



Legislative Bulletin.....July 8, 2002

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**H.R. 4609 — Rathdrum Prairie/Spokane Valley Aquifer Study Act
(Nethercutt)**

Order of Business: The bill is scheduled to be considered on Monday, July 8th, under a motion to suspend the rules and pass the bill.

Summary: H.R. 4609 requires the Secretary of Interior to conduct a comprehensive study of the Rathdrum Prairie/Spokane Valley Aquifer, which is located in Idaho and Washington. The legislation states that the purpose of the study is to prepare a groundwater model to better coordinate the management of the aquifer and understand the factors that influence its quality and quantity of water.

The study must be completed in three years and be conducted in consultation with the states of Washington and Idaho.

Additional Background: About two-thirds of the Rathdrum Prairie/Spokane Valley Aquifer is located in Idaho, while the remainder is located in Washington. The two states share the aquifer, but do not manage it in the same manner, which has raised a variety of concerns in the communities that rely on the aquifer as the sole drinking water supply. The aquifer was officially designated as a “sole source” drinking water supply under the Safe Drinking Water Act in 1978.

Congress has already spent some funds on efforts to improve the management and protection of the aquifer, including an appropriation of \$1 million in 1988.

Cost to Taxpayers: CBO estimates H.R. 4609 will cost \$3.5 million over the 2003-2005 period, subject to appropriations.

Does the Bill Create New Federal Programs or Rules?: The bill requires a study of the Rathdrum Prairie/Spokane Valley Aquifer by the Secretary of Interior.

Constitutional Authority: The Committee on Resources, in House Report 107-492, cites Article I, Section 8, but fails to cite a specific clause.

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H.R. 3380— To authorize the Secretary of the Interior to issue right-of-way permits for natural gas pipelines within the boundary of Great Smoky Mountains National Park (Jenkins)

Order of Business: The bill is scheduled to be considered on Monday, July 8, 2002, under a motion to suspend the rules and pass the bill.

Summary: H.R. 3971 authorizes the Interior Secretary to issue right-of-way permits to the Sevier County Utility District to tie a new natural gas pipeline to an existing line running parallel to U.S. Highway 441 along the Gatlinburg-Pigeon Forge Spur in Tennessee, thus allowing natural gas service to the Westgate development in Gatlinburg. The bill would limit new permits to three specific sites within the Great Smoky Mountains National Park. Any permits issued under the bill would be subject to any terms and conditions that the Secretary establishes, including requirements to protect and restore federal lands during pipeline construction.

Additional Information: The existing pipeline was in the ground before the National Park Service (NPS) acquired its right-of-way along 441. The County first requested a NPS permit in 2000, but it was discovered that though the Secretary of the Interior has the authority to grant rights-of-way permits through units of the NPS for various utility services, the Secretary currently does not have the authority to grant a permit for natural gas or petroleum product pipelines. Under H.R. 3971, no permits would be granted until all environmental and safety reviews have been conducted.

Cost to Taxpayers: CBO estimates that implementing H.R. 3380 would have no significant impact on the federal budget. According to the National Park Service, the agency probably would collect fees for the right-of-way permits, and CBO estimates that any increase in federal revenues from such fees would total less than \$500,000 a year.

Does the Bill Create New Federal Programs or Rules?: The bill authorizes the National Park Service to issue three permits for building a natural gas pipeline extension in Tennessee. Without this legislation, the Secretary of Interior is not authorized to permit pipeline permits on NPS-controlled land.

Constitutional Authority: The Resources Committee (in Report 107-491) finds Constitutional Authority under Article I, section 8 of the Constitution (Powers of Congress) but does not cite a specific clause.

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H.R. 2643—Fort Clatsop National Memorial Expansion Act (Wu)

Order of Business: The bill is scheduled to be considered on Monday, July 8th, under a motion to suspend the rules and pass the bill.

Summary: H.R. 2643 would authorize the acquisition of additional lands for inclusion in the Fort Clatsop National Memorial in Oregon, which is a memorial (congressionally authorized in 1958) honoring the Lewis and Clark Expedition. The total area of the Memorial (currently limited to 130 acres) could not exceed 1,500 acres. The Memorial presently covers 125 acres. The intention of the acquisition is to bring into the Memorial a trail between a Lewis and Clark encampment and the Pacific Ocean, as well as the land surrounding the trail and the Pacific shoreline.

The additional land must be acquired by donation or purchase from willing sellers—except for corporately-owned timberlands in the designated acquisition zone. **Such timberlands could be acquired by federal condemnation proceedings.** According to the Resources Committee, “It is expected by the Committee that friendly condemnation proceedings may be used as a means to resolve some issues where title to the adjacent lands may be unclear.”

H.R. 2643 would also direct the Secretary of the Interior to study the feasibility and suitability of the inclusion of Station Camp in McGowan, Washington (where the Lewis and Clark Expedition first camped after reaching the Pacific Ocean), in the National Park system.

A similar bill, S. 423, passed the Senate on October 17, 2001, by unanimous consent. Compared to the House bill, the Senate bill has a slightly different map for the acquisition zone, requires an undeveloped visual “buffer zone” between the trail and lands outside the park, includes a finding prejudging the suitability and feasibility of the Washington sites that are to be studied for possible inclusion in the National Park System, and contains no provision about a “Memorandum of Understanding” to be signed between the federal government and the corporate owner of the timberlands.

Additional Background: According to the legislation, in 1805, the members of the Lewis and Clark Expedition built Fort Clatsop at the mouth of the Columbia River near Astoria, Oregon, and spent 106 days at the fort waiting for the end of winter and preparing for their journey home.

Also according to the legislation, “The 1995 General Management Plan for Fort Clatsop National Memorial, prepared with input from the local community, recommends the expansion of the memorial to include the trail used by expedition members to access the Pacific Ocean from the fort and the shore and forest lands surrounding the fort and trail to protect their natural settings.”

Bush Administration Position: The National Park Service supports the expansion of the Fort Clatsop National Memorial. The changes the Service had recommended for the Senate-passed bill (S. 423) have been incorporated into H.R. 2643. For more information on the National Park Service's position, visit this website:

<http://resourcescommittee.house.gov/107cong/parks/2002feb07/jones2643.htm>

Cost to Taxpayers: CBO estimates that H.R. 2643 would cost \$6 million in FY2003 and an additional \$3 million in FY2004 (subject to annual appropriation). The Interior Department believes that in the next two years \$7.5 million would be needed for land acquisition, and \$1.1 million would be needed for development costs associated with trailhead facilities, parking lots, and other related infrastructure.

Does the Bill Create New Federal Programs or Rules?: The bill would authorize the acquisition of up to 1,375 acres of land for inclusion in a national memorial. Corporately-owned timberlands within the acquisition zone could be condemned by the federal government.

Constitutional Authority: The Resources Committee, in House Report 107-456, cites constitutional authority in Article I, Section 8 (though does not cite a specific clause). Article IV, Section 3, Clause 2 states that "The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State."

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