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MODIFICATION OF LAND GRANT PATENT

SEPTEMBER 27, 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 S. 1651]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1651) to modify a land grant patent issued by the Secretary of the Interior, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. Beginning on page 1, strike line 3 and all that follows through page 3, line 8, and insert the following:

SECTION 1. MODIFICATION OF LAND GRANT PATENT ISSUED BY SECRETARY OF THE INTERIOR.

2. On page 3, line 13, strike “1992, or a” and insert “1992 or for a”.

3. On page 3, line 16, strike “3” and insert “2”.

4. On page 4, line 15, strike “4” and insert “3”.

5. On page 4, line 18, strike “2” and insert “1”.

PURPOSE

The purpose of S. 1651 is to modify a land grant patent issued by the Secretary of the Interior pertaining to the Whitefish Point Light Station in Michigan.

BACKGROUND AND NEED

On September 23, 1998, the Secretary of the Interior issued a land patent (U.S. Patent Number 61-98-0040) to the Great Lakes Shipwreck Historical Society for ownership of several acres of land on Whitefish Point, a 43-acre spit of land jutting into Lake Superior. The land, which contains the historic Whitefish Point Light-

house, was transferred to the Historical Society for the purpose of interpreting maritime history. On March 10, 2000, the Secretary reissued the Historical Society's land patent (U.S. Patent Number 61-2000-0007) to correct an error in the original conveyance.

Following the conveyance of the Whitefish Point property, a dispute between the Michigan Audubon Society, which owns land on Whitefish Point, and the Historical Society over the management of Whitefish Point led to a lawsuit in 1999. The resulting settlement agreement led to the development of a management plan for Whitefish Point in 2002, titled *Human Use/Natural Resource Management Plan for Whitefish Point*.

The reissued land patent, 61-2000-0007, does not reference the Human Use/Natural Resource Management Plan for Whitefish Point or the settlement agreement between the Michigan Audubon Society and the Great Lakes Shipwreck Historical Society. S. 1651 will correct that error by directing the Secretary of the Interior to modify the patent to reflect the current management plan.

LEGISLATIVE HISTORY

S. 1651 was introduced by Senator Levin on September 8, 2009. The Subcommittee on National Parks held a hearing on the bill on May 19, 2010. At its business meeting on July 21, 2010, the Committee on Energy and Natural Resources ordered S. 1651 favorably reported with an amendment.

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on July 21, 2010, by a voice vote of a quorum present, recommends that the Senate pass S. 1651, if amended as described herein.

COMMITTEE AMENDMENTS

During the consideration of S. 1651, the Committee adopted amendments striking the Congressional findings section and making other technical and conforming changes.

SECTION-BY-SECTION ANALYSIS

Section 1 modifies United States Patent Number 61-2000-0007, issued by the Secretary of the Interior by deleting the reference in the patent to the Whitefish Point Comprehensive Plan of October 1992 and instead referencing the *Human Use/Natural Resource Plan for Whitefish Point*, dated December 2002.

Section 2 requires that any modification to the Human Use/Natural Resource Plan is subject to the review process established under section 106 of the Native Historic Preservation Act (16 U.S.C. 470f) and applicable regulations.

Section 3 provides that the modification made by section 1 shall become effective on the date the modification is recorded in the Office of the Register of Deeds in Chippewa County, Michigan.

COST AND BUDGETARY CONSIDERATIONS

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

S. 1651—A bill to modify a land grant patent issued by the Secretary of the Interior

S. 1651 would amend an existing land grant patent to ratify a change in the use of the Whitefish Point Light Station in Michigan and related property covered by that patent. Based on information provided by the Department of the Interior, CBO estimates that implementing S. 1651 would have no effect on the federal budget. The ratification would enable development plans for the property to go forward, but those plans do not involve federal spending. The Light Station was conveyed by the federal government to two non-profit organizations in 1996. Enacting S. 1651 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

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.

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 S. 1651.

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. 1651, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 1651, as ordered 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 Department of the Interior Bureau of Land Management at the May 19, 2010, Subcommittee hearing on S. 1651 follows:

STATEMENT FOR RECORD
BUREAU OF LAND MANAGEMENT
DEPARTMENT OF THE INTERIOR

Thank you for the invitation to present testimony on S. 1651, legislation to modify a land patent pertaining to the Whitefish Point Light Station (Michigan). Although the Bureau of Land Management's (BLM) role under the legislation is ministerial, preservation of historic lighthouses such as the Whitefish Point Light Station is a priority for

the Department of the Interior. The BLM supports S. 1651.

BACKGROUND

In the late 18th and 19th centuries, the United States built a series of lighthouses in and around Lake Michigan, Lake Huron, and Lake Superior to aid in navigation of the Great Lakes. The role played by these lighthouses in the westward expansion and economic growth of the United States is part of our national heritage, with ships and shipwrecks recalled in story and song. The Great Lakes lighthouses—including the Whitefish Point Light Station at issue in S. 1651—are listed on the National Register of Historic Properties.

The U.S. Coast Guard retains responsibility for aid to navigation in the Great Lakes, as it (or its predecessor, the Revenue Marine) has since 1790. In the mid-1990s, concerns reached the Congress that the Coast Guard, in carrying out its mission in the Great Lakes, was unable to assure preservation of the historic lighthouses. Interest in preserving the Whitefish Point Light Station led the Congress, in 1996, to convey land adjacent to the Light Station to two non-profit organizations dedicated to conservation and historic preservation—an 8.27 acre parcel to the Great Lakes Shipwreck Historical Society (Historical Society) and a 2.69 acre parcel to the Michigan Audubon Society (Audubon Society) of Chippewa County—and a 33 acre parcel to the U.S. Fish and Wildlife Service (FWS) (Public Law 104–208, Omnibus Consolidated Appropriations Act, Fiscal Year 1997, Section 5505.)

This law contains limitations on development at the historic lighthouse, and explicitly requires compliance with the “Whitefish Point Comprehensive Plan of October 1992.” The patents BLM issued under this authority (including the most recent, number 61–2000–0007, issued March 10, 2000, to the Historical Society) contain this reference.

In 1999, the Audubon Society brought suit against the Historical Society and the FWS over plans to develop a museum at the site. The parties reached a settlement agreement under which the three groups developed the “Human Use/Natural Resource Plan for Whitefish Point, December 2002,” to supersede the Whitefish Point Comprehensive Plan of 1992.

S. 1651

S. 1651 directs the Secretary of the Interior to modify patent number 61–2000–0007 by striking reference to the Whitefish Point Comprehensive Plan of October 1992 and inserting the “Human Use/Natural Resource Plan for Whitefish Point, dated December 2002.” S. 1651 affirms the applicability of the National Historic Preservation Act to the Whitefish Point Light Station. The BLM supports this legislation.

CONCLUSION

Thank you for the opportunity to present testimony in support of S. 1651.

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. 1651, as ordered reported.

