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SENATE

{ REPORT  
{ 111-146

### VIRGIN ISLANDS NATIONAL PARK

MARCH 2, 2010.—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 H.R. 714]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 714) to authorize the Secretary of the Interior to lease certain lands in Virgin Islands National Park, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the Act, as amended, do pass.

The amendments are as follows:

1. On page 2, line 12, insert “(as amended, assigned, and assumed)” before the period.
2. On page 2, line 21, insert “with the owner of the retained use estate” before “for”.
3. On page 3, line 19, strike “with” and insert “without”.
4. On page 4, line 5, strike “and”.
5. On page 4, between lines 5 and 6, insert the following:

(E) include provisions to ensure the protection of the natural, cultural, and historic features of the resort and associated property, consistent with the laws and policies applicable to property managed by the National Park Service; and
6. On page 4, line 6, strike “(E)” and insert “(F)”.
7. On page 5, line 3, strike “effective date” and insert “award”.
8. On page 5, line 24, strike “that” and insert “who”.

#### PURPOSE

The purpose of H.R. 714 is to authorize the Secretary of the Interior to lease the Caneel Bay resort in Virgin Islands National Park.

## BACKGROUND AND NEED

The Caneel Bay resort is located on a 170-acre peninsula within Virgin Islands National Park, on the island of St. John. The resort was established in 1956 by Laurance Rockefeller and the Jackson Hole Preserve, a non-profit organization supported by the Rockefeller family. The Jackson Hole Preserve also purchased and donated most of the land that is now included within the park, although initially, the Caneel Bay parcel was not included within the park.

In 1983, the Jackson Hole Preserve donated the land at Caneel Bay to the Federal Government for inclusion in the park; however, it retained use estate and reserved the right to continue the resort operations through 2023. Under the terms of the reserved use estate, once it expires in 2023 the owner of the estate must cease operations and donate the buildings and other property covered by the retained use estate to the National Park Service.

In 2004, Jackson Hole Preserve sold the retained use estate to CBI Acquisition LLC, which now operates the Caneel Bay resort. CBI has a management contract with Rosewood Hotels & Resorts to provide the day-to-day operation of the resort.

H.R. 714 authorizes the Secretary of the Interior to enter into a non-competitive lease with the owner of the retained use estate for a term of up to 40 years, to provide for the continued operation and management of the Caneel Bay resort, if the Secretary determines that the lease will provide a greater long-term benefit to the park than allowing the retained use estate to expire.

## LEGISLATIVE HISTORY

H.R. 714, sponsored by Delegate Christensen, passed the House of Representatives by a voice vote on February 23, 2009. During the 110th Congress, the Committee considered similar legislation, H.R. 1143. The Subcommittee on National Parks of the Senate Energy and Natural Resources Committee held a hearing on that bill on June 17, 2008 (S. Hrg. 110–539), although no further action was taken.

The Subcommittee on National Parks held a hearing on H.R. 714 on July 15, 2009. (S. Hrg. 111–92). At its business meeting on December 16, 2009, the Committee on Energy and Natural Resources ordered H.R. 714 favorably reported with amendments.

## COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on December 16, 2009, by a voice vote of a quorum present, recommends that the Senate pass H.R. 714, if amended as described herein.

## COMMITTEE AMENDMENTS

During its consideration of H.R. 714, the Committee adopted 8 amendments which reflect the recommendations made by the National Park Service at the subcommittee hearing. Amendment #5 adds a requirement that any lease entered into under this Act include provisions to ensure the protection of the natural, cultural, and historic features of the Caneel Bay resort and associated property, consistent with the laws and policies applicable to National

Park System lands. The other seven amendments make technical, clarifying, or conforming changes.

#### SECTION-BY-SECTION ANALYSIS

*Section 1(a)* defines key terms used in the bill.

Subsection (b) authorizes the Secretary of the Interior to enter into a lease with the owner of the retained use estate for a period not to exceed 40 years, to provide for the continued management and operation of the Caneel Bay resort in Virgin Islands National Park, if the Secretary determines that the long-term benefit to the park would be greater by entering into the lease rather than allowing the retained use estate to expire and subsequently issuing a concessions contract.

A lease entered into under the authority of this Act must comply with the terms and conditions specified in paragraph (b)(4), including that the lease be for the minimum number of years practicable; that the lease prohibit any transfer of the lease to another party without the written approval of the Secretary of the Interior; that the general character of the resort property remain unchanged, with no increase in the overall size of the resort or the number of guest accommodations; that the lease prohibit the sale of partial ownership shares or timeshares; that the lease include provisions to ensure the protection of the natural, cultural, and historic features of the resort, consistent with National Park System laws; and that the lease include any other terms and conditions the Secretary determines necessary to protect Virgin Islands National Park and the public interest.

Subsection (c) requires the owner of the retained use estate, as a condition of the lease, to extinguish and relinquish to the Secretary of the Interior all rights under the retained use estate, and to transfer, without consideration, ownership of improvements on the retained use estate to the National Park Service.

#### COST AND BUDGETARY CONSIDERATIONS

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

*H.R. 714—An act to authorize the Secretary of the Interior to lease certain lands in Virgin Islands National Park*

H.R. 714 would authorize the National Park Service (NPS) to execute a lease with property owners at Caneel Bay on St. John in the Virgin Islands. Based on information provided by the NPS, CBO estimates that implementing the legislation would have no effect on discretionary spending. Enacting the legislation would increase both offsetting receipts (from lease payments) and direct spending of those receipts beginning in fiscal year 2010, but CBO estimates that any net effect on the federal budget would be negligible. Enacting H.R. 714 would not affect revenues.

The legislation contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

Under the lease authorized by H.R. 714, the owners of the Caneel Bay Resort would continue to operate the facility, which is located within the boundary of the Virgin Islands National Park, for up to 40 years. The resort is currently operated under a re-

tained use estate (RUE) that will expire at the end of fiscal year 2023. The RUE was granted by the original owners of the resort when they donated the land under that facility to the NPS in 1983. The original RUE agreement did not provide for any lease payments to the federal government; the lease authorized by H.R. 714 would both require such payments and authorize the NPS to use the proceeds without further appropriation for visitor services and other park expenses.

The CBO staff contact for this estimate is Deborah Reis. The estimate was approved 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 H.R. 714.

The Act 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. 714, as ordered reported.

#### CONGRESSIONALLY DIRECTED SPENDING

H.R. 714, as reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

#### EXECUTIVE COMMUNICATIONS

The testimony provided by the National Park Service at the July 15, 2009, Subcommittee hearing on H.R. 714 follows:

STATEMENT OF KATHERINE H. STEVENSON, ACTING DEPUTY  
DIRECTOR, SUPPORT SERVICES, NATIONAL PARK SERVICE,  
DEPARTMENT OF THE INTERIOR

Mr. Chairman, thank you for the opportunity to provide the Department of the Interior's views on H.R.714, a bill to authorize the Secretary of the Interior to lease certain lands in Virgin Islands National Park, and for other purposes.

The Department supports H.R. 714, with some minor amendments.

This legislation would allow the Secretary of the Interior to enter into a lease with the current holder of a retained use estate for property at Caneel Bay within Virgin Islands National Park after the termination of the retained use estate and donation of all improvements to the National Park Service (NPS). The Caneel Bay resort is one of two large resorts on the island of St. John. Located on a 150-acre peninsula on the northwest side of the island, this luxury resort has approximately 425 to 450 employees and serves as one of the primary economic engines for the

U.S. Virgin Islands. A large number of employees travel daily to St. John from their residences on neighboring St. Thomas. The resort is also an Economic Development Center beneficiary and, as such, receives various tax exemptions from the Government of the Virgin Islands.

Laurance Rockefeller established the Caneel Bay resort in 1956. In 1983, Jackson Hole Preserve, a Rockefeller corporation, donated the land at Caneel Bay to the United States Government for inclusion within Virgin Islands National Park and reserved to itself the right to continue its operations for 40 years under a retained use estate. Jackson Hole Preserve did not convey the improvements on the land to the United States at that time. The retained use estate will expire on September 30, 2023. The warranty deed stipulates that when the retained use estate terminates, the owner of the retained use estate must donate the buildings and other improvements to the NPS.

Enactment of H.R. 714 would allow the current holder of the retained use estate to negotiate a long-term lease, up to 40 years, with the NPS that could extend the Caneel Bay Resort operation well beyond the year 2023. Such an extension could allow the leaseholder to secure financing to undertake capital improvements that would most likely not be possible financially under the remaining term of the current retained use estate.

The NPS has evaluated various options for the future use and management of the Caneel Bay property. Based upon a value analysis, we believe that the continued future operation of Caneel Bay as a resort under a lease would provide the greatest advantage to the NPS and the U.S. Virgin Islands. A lease could provide economic and administrative benefits to the NPS and the lessee that are not available or not as viable as under a retained use estate or a concession contract, two of the other options that were examined.

Legislation is necessary because the NPS does not have the authority to enter into a noncompetitive lease under existing regulations (36 CFR § 18, Leasing of Properties in Park Areas). The only exceptions to competitive leasing under the regulations are for leases to nonprofit organizations or units of government, and for leases of duration of 60 days or less.

We would like to stress that we are supporting this legislation because the Caneel Bay resort is an exceptional case. In general, where leasing has been determined to be appropriate in a national park unit, we support leasing through the usual competitive process, consistent with existing law and regulations.

H.R. 714 requires that the operations and maintenance of the resort be conducted in a manner consistent with the preservation and conservation of the resources and values of the park. Additionally, the lease authorized by the bill would address the continued protection, preservation, and restoration of the property's structures, many of which are more than 50 years old, and may be eligible for the Na-

tional Register of Historic Places. The lease also would address the fair market value rent of the property, constraints on development of property during the term of the lease, and the ability to transfer the lease in the future.

The legislation also provides for the rental proceeds to be retained by the Virgin Islands National Park and used for visitor services and resource protection. It would require congressional notification at least 60 days prior to the effective date of the lease, similar to the requirement for large concession contracts. And, it would require the property's conversion to a concession operation after the lease expires if the Secretary determines continuation of commercial services at the resort to be appropriate. When the current retained use estate was created, there were three small properties that are integral to the operation of the Caneel Bay resort that were not included. These properties could be acquired by the NPS and included under the terms of the lease that would be authorized by H.R. 714.

We appreciate the many changes that have been made to this legislation since it was first introduced in the 110th Congress to help assure that the interests of Virgin Islands National Park, and the general public, would be protected if the Caneel Bay resort property is leased on a non-competitive basis. We would like to work with the subcommittee on a few minor changes that would further clarify the bill language.

Mr. Chairman, this concludes my prepared remarks. I would be pleased 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 H.R. 714 as ordered reported.

