ORM

HR 1508
(1997)

One Hundred Fourth Congress of the United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Wednesday, the third day of January, one thousand nine hundred and ninety-six

An Act

To require the transfer of title to the District of Columbia of certain real property in Anacostia Park to facilitate the construction of National Children's Island, a cultural, educational, and family-oriented park.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Children's Island Act of 1995".

SEC. 2. DEFINITIONS.

For the purposes of this Act:

(1) The term "plat" means the plat filed in the Office of the Surveyor of the District of Columbia under S.O. 92-252.

(2) The term "District" means the District of Columbia.

(3) The term "Islands" means Heritage Island and all of that portion of Kingman Island located south of Benning Road and within the District of Columbia and the Anacostia River, being a portion of United States Reservation 343, Section F, as specified and legally described on the Survey.

(4) The term "National Children's Island" means a cultural, educational, and family-oriented recreation park, together with a children's playground, to be developed and operated in accordance with the Children's Island Development Plan Act of 1993, D.C. Act 10-110.

(5) The term "playground" means the children's playground that is part of National Children's Island and includes all lands on the Islands located south of East Capitol Street.

(6) The term "recreation park" means the cultural, educational, and family-oriented recreation park that is part of National Children's Island.

(7) The term "Secretary" means the Secretary of the Interior.

(8) The term "Survey" means the ALTA/ACSM Land Title Survey prepared by Dewberry & Davis and dated February 12, 1994.

SEC. 3. PROPERTY TRANSFER.

(a) TRANSFER OF TITLE.—In order to facilitate the construction, development, and operation of National Children's Island, the Secretary shall, not later than six months after the date of enactment of this Act and subject to this Act, transfer by quitclaim deed, without consideration, to the District all right, title, and interest of the United States in and to the Islands. Unbudgeted actual costs incurred by the Secretary for such transfer shall be borne by the District. The District may seek reimbursement from any third party for such costs.

(b) GRANT OF EASEMENTS.—(1) The Secretary shall, not later than six months after the date of enactment of this Act, grant, without consideration, to the District, permanent easements across the waterways and bed of the Anacostia River as described in the Survey as Leased Riverbed Areas A, B, C, and D, and across the shoreline of the Anacostia River as depicted on the plat map recorded in the Office of the Surveyor of the District as S.O. 92–252.

(2) Easements granted under paragraph (1) shall run with the land and shall be for the purposes of—

(A) constructing, reconstructing, maintaining, operating, and otherwise using only such bridges, roads, and other improvements as are necessary or desirable for vehicular and pedestrian egress and ingress to and from the Islands and which satisfy the District Building Code and applicable safety requirements;

(B) installing, reinstalling, maintaining, and operating utility transmission corridors, including (but not limited to) all necessary electricity, water, sewer, gas, necessary or desirable for the construction, reconstruction, maintenance, and operation of the Islands and any and all improvements located thereon from time to time; and

(C) constructing, reconstructing, maintaining, operating, and otherwise providing necessary informational kiosk, ticketing booth, and security for the Islands.

(3) Easements granted under paragraph (1) shall be assignable by the District to any lessee, sublessee, or operator, or any combination thereof, of the Islands.

(c) DEVELOPMENT.—The development of National Children's Island shall proceed as specified in paragraph 3 of the legend on the plat or as otherwise authorised by the District by agreement, lease, resolution, appropriate executive action, or otherwise.

(d) REVERSION.—(1) The transfer under subsection (a) and the grant of easements under subsection (b) shall be subject to the condition that the Islands only be used for the purposes of National Children's Island. Title in the property transferred under subsection (a) and the easements granted under subsection (b), shall revert to the United States 60 days after the date on which the Secretary provides written notice of the reversion to the District based on the Secretary's determination, which shall be made in accordance with chapter 5 of title 5, United States Code (relating to administrative procedures), that one of the following has occurred:

(A) Failure to commence improvements in the recreational park within the earlier of—

(i) three years after building permits are obtained for construction of such improvements; or

(ii) four years after title has been transferred, as provided in subsection (a).

(B) Failure to commence operation of the recreation park within the earlier of—

(i) five years after building permits are obtained for construction of such improvements; or

(ii) seven years after title has been transferred, as provided in subsection (a).

(C) After completion of construction and commencement of operation, the abandonment or non-use of the recreation park for a period of two years.

(D) After completion of construction and commencement of operation, conversion of the Islands to a use other than that specified in this Act or conversion to a parking use not in accordance with section 4(b).

(2) The periods referred to in paragraph (1) shall be extended during the pendency of any lawsuit which seeks to enjoin the development or operation of National Children's Island or the administrative process leading to such development or operation.

(3) Following any reconveyance or reversion to the National Park Service, any and all claims and judgments arising during the period the District holds title to the Islands, the playground, and premises shall remain the responsibility of the District, and such reconveyance or reversion shall extinguish any and all leases, rights or privileges to the Islands and the playground granted by the District.

(4) The District shall require any nongovernmental entity authorized to construct, develop, and operate National Children's Island to establish an escrow fund, post a surety bond, provide a letter of credit or otherwise provide such security for the benefit of the National Park Service, substantially equivalent to that specified in paragraph 11 of the legend on the plat, to serve as the sole source of funding for restoration of the recreation park to a condition suitable for National Park Service purposes (namely, the removal of all buildings and grading, seeding and landscaping of the recreation park) upon reversion of the property. If, on the date which is two years from the date of reversion of the property, the National Park Service has not commenced restoration or is not diligently proceeding with such restoration, any amount in the escrow fund shall be distributed to such nongovernmental entity.

SEC. 4. PROVISIONS RELATING TO LANDS TRANSFERRED AND EASEMENTS GRANTED.

(a) PLAYGROUND.—Operation of the recreation park may only commence simultaneously with or subsequent to improvement and opening of a children's playground at National Children's Island that is available to the public free of charge. The playground shall only include those improvements traditionally or ordinarily included in a publicly maintained children's playground. Operation of the recreation park is at all times dependent on the continued maintenance of the children's playground.

(b) PUBLIC PARKING.—Public parking on the Islands is prohibited, except for handicapped parking, emergency and government vehicles, and parking related to constructing, and servicing National Children's Island.

(c) REQUIRED APPROVALS.—Before construction commences, the final design plans for the recreation park and playground, and all related structures, including bridges and roads, are subject to the review and approval of the National Capital Planning Commission and of the District of Columbia in accordance with the Children's Island Development Plan Act of 1993 (D.C. Act 10–110). The District of Columbia shall carry out its review of this project in full compliance with all applicable provisions of the National Environmental Policy Act of 1969.

SEC. 8. EFFECT OF PROPERTY TRANSFER.

(a) EFFECT OF PROPERTY TRANSFER.—Upon the transfer of the Islands to the District pursuant to this Act:

(1) The Transfer of Jurisdiction concerning the Islands from the National Park Service to the District dated February 1993, as set out on the plat map recorded in the Office of the Surveyor of the District as S.O. 92–252 and as approved by the Council of the District by Resolution 10–91, shall become null and void and of no further force and effect, except for the references in this Act to paragraphs 3 and 11 of the legend on the plat.

(2) The Islands shall no longer be considered to be part of Anacostia Park and shall not be considered to be within the park system of the District; therefore, the provisions of section 2 of the Act entitled "An Act to vest in the Commissioners of the District of Columbia control of street parking in said District", approved July 1, 1898 (ch. 543, 30 Stat. 570; D.C. Code 8–104), shall not apply to the Islands, and the District shall have exclusive charge and control over the Islands and easements transferred.

(3) The Islands shall cease to be a reservation, park, or public grounds of the United States for the purposes of the Act of August 24, 1912 (ch. 355, 37 Stat. 444; 40 U.S.C. 68; 8–128 D.C. Code).

(b) USE OF CERTAIN LANDS FOR PARKING AND OTHER PURPOSES.—Notwithstanding any other provision of law, the District is hereby authorized to grant via appropriate instrument to a non-governmental individual or entity any and all of its rights to use the lands currently being leased by the United States to the District pursuant to the District of Columbia Stadium Act of 1957 (Public Law 85–300, September 7, 1957, 71 Stat. 619) for parking facilities (and necessary informational kiosk, ticketing booth, and security) as the Mayor of the District in his discretion may determine necessary or appropriate in connection with or in support of National Children's Island.

SEC. 6. SAVINGS PROVISIONS.

No provision of this Act shall be construed—

(1) as an express or implied endorsement or approval by the Congress of any such construction, development, or operation of National Children's Island;

(2) except as provided in section 5, to exempt the recreational park and playground from the laws of the United States or the District, including laws relating to the environment, health, and safety; or

(3) to prevent additional conditions on the National Children's Island development or operation to mitigate adverse impacts on adjacent residential neighborhoods and park lands and the Anacostia River.

Speaker of the House of Representatives.

Vice President of the United States and
President of the Senate.

1. <u>National Capital Planning Commission</u>

A. Nature:

Is the central federal planning agency for the Federal Government in the National Capital. 40 U.S.C. § 71a(a)(1).

B. Membership:

Secretary of the Interior, Secretary of Defense, Administrator of the General Services Administration, the Mayor, Chairman of the Council of the District of Columbia and chairmen of the Committees on the District of Columbia of the Senate and House, plus five citizens with planning experience three of whom are appointed by the President and two by the Mayor. Chairman is appointed by the President. 40 U.S.C. §71a(b).

Day to day operations conducted by a Director and staff who are federal employees.

C. Powers and Duties:

Plans federal undertakings in D.C.--except for Capitol and grounds--in order to preserve important historical and natural features. 40 U.S.C. §71a(a)(1).

Prépares, adopts, and amends a comprehensive plan for federal activities in D.C. Serves as central federal planning agency and reviews federal development programs. Considers federal buildings in the District, comments on District zoning and subdivision plans, and acquires park land (including land for NPS) in D.C. and nearby areas in Maryland and Virginia. 40 U.S.C. §71b-h, 72.

HR 1508 would give the Commission an approval authority they would not ordinarily possess.

2. <u>National Capital Planning Commission Is Subject to Direction of the President.</u>

The National Capital Planning Commission is a federal agency that performs federal functions and receives federal appropriations. 40 U.S.C. §71a et seq. It is subject to the Presidential delegations provisions of 3 U.S.C. §301. It has been the subject of at least one former Executive Order. Ex. Ord. No. 11815, Oct. 23 1974, 39 F.R. 37963. It has also been the subject of a Presidential reorganization plan. Reorganization Plan No. 5 of 1966, 31 F.R. 11857.

Sandra Shapiro, General Counsel, National Capital Planning Commission confirms that the Commission is fully a federal agency, directed by a Presidential appointee and completely subject to Presidential direction.

3. <u>Children's Island Items for Presidential Direction.</u>

A possible course of action is to specify that prior to granting its approval of the final design plans for the development of Children's Island pursuant to the authority of Sec 4. of HR 1508, the National Capital Planning Commission should assure that the design:

1. Fully conforms to the design, height, density, and other environmental and development safeguards contained in the plat filed in the Office of the Surveyor of the District of Columbia under S.O. 92-252.

2. Has been subject to a complete NEPA analysis which fully considers alternative levels of development including minimum levels of development on the site.

3. Results in appropriate development on the site consistent with protection of the historical and natural resources found in the area, insulation of the neighborhood and preservation of the integrity of nearby park land.

4. How reliable is NCPC to protect the environment from intrusive or out of scale development?

They have been very successful in this regard in the past. However, the composition of the Commission breaks the 12 members into 6 focused toward Federal interests and 6 focused toward the District interests. Thus, if economic and development which benefits the City through jobs and taxes, but adversely impacts Federal interests, the voting pattern gets predictably close. Although this has not happened recently, this project is ripe for that. However, this project also has high potential for major controversy in the community which could impact the votes of the Council or Mayor.

For Martha –

Copy – original sent
to Leg Affairs.

OFFICE OF CONGRESSWOMAN ELEANOR HOLMES NORTON
1424 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515
PHONE: (202) 225-8050
FAX: (202) 225-3002

FACSIMILE TRANSMISSION

DATE: 7/18/96

TIME: 12 p.m.

OF PAGES: 6 (Including Cover Sheet)

TO: Leon Panetta

ORGANIZATION: White House

FAX NUMBER: 456-1121

FROM:

COMMENTS: URGENT! letter to President Clinton on childrens Island

ELEANOR HOLMES NORTON
DISTRICT OF COLUMBIA

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE

SUBCOMMITTEES
PUBLIC BUILDINGS AND
ECONOMIC DEVELOPMENT
WATER RESOURCES AND
ENVIRONMENT

COMMITTEE ON
GOVERNMENT REFORM AND
OVERSIGHT

SUBCOMMITTEE
RANKING MINORITY MEMBER,
DISTRICT OF COLUMBIA

Congress of the United States
House of Representatives
Washington, D.C. 20515

July 18, 1996

William J. Clinton
President of the United States
The White House
Washington, D.C. 20500

Dear President Clinton:

I am writing as I try to contain my outrage that staff within the Administration are trying to achieve a last minute veto of the Children's Island Act (H.R. 1508), a bill that passed unanimously in both houses with sign-off by your Administration. A veto would be astonishingly insensitive in light of the fact that the children's park would provide revenue to the insolvent capital of the United States and a free playground for the District's children on Heritage and Kingman Islands, "large portions" of which are covered by dump sites that "present a tremendous danger to the children who are apt to find climbing on them irresistible" and which are now "completely unsafe for any habitation whatsoever and should be posted as off-limits." (Site Inspection Report, 7/26/95; see attached pictures typical of the site). The space involved is not traditional green park land, but a man-made island that is unusable, debris-strewn vacant land that has become a favorite place for illegal dumping of garbage and hazardous substances. National Children's Island, Inc., a non-profit organization, will "in addition to improving existing conditions [require that] 90 percent of the land of these islands will be in the form of accessible, landscaped open space [and a] free playground for children . . . will take up 30 percent of the property." (National Park Service Report, March 1994). Whatever the objections to this bill, a veto would be unnecessary since the bill merely begins a process that requires a series of stringent approvals before the project can proceed, and in any case, it is not certain that the project will come to fruition.

I introduced the bill at the request of the City Council, and it has had the support of the last two mayors. The bill passed the House by voice vote and the Senate by unanimous consent only after substantial objections raised by Interior had been negotiated out with the Park Service and environmental objections raised by Democrats in the Senate and the House had been addressed. As a courtesy and safeguard, my staff called Anne Shields, Secretary Bruce Babbitt's Chief of Staff, to see if there were any problems, and we were informed that they had heard of some community opposition, but no other problems were indicated. Since the matter had been voted by the elected D.C. government, after hearings and citizen participation, respect for home rule requires federal officials, including myself, to respect the decision of local elected officials, rather than allowing those citizens who disagreed another bite of the apple with unaccountable federal authorities. To compound the disrespect, we initially learned of a possible staff recommendation for veto not from Interior but from several sources in the White House.

The National Park Service (NPS) itself recommended the development of a recreational park on Heritage and Kingman Islands in 1965. In 1972, the District and the NPS entered into a Memorandum of Agreement naming the National Children's Island, Inc. to develop a park that would "provide a cultural, and recreational facility for the public, particularly for children." On January 7, 1993, the NCPC approved the transfer of jurisdiction from the National Park Service to the District of Columbia, and on July 13, 1993, the D.C. Council approved the transfer and passed the Children's Island Development Plan Act of 1993. Community input was received before both NCPC and District approval of the transfer.

Your signature would allow this plan to move to the next among many steps. National Children's Island, Inc. is required to conduct community meetings and seek community input before submitting plans to the NCPC and the City Council. I note that the Committee Report accompanying H.R. 1508 states that, "It is anticipated that the District of Columbia will hear and consider all concerns relative to a development plan through its local planning and review process. It is not the role of Congress to usurp the decision-making processes of the local government."

The bill before you also addresses the environmental concerns which have been raised. The U.S. Army Corps of Engineers issued a final environmental impact study for the Anacostia River in July 1994 which concluded that ". . . the recreational park and the restoration of Kingman Lake can be compatible." After introduction of the bill, I met with all who contacted my office about the environmental impact over the course of several months and countless meetings. Many changes were made. Over the objection of National Children's Island, Inc. and at the suggestion of individuals who raised environmental concerns, I insisted on an Environmental Impact Study that must meet federal rather than local requirements and must be reviewed not by the local jurisdiction, but by the NCPC. The bill also requires that before construction commences, the NCPC and the D.C. Council must review and approve the final design plans. The District of Columbia's review of the project must be in full compliance with all provisions of the National Environmental Policy Act of 1969. In addition, the bill provides that there will be no public parking on the lands, and the island must comply with previously agreed upon design parameters. Specifically, buildings cannot exceed fifty feet in height, and no more than five acres can be under roof. Furthermore, National Children's Island must establish an escrow fund to restore the islands in the event they are returned to the National Park Service.

I must note that the way in which this matter has been handled was highly disrespectful of the District of Columbia and was personally insulting to me. One is left to wonder if staff of any agency would have ever attempted to rescind its own and other administrative approvals to achieve a last minute veto without notice to the Member if this had been any other district or any other Member. We are not prepared to accept the insensitivity inherent in the failure to consider the needs of the nation's capital in the midst of a catastrophic financial crisis, the omission to make the appropriate inquiries of my office, and the need to avoid the possibility of a huge and unnecessary controversy between the Administration and the District.

You and your Administration have always acted to the contrary and always with respect for home rule and with personal respect for me and other District officials. If staff at Interior on more than a last minute look at the bill (apparently influenced by contacts with influential Democrats outside the Administration) believe there have been errors, let us work together to correct rather than compound them by creating the political donnybrook that would result if a Democratic President vetoed a bill previously approved that would help revive a city that needs the help this project can provide and whose children would especially benefit. I am asking that the bill be signed.

May I use this opportunity to express my appreciation for the continuing assistance your Administration is providing the District of Columbia.

Sincerely,

Eleanor H. Norton

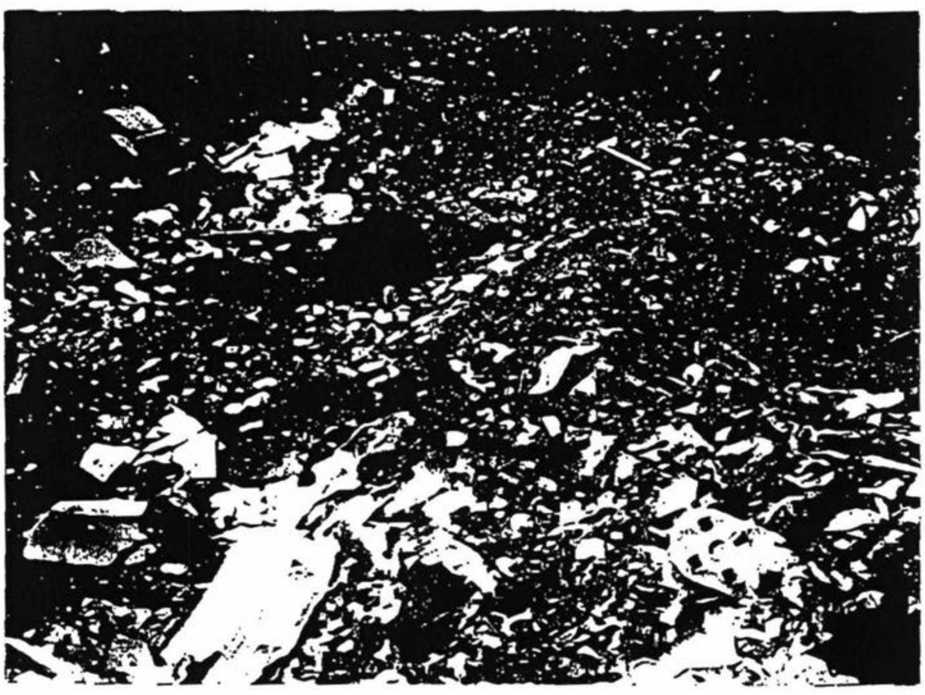
Eleanor Holmes Norton

cc: Honorable Leon Panetta
Honorable Bruce Babbitt
Honorable Jack Lew
John Hilley
Maggie Williams
Alexis Herman
Ron Klain
Ann Shields
Melanie Beller

UNSAFE BRIDGE
LEADING TO ISLAND

PILE OF COMPOSTED
LEAVES

PILES OF DEAD LEAVES AND
PLASTIC BAGS FILLED WITH LEAVES



ILLEGALLY DUMPED TRASH

DRAFT QUESTIONS AND ANSWERS: CHIULDREN'S ISLAND

Q: **How did this happen so quickly?**

A: The legislation was introduced by Del. Eleanor Holmes Norton 4/7/95. It passed the House 10/30/95 on a voice vote (suspension). It passed the Senate 6/28/96, by unanimous consent. The House subcommittee hearings were more than a year ago.

Background: In other words, enviros had about a year to find a Senator to object to U.C. but didn't or couldn't.

Q: **Why do you support this giveaway of national park land to a private developer when you have consistently criticized such things in the Republican Congress?**

A: The Administration does not support wholesale giveaways, but evaluates individual transfers on their merits. In the past ten years, the National Park Service has carried out six transfers of jurisdiction of lands to the District of Columbia, for parks, highways, development, schools and RFK stadium and parking.

Background: It is important **not** to say that these previous transfers were direct analogues. Some of them were very small. The largest, most direct analogue -- RFK -- explicitly prohibited transfer from the District to anyone (e.g., Jack Kent Cooke), but this bill provides for the leasing or potentially even sale to the private developer. It is unclear if there are previous cases where, when the NPS has transferred land to states or localities, those states or localities have turned around and leased or sold it to private concerns.

Q: **You've made restoration of the Anacostia River a high priority in this Administration, and internal EPA memos say that this theme park will undermine this effort. Why do you know that the park will not wreck the Anacostia?**

A: The plans for Children's Island have to undergo review and approval by the National Capitol Planning Commission and the District of Columbia. The NCPC review will have to comply with the National Environmental Policy Act, and the President issued a memorandum to the Chair of the NCPC setting forth the principles that should guide the NCPC in its review. The environmental review should include ample participation from members of the community, include all aspects of the proposed project (including transportation), and include a careful review of the no action alternative. It is our hope that adverse environmental affects can be limited with this process.

If the NCPA or District does not approve the project design, the project will not be built and the land reverts back to the federal government. The NCPC includes federal representatives appointed by the President and representatives from the District and Congress.

Q: Why not wait for an environmental review of development plans and THEN transfer the land?

A: Congress has decided to proceed with the transfer first and allow the project to stand or fall on its merits before the NCPC, and in so doing Congress created an opportunity for an environmental review. If no design is acceptable, then the land reverts back to the federal government.

Q: Why give land and responsibilities and new costs to the District right now? They're broke.

A: The developer will be responsible for most of the costs associated with this project, and if it is successful will provide the District with tax revenues that outweigh any costs they would encur.

Q: Environmental opponents of this development make thinly veiled charges of racism, arguing that you'd never agree to something like this on the Potomac, but don't hesitate to wreck the Anacostia.

A: This is a project that was supported by the vast majority of the District's elected officials, who believe this is helpful to the all of the people of DC.

It's possible that intelligent people will disagree about how best to help the people of DC, but we'll all be better off if we discuss the merits of the case in a way that brings us together, rather than drives us apart.

If we'd vetoed the bill, we'd probably be accused of shabby treatment of the District and the people of Northeast Washington too.

NAME	POL.	STATE	DATE APPOINTED	TERM EXPIRES

* NATIONAL CAPITAL PLANNING COMMISSION (12)

Secretary of the Interior
Secretary of Defense
Administrator of General Services
Mayor of the District of Columbia
Chairman of the District of Columbia Council
Chairman of the Senate Governmental Affairs Committee
Chairman of the House District of Columbia Committee
Two appointed by the Mayor of the District of Columbia

Three appointed by the President:

NAME	POL.	STATE	DATE APPOINTED	TERM EXPIRES
Robert Gaines		MD	3/1/95	1/1/97
Harvey Gantt (CHAIR)		NC	3/1/95	1/1/99
Margaret G. Vanderhye		VA	1/13/95	1/1/01

NATIONAL CAPITAL PLANNING COMMISSION

Independent

AUTHORITY: District of Columbia Code 1-2002; 40 U.S.C. 71a(b)
P.L. 93-198, Title II, Sec. 203, 87 Stat. 781,
December 24, 1973, eff. January 2, 1975
P.L. 103-332, of September 30, 1994 (amends salary)

METHOD: Ex officio and see below

MEMBERS: TWELVE members as follows:

Secretary of the Interior
Secretary of Defense
Administrator of General Services
Mayor of the District of Columbia
Chairman of the District of Columbia Council
Chairman of the Senate ~~District of Columbia~~ Governmental Affairs Committee
Chairman of the House District of Columbia Committee

or

such alternates as each such person may from time to time designate to serve in his stead.

Two citizens appointed by the Mayor of the District of Columbia with experience in city or regional planning.

Three citizens appointed by the President with experience in city or regional planning.

NOTE: Of the three citizen members appointed by the President, at least one shall be a bona fide resident of Virginia and at least one shall be a bona fide resident of Maryland.

CHAIRMAN: Designated by the President

(CONTINUED - PAGE TWO)

NATIONAL CAPITAL PLANNING COMMISSION (Cont'd)

Independent

TERM: SIX YEARS, except that of the members first appointed by the President, one shall serve two years and one shall serve four years. Any person appointed to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. (NOT HOLDOVERS)

The members first appointed under this law (P.L. 93-198) shall assume their office on January 2, 1975.

SALARY: ~~Citizen members shall receive $100 for each day engaged in the actual performance of duties in addition to reimbursement for necessary expenses incurred in the performance of such duties.~~ Appointed Members will be compensated at a rate equivalent to the rate for Executive Schedule Level IV.

PURPOSE: Prepare and adopt a comprehensive, consistent, and coordinated plan for the National Capital, which plan shall include the Commission's recommendations or proposals for Federal developments or projects in the environs, and those District elements, or amendments thereto, of the comprehensive plan adopted by the Council and with respect to which the Commission has not determined a negative impact to exist, which elements or amendments shall be incorporated into such comprehensive plan without change.

NOTE: The provisions which in effect transfers authority to appoint any citizen member shall not take effect until January 2, 1975.

Calendar No. 469

104TH CONGRESS *2d Session*	SENATE	REPORT 104–294

NATIONAL CHILDREN'S ISLAND ACT OF 1995

R E P O R T

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

H.R. 1508

TO REQUIRE THE TRANSFER OF TITLE TO THE DISTRICT OF COLUMBIA OF CERTAIN REAL PROPERTY IN ANACOSTIA PARK TO FACILITATE THE CONSTRUCTION OF NATIONAL CHILDREN'S ISLAND, A CULTURAL, EDUCATIONAL, AND FAMILY-ORIENTED PARK

JUNE 26, 1996.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
29–010 WASHINGTON : 1996

104TH CONGRESS } HOUSE OF REPRESENTATIVES { REPT. 104–277
1st Session } { Part 1

NATIONAL CHILDREN'S ISLAND ACT OF 1995

OCTOBER 17, 1995.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources, submitted the following

REPORT

[To accompany H.R. 1508]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 1508) to require the transfer of title to the District of Columbia of certain real property in Anacostia Park to facilitate the construction of National Children's Island, a cultural, educational, and family-oriented park, having considered the same, report favorably thereon with an amendment and recommend 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 "National Children's Island Act of 1995".

SEC. 2. DEFINITIONS.

For the purposes of this Act:

(1) The term "plat" means the plat filed in the Office of the Surveyor of the District of Columbia under S.O. 92–252.

(2) The term "District" means the District of Columbia.

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29–006

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(b) GRANT OF EASEMENTS.—(1) The Secretary shall, not later than six months after the date of enactment of this Act, grant, without consideration, to the District, permanent easements across the waterways and bed of the Anacostia River as described in the Survey as Leased Riverbed Areas A, B, C, and D, and across the shoreline of the Anacostia River as depicted on the plat map recorded in the Office of the Surveyor of the District as S.O. 92–252.

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(A) constructing, reconstructing, maintaining, operating, and otherwise using only such bridges, roads, and other improvements as are necessary or desirable for vehicular and pedestrian egress and ingress to and from the Islands and which satisfy the District Building Code and applicable safety requirements;

(B) installing, reinstalling, maintaining, and operating utility transmission corridors, including (but not limited to) all necessary electricity, water, sewer, gas, necessary or desirable for the construction, reconstruction, maintenance, and operation of the Islands and any and all improvements located thereon from time to time; and

(C) constructing, reconstructing, maintaining, operating, and otherwise providing necessary informational kiosk, ticketing booth, and security for the Islands.

(3) Easements granted under paragraph (1) shall be assignable by the District to any lessee, sublessee, or operator, or any combination thereof, of the Islands.

(c) DEVELOPMENT.—The development of National Children's Island shall proceed as specified in paragraph 3 of the legend on the plat or as otherwise authorized by the District by agreement, lease, resolution, appropriate executive action, or otherwise.

(d) REVERSION.—(1) The transfer under subsection (a) and the grant of easements under subsection (b) shall be subject to the condition that the Islands only be used for the purposes of National Children's Island. Title in the property transferred under subsection (a) and the easements granted under subsection (b), shall revert to the United States 60 days after the date on which the Secretary provides written notice of the reversion to the District based on the Secretary's determination, which shall be made in accordance with chapter 5 of title 5, United States Code (relating to administrative procedures), that one of the following has occurred:

(A) Failure to commence improvements in the recreational park within the earlier of—

(i) three years after building permits are obtained for construction of such improvements; or

(ii) four years after title has been transferred, as provided in subsection (a).

(B) Failure to commence operation of the recreation park within the earlier of—

(i) five years after building permits are obtained for construction of such improvements; or

(ii) seven years after title has been transferred, as provided in subsection (a).

(C) After completion of construction and commencement of operation, the abandonment or non-use of the recreation park for a period of two years.

(D) After completion of construction and commencement of operation, conversion of the Islands to a use other than that specified in this Act or conversion to a parking use not in accordance with section 4(b).

(2) The periods referred to in paragraph (1) shall be extended during the pendency of any lawsuit which seeks to enjoin the development or operation of National Children's Island or the administrative process leading to such development or operation.

(3) Following any reconveyance or reversion to the National Park Service, any and all claims and judgments arising during the period the District holds title to the Islands, the playground, and premises shall remain the responsibility of the District, and such reconveyance or reversion shall extinguish any and all leases, rights or privileges to the Islands and the playground granted by the District.

(4) The District shall require any nongovernmental entity authorized to construct, develop, and operate National Children's Island to establish an escrow fund, post a surety bond, provide a letter of credit or otherwise provide such security for the benefit of the National Park Service, substantially equivalent to that specified in paragraph 11 of the legend on the plat, to serve as the sole source of funding for restoration of the recreation park to a condition suitable for National Park Service purposes (namely, the removal of all buildings and grading, seeding and landscaping of the recreation park) upon reversion of the property. If, on the date which is two years from the date of reversion of the property, the National Park Service has not commenced restoration or is not diligently proceeding with such restoration, any amount in the escrow fund shall be distributed to such nongovernmental entity.

SEC. 4. PROVISIONS RELATING TO LANDS TRANSFERRED AND EASEMENTS GRANTED.

(a) PLAYGROUND.—Operation of the recreation park may only commence simultaneously with or subsequent to improvement and opening of a children's playground at National Children's Island that is available to the public free of charge. The playground shall only include those improvements traditionally or ordinarily included in a publicly maintained children's playground. Operation of the recreation park is at all times dependent on the continued maintenance of the children's playground.

(b) PUBLIC PARKING.—Public parking on the Islands is prohibited, except for handicapped parking, emergency and government vehicles, and parking related to constructing, and servicing National Children's Island.

(c) REQUIRED APPROVALS.—Before construction commences, the final design plans for the recreation park and playground, and all related structures, including bridges and roads, are subject to the review and approval of the National Capital Planning Commission and of the District of Columbia in accordance with the Children's Island Development Plan Act of 1993 (D.C. Act 10–110). The District of Columbia shall carry out its review of this project in full compliance with all applicable provisions of the National Environmental Policy Act of 1969.

SEC. 5. EFFECT OF PROPERTY TRANSFER.

(a) EFFECT OF PROPERTY TRANSFER.—Upon the transfer of the Islands to the District pursuant to this Act:

(1) The Transfer of Jurisdiction concerning the Islands from the National Park Service to the District dated February 1993, as set out on the plat map recorded in the Office of the Surveyor of the District as S.O. 92–252 and as approved by the Council of the District by Resolution 10–91, shall become null and void and of no further force and effect, except for the references in this Act to paragraphs 3 and 11 of the legend on the plat.

(2) The Islands shall no longer be considered to be part of Anacostia Park and shall not be considered to be within the park system of the District; therefore, the provisions of section 2 of the Act entitled "An Act to vest in the Commissioners of the District of Columbia control of street parking in said District", approved July 1, 1898 (ch. 543, 30 Stat. 570; D.C. Code 8–104), shall not apply to the Islands, and the District shall have exclusive charge and control over the Islands and easements transferred.

(3) The Islands shall cease to be a reservation, park, or public grounds of the United States for the purposes of the Act of August 24, 1912 (ch. 355, 37 Stat. 444; 40 U.S.C. 68; 8–128 D.C. Code).

(b) USE OF CERTAIN LANDS FOR PARKING AND OTHER PURPOSES.—Notwithstanding any other provision of law, the District is hereby authorized to grant via appropriate instrument to a nongovernmental individual or entity any and all of its rights to use the lands currently being leased by the United States to the District pursuant to the District of Columbia Stadium Act of 1957 (Public Law 85–300, September 7, 1957, 71 Stat. 619) for parking facilities (and necessary informational kiosk, ticketing booth, and security) as the Mayor of the District in his discretion may determine necessary or appropriate in connection with or in support of National Children's Island.

SEC. 6. SAVINGS PROVISIONS.

No provision of this Act shall be construed—

(1) as an express or implied endorsement or approval by the Congress of any such construction, development, or operation of National Children's Island;

(2) except as provided in section 5, to exempt the recreational park and playground from the laws of the United States or the District, including laws relating to the environment, health, and safety; or

(3) to prevent additional conditions on the National Children's Island development or operation to mitigate adverse impacts on adjacent residential neighborhoods and park lands and the Anacostia River.

PURPOSE OF THE BILL

The purpose of this bill is to transfer title of Kingman and Heritage Islands to the District of Columbia to facilitate development of a theme park and a free playground.

BACKGROUND AND NEED FOR LEGISLATION

Several years ago, a private philanthropist approached the District of Columbia (DC) government with a proposal to fund a project to convert several man-made islands in the Anacostia River to a children-oriented theme park. These islands are currently used by the District government as a dumping site for excavation soil and demolition rubble. Although there have been several previous proposals for similar development of these lands, none of these proposals advanced past the conceptual planning stage.

In 1992, the National Park Service (NPS) approved the transfer of Heritage and Kingman Island on a long-term lease to the District government. In 1993, the National Capital Planning Commission and the District of Columbia Council approved the transfer. Immediately thereafter, the Sierra Club sued, challenging the authority of the Secretary of the Interior to transfer lands absent an environment impact statement. That suit eventually prevailed, and the NPS is now in the process of preparing that documentation.

The project is being developed without government funding and would provide not only for revenues for the District, but also jobs and contracts for DC residents. The development and operation of the theme park would be the responsibility of the nonprofit National Children's Island Foundation. Funds from the project would be used for educational grants and youth scholarship programs for DC teachers and students, and job programs for DC youth.

Projected benefits of the program include the following:

Creation of 1500 new full and part time jobs

At least 50 percent of the concessions granted to DC businesses

$8.2 million in tax revenues and $4.1 million in parking revenues annually

COMMITTEE ACTION

H.R. 1508 was introduced on April 18, 1995, by Delegate Norton. The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on National Parks, Forests and Lands. On May 18, 1995, the Subcommittee held a hearing on H.R. 1508. On June 27, 1995, the Subcommittee met to mark up H.R. 1508 and ordered it reported without amendment. On September 13, 1995, the Full Resources Committee met to consider H.R.

1508. An amendment in the nature of a substitute was offered by Mr. Hansen, and adopted by voice vote. The bill, as amended, was then ordered favorably reported to the House of Representatives, in the presence of a quorum.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

The short title of the bill is the "National Children's Island Act of 1995".

Section 2. Definitions

This section provides eight definitions for the bill.

Section 3. Property transfer

This section outlines the terms and conditions for the transfer of title to Heritage Island and portions of Kingman Island from the Secretary of the Interior to the government of the District of Columbia.

Subsection (a) provides that the Secretary shall transfer fee title of the lands to the District of Columbia. While this is not the normal process for transfer of Federal lands to the District of Columbia, the Committee believes that such an approach is best in this case, since it will provide a greater level of autonomy to the District for carrying out its plans for the island, and for obtaining financing for its plans.

Subsection (b) provides that the Secretary of the Interior shall grant any necessary utility corridor easements across Federal lands to carry out this project.

Subsection (d) establishes a reversionary clause for Federal lands to be transferred under the bill. This subsection outlines the tests which will be considered in the determination of a reversion by the Secretary, but specifies that time periods as set forth in these tests shall be extended during the tendency of any lawsuit which seeks to enjoin the development or operation of the islands or the administrative process leading to such development or operation. In the event of a reversion, the District shall be responsible for any claims and judgments arising during the period for which the District had title to the property, and shall ensure that any nongovernmental entity authorized to carry out and operate National Children's Island shall post necessary bonds to provide for restoration of the island in the event of a reversion.

Section 4. Provisions relating to lands transferred and easements granted

This section of the bill sets forth a number of other provisions relating to the land transfer.

Subsection (a) requires that a free public playground be established and opened at the same time that the recreation park is open to the public.

Subsection (c) requires that planning for the project shall be carried out in accordance with the Children's Island Development Plan Act of 1993 (D.C. Act 10–110), and with the National Environmental Policy Act. If further provides for approval of the project by the National Capital Planning Commission.

Section 5. Effect of property transfer

This section clarifies that the transfer of this property means that the islands shall no longer be managed as part of Anacostia Park.

Section 6. Savings provision

This section clarifies that the Act is not intended as a Congressional endorsement of the National Children's Island project or that the development of such project be exempt form any other laws pertaining to the Untied States or the District.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 2(l)(3) of rule XI of the Rules of the House of Representatives, and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment of H.R. 1508 will have no significant inflationary impact on prices and costs in the operation of the national economy.

COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirement of clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 1508 does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

2. With respect to the requirement of clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 1508.

3. With respect to the requirement of clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 1508 from the Director of the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 26, 1995.

Hon. DON YOUNG,
Chairman, Committee on Resources,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 1508, the National Children's Act of 1995, as ordered reported by the Committee on Resources on September 13, 1995. CBO estimates that H.R. 1508 would result in no significant cost to the federal government and in no cost to state or local governments. Enacting H.R. 1508 would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply.

H.R. 1508 would require the federal government to transfer, without compensation, title to certain property and easements to the District of Columbia to facilitate the construction of the proposed National Children's Island, a recreational park and playground approved by the District of Columbia under the Children's Island Development Plan Act of 1993. The bill would require the Department of the Interior (DOI) to make the transfer within six months of enactment. H.R. 1508 also would provide for transferring the property back to the federal government if development or operation fails to meet specified timetables, if the park ceases activity for a period of two years, or if the property is converted to a use that is not authorized by the bill.

Under the bill, the District of Columbia would be responsible for any costs incurred by DOI in transferring the property. If ownership of the property reverts to the federal government, it would be held harmless against any claims or judgments that arose while the District of Columbia held title. The bill also would require that any developer or operator establish an escrow fund, post a surety bond, or provide a letter of credit sufficient to return the property to a condition suitable for use by the National Park Service.

The property that would be conveyed under this bill is neither generating today nor likely to generate income in the future. Thus, CBO estimates that the transfer would result in now loss of receipts to the federal government. We also estimate that DOI would not incur any significant costs in conducting the transfer.

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

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, Director).

CHANGES IN EXISTING LAW

If enacted, H.R. 1508 would make no changes in existing law.

DEPARTMENTAL REPORTS

The Committee has received no departmental reports on H.R. 1508.

APPENDIX

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC, October 13, 1995.

Hon. WILLIAM F. CLINGER, Jr.,
Chairman, Committee on Government Reform and Oversight, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: On April 7, 1995, Delegate Norton introduced H.R. 1508, the National Children's Island Act of 1995. The bill was referred primarily to the Committee on Resources, as well as the Committee on Government Reform and Oversight. The bill requires the Federal Government to transfer title to certain Federally-owned property to the District of Columbia to facilitate the construction of a recreational park and playground.

On September 13, 1995, the Committee on Resources ordered the bill favorably reported, with an amendment. We are now ready to file our report on the measure, which under the Rules of the House will necessarily limit your referral.

I understand that you have had a chance to review the legislation as reported and are willing to waive your full sequential referral over H.R. 1508 and allow it to be discharged. Of course, this waiver would not prejudice any future action by your Committee on similar legislation. In addition, I would strongly support your request to be represented on any conference on this bill.

I deeply appreciate your cooperation in this matter and look forward to working with you and Chairman Tom Davis on this legislation. I would also be pleased to include this letter in our report on the bill.

Sincerely,

DON YOUNG, *Chairman.*

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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

July 15, 1996 96 JUL 15 P3:43

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 1508 - National Children's Island Act
Sponsor - Del. Holmes-Norton (D) D.C.

Last Day for Action

July 19, 1996 - Friday

Purpose

To transfer two islands located in the Anacostia River to the District of Columbia to facilitate the construction of a cultural, educational, and family oriented park called National Children's Island.

Agency Recommendations

Office of Management and Budget	Approval
Department of the Interior	Approval
District of Columbia	Approval
National Capital Planning Commission	Approval
Commission of Fine Arts	No objection
Department of Justice	No objection (Informally)
Council on Environmental Quality	No objection (Informally)
Environmental Protection Agency	Defers to Interior
Army Corps of Engineers	No comment (Informally)
General Services Administration	No comment (Informally)

Discussion

In 1975, the Government of the District of Columbia (D.C.) proposed, and the National Capital Planning Commission (NCPC) approved, a park on Kingman and Heritage Islands located in Anacostia Park. Subsequently, the National Park Service (NPS) and D.C. entered into a Memorandum of Agreement authorizing the District to establish, construct, operate, and maintain a children's park on the islands. The park was to be an innovative, natural playground, funded through grants, local revenues, private donations, and paid attractions.

Funds never materialized for the project, and in 1982, the District entered into an agreement with National Children's Island, Inc. (NCI), a nonprofit organization, to develop the park with private funds. Since that time, NCI has been working with the District and the NPS to develop a management plan for the park. However, progress has been slowed by a cumbersome approval process involving both the District and NPS. Further delays resulted from a 1992 suit challenging the authority to transfer the property without an environmental impact statement (EIS) as required under the National Environmental Policy Act (NEPA). The NPS is currently preparing the required EIS documentation.

Provisions of H.R. 1508

H.R. 1508 would direct the Secretary of the Interior to transfer to the District, without compensation, title to the islands and certain easements thereto, for the construction of the National Children's Island park. As Interior notes in its enrolled bill views letter, H.R. 1508 incorporates virtually all amendments suggested by the NPS in testimony before the Congress. The park would be subject to: (a) approval by the NCPC; (b) certain planning and development restrictions; and (c) full compliance with all applicable environmental statutes, including NEPA. (Subsequently, this Office issued a Statement of Administration Policy that supported House passage of H.R. 1508.) Public parking on the islands would be prohibited, except for the handicapped and certain government or service vehicles. Parking facilities associated with RFK Stadium, as determined necessary to support the park by the Mayor of D.C., would be available for use.

The enrolled bill provides for the reversion of the property to the Federal government if it is not used for the stated purpose within specified time periods, or if the project is abandoned. Any nongovernmental entity that is authorized to construct, develop, and operate the park must provide an adequate security interest (e.g., post a surety bond) for the NPS. If the property were to revert to the United States, these funds would serve to restore the islands to a condition suitable for NPS purposes.

Representatives of the environmental community have stated that the bill would void NEPA as it applies to the development of this park/playground project. In this regard, section 4(c) of the bill states in part: "The District of Columbia shall carry out its review of this project in full compliance with all applicable provisions of [NEPA]." Also, pursuant to the bill, the NEPA review, as well as other specified approvals, would have to occur "[b]efore construction [of the park] commences".

Conclusion and Recommendations

The Department of the Interior recommends approval of H.R. 1508 noting that the "bill is supported by a long history of the National Park Service and the District of Columbia's working together to make Children's Island possible."

The Government of the District of Columbia also recommends approval stating that the project "will have a positive impact upon both the District's economy as well as the lives of our young people."

The National Capital Planning Commission recommends approval as it notes that nothing in the enrolled bill is inconsistent with the "draft framework for the Monumental Core of Washington, D.C." and that the Commission "must approve all design plans for the project."

In deferring to Interior, the Environmental Protection Agency advises that it "would like to work with the National Park Service to address environmental concerns in ensuring the requirements of the Act are met . . . ."

We join the Department of the Interior, the Government of the District of Columbia, and the NCPC in recommending the approval of H.R. 1508, which passed the House and the Senate by voice vote.

Jacob J. Lew
Acting Director

Enclosure

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

96 JUL 18 P5:03

FAX TRANSMISSION

TO: TODD STERN

FAX NUMBER 62215

FROM: ROBERT G. DAMUS
General Counsel
Telephone: (202) 395-5044
Fax No.: (202) 395-7289

DATE: 7/18/96

COMMENTS:

United States Department of the Interior

OFFICE OF THE SOLICITOR
Washington, D.C. 20240

July 18, 1996

Note To: Anne Shields

Subject: NEPA On Congressional Direction

While this issue could no doubt fill--and probably has--a couple of law review articles, my understanding is that the general rule is that no NEPA compliance is required on mandatory directions from Congress which leave no discretion in the agency.

This rule has support in two separate doctrines. The most generally accepted doctrine is that there is no assessment to be made under NEPA when the federal agency lacks discretion because of a mandatory direction from Congress. This doctrine is articulated in State of Minnesota v. Block 660 F.2d 1240 (8th Cir. 1981).

Other doctrinal support is found in the principle that the preparation of an impact statement is not required when doing so would conflict with an agency's nondiscretionary duties under a mandatory act. In such instances, the impact statement requirement of NEPA is inapplicable. This is somewhat akin to the "specific governs the general" principle of statutory construction. While distinguished to a fare-thee-well on other grounds, this doctrine has its roots in Flint Ridge Development Company v. Scenic Rivers Association of Oklahoma, 426 U.S. 776 (1976), a copy of which is attached. This case also lends support to the corollary principle that when Congress mandates a short time period within which to complete an action, NEPA compliance may be precluded.

The way this general rule plays out for Children's Island is that Congress in HR 1508 has mandated that the Secretary transfer title to the islands to the District of Columbia. The Secretary is given no discretion in this regard, he must do it and must do it within six months of enactment. As such, there is no assessment to be made on whether to transfer title. And, there is an inconsistency between doing NEPA and complying with HR 1508 under the Flint Ridge model. Moreover, the six month period specified in the statute precludes conduct of the NEPA process. In any event, it clearly appears that the transfer is mandatory and no NEPA is required.

The transfer of jurisdiction issue falls with enactment of HR 1508 because the Department then has a duty to give over the entire res to the District. The argument is that once the Department transfers all of its dominion over the property by a title transfer, there is no remainder interest left in the Department to support a transfer of jurisdiction. This of course moots out a review of the 1993 jurisdictional transfer.

While this is a pretty down-and-dirty analysis, I believe the general rule as stated is essentially black letter law. If you want a more thorough and thoughtful piece, please let me know.

Rick Robbins

Attachments

DRAFT - PREDECISIONAL DOCUMENT -- DRAFT

MEMORANDUM TO LEON PANETTA

FROM KATHLEEN A. MCGINTY

SUBJECT WHETHER THE PRESIDENT SHOULD SIGN OR VETO ENROLLED BILL H.R. 1508, "NATIONAL CHILDREN'S ISLAND ACT OF 1995."

1. Background

Enrolled bill H.R. 1508, the "National Children's Island Act of 1995" has been presented to the President for his signature. The Constitutional deadline for Presidential action is this Friday, July 19th. In light of the President's travel schedule, the effective deadline is tomorrow. This memo reflects views on options for the President resulting from discussions among representatives from CEQ, OVP, OMB, WHLA, Public Liaison, the Department of Interior, the Environmental Protection Agency, and your office.

H.R. 1508 concerns ownership and development of two islands in the Anacostia River near RFK Stadium. The bill would direct the Secretary of the Interior to transfer title to the islands to the District of Columbia. The District has entered into a lease agreement with a private developer under which free playground and for-fee amusement park type facilities would be constructed on the islands. The title transfer would not be subject to review under the National Environmental Policy Act (NEPA). However, the development plan for the islands would be subject to NEPA review by the National Capital Planning Commission (NCPC).

Prior to this week, all agencies and Executive Office branches took the position that the President should sign the bill. The Bush Administration actually transferred title to the islands to the District in early 1993, but environmental groups opposed to the transfer sued and the courts blocked completion of the transfer pending a NEPA review. This Administration has defended the actions of the Bush Administration in court, but never completed the NEPA review. The Administration recently issued a one-sentence Statement of Administration Position in support of the bill. The issue of the islands' development and the legislation itself have received very little notice and have been handled within the Administration at low levels, with all agencies and offices either uninterested or deferring to Interior.

In the last week, however, environmental groups and members of the Kennedy family have mounted a very aggressive effort to prompt a Presidential veto of the bill. Washington media attention is beginning to surface on both sides of the issue. The Department of the Interior reversed its prior support and now recommends a veto. Executive Office agencies are now divided on the question. CEQ supports a veto, but WHLA and Public Liaison support signing the bill. OMB defers to Interior on environmental issues but, as chair of the

D.C. Task Force, is concerned that we will be breaking a commitment to the District.

2. Arguments in favor of signing the bill

This and prior Administrations have supported use of the islands for youth-oriented recreation, including commercial facilities. The bill passed both Houses of Congress unanimously. The Administration persuaded Congress to include several important amendments and in return issued a supporting SAP. The bill was sponsored by Del. Eleanor Holmes Norton and is supported by most leaders of District government. Del. Norton and District officials view the legislation and the islands' future in the broader context of Home Rule. Supporters argue that the bill would generate 1700 full- and part-time jobs and more than $8.9 million annually in sales taxes.

If the President were to veto the bill, Home Rule proponents would criticize the action as an affront to the District's prerogatives and pressing economic development needs. They, joined by Republican congressional leaders, would accuse the Administration of pandering to environmental elitists at the expense of the District and its citizens. The President would be accused of flip-flopping.

3. Arguments against signing the bill

This Administration has strongly opposed Republican sponsored bills to sell or transfer national park lands. Indeed, this position has represented one of our strongest alliances with the environmental community. Also, the implications of this legislation are just starting to become clear, such as a provision, Sec 3(c), that gives the District a blank check in how the development would proceed.

Environmental groups strongly oppose the legislation. They have made this a litmus-test issue, arguing that signing the bill would amount to a reversal of the President's opposition to Republican efforts to sell-off the National Parks and other public lands. Environmental groups also argue that the planned commercial development of the islands is inappropriate and inconsistent with federal plans for the Anacostia watershed. Some District civic organizations, including neighborhood groups near the islands, are opposed to the proposed development. Bill opponents, too, argue that the legislation is inconsistent with principles of environmental justice.

If the President were to sign the bill, environmental groups would characterize the action as an infamous sell-out of the heretofore inviolate National Park System. Criticism from the Kennedy family would be strong and would carry a particular resonance within Democratic circles. The Administration will suffer unrelenting comparisons of this action to the timber salvage provision of the rescission act.

4. Options for Presidential Action

a. Sign the legislation, with directions to the NCPC

The President could sign the bill, while also issuing some form of directive to the National Capital Planning Commission to apply particular standards to the development plan for the islands.

This would please Del. Norton, District officials, and avoid giving any opening to Republican congressional leaders. Although the risk of environmentally unsound development would be somewhat reduced, environmental groups would not be mollified and would remain vocal.

b. Veto the legislation, with directions to Interior

The President could veto the legislation, while also directing the Interior Department to work with District officials to settle on appropriate development plans for the islands, perhaps to be implemented through new, more responsible legislation.

This would please the environmental groups for now. Del. Norton, District officials, and Republican congressional leaders would be offended, and could go on the attack, even though development of the islands would remain a possibility.

Committee of 100 on the Federal City

P.O. Box 57106 · Washington, D.C. 20037

96 JUL 17 P5:52

15 July 1996

President William Jefferson Clinton
The White House
Washington, DC 20500

Dear Mr. President:

The Committee of 100 on the Federal City, the oldest private planning group in this city, urges you to veto H.R. 1508, the Children's Island Transfer Act, which would give away part of a national park in the District of Columbia so that a private developer can build a commercial theme park on the site.

Since its founding in 1923, the Committee of 100 has worked to advance sound planning practices in the District of Columbia and the surrounding region. Committee members include professionals with expertise in urban planning, transportation, parks, water resources, preservation and related fields.

The Committee has long opposed any giveaway of this parkland, and H.R. 1508 is a bad bill for a variety of reasons:

-- It hands over a valuable public resource to a private developer -- for free. At a time when the federal deficit is still too high, the government should be avoiding such giveaways.

-- A theme park would destroy the wetland system and habitat for birds and wildlife in the area, thus undermining your designation of the Anacostia River watershed as one of the Administration's top priorities for ecosystem management.

-- The proposed theme park is at odds with every official planning document that has been developed over the years to guide development in the District of Columbia.

-- Two years ago, a federal judge blocked the proposed sale because the Park Service had failed to address environmental concerns, which remain salient today.

You have repeatedly emphasized your concern for the environment as a defining element of your Administration. This bill fails on every score and should be vetoed.

Very truly yours,

Cornish F. Hitchcock

Cornish F. Hitchcock

TEN REASONS TO VETO H.R. 1508

H.R. 1508 will transfer title to approximately 45 acres of National Park System lands in Washington, D.C., to the District of Columbia. The park lands already have been leased by the District to two corporations, including a for-profit corporation for construction of a for-profit theme park. The theme park will be constructed adjacent to Kingman Park, one of the oldest African-American neighborhoods in the District of Columbia, which strenuously opposes the project.

We request that H.R. 1508 be vetoed for the following reasons:

1. H.R. 1508 is unprecedented. In at least the past 15 years, Congress never has transferred National Park System lands for a commercial, for-profit enterprise. In addition, the United States and District government will receive no compensation directly for title to its lands from the theme park's multi-millionaire developer. Other congressional efforts to turn over national park lands to states, local governments, and private developers will receive a boost if this legislation passes.

2. This legislation conflicts directly with President Clinton's ecosystem management initiative for the Anacostia River. The U.S. Army Corps of Engineers currently is proposing a several million dollar investment in restoring wetlands adjacent to these urban park lands as part of this initiative. If H.R. 1508 becomes law, these park lands will be developed intensively as a theme park, wasting a significant investment in environmental restoration.

3. This legislation conflicts directly with President Clinton's environmental justice initiatives. H.R. 1508 will convert the heart of Anacostia Park into a private, commercial theme park. These park lands offer D.C. residents on the east side of the city -- residents who often cannot afford to visit other national parks -- a much-needed respite from the urban landscape. If H.R. 1508 becomes law, the developers propose to charge visitors approximately $11 per person to enter the park. No one would dream of converting park lands along the Potomac River, such as Theodore Roosevelt Island, into a private, commercial theme park. Moreover, the communities that will be most impacted by H.R. 1508 were denied procedural justice because they were denied the opportunity to express their concerns at the abbreviated hearing on the legislation in the House. No hearing has been held in the Senate.

4. This legislation conflicts directly with Secretary Babbitt's pronouncements during Earth Day celebrations on the banks of the Anacostia that there are "no dispensable people and no dispensable places." This legislation "dispenses" 45 acres of park lands and commits it for development in the heart of the Anacostia ecosystem, over the opposition of the affected neighboring communities.

5. This legislation preempts a National Park Service planning process for these lands and federal environmental laws, including the National Environmental Policy Act (NEPA). In December 1994, United States District Judge Paul Friedman ordered preparation of an environmental study on the Children's Island theme park. This order will be nullified by H.R. 1508.

6. Congress and the President have no information on the commercial developers who will develop this national park land into a for-profit theme park. A for-profit corporation already has a 30 year lease with the District for exclusive use and possession of the islands. As far as we can determine, these developers (the "Island Development Corporation") never have constructed a theme park or other large facility in the past and have not revealed detailed plans for this project. To whom is Congress and the President considering giving 45-acres of federal park lands?

7. This legislation is unnecessary. The National Park Service has the authority to transfer administrative jurisdiction over the islands to the District, and then the District can proceed with this project, all without this legislation. The purpose of this legislation simply is to avoid compliance with federal environmental laws, a district court order, and development restrictions required by the National Park Service, and to otherwise fast-track this questionable project.

8. Nothing in the legislation protects the public interest in these scarce urban park lands. This legislation authorizes the theme park but imposes no conditions to protect adjacent neighborhoods and park lands from increased traffic, pollution, noise, and crime. Moreover, the National Park Service will have no ability to influence development of the theme park, which will be located squarely in the middle of Anacostia Park.

9. Even the District Government and National Capital Planning Commission, through its deliberative planning process pursuant to the strictures of federal law, have concluded that this site is not appropriate for commercial development. The language of the District's Comprehensive Plan could not be more clear: "Prevent commercial development of Kingman Island (Children's Island) to avoid adverse effects on neighborhoods." This Comprehensive Plan directive will be nullified by H.R. 1508.

10. The theme park will harm adjacent residential neighborhoods, adjacent national park lands, and the Anacostia River. As mentioned, this legislation authorizes the theme park development on islands and shoreline adjacent to residential neighborhoods and park land but imposes no conditions to protect these adjacent neighborhoods and park lands. The District government anticipates that 3.3 million people will visit the park annually. District City Councilmembers Harold Brazil and Kevin Chavous -- who represent the two city wards affected by this legislation (Wards 6 and 7) -- oppose the project.

Robert F. Kennedy Jr.

Anacostia Giveaway

Congressional Democrats have turned back a series of Republican attempts to sell America's national parks to developers. But late on the night of June 28, one developer finally got his way when the Senate passed HR 1508. The bill gives away Heritage and Kingman islands in Anacostia National Park, the most beautiful green space in our nation's capital, to allow a private developer to build a commercial entertainment complex there.

How did the Democrats finally get outmaneuvered on this issue? Sadly, they didn't. In a world turned upside down, HR 1508 is a Democratic bill, the work of D.C. Del. Eleanor Holmes Norton. The Children's Island Transfer Act, as it is called, is a disguised boondoggle that benefits a commercial developer, Island Development Corp. (IDC). While Republicans have justified proposals to sell off America's crown jewels as budget-balancing measures, HR 1508 lacks even this merit. It would give the island to IDC for free.

Heritage and Kingman islands are at the heart of our National Capital Park System, on the remarkable four-mile stretch of Anacostia River that runs through Northeast and Southeast Washington. Here the river, with no adjacent roads or houses, is a stunning, unbroken primeval landscape where community residents fish, picnic and boat. Once seriously polluted, the Anacostia is rebounding. More than 60 pairs of great blue herons now feed their young from the returning fish population that also support ospreys and transient bald eagles. The river's resurgence offers real hope that our national bird will return to nest on Heritage Island. Eagles released last year have occupied sites at Kingman and Heritage.

A confidential internal memo from Jon Capacosa, acting director of the federal Environmental Protection Agency's office of external affairs, concludes that the proposed development will permanently destroy a large natural wetland system and the critical habitat for blossoming populations of migratory birds, waterfowl and other wildlife. The memo states candidly, "Development would have direct negative effects on our efforts to restore the Anacostia River . . . [and] would undermine President Clinton's designation of the Anacostia River watershed as one of the Administration's top priorities for ecosystem management."

The transfer would eviscerate the president's recently announced Anacostia initiative by fueling intensive commercial development in the heart of the protected zone. The transfer also flies in the face of a whole series of Chesapeake Bay program initiatives designed to restore the estuary and bay. It violates the District's approved master plan, the Ward 6 master plan, and the National Capital Planning Commission's new plan for Washington's Monumental Core, all of which forbid waterfront development on this stretch of the Anacostia.

For more than 20 years a succession of developers has coveted these islands, visualizing the adjacent RFK Stadium parking lots filled with paying customers. HR 1508 would replace Heritage Island's natural paradise with "virtual reality" rides, an aquarium, games, five movie screens and, possibly, a floating McDonald's. High admission fees and chain-link fences would effectively exclude community members who now use Heritage Island for free. For many Washington residents, Anacostia is the only wild national park they will visit.

For these reasons, vocal neighborhood objections have hounded the transfer. But Congress saw to it that the dozen-odd civic groups from surrounding communities that had organized opposition to the project were muzzled during the legislative process. These groups had earlier obtained a federal court injunction blocking the sale by the National Park Service, but they were outmaneuvered by the Capitol Hill Democrats, whose bill effectively nullifies the court order. Neighborhood residents were not allowed to testify at the House hearing, and the Senate did not hold a hearing.

So deftly did Congress perpetrate this legislation that the national environmental groups, fixated on their battles over western parks and public lands, were largely AWOL from the grass-roots effort to stop it. Republicans stood by, appreciating the precedent that was being set in transferring a national park to a commercial developer.

The president should veto this shameful proposal for the same reasons he has in the past promised to veto similar proposals by the Republicans.

The writer is a senior attorney at the Natural Resources Defense Council.

rector of Public Roads, see section 1652(f)(4) of Title 49, Transportation.

Commissioner of Public Roads redesignated Federal Highway Administrator by Act Aug. 3, 1956, c. 937, § 2, 70 Stat. 990, set out as a note under section 303 of Title 23, Highways.

All functions of the Commissioner of Public Buildings and of the Commissioner of Public Roads were transferred to the Administrator of General Services, and the Public Roads Administration, to be thereafter known as the Bureau of Public Roads, was transferred to the General Services Administration by section 103(a) of Act June 30, 1949, which is classified to section 753(a) of this title. The office of the Commissioner of Public Buildings was abolished by section 103(b) of that Act.

The Bureau of Public Roads was transferred to the Department of Commerce to be administered by the Commissioner of Public Roads subject to the direction and control of the Secretary of Commerce under the provisions of 1949 Reorg. Plan No. 7, § 1, eff. Aug. 19, 1949, 14 F.R. 5228, 63 Stat. 1070, set out in Appendix 1 to Title 5, Government Organization and Employees.

A Public Buildings Service, under the direction of a Commissioner, was established Dec. 11, 1949, by the Administrator of General Services, to supersede the abolished Public Buildings Administration.

Abolition of Council. The National Capital Regional Planning Council was abolished by Reorg. Plan No. 5 of 1966, eff. Sept. 8, 1966, 31 F.R. 11857, 80 Stat. 1611, set out as a note under section 71b of this title.

Definitions. The definitions appearing in section 1–202 of the District of Columbia Code apply to terms appearing in this section as amended by Pub.L. 93–198.

Termination of Advisory Committees. Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub.L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in Appendix 2 to Title 5, Government Organization and Employees.

Legislative History. For legislative history and purpose of Pub.L. 87–683, see 1962 U.S. Code Cong. and Adm.News, p. 2617.

Cross References

Acquisition of land by National Capital Planning Commission—
  Generally, see section 72 of this title.
  Reservation of limited rights to grantor, see section 72a of this title.
Authorization of appropriations to carry out provisions of this section, see section 71i of this title.
Definitions of terms used in this section, see section 71 of this title.
Estimate of sums to be appropriated for expenditure under this section, see section 74 of this title.
National Capital Service Area, see section 136 of this title.

Library References

United States ⇐53(1).
C.J.S. United States § 65.

Notes of Decisions

Nature of Commission 1
Voting by members 2

1. Nature of Commission

The National Capital Planning Commission is not a judicial, or a quasi-judicial tribunal; it is not a regulatory commission or an adjudicatory body but is an administrative group composed, largely, of ex officio members holding public office and no infirmity is discernible in an action of the Commission in approving a highway plan because some of its members may in the course of their official duties have previously approved parts of the plans in other capacities. D.C. Federation of Civic Associations v. Airis, D.C.D.C.1967, 275 F.Supp. 533.

2. Voting by members

Administrative practice in National Capital Planning Commission permitting alternates of ex officio members to vote was not in violation of law. D.C. Federation of Civic Associations v. Airis, D.C.D.C.1967, 275 F.Supp. 533.

NATIONAL CAPITAL PLANNING COMMISSION

Independent

AUTHORITY: District of Columbia Code 1-2002; 40 U.S.C. 71a(b)
P.L. 93-198, Title II, Sec. 203, 87 Stat. 781, December 24, 1973, eff. January 2, 1975
P.L. 103-332, of September 30, 1994 (amends salary)

METHOD: Ex officio and see below

MEMBERS: TWELVE members as follows:

Secretary of the Interior
Secretary of Defense
Administrator of General Services
Mayor of the District of Columbia
Chairman of the District of Columbia Council
Chairman of the Senate ~~District of Columbia~~ Governmental Affairs Committee
Chairman of the House District of Columbia Committee

6

or

such alternates as each such person may from time to time designate to serve in his stead.

Two citizens appointed by the Mayor of the District of Columbia with experience in city or regional planning.

Three citizens appointed by the President with experience in city or regional planning.

NOTE: Of the three citizen members appointed by the President, at least one shall be a bona fide resident of Virginia and at least one shall be a bona fide resident of Maryland.

CHAIRMAN: Designated by the President

(CONTINUED - PAGE TWO)

NATIONAL CAPITAL PLANNING COMMISSION (Cont'd)

Independent

TERM: SIX YEARS, except that of the members first appointed by the President, one shall serve two years and one shall serve four years. Any person appointed to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. (NOT HOLDOVERS)

The members first appointed under this law (P.L. 93-198) shall assume their office on January 2, 1975.

SALARY: ~~Citizen members shall receive $100 for each day engaged in the actual performance of duties in addition to reimbursement for necessary expenses incurred in the performance of such duties.~~ Appointed Members will be compensated at a rate equivalent to the rate for Executive Schedule Level IV.

PURPOSE: Prepare and adopt a comprehensive, consistent, and coordinated plan for the National Capital, which plan shall include the Commission's recommendations or proposals for Federal developments or projects in the environs, and those District elements, or amendments thereto, of the comprehensive plan adopted by the Council and with respect to which the Commission has not determined a negative impact to exist, which elements or amendments shall be incorporated into such comprehensive plan without change.

NOTE: The provisions which in effect transfers authority to appoint any citizen member shall not take effect until January 2, 1975.

NAME	POL.	STATE	DATE APPOINTED	TERM EXPIRES

* NATIONAL CAPITAL PLANNING COMMISSION (12)

Secretary of the Interior
Secretary of Defense
Administrator of General Services
Mayor of the District of Columbia
Chairman of the District of Columbia Council
Chairman of the Senate Governmental Affairs Committee
Chairman of the House District of Columbia Committee
Two appointed by the Mayor of the District of Columbia

Three appointed by the President:

NAME	POL.	STATE	DATE APPOINTED	TERM EXPIRES
Robert Gaines		MD	3/1/95	1/1/97
Harvey Gantt (CHAIR)		NC	3/1/95	1/1/99
Margaret G. Vanderhye		VA	1/13/95	1/1/01

Citation	Rank(R)	Database	Mode
DC LEGIS 10-57 (1993)	R 1 OF 1	DC-LEGIS93	Page

1993 District of Columbia Laws 10-57 (Act 10-110)

DISTRICT OF COLUMBIA 1993 SESSION LAWS
1993-1994 COUNCIL SESSION

Additions and deletions are not identified in this document.

Law 10-57
Act 10-110
CHILDREN'S ISLAND DEVELOPMENT PLAN ACT

AN ACT to require that the development plan for property in the Anacostia River known as Children's Island be submitted by the Mayor to the Council for review and approval.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the **"Children's Island Development Plan** Act of 1993".

Sec. 2. (a) The development plan for property known as Heritage Island and a portion of Kingman Island ("Children's Island") in the Anacostia River in Ward 6, as shown on the plat filed in the Office of the Surveyor of the District of Columbia under S.O. 92-252, accompanied by a proposed resolution to approve the development plan, shall be submitted by the Mayor to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess.

(b) If the Council does not approve or disapprove the development plan by resolution within this 45-day review period, the development plan shall be deemed approved by the Council.

(c) The requirements of this section shall be in addition to all other requirements for approvals, permits, and procedures which are necessary to allow the development of Children's Island.

Sec. 3. For purposes of this act, the term "development plan" shall include, but not be limited to:

(1) A schematic layout of design elements, including a site plan, textual description, and illustrative rendering of the location, size, materials, and functions of all structures, buildings, roads, bridges, pathways, paved surfaces, landscaping, parking facilities, and utilities;

(2) An environmental impact statement;

(3) A traffic and transportation analysis, including any impact of traffic on the adjacent communities and the programs or measures to mitigate such impact;

(4) A circulation and sizing analysis;

(5) Applicable engineering studies;

(6) An operational planning analysis;

(7) A description of the programs, activities, facilities, goods, and services to be offered to the public, including the estimated costs of admission;

(8) An updated analysis of costs and benefits to the District government, the public, and the developer;

(9) The estimated annual numbers of construction, seasonal, and permanent jobs to be generated, including the percentage to be filled by District residents;

(10) The estimated annual numbers and dollar amounts of vending and contractual services to be generated by construction and operations, including the percentage to be set aside for District and minority entities;

(11) The estimated timetable and total cost of constructing and operating the project, including a financing plan;

(12) All documentation or material included within the submission by the Mayor or the developer to the National Capital Planning Commission and the Commission on Fine Arts as part of their respective reviews of the proposal for Children's Island; and

(13) Any other information requested by the Council of the District of Columbia to facilitate its review of proposed development of Children's Island.

Sec. 4. This act shall take effect after a 30-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C.Code s 1-233(c)(1)), and publication in either the District of Columbia Register, the District of Columbia Statutes-at-Large, or the District of Columbia Municipal Regulations.

APPROVED: October 1, 1993.

EFFECTIVE: November 20, 1993.

DC LEGIS 10-57 (1993)
END OF DOCUMENT

Robert F. Kennedy Jr.

Anacostia Giveaway

Congressional Democrats have turned back a series of Republican attempts to sell America's national parks to developers. But late on the night of June 28, one developer finally got his way when the Senate passed HR 1508. The bill gives away Heritage and Kingman islands in Anacostia National Park, the most beautiful green space in our nation's capital, to allow a private developer to build a commercial entertainment complex there.

How did the Democrats finally get outmaneuvered on this issue? Sadly, they didn't. In a world turned upside down, HR 1508 is a Democratic bill, the work of D.C. Del. Eleanor Holmes Norton. The Children's Island Transfer Act, as it is called, is a disguised boondoggle that benefits a commercial developer, Island Development Corp. (IDC). While Republicans have justified proposals to sell off America's crown jewels as budget-balancing measures, HR 1508 lacks even this merit. It would give the island to IDC for free.

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A confidential internal memo from Jon Capacosa, acting director of the federal Environmental Protection Agency's office of external affairs, concludes that the proposed development will permanently destroy a large natural wetland system and the critical habitat for blossoming populations of migratory birds, waterfowl and other wildlife. The memo states candidly, "Development would have direct negative effects on our efforts to restore the Anacostia River . . . [and] would undermine President Clinton's designation of the Anacostia River watershed as one of the Administration's top priorities for ecosystem management."

The transfer would eviscerate the president's recently announced Anacostia initiative by fueling intensive commercial development in the heart of the protected zone. The transfer also flies in the face of a whole series of Chesapeake Bay program initiatives designed to restore the estuary and bay. It violates the District's approved master plan, the Ward 6 master plan, and the National Capital Planning Commission's new plan for Washington's Monumental Core, all of which forbid waterfront development on this stretch of the Anacostia.

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For these reasons, vocal neighborhood objections have hounded the transfer. But Congress saw to it that the dozen-odd civic groups from surrounding communities that had organized opposition to the project were muzzled during the legislative process. These groups had earlier obtained a federal court injunction blocking the sale by the National Park Service, but they were outmaneuvered by the Capitol Hill Democrats, whose bill effectively nullifies the court order. Neighborhood residents were not allowed to testify at the House hearing, and the Senate did not hold a hearing.

So deftly did Congress perpetrate this legislation that the national environmental groups, fixated on their battles over western parks and public lands, were largely AWOL from the grass-roots effort to stop it. Republicans stood by, appreciating the precedent that was being set in transferring a national park to a commercial developer.

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The writer is a senior attorney at the Natural Resources Defense Council.

...ongress Cedes Park Land to Capital

By MICHAEL JANOFSKY

WASHINGTON, July 17 — Since they were created decades ago by dredging the Anacostia River, Kingman Island and Heritage Island have remained grubby spits of Federal land, used in recent years only as dump sites for garbage, dead leaves and tree stumps.

But with a private developer waiting to turn 45½ acres of the islands into a children's park, Congress has, with unusual speed, passed legislation that transfers ownership of the islands from the Federal Government to the District of Columbia, which, in turn, has agreed to lease the land at no cost to the developers for 30 years.

With the measure awaiting President Clinton's response, expected by Friday, environmental groups have intensified efforts to persuade him to veto the bill, contending that transferring National Park Service land to a local jurisdiction sets a dangerous precedent, especially when many lawmakers are eager to reduce the size of the Federal Government by shifting responsibilities to the states.

Dave Barna, a spokesman for the National Park Service, said the Federal Government had frequently negotiated land trades but had never simply transferred Federal land to a local jurisdiction.

"This is the template for what can happen elsewhere," said Fern Shepard, a lawyer for the Sierra Club Legal Defense Fund, which is representing nearly a dozen environmental groups and civic associations that oppose the project. "It strikes me as being irresponsible."

A senior official with the Department of the Interior, who spoke on condition of anonymity, said any claim that Congress would use this transfer as a blueprint for others was "a bogus issue." The official said that the District of Columbia, as a Federal city, creates a special circumstance for the transfer that would not easily serve as a precedent for giving away other park lands.

Further, developers of the project, to be known as National Children's Island, contend that their planned "family-oriented educational and recreational park" is a better use of the islands than as a waste site.

"The National Park Service is not going to do anything with this land," said Carroll B. Harvey, chairman of the Island Development Corporation. "And the park won't cost the city anything to build."

Mr. Harvey predicted that the project, which could cost as much as $200 million to build, would generate up to 2,400 permanent jobs for the region, 51 percent of which have been promised to District residents, and $8.9 million in annual tax revenue.

Opponents of the project say even if the park service does nothing with the land, it serves as part of the Anacostia River ecological system, home to small marine animals and more than 25 species of birds.

But their efforts to lobby the White House, they say, have been blunted because the bill to transfer the land was sponsored by a Democrat, Eleanor Holmes Norton of the District of Columbia, a nonvoting member of Congress. Ms. Norton said the children's park would generate desperately needed new jobs and tax revenue for a city that is virtually broke.

Ms. Norton introduced the bill after the proposed land transfer won the approval of the City Council on an 11-to-1 vote and of Mayor Marion S. Barry Jr. The House passed the legislation last year after one 13-minute hearing by the House Resources Subcommittee on National Parks, Forests and Lands; the Senate passed it two weeks ago without a hearing.

Opponents contend that they were not allowed to testify at the House hearing, where the only three witnesses — Ms. Norton, City Administrator Michael C. Rogers and Denis Galvin, an official with the park service — all supported the legislation. A subcommittee staff member said the panel "was too busy" that day with other legislation to expand the list of witnesses.

Ms. Shepard and other opponents said the expedited schedule accommodated Republican strategies to sell off Federal lands as a way to reduce the size of the Government and give state and local officials more control over land in their area.

From the National Park Service to Washington to developers.

Representative James V. Hansen, the Utah Republican who heads the subcommittee, closed the brief hearing by saying: "We have been talking land transfers around here for a long time. Maybe this is a good precedent that we're working on."

Congress is considering several other bills that would transfer Federal park land to local jurisdictions, including one that would turn over 30,000 acres of Lake Clark National Park across Cook Inlet from Anchorage to native groups for private development, and another that would use a piece of Glacier Bay National Park in southeastern Alaska for a hydroelectric power plant.

But Paul Pritchard, president of the National Parks and Conservation Association, a nonprofit group based in Washington, said these and other similar efforts were not just the handiwork of Republicans. Mr. Pritchard cited legislation that would create a local board to run Voyageurs National Park in northern Minnesota, co-sponsored by Representative James L. Oberstar, Democrat of Minnesota.

"This is not a partisan issue," Mr. Pritchard said. "Republicans and Democrats are all bending to local pressure, which is not in the best interest of the National Park Service. It's all about powerful people who want to see great wealth from our national heritage."

Senators Hear Of Suspicions Over Valujet By Ex-Official

By MATTHEW L. WALD

WASHINGTON, July 17 — The former Inspector General of the Transportation Department said today that the Department's chief of staff had responded to her suspicions of safety problems at Valujet by telling her of the airline's complaints about her investigation.

The former official, Mary Schiavo, testified before the Senate Commerce Committee that the conversation contributed to her feeling that Transportation Secretary Federico F. Peña was not paying attention to her safety concerns and was one reason she quit her job last month, four months after the Feb. 22 meeting.

She said she also took it as a sign that the Federal Aviation Administration was providing confidential information about her safety investigation to Valujet. One of the commuter airline's planes crashed in the Everglades on May 11, killing 110 people

Appearing earlier before the same committee, Mr. Peña said Ms. Schiavo had never complained to him about her concerns.

But Mr. Peña did say he had been disturbed by an opinion column that Ms. Schiavo wrote in Newsweek shortly after the Valujet crash, in which she said she avoided commuter airlines in general and Valujet in particular. "I was very troubled and surprised that she would write an article like that for a national review without having brought it to my attention first," Mr. Peña said.

Members of Congress and others have questioned whether the Federal Aviation Administration and its parent agency, the Transportation Department, had overlooked signs of safety problems at Valujet, which was grounded indefinitely by the F.A.A. on June 17, five weeks after the crash. Mr. Peña in particular has been criticized for asserting soon after the crash that Valujet was safe.

The president and chief operating officer of Valujet, Lewis Jordan, also testified today and said he hoped to have the airline return to service in early August.

Air safety is primarily the domain of F.A.A. inspectors and regulators. The Inspector General of the Transportation Department is responsible for monitoring the honesty and effectiveness of the aviation agency, and by extension safety matters, as well as other parts of the overall department.

But Ms. Schiavo said that she had met with her staff on Feb. 6, three months before the crash, to discuss their concerns about Valujet's safety and the F.A.A.'s oversight of the airline. The next day, she said, some staff members went to Atlanta, where Valujet is based, to meet with regional F.A.A. officials.

Two weeks later, she said, she briefed Mr. Peña's chief of staff, Ann M. Bormolini, about the topic in a weekly meeting that she said Mr. Pena had established as the channel through which she should report to him. "I had briefed her on our concerns," Ms. Schiavo said. "I told her we were interested. I told her we had had a meeting in my office, and we were worried about Valujet."

Ms. Schiavo said that Ms. Bormolini responded by saying that a lobbyist friend for Valujet had called and indicated that the Inspector General's office was "snooping around."

Ms. Schiavo said she was "quite floored" by Ms. Bormolini's response. "I thought that was highly irregular," she said. "I thought that didn't bode well for the situation."

Ms. Bormolini, who had been an aide to Mr. Peña since he was mayor of Denver, quit her job to return to Denver soon after the crash, according to the Transportation Department. In a statement through the Transportation Department, she said that the lobbyist friend had asked her if the Inspector General was investigating the airline, and that she had passed the question along to Ms. Schiavo. Ms. Bormolini said in the statement that she had asked Ms. Schiavo "whether or not it was appropriate for me to obtain and/or share this information," and that Ms. Schiavo had said it was not.

Ms. Bormolini's statement did not say what, if anything, Ms. Schiavo told her about safety at Valujet.

Ms. Schiavo had previously said that the Inspector General's office was conducting a criminal investigation into whether F.A.A. inspectors were told to "go easy" on Valujet in the weeks before the crash, and that she had excused herself from that investigation because she anticipated being called as a witness in the case. Today she said that it was her conversation with Ms. Bormolini that she expected to be used as evidence in that case.

THE NEW YORK TIMES

THURSDAY, JULY 18, 1996

Political Briefing

THE STATES AND THE ISSUES

North Carolina

A Timing Question On Redistricting

The Supreme Court's redistricting decisions continue to ripple through the 1996 elections. In North Carolina, the Court ruled that the majority-black 12th District was unconstitutional because race was a predominant factor in its design. But should the state's political map be redrawn just four months before the election — and well after the primaries?

The State Senate, controlled by the Democrats, says no, wait until next year. The North Carolina House, controlled by the Republicans, says yes.

"There have already been two elections under a plan that is unconstitutional," said Richard Morgan, chairman of the House Rules Committee.

A three-judge Federal panel will hear arguments on July 29 on what to do next.

The Conventions

Labor Exhibits Political Presence

Whatever the ultimate impact, labor is intent on making itself felt this year. The United Auto Workers and the Chrysler Corporation are co-sponsoring a 50,000-square-foot, museum-quality exhibit on the centennial of the auto industry at the Democratic National Convention in Chicago from Aug. 26-29.

The exhibit will also travel to San Diego for the Republican convention Aug. 12-15 — but without the union staff members, reflecting the special relationship between the U.A.W. and the Democratic Party.

Chrysler is donating $100,000 in the name of the company and the union to the Democratic convention host committee; the company is also donating $100,000 to the Republican host committee.

Gay Group Precedes G.O.P. in San Diego

The Log Cabin Republicans, a gay and lesbian group, will establish one of the first political beachheads in San Diego next month. Its convention will run Aug. 9-11, ending one day before the Republican National Convention begins.

The keynote address will be given jointly by Representative Steve Gunderson, Republican of Wisconsin, and his partner, Rob Morris. It will focus on their new book, "House and Home," described by Log Cabin organizers as "a lively examination of family values lived by those who happen to be gay."

David Greer, communications director for the Log Cabin Republicans, said that his group had been pushing for an openly gay speaker at the Republican National Convention, but that the chances appeared to be slim.

Campaign Finance

Republicans Near A Financial Goal

From the beginning, House Republican strategists recognized that preserving their majority in the House would require money. This week, they announced that they were well on their way to meeting their fund-raising goals, which would enable them to give the maximum allowable under law to 150 House races this year.

The National Republican Congressional Committee reported nearly $7 million cash on hand at the end of the second quarter of 1996. Its goal is $10 million.

Oregon

A Former Aide Becomes a Rival

Representative Wes Cooley, Republican of Oregon, keeps hanging on, despite a wave of accusations that he misrepresented his past and despite the pleadings of numerous Republicans that he step aside. Finally, his former campaign manager, State Senator Greg Walden, decided that enough is enough.

Mr. Walden announced that he was forming his own party and would run for Mr. Cooley's seat as its nominee. (Mr. Cooley, a conservative freshman, had already won the Republican nomination earlier this year, in a primary in which he was unopposed.)

"It all originated out of frustration with what the Congressman has been saying and doing in the district," Mr. Walden said.

Despite the route Mr. Walden is taking to get on the ballot, he argues that "most of the voters are going to recognize that I have pretty strong Republican credentials." Mr. Walden has twice been the House majority leader in Oregon and is chairman of Bob Dole's Presidential campaign in the state. In fact, there are worries in Republican circles that Mr. Walden's candidacy will split the Republican vote.

Democrats, for their part, are quite happy with the strange turn of events in this heavily Republican district, and with the prospects for their nominee, Mike Dugan, a county district attorney.

Texas

A Novice's Role Irks a Senator

Senator Phil Gramm, Republican of Texas, complains in a recent fund-raising letter that his Democratic opponent, Victor Morales, a political novice, "has received more free Texas and national media than any other Senate challenger."

Mr. Gramm, who spent the early stages of this election cycle running, unsuccessfully, for the Republican Presidential nomination, warns his supporters that "1996 is not a normal year." He argues that Mr. Morales, who won the Democratic primary in an upset with a campaign run largely out of his pickup truck, is getting the best of all possible worlds.

"I need you to act today," Mr. Gramm writes, "to help me convert this race from a media lovefest into a campaign based on issues and competing visions for the future of America."

Steve Jarding, spokesman for the Democratic Senatorial Campaign Committee, shot back, "Victor Morales is driving around in a pickup truck, and Phil Gramm's running scared." *ROBIN TONER*

Addiction Key Links Cocaine With Nicotine

By The Associated Press

Part of the brain that may be important in addiction reacts the same way to nicotine that it does to cocaine, heroin and other addictive drugs, researchers have found.

Their results provide further evidence of the power that cigarettes wield over those addicted to nicotine, and offer hints at how treatments might one day break the smoking habit. The results also provide some of the best physiological evidence yet suggesting that nicotine and cocaine addictions work in similar ways.

"It suggests from a neurobiological level that we're dealing with a real drug and a real brain effect," said Dr. George Koob of the Scripps Research Institute in San Diego.

Earlier research showed that nicotine stimulates the release of the neurotransmitter, molecule dopamine in the brain. The new study, conducted by Italian researchers, goes a step further by demonstrating that like most addictive drugs, nicotine causes dopamine to be released in a specific region known as the shell of the nucleus accumbens, which lies between the midbrain and the forebrain.

The shell links the amygdala, which is active during emotional experiences, and the core of the nucleus accumbens, which controls some aspects of movement. Together, the three areas are believed to be central in the addiction process.

The research "adds new weight to the conclusion that nicotine is indeed addictive," wrote Dr. Leslie L. Iversen of the University of Oxford in a commentary that is appearing today with the study in the journal Nature.

President Clinton and Bob Dole, the all-but-certain Republican Presidential nominee, began trading barbs over tobacco last month. Mr. Dole, who opposes the President's efforts to regulate tobacco, has been dogged by criticism since he suggested in June that smoking was not necessarily addictive.

The new study "is not a surprise, but I think it's very timely because of the current political debate," said Dr. David Self, a neuroscientist at the Yale University School of Medicine in New Haven.

The study puts nicotine in a class with most well-known addictive drugs, including cocaine, morphine and amphetamines, said Dr. Gaetano Di Chiara, a neuroscientist at the University of Cagliari in Sardinia who led the research. "The ability to stimulate dopamine transmission is a kind of mark, a kind of label which is common to all these drugs and substances," he said.

Dr. Di Chiara and three colleagues studied the effects of two nicotine doses on rats. They found that after the higher dose, the amount of dopamine produced in the shell of the nucleus accumbens increased significantly for 20 minutes. At the lower dose, the effect lasted 10 minutes.

Nicotine also significantly increased brain activity in the nucleus accumbens after the higher dose, but not in 36 other brain areas that the researchers monitored. Those results suggest that some of the methods now used to treat cocaine addiction might work for smokers.

House Retains Abortion Rule In Federal Jobs

By JERRY GRAY

WASHINGTON, JULY 17 — The House voted 238 to 184 today to retain a law that forbids Federal employee health plans to pay for abortion services except when a mother's life is at risk, or in cases of rape or incest.

The vote was on an amendment, seeking to overturn the ban, to the 1997 spending bill for the Treasury Department, the United States Postal Service and the White House. The overall spending plan was later approved on a vote of 215 to 207.

The Treasury and Postal spending plan is the 10th of 13 appropriations bills that the House of Representatives has passed for the fiscal year beginning Oct. 1. The other bills cover military construction; foreign operations; the Agriculture Department; the Defense Department; the Transportation Department; the Interior Department; the Department of Veterans Affairs and the Department of Housing and Urban Development; the legislative branch of the Federal Government; and the Departments Labor, Health and Human Services, and Education.

Late this afternoon, the House began debate on a $24.5 billion spending bill for the Departments of Commerce, Justice, State and the judiciary. And within the next week or so, the House expects to vote on the remaining two spending bills, for the District of Columbia and for energy and water development.

In the Senate, members debated a $244.74 billion defense appropriations bill. The full Senate has approved only one of the 1997 spending bills, for military construction.

Before any of the spending bills reach the White House, Senate and House negotiators must work out compromise legislation. The Federal budget year runs from Oct. 1 through Sept. 30.

The spending bill approved by the House today allocates slightly more than $23 billion — nearly $10 billion for the Treasury Department, about $85 million for the Postal Service, about $295 million for the Executive Office of the President and nearly $13 billion for about a dozen independent agencies including the Federal Election Commission, the General Services Administration and the Office of Personnel Management.

Although the House bill authorizes $51.5 million more than the 1996 budget, all of the increased spending goes toward mandatory retirement accounts for Federal workers. On discretionary spending, the bill appropriates $130 million less than the 1996 level and $1.7 less than the Clinton Administration requested.

The Clinton Administration has said the bill "is unacceptable" but has stopped short of a veto threat.

The White House said in a statement on Tuesday that it strongly opposed spending cuts for the Internal Revenue Service, which is a branch of the Treasury Department. The bill provides $6.6 billion for the I.R.S., $776.2 million less than 1996 and $1.4 billion less than the President requested.

Republicans decided to cut the agency's budget and to rescind $174.4 million from previous appropriations because they said the it had failed to resolve problems with its program to modernize operations.

But the White House argued that the budget cuts would hinder the agency's ability to process tax returns and to collect tax revenue.

"The magnitude of this effect could be as much as four dollars of lost revenue for every dollar of reduced funding," it said.

THE DISTRICT OF COLUMBIA
WASHINGTON, D.C. 20001

MARION BARRY, JR.
Mayor

7-17-96
Rebecca Cameron dropped this off. ~~[illegible]~~
- John

Honorable William Clinton
President
The White House
Washington, DC 20500

Dear Mr. President:

I am writing to emphasize the District of Columbia's support for H.R. 1508, the National Children's Island Act of 1995. This bill has passed both the House and Senate and is currently awaiting your signature.

The current language of the bill is a result of months and even years of discussion, compromise and fine-tuning, with input from various sectors: the National Park Service, the National Capital Planning Commission, environmentalists, community advocates, the District government and residents of the neighborhoods bordering the Children's Island project. All of these entities have had an opportunity to weigh in, and I strongly believe that H.R. 1508 represents the absolute best compromise language possible.

National Children's Island (NCI) is not a new concept. In fact, the District has worked for more than 20 years with the National Children's Island Inc., a local non-profit organization, to move this project forward. This concept enjoys the overwhelming support of the Council of the District of Columbia, and more than 70 community organizations have sent letters in support of it.

I therefore ask you to support H.R. 1508 and support the District's effort to bring a worthwhile, viable project to our beloved District of Columbia and to our children.

Sincerely,

Marion Barry

Marion Barry, Jr.
Mayor

cc: Leon Panetta

96 JUL 1 RUSH

THE DISTRICT OF COLUMBIA
WASHINGTON, D.C. 20001

MARION BARRY, JR.
MAYOR

TELECOPIER COVER SHEET

DATE: 7-17-96 TIME: 12:10pm

TO: President Clinton

OFFICE: WH

ADDRESS/ROOM #:

FAX NO. 456-6703

OFFICE NO.

FROM: OFFICE OF THE MAYOR
One Judiciary Square
441 Fourth Street, N.W.
Washington, D.C. 20001

FAX NO. (202) 727-6561

TOTAL PAGES TO TRANSMIT, INCLUDING COVER LETTER: 2

EXPLANATION OF FAX: Nat'l Children's Island

IN CASE OF TRANSMISSION PROBLEMS, PLEASE CALL:

Sender: Phyllis Anderson Phone: (202) 727-2980
or: (Phone)

RUSH