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HOUSE OF REPRESENTATIVES
REPORT
115–995

TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO GRANT TO STATES AND LOCAL GOVERNMENTS EASEMENTS AND RIGHTS-OF-WAY OVER FEDERAL LAND WITHIN GATEWAY NATIONAL RECREATION AREA FOR CONSTRUCTION, OPERATION, AND MAINTENANCE OF PROJECTS FOR CONTROL AND PREVENTION OF FLOODING AND SHORELINE EROSION

OCTOBER 23, 2018.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BISHOP of Utah, from the Committee on Natural Resources, submitted the following

R E P O R T

[To accompany H.R. 6666]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 6666) to authorize the Secretary of the Interior to grant to States and local governments easements and rights-of-way over Federal land within Gateway National Recreation Area for construction, operation, and maintenance of projects for control and prevention of flooding and shoreline erosion, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 6666 is to authorize the Secretary of the Interior to grant to States and local governments easements and rights-of-way over Federal land within Gateway National Recreation Area for construction, operation, and maintenance of projects for control and prevention of flooding and shoreline erosion.

BACKGROUND AND NEED FOR LEGISLATION

Hurricane Sandy was the deadliest and most destructive hurricane of the 2012 Atlantic hurricane season.[1] Sandy caused $70 billion dollars in damage in the U.S. and affected 24 States, including

[1] "2012 Atlantic Hurricane Season." National Hurricane Center Annual Summary. National Weather Service. NOAA. January 23, 2014. https://www.nhc.noaa.gov/data/tcr/summary_atlc_2012.pdf.

the entire eastern seaboard.[2] The damage was particularly severe in New York and New Jersey where the storm made landfall. The storm surge hit New York City on October 29, flooding streets, tunnels and subway lines, and cutting power around the City.[3] Tragically, 162 individuals lost their lives because of the storm, including 53 in New York.[4]

The devastation was widespread in Staten Island, especially along its southern shore where residences, businesses, cars, and other property were heavily damaged. Whole blocks of houses were swept away by the storm surge in the communities of Midland, New Dorp, and Oakland Beach. Considerable damage also occurred to the borough's electrical grid, rail, and ferry operations.[5] The damage was so severe that media reports referred to it as Ground Zero for damage in New York City, and at least 21 people died in Staten Island from the storm surge.[6]

In the aftermath of the hurricane, and in response to Public Law 113–2, the Army Corps of Engineers completed a Coastal Storm Risk Management Plan for the south shore of Staten Island.[7] The planned project calls for the construction of a 5.3-mile line of protection consisting of levees, floodwalls, and a buried seawall supplemented by drainage improvements including excavated ponds, road raisings, new tide gates, and culvert structures.[8] The infrastructure will serve as the first line of defense against severe coastal surge flooding and wave forces, providing protection for 30,000 people and over 7,300 structures.[9] The seawall will not only save lives but will allow for flood insurance relief for area residents.[10]

The seawall and levees will traverse both private and public land. The project will intersect 1,742 feet of shoreline within the boundary of Gateway National Recreation Area, federal land managed by the National Park Service.[11] According to the project report, both the Army Corps of Engineers and the National Park Service understand that this project is necessary for the protection of the adjacent communities and have worked cooperatively to develop an alternative that is mutually acceptable to meet the project objectives and minimize adverse impacts on Park resources.[12]

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[2] "FEMA Fact Sheet: Mitigation Assessment Team Results—Hurricane Sandy." Federal Emergency Management Agency. DHS. https://www.fema.gov/mat-results-hurricane-sandy.

[3] Id.

[4] "Hurricane Sandy FEMA After-Action Report" Federal Emergency Management Agency. DHS. July 1, 2013. https://www.fema.gov/media-library-data/20130726-1923-25045-7442/sandy_fema_aar.pdf, "Deaths Associated with Hurricane Sandy." Morbidity and Mortality Weekly Report. Center for Disease Control and Prevention. May 24, 2013. https://www.cdc.gov/mmwr/preview/mmwrhtml/mm6220a1.htm.

[5] "Tropical Cyclone Report: Hurricane Sandy." National Hurricane Center. February 12, 2013. https://www.nhc.noaa.gov/data/tcr/AL182012_Sandy.pdf.

[6] Id.

[7] Public Law 113–2. Disaster Relief Appropriations Act, 2013. 113th Congress. January 29, 2013. https://www.congress.gov/113/plaws/publ2/PLAW-113publ2.pdf.

[8] "South Shore of Staten Island, New York Coastal Storm Risk Management Final Feasibility Study for Fort Wadsworth to Oakwood Beach." U.S. Army Corps of Engineers New York District and New York State Department of Environmental Conservation. December 2016. http://www.nan.usace.army.mil/Missions/Civil-Works/Projects-in-New-York/South-Shore-of-Staten-Island/.

[9] Id.

[10] Letter from Congressman Daniel M. Donovan, Jr. to the Honorable Ryan K. Zinke, Secretary of the Interior. Dated August 31, 2018.

[11] "South Shore of Staten Island, New York Coastal Storm Risk Management Final Feasibility Study for Fort Wadsworth to Oakwood Beach." U.S. Army Corps of Engineers New York District and New York State Department of Environmental Conservation. December 2016. http://www.nan.usace.army.mil/Missions/Civil-Works/Projects-in-New-York/South-Shore-of-Staten-Island/.

[12] Id.

H.R. 6666 authorizes the Secretary of the Interior to issue an easement across the Gateway National Recreation Area for construction and placement of the seawall. Construction costs of the seawall and related infrastructure will be shared by both non-federal and federal partners. Once completed, the State of New York will be responsible for the operation, maintenance and repair of the seawall.

COMMITTEE ACTION

H.R. 6666 was introduced on August 10, 2018, by Congressman Daniel M. Donovan, Jr. (R–NY). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Federal Lands. On September 26, 2018, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. No amendments were offered, and the bill was ordered favorably reported to the House of Representatives by unanimous consent.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT

1. Cost of Legislation and the Congressional Budget Act. With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the following estimate for the bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 17, 2018.

Hon. ROB BISHOP,
Chairman, Committee on Natural Resources,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 6666, a bill to authorize the Secretary of the Interior to grant to States and local government easements and rights-of-way over Federal land within Gateway National Recreation Area for construction, operation, and maintenance of projects for control and prevention of flooding and shoreline erosion.

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

Sincerely,

MARK P. HADLEY
(For Keith Hall, Director).

Enclosure.

H.R. 6666—A bill to authorize the Secretary of the Interior to grant to States and local governments easements and rights-of-way over Federal land within Gateway National Recreation Area for construction, operation, and maintenance of projects for control and prevention of flooding and shoreline erosion

H.R. 6666 would authorize the Secretary of the Interior to issue easements or rights-of-way over federal land within the Gateway National Recreation Area to state and local governments for the construction, operation and maintenance of projects necessary to prevent flooding and shoreline erosion. Additionally, the bill would allow the National Park Service (NPS) to accept reimbursements for the costs of processing applications for easements and rights-of-way.

Using information from the NPS, CBO estimates that implementing H.R. 6666 would increase costs for issuing rights-of-way permits and offsetting collections, which are treated as reductions in discretionary spending, leading to an insignificant net cost over the 2019–2023 period.

Enacting H.R. 6666 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 6666 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

H.R. 6666 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Jacob Fabian. The estimate was reviewed by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

2. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to authorize the Secretary of the Interior to grant to States and local governments easements and rights-of-way over Federal land within Gateway National Recreation Area for construction, operation, and maintenance of projects for control and prevention of flooding and shoreline erosion.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

COMPLIANCE WITH H. RES. 5

Directed Rule Making. This bill does not contain any directed rule makings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139 or identified in the

most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95–220, as amended by Public Law 98–169) as relating to other programs.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

GATEWAY NATIONAL RECREATION AREA ACT

(Public Law 92-592)

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SEC. 3 (a) The Secretary shall administer the recreation area in accordance with the provisions of the Act of August 25,1916 (39 Stat. 535; 16 U.S.C. 1, 2-4), as amended and supplemented. In the administration of the recreation area the Secretary may utilize such statutory authority available to him for the conservation and management of wildlife and natural resources as he deems appropriate to carry out the purposes of this Act: Provided, That the Secretary shall administer and protect the islands and waters within the Jamaica Bay Unit with the primary aim of conserving the natural resources, fish, and wildlife located therein and shall permit no development or use of this area which is incompatible with this purpose.

(b)(1) The Secretary shall designate the principal visitor center within the recreation area as the "William Fitts Ryan Visitor Center" in commemoration of the leadership and contributions which Representative William Fitts Ryan made with respect to the creation and establishment of this public recreation area. To inform the public of the contributions of Representative Ryan to the creation of the recreation area, the Secretary shall provide such signs, markers, maps, interpretive materials, literature, and programs as he deems appropriate. Not later than December 31, 1980, the Secretary shall take such additional actions as he deems appropriate to recognize and commemorate the contributions of Representative Ryan to the recreation area.

(2) The portion of the Staten Island Unit of the recreation area known as Miller Field is hereby designated as "World War Veterans Park at Miller Field". Any reference to such Miller Field in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to "World War Veterans Park at Miller Field".

(c) The Secretary is authorized to enter into cooperative agreements with the States of New York and New Jersey, or any political subdivision thereof, for the rendering, on a reimbursable basis, of rescue, firefighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventive agencies.

(d) The authority of the Secretary of the Army to undertake or contribute to water resource developments, including shore erosion control, beach protection, and navigation improvements (including the deepening of the shipping channel from the Atlantic Ocean to the New York harbor) on land and/or waters within the recreation area shall be exercised in accordance with plans which are mutually acceptable to the Secretary of the Interior and the Secretary of the Army and which are consistent with both the purpose of this Act and the purpose of existing statutes dealing with water and related land resource development.

(e) The authority of the Secretary of Transportation to maintain and operate existing airwav facilities and to install necessary new facilities within the recreation area shall be exercised in accordance with plans which are mutually acceptable to the Secretary of the Interior and the Secretary of Transportation and which are consistent with both the purpose of this Act and the purpose of existing statutes dealing with the establishment, maintenance, and operation of airway facilities: Provided, That nothing in this section shall authorize the expansion of airport runways into Jamaica Bay or air facilities at Floyd Bennett Field.

(f) The Secretary shall permit hunting, fishing, shellfishing, trapping, and the taking of specimens on the lands and waters under his jurisdiction within the Gateway National Recreation Area in accordance with the applicable laws of the United States and the bas of the States of New York and New Jersey and political subdivisions thereof, except that the Secretary may designate zones where and establish periods when these activities may not be permitted for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment.

(g) In the Sandy Hook and Staten Island Units, the Secretary shall inventory and evaluate all sites and structures having present and potential historical, cultural, or architectural significance and shall provide for appropriate programs for the preservation, restoration, interpretation, and utilization of them.

(h) Notwithstanding any other provision of law. the Secretary is authorized to accept donations of funds from individuals, foundations, or corporations for the purpose of providing services and facilities which he deems consistent with the purposes of this Act.

(i) Notwithstanding the provisions of subsection (a) of this section, the United States hereby conveys to the city of New York all rights to the methane gas and associated byproducts resulting from solid waste decomposition on the area within the Jamaica Bay Unit known as the Fountain Avenue Landfill site, subject to payments to the United States of 50 per centum of the revenue received by the city of New York, if any, from the development of such rights. The Secretary shall grant to the City, its lessee or assignee, all rights-of-way and other permits necessary from the Department of the Interior to extract and transport the gas from the site: Provided, That the rights-of-way and other permits shall provide for reasonable restoration of the site, including removal of any processing or storage facilities used in the disposal, development, or extraction of the gas, access by the Secretary to the site for safety and other recreation area purposes, and such other reasonable conditions as the Secretary deems necessary to further purposes of the recreation area. All such payments to the United States shall be

credited to the appropriations of the National Park Service for the development and improvement of Gateway National Recreation Area.

(j) AUTHORITY TO GRANT EASEMENTS AND RIGHTS-OF-WAY.—

(1) IN GENERAL.—The Secretary of the Interior may grant, to any State or local government, an easement or right-of-way over Federal lands within Gateway National Recreation Area for construction, operation, and maintenance of projects for control and prevention of flooding and shoreline erosion.

(2) CHARGES AND REIMBURSEMENT OF COSTS.—The Secretary may grant such an easement or right-of-way without charge for the value of the right so conveyed, except for reimbursement of costs incurred by the United States for processing the application therefore and managing such right. Amounts received as such reimbursement shall be credited to the relevant appropriation account.

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