. The amendment would have resulted in three things—it would have ensured protection of park wildlife on contiguous Federal lands outside the park boundaries as well as any lands inside the boundaries; assured consultation between park managers and other Federal land managers; and required a biannual report on park units' fish and wildlife resources.

During hearings on the amendment it became increasingly clear that some of the biggest threats to the parks come from development activities—such as oil and gas exploration, coal mining, and timber harvesting—on Federal lands that are contiguous to the parks. We received testimony from the administration and other interested groups which confirm that threats to the parks are real and are a problem.

Last year the Subcommittee on Public Lands and Reserved Water held hearings on the future of the National Park System. During these hearings we heard once again from the administration and other interested groups like the National Parks and Conservation Association, and the Conservation Foundation that activities occurring on federally managed lands adjacent to parks threaten the national park resources.

If we are going to remove these external threats we must require better coordination between the Park Service and the "multiple-use" agencies in the Interior Department and Forest Service.

The bill I am introducing today builds upon the Wildlife and Parks Act. This new comprehensive legislation, entitled the National Park System Resources Act of 1986, creates a mechanism to resolve differences among the Federal land management agencies and establishes a clear and consistent policy with respect to activities on Federal lands which may impact on parks.

The bill has four key elements.

First, it would prohibit new Federal expenditures or financial assistance for projects on federally managed areas contiguous to park boundaries, unless the Secretary of Interior determines that such activities would not degrade or destroy the scenic, natural or cultural resource found within a park unit. The Secretary, however, has the option of forgoing the determination process if he identifies "park resources protection areas" on the contiguous Federal lands to assure protection of the park.

Second, the bill recognizes the importance of those national parks which have been internationally designated "biosphere reserves" or "world heritage sites." The Secretary would be required to review the boundaries of these parks and make recommendations to assure they are sufficient for

full U.S. participation in the Man and the Biosphere Program.

Third, the legislation calls for comprehensive biannual reports on the condition of the National Park System. These reports would identify threats to park resources and provide baseline data which could be used to evaluate trends and problems in parks.

Fourth, the legislation would allow fees to be increased at certain parks. The increased revenue, however, is not intended to supplement existing funds, but generate new revenue which would flow back into the Park System for land acquisition, visitor services, maintenance, and other park programs.

Mr. President, it is important to note that the bill would not give the Interior Secretary any new authority over Federal expenditures or activities on private land outside park boundaries. Its simple and commonsense approach says, "Before we go off and spend a lot of Federal tax dollars that may damage park resources, which could cost a lot of dollars to restore, let's decide if this expenditure will have a detrimental effect on these park resources." If the answer is "Yes," then the project could not go forward, or would have to be modified accordingly—but we would save tax dollars and give greater protection to our irreplaceable park resources.

Mr. President, 70 years ago Congress established the National Park Service by enacting the Organic Act of 1916. Through the years we have developed a park system which is the envy of the world. We can be proud of our vision and foresight in setting aside these areas for protection. Now we must continue our efforts to ensure that our Nation's most spectacular natural, cultural, and historic treasures will be protected for future generations. I hope the Senate will give the legislation expeditious and favorable consideration.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2092

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Park System Resources Act of 1986".

TITLE I

SEC. 101. FINDING AND PURPOSE:

(a) FINDINGS.—The Congress finds that—

(1) the natural and cultural resources of the National Park System embrace unique, superlative and nationally significant resources, constitute a major source of pride, inspiration, and enjoyment for the people of the United States, and have gained international recognition and acclaim;

(2) the Congress has repeatedly expressed its intentions, in both generic and specific statute and by other means, that the natural and cultural resources of the National

Park System be accorded the highest degree of protection;

(3) many of the natural and cultural resources of the National Park System are being threatened or degraded as a result of certain incompatible activities;

(4) certain actions and programs of the Federal government have subsidized and permitted actions having detrimental effects on the natural and cultural resources of the National Park System;

(5) a program of coordinated action by Federal agencies and appropriate public notice when one Federal agency's proposed actions may be in conflict with the responsibilities of the National Park Service is critical to the more appropriate use and conservation of the National Park System; and

(6) full participation by the United States in the international Man and the Biosphere Program requires the designation of Biosphere Reserve Boundaries which include federally managed lands contiguous to the protected core areas of National Park System units that have been designated as World Heritage Sites or International Biosphere Reserves. Sustainable resource management and use within such designated boundaries may proceed in a manner that is consistent with protection of such core areas.

(b) PURPOSE.—The Congress declares that it is the purpose of this Act to assist in the protection and conservation of natural and cultural resources of the National Park System by restricting future Federal expenditures and financial assistance which have the effect of threatening, degrading, or destroying such resources within units of the National Park System and by assuring, through improved Federal interagency and public involvement, consistency among Federal agency actions affecting the resources of the National Park System.

SEC. 102. DEFINITIONS.

For purposes of this Act—

(1) "contiguous federally managed area" means any area owned or managed by the Federal Government that is contiguous to a unit of the National Park System;

(2) "financial assistance" and "expenditure" means any form of loan, grant, guaranty, insurance, payment, rebate, subsidy, or any other form of direct or indirect Federal assistance or expenditure including the issuance of a permit or lease but not including:

(A) assistance for environmental studies, planning, and assessments that are required incident to the issuance of permits or other authorizations under Federal law;

(B) deposit or account insurance for customers of banks, savings and loan associations, credit unions, or similar institutions;

(C) the purchase of mortgages or loans by the Government National Mortgage Association, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation; and,

(D) assistance pursuant to programs entirely unrelated to development or habitat alteration, such as any Federal or Federally assisted public assistance program or any Federal old-age survivors or disability insurance program;

(3) "National park system" has the meaning provided by section 2 of the Act of August 8, 1953 (16 U.S.C. 1b-1c);

(4) "natural and cultural resources" includes—

(A) in the case of natural resources, the geology, paleontological remains, and flora and fauna which are of indigenous origin, and

(B) in the case of cultural resources, the historic and prehistoric districts, sites, buildings, structures, objects and human tradi-

tions associated with or representative of human activities and events, including related artifacts, records and remains;

(5) "park resource protection areas" are areas within or contiguous with contiguous federally managed areas that are designated by the Secretary as necessary to protect and conserve park resources;

(6) "Secretary" means the Secretary of the Interior acting through the Director of the National Park Service except where specific reference is made to the Secretary of the Interior.

SEC. 103. LIMITATIONS ON FEDERAL EXPENDITURES AFFECTING THE SYSTEM.

(a) Except as provided in subsection (b) of this section or in section 104, no new expenditures or new financial assistance may be made available under authority of any Federal law for any purpose within the Congressionally authorized boundaries of any unit of the National Park System or of any contiguous federally managed areas unless the Secretary has determined, after public notice and an opportunity for public comment, that—

(1) the expenditure or financial assistance will not degrade or destroy the natural or cultural resources within any unit of the National Park System; and

(2) such expenditure or financial assistance is consistent with and subject to the limitations and requirements of other applicable Federal law.

(b) The Secretary may designate and periodically update and revise, as appropriate, park resource protection areas within the Congressionally authorized boundaries of contiguous federally managed areas. Following designation of a park resource protection area within a contiguous federally managed area—

(1) the limitation set forth in subsection (a) of this section shall not apply to new expenditures or new financial assistance within such contiguous area; and

(2) each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action within a designated park resource protection area that is authorized, funded, or carried out by such agency is not likely to degrade or destroy the natural or cultural resources of any unit of the National Park System.

(c) An expenditure or financial assistance made available under authority of Federal law shall, for the purposes of this Act, be a new expenditure or new financial assistance if—

(1) in any case with respect to which specific appropriations are required, no money for construction or purchase was appropriated before the date of the enactment of this Act; or

(2) no legally binding commitment for the expenditure or financial assistance was made before the date of the enactment of this Act.

SEC. 104. EXCEPTIONS.

Notwithstanding section 103, the appropriate Federal officer may, after written consultation with the Secretary on the extent to which natural or cultural resources within any unit of the National Park System may be adversely affected, make Federal expenditures or financial assistance available to the extent authorized by applicable Federal law for—

(1) military activities essential to national security;

(2) assistance for emergency actions essential to the savings of lives and the protection of the public health and safety, provided such assistance is limited to actions that are necessary to alleviate the emergency; and

(3) any of the following actions or projects, but only if the making available of

expenditures or assistance therefor is consistent with the purposes of this Act—

(A) projects for the study, management, and protection of fish and wildlife resources under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(B) projects under the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 through 11);

(C) maintenance and restoration of natural and cultural resources within a unit of the National Park System;

(D) maintenance of existing facilities or existing infrastructure within contiguous federally managed areas or park resource protection areas designated under section 103; and

(E) scientific research promoting the conservation of natural and cultural resources of the National Park System.

SEC. 105. INTERAGENCY COOPERATION AND REVIEW.

(a) The Secretary of the Interior shall review other programs of the Department of the Interior and utilize such programs in furtherance of the purposes of this Act. All other Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by assisting in the protection and conservation of natural and cultural resources of the National Park System.

(b)(1) Each Federal agency shall, at the earliest practicable time prior to authorizing, funding, or carrying out any new expenditure or new financial assistance within a contiguous federally managed area or designated park resource protection area that is likely to have a significant detrimental effect on natural or cultural resources within a unit of the National Park System, notify the Secretary that the agency proposes to take such action.

(2) In addition to the notice required by paragraph (1), each Federal agency proposing to take such action shall provide the Secretary with a description and a summary of the factual and legal basis for the proposed action and, thereafter, in accordance with the National Environmental Policy Act (42 U.S.C. 4321 et seq.), an assessment of the proposed action's environmental impacts.

SEC. 106. REPORT TO CONGRESS.

(a) The Secretary shall, on a biennial basis, prepare a report on the condition of the units of the National Park System. The report shall correlate to a fiscal year base and shall be transmitted to the Speaker of the United States House of Representatives and to the President of the United States Senate by March 1 of each odd numbered year. Successive reports shall update previous submissions. The report shall include, but need not be limited to, the following major components:

(1) a brief description, for each unit of the National Park System, of

(A) the past, current, and projected condition of the unit's natural and cultural resources;

(B) the impact from identified factors and forces, ranked in order of priority, emanating from both inside and outside the unit, which damage or threaten to damage the welfare and integrity of the unit's natural and cultural resources, with identification of the trends and the severity of impact of such factors and forces; and

(C) a description and assessment of ongoing and proposed Federal programs and actions which may have a detrimental effect on the unit's natural and cultural resources;

(2) a description and assessment of Federal laws and regulations which can be or are being used to prevent and reverse those fac-

tors and forces identified under paragraph (1) which are altering or damaging, or threatening to alter or damage, the welfare and integrity of natural and cultural resources of park system units; and

(3) recommendations for the protection and conservation of National Park System resources based on an evaluation and comparison of all management alternatives, and combinations thereof, such as State and local actions, Federal actions (including increased interagency cooperation, acquisition or transfer of lands for administration as part of the National Park System, and application of Federal incentives and disincentives designed to influence government and private actions), and initiatives by private organizations and individuals.

(b) In the preparation of the report, the Secretary shall consult with appropriate Federal and State agencies and shall take appropriate steps to solicit public involvement. A preliminary draft of the report shall be made available to the public for a period of not less than thirty days for review and comment not less than three months prior to submission of the report to the Congress. Notice of the availability of such draft for public review and comment shall be published in the Federal Register. A summary of public comments received shall be transmitted with the report.

(c) Not later than 12 months after the date of the enactment of this Act, the Secretary shall submit to Congress a report documenting the establishment and structure of a National Park Service Program. Such report shall include a schedule of present and future staffing levels, a summary of ongoing scientific projects within the National Park System, and a summary of anticipated scientific research projects, together with a statement of funding requirements to accomplish such research.

SEC. 107. PROPERTY VALUE.

In the event of government acquisition of property or donation of a conservation interest in property to any qualified recipient, any adverse effect on the fair market value of such property or interest resulting from this Act shall not be considered in the establishment of just compensation or the assessment of the value of the donation.

SEC. 108. TECHNICAL ASSISTANCE, COOPERATION, AND PLANNING.

The Secretary is directed to cooperate with, and is authorized to provide technical assistance to, any governmental unit managing lands within or adjacent to the units of the National Park System where the results of such cooperation and assistance would likely benefit the protection of park resources. The superintendent of each unit of the National Park System shall initiate an effort to work cooperatively with all governmental agencies and other entities having influence or control over lands, resources, and activities within or adjacent to that unit for the purpose of developing, on a voluntary basis, mutually compatible management plans or policies for the general area.

SEC. 109. SCIENTIFIC ADVISORY ASSISTANCE.

The Secretary is authorized and directed to establish within the National Park Service, a program or division to engage in scientific research in support of the National Park Service mission and mandate as set forth in the Act of August 25, 1916 (39 Stat. 535) and specific requirements of enabling legislation for units of the National Park System.

SEC. 110. INTERNATIONALLY RECOGNIZED AREAS.

(a) Those units of the National Park System that are, following nomination by the United States, accorded the designation of "Biosphere Reserve" under the Interna-

tional Man and the Biosphere Program or "World Heritage Site" by the World Heritage Committee shall receive priority attention and consideration for prompt, heightened resource data collection, monitoring, and resource protection efforts.

(b) The Secretary shall review the boundaries of those Biosphere Reserves that are managed under authority of the Department of the Interior to determine if such boundaries are sufficient for full United States participation in the Man and the Biosphere Program. The Secretary shall submit to the Congress within 12 months after the date of enactment of this Act a report which includes—

(1) a description of those Biosphere Reserves covered under this section,

(2) recommendations for any needed adjustments to Biosphere Reserve boundaries to include federally managed lands contiguous to the protected core areas of National Park System units, and

(3) recommendations for administrative or legislative actions to ensure that multiple uses of such contiguous lands will be protected of such core areas.

SEC. 111. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Department of the Interior such sums as may be necessary for purposes of carrying out the provisions of this Act. Funds otherwise appropriated for the operation and management of the National Park System and contiguous federally managed areas may also be used to carry out the provisions of this Act.

SEC. 112. CITIZENS SUITS.

(1) Except as provided in paragraph (2) of this subsection any person may commence a civil suit on his own behalf—

(A) to enjoin any person, including the United States and other governmental instrumentality or agency (to the extent permitted by the eleventh amendment to the Constitution), who is alleged to be in violation of any provision of this Act or regulation issued under the authority thereof; or

(B) against the Secretary where there is alleged a failure of the Secretary to perform any act or duty under this Act which is not discretionary with the Secretary.

The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce any such provision or regulation or to order the Secretary to perform such act or duty, as the case may be.

(2) No action may be commenced under paragraph (1) of this section prior to sixty days after written notice of the violation has been given to the Secretary, and to any alleged violator of any such provision or regulation, except that such action may be brought immediately after such notification in the case of an action under this section respecting an emergency posing a significant risk to the well-being of any natural or cultural resources of the National Park System.

(3)(A) Any suit under this subsection may be brought in the judicial district in which the violation occurs.

(B) In any such suit under this subsection in which the United States is not a party, the Attorney General, at the request of the Secretary, may intervene on behalf of the United States as a matter of right.

(4) The court, in issuing any final order in any suit brought pursuant to paragraph (1) of this subsection, may award costs to litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate.

(5) The injunctive relief provided by this subsection shall not restrict any right which

any person (or class of persons) may have under any statute or common law to seek enforcement of any standard or limitation or to seek any other relief (including relief against the Secretary or a State agency).

TITLE II

SEC. 201. ENTRANCE FEES.

(a) Section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-6a) is amended by—

(1) amending subsection (a) by striking "No admission fees of any kind shall be" and by inserting in lieu thereof "Entrance or admission fees may be";

(2) amending paragraph (1) of subsection (a) by striking "\$10" and inserting in lieu thereof "\$25";

(3) amending subsection (d) by adding at the end thereof the following: "It is the intent of Congress that fees collected at the entrance to a federally owned area—not be considered an access fee, but a fee for the services and facilities provided within the area which is merely collected, for convenience, at the entrance. Fees collected pursuant to this Act should not have the purpose of making federal recreation areas self-sufficient, but should be considered supplementary to, rather than in substitution of, Federal appropriations for the operation and maintenance of these units. Fees collected should not be used to offset or reduce appropriated funds, but to augment or expand existing programs."; and

(4) amending subsection (f) by (i) inserting ", except the National Park Service," immediately after "which are collected by any Federal agency" and (ii) adding at the end thereof the following: "Fees collected in any unit of the national park system shall be allocated by the Director of the National Park Service from funds appropriated pursuant to this subsection each fiscal year for purposes of supporting the interpretation, resource protection and visitor impact management functions of the Service, on the following basis: 30% to be returned to the parks which operate fee collection programs, generally on a proportionate basis relative to the amount of fees collected by each of these parks; 40% allocated among parks that do not utilize a fee collection program; and 30% allocated among all national park system units based on specific interpretation, resource protection or visitor impact management program enhancement needs identified to and approved by the Director.".

(b) Section 402 of the Act approved October 12, 1979 (Public Law 96-87, 93 Stat. 666) is hereby repealed.