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### JOHN MUIR NATIONAL HISTORIC SITE BOUNDARY ADJUSTMENT ACT

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SEPTEMBER 28, 2004.—Ordered to be printed

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

### R E P O R T

[To accompany H.R. 3706]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 3706) to adjust the boundary of the John Muir National Historic Site, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the Act do pass.

#### PURPOSE OF THE MEASURE

The purpose of H.R. 3706 is to authorize the Secretary of the Interior to acquire 0.2 acres of land adjacent to the John Muir National Historic Site and to adjust the boundary of the historic site to include the newly acquired land. The acquired land is to be developed as a parking lot to improve access to the historic site.

#### BACKGROUND AND NEED

The home of John Muir, noted naturalist and a founder of the Sierra Club, became a National Historic Site in 1964 (78 Stat. 753; 16 U.S.C. 461 note). The home is located in Martinez, California, approximately 32 miles northeast of San Francisco. The John Muir National Historic Site (Historic Site) preserves the Victorian residence, the historic Martinez adobe, Mt. Wanda, and a part of the fruit ranch where John Muir lived from 1890 until his death in 1914. While living in Martinez, Muir laid the foundation for the creation of the National Park Service in 1916.

The Historic Site provides valuable open space for the San Francisco Bay area and includes the John Muir Nature Trail, abundant bird life, and scenic vistas of the Carquinez straits. John Muir's

nearby grave site was acquired by the National Park Service in 2000.

In 1988, Congress authorized an expansion of the Historic Site which included a 3.3-acre parcel of land owned by the city of Martinez, California. The area was donated by the city to the National Park Service for inclusion in the Historic Site. In 1991, the general management plan for the Historic Site proposed that the acquired land be developed as a visitor parking area and maintenance facility. A boundary survey of the Historic Site was conducted in 1994. The survey indicated that a small triangle of land (approximately 0.2 acres or 9500 square feet) was found to be outside of the parcel donated by the city of Martinez. Further investigation by the National Park Service found that no one was listed with the county tax assessor parcel number, and thus no taxes had been collected or paid on the 0.2 acre since the 1960s.

Without issuance of a clear title for the 0.2-acre parcel, development cannot proceed on the parking lot expansion and maintenance facility. H.R. 3706 would authorize the acquisition of the land so that the parking facility may be constructed.

#### LEGISLATIVE HISTORY

H.R. 3706 was introduced by Representative George Miller on January 20, 2004. Similar legislation, S. 2397, was introduced by Senators Boxer and Feinstein on May 10, 2004. H.R. 3706 was favorably reported by the House Resources Committee on May 5, 2004 (H. Rept. 108-555) and passed the House of Representatives by a voice vote on June 21, 2004. The Committee on Energy and Natural Resources' Subcommittee on National Parks held a hearing on S. 2397 and H.R. 3706 on July 15, 2004. At the business meeting on September 15, 2004, the Committee on Energy and Natural Resources ordered H.R. 3706 favorably reported.

#### COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in an open business session on September 15, 2004, by a unanimous voice vote of a quorum present, recommends that the Senate pass H.R. 3706.

#### SECTION-BY-SECTION ANALYSIS

Section 1 entitles this bill the "John Muir National Historic Site Boundary Adjustment Act."

Section 2 defines key terms used in the Act.

Section 3(a)(1) authorizes the Secretary of the Interior (Secretary) to acquire the land or interests in land as depicted on the map described in section 2(b).

Paragraph (2) allows the land described in paragraph 3(a)(1) to be acquired by donation, purchase from a willing seller or through exchange. The land may be acquired with donated or appropriated funds.

Subsection (b) requires that the John Muir National Historic Site (Historic Site) boundary be adjusted to include the newly acquired land.

Subsection (c) requires the Secretary to administer any land acquired under subsection (b) as a part of the Historic Site and in accordance with any applicable laws.

## COST AND BUDGETARY CONSIDERATIONS

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

*H.R. 3706—John Muir National Historic Site Boundary Adjustment Act*

H.R. 3706 would adjust the boundary of the John Muir National Historic Site and authorize the National Park Service (NPS) to acquire the added 0.2-acre parcel of land by purchase, donation, or exchange. Based on information provided by the NPS, we expect the agency to condemn the small tract to establish its current ownership, which is unknown. Depending on the outcome of the condemnation proceeding, CBO expects that the NPS would then: (1) annex the property without further cost to the government (if no owner is located), (2) accept donation of the tract (if the owner is another government agency), or (3) purchase the property (if a private owner is located). CBO estimates that the cost of acquiring the property would be less than \$50,000, assuming availability of appropriated funds. Enacting H.R. 3706 would not affect revenues or direct spending.

CBO has generally found that when legislation is expected to result in condemnation of property, it contains a mandate, as defined in the Unfunded Mandates Reform Act (UMRA). In this case, however, because the NPS cannot identify the current owner of the parcel, CBO cannot determine whether this mandate would fall on a government, on the private sector, or on both. Based on information provided by the NPS, CBO estimates that the value of the property is less than \$50,000, so the cost would be well below the thresholds established in UMRA. (The thresholds in 2004 are \$60 million and \$120 million per year, respectively, for intergovernmental and private-sector mandates, adjusted annually for inflation.)

On May 13, 2004, CBO transmitted a cost estimate for H.R. 3706 as ordered reported by the House Committee on Resources on May 5, 2004. The two versions of the legislation are identical, as are the estimated costs.

The CBO staff contacts for this estimate are Deborah Reis (for federal costs), Marjorie Miller (for the state and local impact), and Selena Caldera (for the private-sector impact). The estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

## REGULATORY IMPACT EVALUATION

In compliance with paragraph 11 (b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 3706.

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 H.R. 3706.

## EXECUTIVE COMMUNICATIONS

On July 6, 2004, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth Executive agency recommendations on H.R. 3706. These reports had not been received when this report was filed. The testimony provided by the Department of the Interior at the Subcommittee hearing on H.R. 3706 follows:

STATEMENT OF A. DURAND JONES, DEPUTY DIRECTOR,  
NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman, thank you for the opportunity to appear before your committee to present the views of the Department of the Interior on S. 2397 and H.R. 3706, bills to adjust the boundary of the John Muir National Historic Site.

The Department supports enactment of this legislation, which was submitted to Congress as an Administration proposal last year. Passage of the legislation would enable the National Park Service to fulfill one of the General Management Plan objectives for the park by facilitating construction of a visitor parking area. As explained later in the testimony, we recommend that the committee approve H.R. 3706 rather than S. 2397.

John Muir National Historic Site was established in 1964 by Public Law 88-547 in recognition of John Muir's efforts as a conservationist and a crusader for national parks and reservations. The site includes the home where John Muir lived from 1890 until his death in 1914, the historic Martinez adobe, Mt. Wanda, and the Muir gravesite. Included in the 1988 boundary expansion (Public Law 100-563) that added Mt. Wanda to the park was a 3.3-acre parcel owned by the city of Martinez. Following passage of the legislation, the city donated the parcel to the National Park Service to be administered as part of the national historic site.

At the time of the transfer, both city and National Park Service staff believed that the 3.3-acre parcel, located between the south side of Franklin Canyon Road and the Santa Fe Railroad line, encompassed all of the land between the street and the railroad line. However, in 1994, while surveying the area, the National Park Service discovered that a 0.2-acre (9,500 square foot) tract abutting the south edge of the road had not been part of the parcel donated by the city. Furthermore, it was determined that no one was listed as the owner of the tract with the county tax assessor, that it lacked a tax assessor parcel number, and that no taxes had been collected or paid on the parcel since the 1960's. All efforts to trace the ownership of the property have been unsuccessful.

This 0.2-acre parcel is needed for a new 32-car/2-bus visitor parking area, as called for by the park's 1991 General Management Plan. The park's existing 17-space parking area regularly fills to capacity, causing visitor parking to overflow onto the adjoining neighborhood streets. The city

of Martinez has sought the additional off-street visitor parking to respond to residents' concerns. Construction of the parking area is estimated to cost about \$200,000, and funds from the National Park Service's Recreation Fee Demonstration Program (the 20 percent fund for which non-fee-collecting parks are eligible) have been set aside for this purpose. Because of the steep terrain of the area, there are no suitable alternatives within the boundary for a parking lot that excludes this 0.2-acre tract. Work cannot proceed on the parking lot until the park acquires the tract.

Despite the tiny size of this parcel, the National Park Service cannot use minor boundary adjustment authority under 16 U.S.C. 460I-9 to add the property to the boundary. One of the criteria for use of that authority is that the National Park Service obtain written consent from the owner of the affected property. In this case, as mentioned previously, the owner cannot be located.

Both S. 2397 and H.R. 3706 provide for adoption of a new boundary map that places the 0.2-acre parcel in question within the boundary of the John Muir National Historic Site, and both authorize the Secretary of the Interior to acquire the tract and administer it as part of the park. However, S. 2397 provides for acquisition only from a willing seller. Since the owner cannot be located, we anticipate acquiring title through condemnation, which S. 2397 would not allow. H.R. 3706 does not include a "willing seller" provision and therefore would allow acquisition through condemnation. For that reason, we urge the committee to approve H.R. 3706, which was passed by the House on June 21, rather than S. 2397.

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

#### CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the Act H.R. 3706, as ordered reported.

