

Calendar No. 371

110TH CONGRESS }
1st Session }

SENATE

{ REPORT
{ 110-173

WALNUT CANYON STUDY ACT OF 2007

SEPTEMBER 17, 2007.—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. 722]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 722) to direct the Secretary of the Interior and the Secretary of Agriculture to jointly conduct a study of certain land adjacent to the Walnut Canyon National Monument in the State of Arizona, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Walnut Canyon Study Act of 2007”.

SEC. 2. DEFINITIONS.

In this Act:

- (1) MAP.—The term “map” means the map entitled “Walnut Canyon Proposed Study Area” and dated July 17, 2007.
- (2) SECRETARIES.—The term “Secretaries” means the Secretary of the Interior and the Secretary of Agriculture, acting jointly.
- (3) STUDY AREA.—The term “study area” means the area identified on the map as the “Walnut Canyon Proposed Study Area”.

SEC. 3. STUDY.

(a) IN GENERAL.—The Secretaries shall conduct a study of the study area to assess—

- (1) the suitability and feasibility of designating all or part of the study area as an addition to Walnut Canyon National Monument, in accordance with section 8(c) of Public Law 91-383 (16 U.S.C. 1a-5(c));
- (2) continued management of the study area by the Forest Service; or
- (3) any other designation or management option that would provide for—
 - (A) protection of resources within the study area; and
 - (B) continued access to, and use of, the study area by the public.

(b) CONSULTATION.—The Secretaries shall provide for public comment in the preparation of the study, including consultation with appropriate Federal, State, and local governmental entities.

(c) REPORT.—Not later than 18 months after the date on which funds are made available to carry out this Act, the Secretaries shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a report that describes—

- (1) the results of the study; and
- (2) any recommendations of the Secretaries.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this Act.

PURPOSE

The purpose of S. 722, as ordered reported, is to direct the Secretary of the Interior and the Secretary of Agriculture to jointly conduct a study of approximately 31,000 acres of land adjacent to Walnut Canyon National Monument in northern Arizona to evaluate a range of future management options.

BACKGROUND AND NEED

Walnut Canyon National Monument was established on November 30, 1915, by Presidential Proclamation to preserve the prehistoric ruins of ancient cliff dwellings in northern Arizona. The monument was expanded in 1938 and 1996 and now encompasses approximately 3,600 acres. The purposes for which the national monument was originally established have been expanded to include protection of natural and cultural resources that are known to be significant to contemporary native tribes and the ecological communities and geological resources that make the canyon an outstanding scenic resource. The archeological and prehistoric resources preserved in the national monument are nearly pristine, and provide not only scientific opportunities but also challenges for preservation. The national monument and the adjacent Coconino National Forest also provide for important habitat and open space around Flagstaff.

For several years, local communities adjacent to the national monument have debated how the land surrounding the monument would be best protected from future development. The Coconino County Board of Supervisors and the Flagstaff City Council have passed resolutions concluding that a Federal study is the preferred method to determine the appropriate management of land surrounding the monument.

The National Park Service released a Draft General Management Plan for Walnut Canyon National Monument for public comment in 2003. Many of the issues identified for resolution in S. 722 were also identified in the Draft GMP. The plan is being revised to address comments about boundary issues, and is expected to be completed later this year.

The Forest Service has developed a Land Resource Management Plan for the Coconino National Forest, amended in early 2003, that closed the study area to motorized access and removed the land encircling the Monument from consideration for sale or exchange.

As ordered reported, S. 722 will authorize National Park Service and the Forest Service to jointly study the National Forest lands adjacent to the monument and to submit the study results and agency recommendations to the Congressional committees within 18 months after the date of enactment.

LEGISLATIVE HISTORY

S. 722 was introduced by Senators McCain and Kyl on March 1, 2007. The Subcommittee on National Parks held a hearing on S. 722 on April 26, 2007 (S. Hrg. 110–88).

Similar legislation was considered by the Committee during the 109th Congress, S. 556, also sponsored by Senators McCain and Kyl. The Subcommittee on National Parks held a hearing on S. 556 on June 28, 2005 (S. Hrg. 109–101).

At its business meeting on July 25, 2007, the Committee on Energy and Natural Resources ordered S. 722 favorably reported, with an amendment in the nature of a substitute.

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on July 25, 2007, by a voice vote of a quorum present, recommends that the Senate pass S. 722, if amended as described herein.

COMMITTEE AMENDMENT

During its consideration of S. 722, the Committee adopted an amendment in the nature of a substitute. The amendment provides for a study to be conducted jointly by the National Park Service and the Forest Service in accordance with the standard study authorities for both agencies. The amendment is explained in detail in the section-by-section analysis, below.

SECTION-BY-SECTION ANALYSIS

Section 1 contains the short title, the “Walnut Canyon Study Act of 2007.”

Section 2 defines key terms used in the bill.

Section 3(a) requires the Secretary of the Interior and the Secretary of Agriculture to jointly conduct a study of the area identified on the referenced map to assess the suitability and feasibility of designating all or part of the study area as an addition to Walnut Canyon National Monument; to assess continued management of the study area by the Forest Service; or any other designation or management option that would provide for protection of resources within the study area and continued public use and access.

Subsection (b) requires the Secretaries to provide for public comment in the preparation of the study, including consultation with appropriate Federal, State, and local governmental entities.

Subsection (c) requires the Secretaries to issue a report to the congressional committees within 18 months after the date of enactment, describing the results of the study and any agency recommendations.

Subsection (d) authorizes the appropriation of such sums as are necessary to carry out this Act.

COST AND BUDGETARY CONSIDERATIONS

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

AUGUST 7, 2007.

Hon. JEFF BINGAMAN,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 722, the Walnut Canyon Study Act of 2007.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Tyler Kruzich.

Sincerely,

PETER R. ORSZAG.

Enclosure.

S. 722—Walnut Canyon Study Act of 2007

S. 722 would direct the Department of Interior (DOI) and the U.S. Department of Agriculture (USDA) to conduct a joint study to determine the suitability and feasibility of designating certain land as an addition to Walnut Canyon National Monument or another land management option that would protect resources and public access to such land. Based on information from DOI and USDA, CBO estimates that implementing S. 722 would cost less than \$500,000, subject to the availability of appropriated funds. Enacting the legislation would not affect direct spending or revenues.

S. 722 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contacts for this estimate are Tyler Kruzich and David Reynolds. 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 S. 722. 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. 722, as ordered reported.

EXECUTIVE COMMUNICATIONS

The testimony provided by the National Park Service at the April 26, 2007 Subcommittee hearing on S. 722 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 Administration's views on S. 722, a bill to direct the Secretary of the Interior and the Secretary of Agriculture to jointly conduct a study of certain lands adja-

cent to the Walnut Canyon National Monument in the State of Arizona.

The Administration does not object to the enactment of S. 722. In testimony before this subcommittee in the 109th Congress, the Administration also did not object to the enactment of S. 556, an almost identical bill. However, the Administration believes that funding should be directed first toward completing and implementing ongoing studies.

S. 722 would direct the Secretary of the Interior and the Secretary of Agriculture to conduct a study of approximately 31,000 acres surrounding Walnut Canyon National Monument (monument). The bill would direct the Secretaries to utilize a third-party consultant to prepare a draft study and designate a lead agency to conduct the study. The study would evaluate a range of options to manage Federal and State lands adjacent to the monument in the long term in order to protect the resources and maintain public use and access to this area of Arizona, as well as respect the rights of private property owners that are within the study area.

S. 722 would direct the Secretaries, as well as local land managers, the Flagstaff City Council and the Coconino County Board of Supervisors to review and provide the third-party consultant with comments on the draft study. The bill also requires a report that includes findings, conclusions, and recommendations for future management of the study area to be transmitted by the Secretaries to Congress no later than 18 months after appropriations are made available. The bill would authorize \$350,000 to carry out S. 722.

Walnut Canyon National Monument was established on November 30, 1915, by Presidential Proclamation with the specific purpose of preserving the prehistoric ruins of ancient cliff dwellings. The monument was expanded in 1938 and 1996 and now occupies approximately 3,600 acres. The purposes for which the area was originally established have expanded to include protection of natural and cultural resources that are known to be significant to contemporary native tribes and the ecological communities and geological resources that make the canyon an outstanding scenic resource. The monument and the surrounding lands of the Coconino National Forest provide a significant natural sanctuary and greenbelt surrounding the city of Flagstaff.

During the last few years, the National Park Service has been completing a General Management Plan (GMP) for Walnut Canyon National Monument. The final version of the GMP will be released for 30 day public review later this year. Many of the issues identified for resolution in S. 722 are also identified as needs in the GMP including addressing the history of this boundary issue and the planning efforts that area governments have been making that would affect the quality and values of the monument.

For several years, local communities adjacent to the monument have debated how the land surrounding the

monument would be best protected from future development. A number of years ago, the Coconino County Board of Supervisors and the Flagstaff City Council passed resolutions concluding that the preferred method to determine what is best for the land surrounding the monument is by having a federal study conducted. Included within the lands to be studied that surround the monument are approximately 2,000 acres of State trust lands. Our understanding is that Arizona law prohibits State lands to be donated and that the Arizona Supreme Court has determined that the Arizona Constitution prohibits the disposal of certain State land except through auction to the highest and best bidder. Should the study's conclusions involve these types of actions concerning State lands, we would have to await a determination on how the citizens of Arizona and their representatives would recommend proceeding.

We understand the concern that National Forest System (NFS) lands between the Monument and the City of Flagstaff might eventually be sold or exchanged originally prompted local support for this proposed study. The proposed study area is within two miles of the campus of Northern Arizona University and is a prime recreation area for students, as well as for Flagstaff area residents. In fact, the area is the second most-used area for recreation in the greater Flagstaff area, behind only the San Francisco Peaks.

In 2003, the Coconino National Forest amended its Land and Resource Management Plan, resulting in a decision to provide for closure of the area to motorized access and to remove the land encircling the Monument from consideration for sale or exchange. The Flagstaff-area Regional Land Use and Transportation Plan (RLUTP), approved by the Flagstaff City Council and the Coconino County Board of Supervisors in 2002, limits growth and does not allow for development within the study area. RLUTP specifically precludes two key sections of Arizona State Trust land between Flagstaff and the Monument as suitable for development. Those lands are identified in the plan for open space and greenways.

Mr. Chairman, I would like to note that since this bill was first introduced, a great deal of cooperative planning work has been accomplished by the National Park Service, U.S. Forest Service, State of Arizona, Coconino County, and the City of Flagstaff to achieve the bill's objectives.

If the Committee moves forward with S. 722, Section 4 may need to be amended to specify that the draft study be available for public comment. Additionally, section 4(e)(2) should also be revised to require the Secretaries to "submit to Congress a report that includes recommendations, if any, for the future management of" certain lands adjacent to the Walnut Canyon National Monument in the State of Arizona, consistent with the Recommendations Clause of the Constitution. We will be happy to work with the Committee on the suggested amendments.

Mr. Chairman, that completes my prepared remarks. I would be happy to answer any questions that 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 bill S. 722, as ordered reported.

