

APPENDIX A
CUMBERLAND GAP NATIONAL HISTORICAL PARK LEGISLATION

(THIS PAGE INTENTIONALLY LEFT BLANK)

B: LEGISLATION

Cumberland Gap National Historical Park project

Establishment of park authorized.....Act of June 11, 1940
 Amend Act of June 11, 1940, concerning requirements for establish-
 ment of the park.....Act of May 26, 1943

An Act To provide for the establishment of the Cumberland Gap National Historical Park in Tennessee, Kentucky, and Virginia, approved June 11, 1940 (54 Stat. 262) ¹

Cumberland Gap National Historical Park, Tenn., Ky., and Va.

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

That when title to all the lands, structures, and other property in the Cumberland Gap-Cumberland Ford areas, being portions of the Warriors Path of the Indians and Wilderness Road of Daniel Boone, within Bell and Harlan Counties, Kentucky; Lee County, Virginia; and Claiborne County, Tennessee; as may be determined by the Secretary of the Interior as necessary or desirable for national historical park purposes, shall have been vested in the United States such area or areas shall be, and they are hereby, established, dedicated, and set apart as a public park for the benefit and inspiration of the people and shall be known as the "Cumberland Gap National Historical Park": *Provided*, That the United States shall not purchase by appropriation of public moneys any lands within the aforesaid areas: *Provided further*, That such area or areas shall include, at least, the following features and intervening lands: Cumberland Gap, The Pinnacle, the remaining fortifications of the War between the States, Soldiers Cave, King Solomon's Cave, Devils Garden, Sand Cave, The Doublings, White Rocks, Rocky Face, Moore Knob, and that portion of the Warriors Path and Daniel Boone's Wilderness Road extending from the city of Cumberland Gap, Tennessee, to Cumberland Ford, near Pineville, Kentucky. (16 U.S.C. sec. 261.)

Establishment of open acquisition of title to lands etc., by U. S.

Provides.

Restriction on use of funds.

Lands, etc., to be included.

Limitation on area.

Lands excluded.

Acceptance of donations of land, etc., authorized.

SEC. 2. The total area of the Cumberland Gap National Historical Park, as determined pursuant to this Act, shall not exceed fifty thousand acres, and shall not include any land within the city limits of Middlesboro and Pineville, Kentucky; Cumberland Gap, Tennessee; or any lands adjacent thereto which the proper officials thereof shall indicate to the Secretary of the Interior prior to the establishment of said park are required for expansion of said cities. (16 U.S.C. sec. 262.)

SEC. 3. That the Secretary of the Interior be, and he is hereby authorized to accept donations of land, interests in land, buildings, structures, and other property within the boundaries of the said historical park as determined and fixed hereunder, and donations of funds for the purchase

¹ Sections 1 and 2 of this Act were amended by Act of May 26, 1943, immediately following.

III. NATIONAL HISTORICAL PARKS - CUMBERLAND GAP

and maintenance thereof: *Provided*, That he may acquire on behalf of the United States out of any donated funds, by purchase at prices deemed by him reasonable, or by condemnation under the provisions of the Act of August 1, 1888, such tracts of land within said historical park as may be necessary for the completion thereof. The title to any lands or interests in lands to be acquired pursuant to this Act shall be satisfactory to the Secretary of the Interior. (16 U.S.C. sec. 263.)

Proviso.
Acquisition of
certain lands
from donated
funds.
25 Stat. 337.
40 U.S.C.
secs. 257, 258.

SEC. 4. The administration, protection, and development of the aforesaid national historical park shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provisions of the Act of August 25, 1916 (39 Stat. 535), entitled "An Act to establish a National Park Service, and for other purposes", as amended. (16 U.S.C. sec. 264.)

Administration,
etc.

16 U.S.C.
secs. 1-4.

An Act To amend sections 1 and 2 of the Act approved June 11, 1940 (54 Stat. 262) relating to the establishment of the Cumberland Gap National Historical Park in Tennessee, Kentucky, and Virginia, and to grant the consent of Congress to such States to enter into a compact providing for the acquisition of property for such park, approved May 26, 1943 (57 Stat. 85)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sections 1 and 2 of the Act approved June 11, 1940 (54 Stat. 262; 16 U.S.C., 1940 edition, title 16, secs. 261, 262), relating to the establishment of the Cumberland Gap National Historical Park, are hereby amended to read as follows:

"That when title to such lands, structures, and other property in the Cumberland Gap-Cumberland Ford areas, being portions of the Warriors Path of the Indians and Wilderness Road of Daniel Boone, within Bell and Harlan Counties, Kentucky; Lee County, Virginia; and Claiborne County, Tennessee; as may be determined by the Secretary of the Interior as necessary or desirable for national historical park purposes, shall have been vested in the United States, such area or areas shall be, and they are hereby, established, dedicated, and set apart as a public park for the benefit and inspiration of the people and shall be known as the Cumberland Gap National Historical Park: *Provided*, That the United States shall not purchase by appropriation of public moneys any lands within the aforesaid areas. (16 U.S.C. sec. 261.)

Establishment.

"SEC. 2. The total area of the Cumberland Gap National Historical Park, as determined pursuant to this Act, shall comprise not less than six thousand acres and shall not exceed fifty thousand acres, and lands may be added to the park following its establishment within the aforesaid limitations. The park shall not include any land within the city limits of Middlesboro and Pineville, Kentucky; Cumberland Gap, Tennessee; which the proper officials

Total area.

Land excluded.

III. NATIONAL HISTORICAL PARKS - CUMBERLAND GAP

thereof shall indicate to the Secretary of the Interior prior to the establishment of said park are required for expansion of said cities.

Interstate
compact.

"(a) The consent of Congress is hereby given to the States of Tennessee, Kentucky, and Virginia to enter into a compact providing for (1) the acquisition of the lands, structures, and other property in the Cumberland Gap-Cumberland Ford areas referred to in section 1 of such Act of June 11, 1940, as amended by this Act, and (2) the transfer of title to such lands, structures, and other property to the United States.

"(b) The right to alter, amend, or repeal this section is hereby expressly reserved." (16 U.S.C. sec. 262.)

Cumberland Gap National Historical Park

Appointment of two United States commissioners authorized.....
 Act of July 25, 1956
 Land requisition authorized..... Act of July 26, 1961

An Act To amend title 28 of the United States Code to authorize the appointment of two United States commissioners for Cumberland Gap National Historical Park, approved July 25, 1956 (70 Stat. 642)

Cumberland
Gap National
Historical
Park,
62 Stat. 916.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 631(a) of title 28 of the United States Code is amended by inserting after the third paragraph of such section the following new paragraph:

"Two United States commissioners may be appointed for Cumberland Gap National Historical Park. One, whose jurisdiction shall be limited to the portion of the park situated in Kentucky, shall be appointed by the District Court for the Eastern District of Kentucky; the other, whose jurisdiction shall be limited to the portion of the park situated in Tennessee and Virginia, shall be appointed by joint action of the District Courts for the Eastern District of Tennessee and the Western District of Virginia." (28 U.S.C. § 631.)

An Act To authorize the Secretary of the Interior to acquire approximately nine acres of land for addition to Cumberland Gap National Historical Park, and for other purposes, approved July 26, 1961 (75 Stat. 224)

Cumberland
Gap National
Historical
Park, Ky.
Additional
lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior may acquire for addition to Cumberland Gap National Historical Park the following described land and interests in land, located in Bell County, Kentucky: *Provided,* That appropriated funds may not be used to pay more than one-half the cost of such acquisition.

Beginning at a concrete marker on the west boundary of Cumberland Gap National Historical Park and being on the south margin of Avondale Avenue in the city of Middlesboro, Kentucky, and also on the south bank of Davis Branch; thence along the park boundary the following courses and distances:

South 24 degrees 50 minutes west, 196.79 feet; thence south 30 degrees 02 minutes west, 129.95 feet to a stake; thence south 12 degrees 22 minutes west, 31.82 feet; thence south 80 degrees 38 minutes west, 143.36 feet; thence south 88 degrees 04 minutes west, 100 feet; thence north 86 degrees 14 minutes west, 100 feet; thence north 80

III. NATIONAL HISTORICAL PARKS—CUMBERLAND GAP

degrees 33 minutes west, 100 feet; thence north 77 degrees 42 minutes west, 186.40 feet;

Thence north 89 degrees 51 minutes west, 271.55 feet; thence leaving the park boundary and following along the south right-of-way of Clydesdale Avenue south 71 degrees 39 minutes west, 310 feet, more or less, to the north right-of-way of United States Highway 25E;

Thence along the said highway right-of-way south 82 degrees 09 minutes west, 317 feet, more or less, to its intersection with the north right-of-way of Clydesdale Avenue; thence along the north right-of-way of Clydesdale Avenue north 70 degrees 09 minutes east, 423 feet, more or less, to a point on the park boundary;

Thence with the park boundary the following courses and distances: south 86 degrees 39 minutes west, 261.44 feet; thence south 81 degrees 26 minutes west, 147.66 feet; thence north 6 degrees 55 minutes west, 49.23 feet; thence south 83 degrees 04 minutes west, 980 feet; thence north 6 degrees 55 minutes west, 135 feet, more or less, to a point in the middle of Little Yellow Creek;

Thence leaving the park boundary and up the center of the meanders of Little Yellow Creek, 2,562 feet, more or less, to a point in the middle of Little Yellow Creek which is also a point in the middle of Davis Branch;

Thence leaving Little Yellow Creek and along the center of Davis Branch, 400 feet, more or less, to the south margin of Avondale Avenue; thence with the south right-of-way of Avondale Avenue south 55 degrees 44 minutes east, 5 feet, more or less, to the point of beginning, said tract containing 9.0 acres, more or less. (16 U.S.C. § 265.)

Sec. 2. There are hereby authorized to be appropriated such sums, but not more than \$30,000, as are necessary to carry out the provisions of this Act. (16 U.S.C. § 265 note.)

Appropriation.



Public Law 93-477
93rd Congress, H. R. 14217
October 26, 1974

An Act

88 STAT. 1445

To provide for increases in appropriation ceilings and boundary changes in certain units of the National Park System, to authorize appropriations for additional costs of land acquisition for the National Park System, and for other purposes.

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

TITLE I—ACQUISITION CEILING INCREASES

SEC. 101. The limitations on appropriations for the acquisition of lands and interests therein within units of the National Park System contained in the following Acts are amended as follows:

- | | |
|---|--|
| <p>(1) Biscayne National Monument, Florida: Section 5 of the Act of October 18, 1968 (82 Stat. 1188, 1189) is amended by changing "\$24,575,000" to "\$28,350,000";</p> <p>(2) Colonial National Historical Park, Virginia: Section 4 of the Act of July 3, 1930 (46 Stat. 856), as amended (16 U.S.C. 81f) is amended by changing "\$2,777,000" to "\$10,472,000";</p> <p>(3) Cumberland Gap National Historical Park, Kentucky and Tennessee: For the acquisition of lands authorized in subsection 301(2) of this Act, there are authorized to be appropriated such sums as may be necessary, but not more than \$427,500;</p> <p>(4) Fort Necessity National Battlefield, Pennsylvania: Section 5 of the Act of August 10, 1961, (75 Stat. 336), is amended by changing "\$115,000" to "\$722,000";</p> <p>(5) Independence National Historical Park, Pennsylvania: Section 6 of the Act of June 28, 1948 (62 Stat. 1061, 1062), as amended (16 U.S.C. 407r), is amended by changing "\$11,200,000" to "\$12,792,000";</p> <p>(6) Indiana Dunes National Lakeshore, Indiana: Section 10 of the Act of November 5, 1966 (80 Stat. 1309, 1312; 16 U.S.C. 406n-9) is amended by changing "\$27,900,000" to "\$35,526,000";</p> <p>(7) Moores Creek National Military Park, North Carolina: The Act of September 27, 1944 (58 Stat. 746) is amended by adding the following new section:</p> <p>"Sec. 2. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act, but not more than \$243,000 shall be appropriated for the acquisition of lands and interests in lands and not more than \$325,000 shall be appropriated for development.";</p> <p>(8) Morristown National Historical Park, New Jersey: Section 3 of the Act of September 18, 1964 (78 Stat. 957) is amended by changing "\$281,000" to "\$2,111,000";</p> <p>(9) Rocky Mountain National Park, Colorado: For the acquisition of lands authorized in subsection 301(6) of this Act, there are authorized to be appropriated not more than \$2,423,740 and for development of such lands there are authorized to be appropriated not more than \$318,000;</p> <p>(10) Virgin Islands National Park, Virgin Islands: Section 4 of the Act of October 5, 1962 (76 Stat. 748; 16 U.S.C. 398f) is amended by changing "\$1,250,000" to "\$12,250,000";</p> <p>(11) Apostle Islands National Lakeshore, Wisconsin: Section 8 of the Act of September 26, 1970 (84 Stat. 880) is amended by deleting "\$4,250,000" and inserting in lieu thereof "\$5,250,000";</p> <p>(12) Lake Mead National Recreation Area, Arizona and</p> | <p>National Park System. Appropriation ceilings increase; boundary changes; appropriation authorization.</p> <p>10 USC 450qq-4.</p> <p>16 USC 286.</p> <p>16 USC 430tt.</p> <p>16 USC 422a-1.</p> <p>Land acquisition, appropriation.</p> <p>16 USC 409g note.</p> <p>16 USC 460a-7.</p> <p>16 USC 460a-9.</p> |
|---|--|

88 STAT. 1446 Pub. Law 93-477 - 2 - October 26, 1974

- 18 USC 460c-9. Nevada: Section 10 of the Act of October 8, 1964 (78 Stat. 1039) is amended by deleting "\$1,200,000" and inserting in lieu thereof "\$7,100,000"; and
- (13) Sleeping Bear Dunes, Michigan: Section 15 of the Act of October 21, 1970 (84 Stat. 1075) is amended by deleting "\$19,800,000" and inserting in lieu thereof "\$57,753,000".
- 16 USC 460c-14.

TITLE II—DEVELOPMENT CEILING INCREASES

SEC. 201. The limitations on appropriations for development of units of the National Park System contained in the following Acts are amended as follows:

- (1) Channel Islands National Monument, California: For the purposes of development of the administrative site and visitor facilities authorized by section 401 of this Act, there are authorized to be appropriated \$2,936,000;
- (2) Cumberland Gap National Historical Park, Kentucky and Tennessee: In addition to any funds heretofore appropriated for said national historical park, there are hereby authorized to be appropriated not more than \$160,000 for development; and
- (3) International Peace Garden, North Dakota: Section 1 of the Act of October 25, 1949 (63 Stat. 888), as amended (68 Stat. 300 and 72 Stat. 985), is amended by changing "\$400,000" to "\$1,702,000".

TITLE III—BOUNDARY CHANGES

SEC. 301. The Secretary of Interior shall revise the boundaries of the following units of the National Park System:

- (1) Biscayne National Monument, Florida: To add approximately 8,738 acres of land and water, including all of Swan Key and Gold Key;
- 16 USC 267. (2) Cumberland Gap National Historical Park, Kentucky and Tennessee: Notwithstanding the provisions of the Act of June 11, 1940 (54 Stat. 262), as amended (16 U.S.C. 261-265), the Secretary of the Interior is authorized to acquire by donation, purchase with donated or appropriated funds, or exchange not to exceed 60 acres of land or interests in land located in Bell County, Kentucky, and Claiborne County, Tennessee, for addition to and inclusion in the said national historical park which, upon acquisition, shall become a part of the Cumberland National Historical Park subject to the laws, rules, and regulations governing such park;
- (3) Fort Necessity National Battlefield, Pennsylvania: To add approximately 411 acres;
- (4) Independence National Historical Park, Pennsylvania: To add approximately 4.67 acres, which shall include the area bounded by Chestnut Street, Front Street, Walnut Street, and Second Street, to be known as Project F: *Provided*, That the authority of the Secretary of the Interior to acquire property by condemnation under this Act shall be suspended with respect to all property within the boundaries of the area known as Project F during the time the city of Philadelphia shall have in force and applicable to such property a duly adopted, valid zoning ordinance approved by the Secretary: *And provided further*, That no zoning ordinance or amendment of a zoning ordinance shall be approved by the Secretary which (1) contains any provision which he may consider adverse to the preservation and develop-

October 26, 1974

- 3 -

Pub. Law 93-477

88 STAT. 1447

ment of the Independence National Historical Park, or (2) fails to have the effect of providing that the Secretary shall receive notice of any variance granted under and any exception made to the application of such ordinance or amendment;

(5) Lava Beds National Monument, California: To add approximately 321.58 acres and to delete approximately 80.12 acres, which additions and deletions shall comprise only federally owned lands, and lands deleted from the monument shall be administered by the Secretary of the Interior in accordance with the Federal reclamation laws;

(6) Morristown National Historical Park, New Jersey: The Act of September 18, 1964 (78 Stat. 957) is amended changing "two hundred and eighty-one acres" in both places in which it appears in the first section to "465 acres" and change the period to a colon and insert "Provided, That title to the property known as the Cross estate may not be accepted until the property is vacant." and

(7) Rocky Mountain National Park, Colorado: To add approximately 1,556.21 acres.

16 USC 409g.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. The Secretary of the Interior is authorized to accept the donation of the fee simple title of not to exceed five acres of land and submerged land within the Ventura Marina, Ventura County, California; and to develop, operate, and maintain thereon administrative and visitor facilities to be used as a mainland headquarters for the Channel Islands National Monument: *Provided*, That no lands or any interests therein may be accepted by the Secretary until a mutually satisfactory agreement has been executed which shall include, among other things, an agreement on the design for such facilities, a reasonable timetable for their construction, and an agreement concerning public use of and access to such facilities. Any property accepted under the provisions of this Act shall be administered as a part of the national monument.

Ventura Marina,
Calif., land
donation for
use in Channel
Islands National
Monument.

Administration.

SEC. 402. The Act of September 27, 1944 (58 Stat. 746), providing for the Moores Creek National Military Park is amended by changing the words "accept in behalf of the United States donations of" to "acquire by donation, purchase, or exchange", and by changing "to be accepted" to "acquired".

16 USC 422a-1.

SEC. 403. (a) The Secretary of the Interior, in cooperation with the Secretary of the Army, shall cause to be conducted such studies as they deem reasonable and necessary to determine the causes and extent of the damage to the foundations of the historic structures of the San Juan National Historic Site and shall transmit to the Congress, as soon as possible, but no later than one year after the date of the enactment of this Act, the alternative courses of action, together with their recommendations, which might be taken to assure the historical integrity of such structures and the safety of the visiting public. Pending the submission of such recommendations, the Secretary of the Interior shall take every reasonable precaution to assure the public safety and the maximum public enjoyment of the historic site.

San Juan Na-
tional Historic
Site, P.R.,
damage studies.
Transmittal to
Congress.

(b) To carry out the purposes of this section, there are authorized to be appropriated such sums as may be necessary, but not more than \$100,000.

Appropriation.

SEC. 404. (a) The Secretary of the Interior is authorized and directed to undertake a study of the most feasible and suitable means of preserving and interpreting for the benefit of the public the historic and natural resources of the Ohio and Erie Canal in the State of Ohio.

Ohio and Erie
Canal, Ohio,
study.

88 STAT. 1448	Pub. Law 93-477	- 4 -	October 26, 1974
Report to Congress.	together with associated and related lands. In carrying out the study the Secretary shall consider existing and proposed State and local highway plans, land-use plans, outdoor recreation plans, and related plans for the preservation of historic and natural resources. Not later than one year from the date of enactment of this Act the Secretary shall submit to the Congress a report of such study, including his recommendations as to the means of protecting, interpreting, and developing the resources of the Ohio and Erie Canal and adjacent lands.		
Appropriation.	(b) To carry out the purposes of this section, there are authorized to be appropriated such sums as may be necessary, but not more than \$40,000.		
Additional appropriations. 42 USC 4603.	SEC. 405. (a) In all instances where authorizations of appropriations for the acquisition of lands for the National Park System enacted prior to January 9, 1971, do not include provisions therefor, there are authorized to be appropriated such additional sums as may be necessary to provide for moving costs, relocation benefits, and other expenses incurred pursuant to the applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91-646; 84 Stat. 1894). There are also authorized to be appropriated not to exceed \$8,400,000 in addition to those authorized in Public Law 92-272 (86 Stat. 120) to provide for such moving costs, relocation benefits, and other related expenses in connection with the acquisition of lands authorized by Public Law 92-272.		
42 USC 4601 note. 16 USC 459f-10.			
Waiver.	(b) Whenever an owner of property elects to retain a right of use and occupancy pursuant to any statute authorizing the acquisition of property for purposes of a unit of the National Park System, such owner shall be deemed to have waived any benefits under sections 203, 204, 205, and 206 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894), and for the purposes of those sections such owner shall not be considered a displaced person as defined in section 101(6) of that Act.		
42 USC 4623-4626. 42 USC 4601. Cape Lookout National Seashore, N. C. 16 USC 459g.	SEC. 406. The Act of March 10, 1966 (80 Stat. 33; 16 U.S.C. 459g) providing for the establishment of Cape Lookout National Seashore in the State of North Carolina is amended as follows: (1) Section 1 is amended by deleting "Proposed Boundaries—Proposed Cape Lookout National Seashore", dated April 1964, and numbered NS-CL-7101-B," and substituting in lieu thereof "Boundary Map, Cape Lookout National Seashore", dated March 1974, and numbered 623-20,009," and by changing the colon to a period and deleting the remainder of the section.		
Non-Federal land acquisition. 16 USC 459g-1.	(2) Subsection 2(a) is amended by deleting the third sentence and inserting in lieu thereof the following "Lands owned by the State of North Carolina or any political subdivision thereof may be acquired only by donation, but the Secretary may, subject to the provisions of section 7 of this Act, acquire any other non-Federal lands, marshlands, waters, or interests therein which are located within the boundaries of the seashore by donation, purchase with donated or appropriated funds, or exchange. Notwithstanding any other provision of law, the Secretary may accept any lands donated by the State of North Carolina subject to a provision for reversion to the State conditioned upon continued use of the property for national seashore purposes."		
Pnst, p. 1449.			
16 USC 495g-2.	(3) Section 3 is amended by revising the first sentence to read as follows: "When title to lands and interests in lands in an amount sufficient to constitute an efficiently administrable unit for the purposes of this Act is vested in the United States, the Secretary shall declare the establishment of the seashore by publication of notice thereof in the Federal Register."		
Publication in Federal Register.			

October 26, 1974

- 5 -

Pub. Law 93-477

88 STAT. 1449

(4) Section 7 is amended to read as follows:

"Sec. 7. On or before January 1, 1978, the Secretary shall review the area within the seashore and shall report to the President, in accordance with section 3 (c) and (d) of the Wilderness Act (78 Stat. 891; 16 U.S.C. 1132 (c) and (d)), his recommendations as to the suitability or nonsuitability of any area within the seashore for preservation as wilderness, and any designation of any such areas as a wilderness shall be accomplished in accordance with said subsections of the Wilderness Act."

Report to

President.

16 USC 459g-6.

(5) Add a new section 8 to read as follows:

"Sec. 8. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act, not to exceed \$7,903,000 for acquisition of lands and interests therein, of which no more than \$1,000,000 may be expended for acquisition of lands owned by Core Banks Club Properties, Incorporated. For development of essential public facilities there are authorized to be appropriated not more than \$2,935,000. On or before January 1, 1978, the Secretary shall develop and transmit to the Committees on Interior and Insular Affairs of the United States Congress a final master plan for the full development of the seashore consistent with the preservation objectives of this Act, indicating—

appropriation.

16 USC 459g-7.

Master plan,

transmittal

to congressional

committees.

"(1) the facilities needed to accommodate the health, safety and recreation needs of the visiting public;

"(2) the location and estimated cost of all facilities; and

"(3) the projected need for any additional facilities within the seashore."

Approved October 26, 1974.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 93-1286 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 93-1232 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 120 (1974):

Aug. 19, considered and passed House.

Oct. 8, considered and passed Senate, amended.

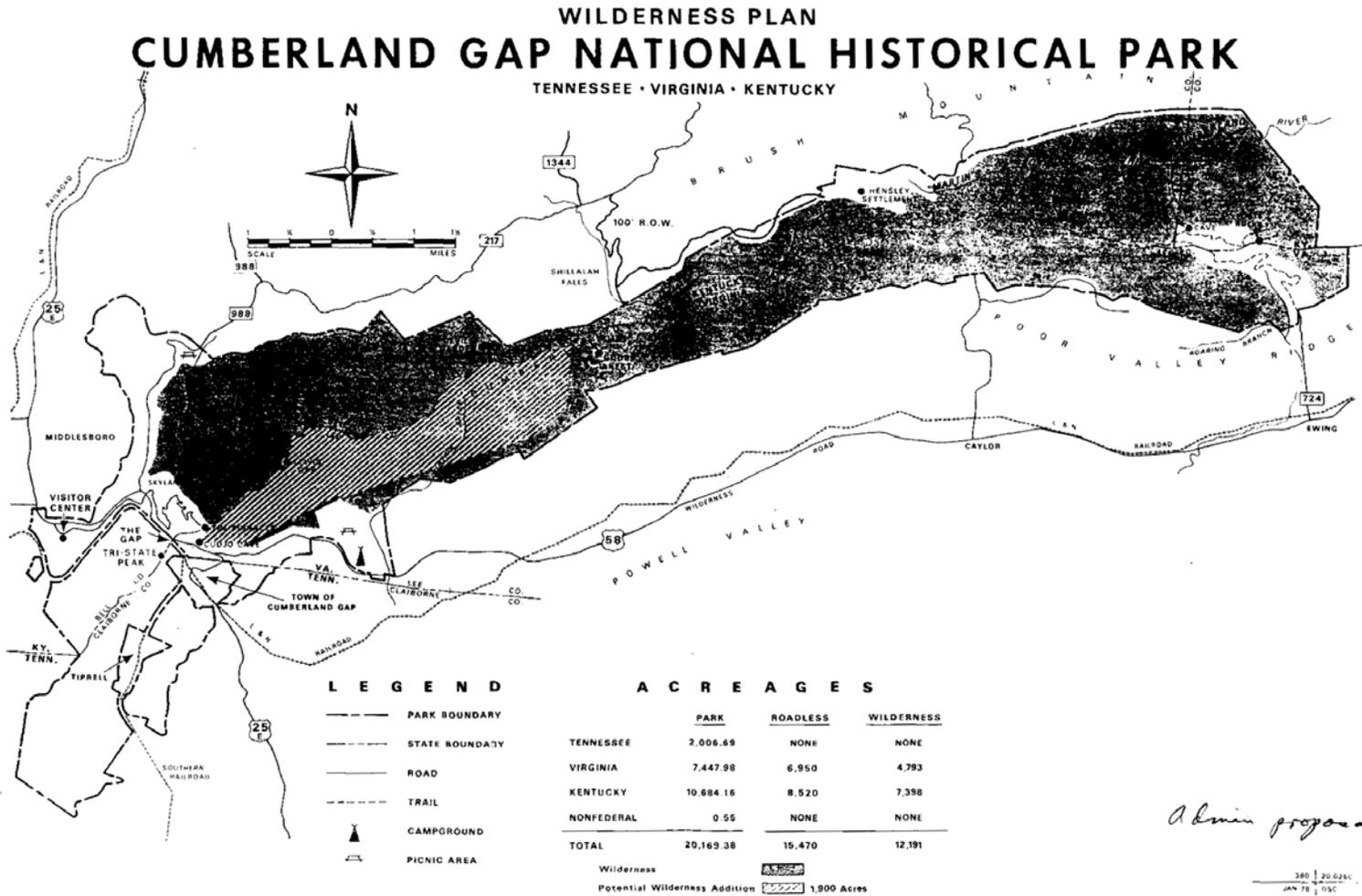
Oct. 16, House concurred in Senate amendments with an amendment; Senate concurred in House amendment.

**CUMBERLAND GAP NATIONAL HISTORICAL PARK
WILDERNESS LEGISLATION**

(THIS PAGE INTENTIONALLY LEFT BLANK)

CUMBERLAND GAP NATIONAL HISTORICAL PARK
KENTUCKY, TENNESSEE, AND VIRGINIA

WE HAVE RECENTLY REVIEWED THE WILDERNESS PROPOSAL WHICH THE DEPARTMENT OF THE INTERIOR SENT TO THE CONGRESS ON JANUARY 12, 1976, WHICH PROPOSED 7,940 ACRES AS WILDERNESS AND 5,670 ACRES AS POTENTIAL WILDERNESS ADDITIONS, AND NOW RECOMMEND THAT 12,191 ACRES BE DESIGNATED WILDERNESS AND 1,900 ACRES AS POTENTIAL WILDERNESS ADDITIONS. THE 1,900 ACRES ARE SUBJECT TO RIGHTS HELD BY THE LINCOLN MEMORIAL UNIVERSITY OF HARROGATE, TENNESSEE. THE UNIVERSITY RETAINED RIGHTS TO DEVELOP AND USE THE CAVE PASSAGES UNDER THIS AREA AND TO DEVELOP AND USE THE WATER WHICH FLOWS THROUGH THE CAVE. THE UNIVERSITY OPERATES THE CAVE AS A COMMERCIAL VENTURE AND DRAWS WATER FROM THE UNDERGROUND STREAM. ALTHOUGH THE DEVELOPED PORTION OF THE CAVE IS NOT WITHIN THE WILDERNESS PROPOSAL, THE CAVE AND WATER RIGHTS EXTEND TO BOTH THE UNDERGROUND AND SURFACE PORTIONS OF THE FORMER UNIVERSITY PROPERTY WHICH IS WITHIN THE PROPOSED WILDERNESS. THIS WILDERNESS RECOMMENDATION IS SHOWN ON A MAP ENTITLED, "WILDERNESS PLAN, CUMBERLAND GAP NATIONAL HISTORICAL PARK," NUMBERED 380-20,026-C AND DATED JANUARY 1978.





United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

MAY 11 1978

Honorable Thomas P. O'Neill, Jr.
Speaker of the
House of Representatives
Washington, D. C. 20515

Dear Mr. Speaker:

Enclosed is a draft bill "To designate certain lands within units of the National Park System as wilderness."

We recommend that the draft bill be referred to the appropriate Committee for consideration, and that it be enacted.

The purpose of the bill is to designate, in accordance with section 3(c) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132(c)), 25 areas as wilderness or potential wilderness. This proposed omnibus legislation represents completion of this Administration's review of wilderness proposals for areas within the National Park System made by previous Administrations, and consolidates into one legislative package many separate pieces of wilderness legislation currently pending before the Congress.

There are currently 30 National Park System wilderness proposals submitted by this Administration or previous Administrations which are not yet enacted. The bill proposes the following:

1. Four of the proposals should be enacted as previously submitted: Buffalo National River, Cedar Breaks, Everglades, and Glacier;
2. Action should be postponed on five of the proposals pending further study: Yosemite, Canyonlands, Capital Reef, Death Valley, and Assateague;
3. Action should be postponed on Great Smokies until the Park Service and the State of North Carolina resolve a dispute regarding the location of a road;

4. As the Katmai National Monument is being considered as part of the D-2 deliberations, we have not proposed designating it in this legislation;

5. The remainder of the previously submitted proposals should be revised in various ways which are described in the attached descriptions.

In addition, we have proposed wilderness and potential wilderness designation for portions of Gulf Islands National Seashore.

We have attached to this proposal a description of each area and other information, such as the facilities currently existing in those areas and management practices.

The Office of Management and Budget has advised that this legislative proposal is in accord with the program of the President.

Sincerely,



Bob Herbst

~~Assistant~~ SECRETARY

A B I L L

To designate certain lands within units of the National Park System as wilderness.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 3(c) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132(c)), the following lands are hereby designated as wilderness.

(1) Arches National Park, Utah, wilderness comprising 61,547 acres, and potential wilderness additions comprising 8,461 acres, depicted on a map entitled "Wilderness Plan, Arches National Park, Utah", numbered 138-20,014-A and dated January 1978, to be known as the Arches Wilderness

(2) Big Bend National Park, Texas, wilderness comprising 538,250 acres, and potential wilderness additions comprising 44,750 acres, depicted on a map entitled "Wilderness Plan, Big Bend National Park, Texas", numbered 155-20,004-D and dated January 1978, to be known as the Big Bend Wilderness.

(3) Bryce Canyon National Park, Utah, wilderness comprising 20,810 acres depicted on a map entitled "Wilderness Plan, Bryce Canyon National Park, Utah", numbered 129-20,004-C and dated January 1977, to be known as the Bryce Canyon Wilderness.

(4) Buffalo National River, Arkansas, wilderness comprising 10,529 acres, and potential wilderness additions comprising 25,471 acres, depicted on a map entitled "Wilderness Plan, Buffalo National River, Arkansas", numbered 173-20,036-B and dated March 1975, to be known as the Buffalo River Wilderness.

(5) Carlsbad Caverns National Park, New Mexico, wilderness comprising 33,125 acres, and potential wilderness additions comprising 320 acres, depicted on a map entitled "Wilderness Plan, Carlsbad Caverns National Park, New Mexico", numbered 130-20,003-B and dated January 1978, to be known as the Carlsbad Caverns Wilderness.

(6) Cedar Breaks National Monument, Utah, wilderness comprising 4,830 acres, depicted on a map entitled "Wilderness Plan, Cedar Breaks National Monument, Utah", numbered 154-20,000 and dated May 1973, to be known as the Cedar Breaks Wilderness.

(7) Colorado National Monument, Colorado, wilderness comprising 13,842 acres, and potential wilderness additions comprising 937 acres, depicted on a map entitled "Wilderness Plan, Colorado National Monument, Colorado", numbered 119-20,006-C and dated January 1978, to be known as the Colorado Wilderness.

(8) Crater Lake National Park, Oregon, wilderness comprising 127,058 acres, depicted on a map entitled "Wilderness Plan, Crater Lake National Park, Oregon", numbered 106-20,006-E and dated January 1978, to be known as the Crater Lake Wilderness.

(9) Cumberland Gap National Historical Park, Kentucky, Tennessee, Virginia, wilderness comprising 12,191 acres, and potential wilderness additions comprising 1,900 acres, depicted on a map entitled "Wilderness Plan, Cumberland Gap National Historical Park, Tennessee, Virginia, Kentucky", numbered 380-20,026-C and dated January 1978, to be known as the Cumberland Gap Wilderness.

(10) Dinosaur National Monument, Colorado and Utah, wilderness comprising 205,672 acres, and potential wilderness additions comprising 5,055 acres, depicted on a map entitled "Wilderness Plan, Dinosaur National Monument, Utah and Colorado", numbered 122-20,009-B and dated January 1978, to be known as the Dinosaur Wilderness.

(11) Everglades National Park, Florida, wilderness comprising 1,296,500 acres and potential wilderness additions comprising 81,900 acres, depicted on a map entitled "Wilderness Plan, Everglades National Park, Florida", numbered 160-20,011 and dated June 1974, to be known as the Everglades Wilderness.

(12) Glacier National Park, Montana, wilderness comprising 927,550 acres, and potential wilderness additions comprising 3,360 acres, depicted on a map entitled "Wilderness Plan, Glacier National Park, Montana", numbered 117-20,010-A and dated March 1974, to be known as the Glacier Wilderness.

(13) Grand Teton National Park, Wyoming, wilderness comprising 122,604 acres, and potential wilderness additions comprising 20,850 acres, depicted on a map entitled "Wilderness Plan, Grand Teton National Park, Wyoming", numbered 136-20,013-A and dated January 1978, to be known as the Grand Teton Wilderness.

(14) Guadalupe Mountains National Park, Texas, wilderness comprising 55,746 acres, and potential wilderness additions comprising 703 acres, depicted on a map entitled "Wilderness Plan, Guadalupe Mountains National Park, Texas", numbered 166-20,006-C and dated January 1978, to be known as the Guadalupe Mountains Wilderness.

(15) Gulf Islands National Seashore, Florida and Mississippi, wilderness comprising 1,792 acres, and potential wilderness additions comprising 2,800 acres, depicted on a map entitled "Wilderness Plan, Gulf Islands National Seashore, Mississippi, Florida", numbered 635-20,018-A and dated March 1977, to be known as the Gulf Islands Wilderness.

(16) Hawaii Volcanoes National Park, Hawaii, wilderness comprising 123,100 acres, and potential wilderness additions comprising 7,850 acres, depicted on a map entitled "Wilderness Plan, Hawaii Volcanoes National Park, Hawaii", numbered 124-20,020 and dated April 1974, to be known as the Hawaii Volcanoes Wilderness.

(17) Mount Rainier National Park, Washington, wilderness comprising 208,000 acres, and potential wilderness additions comprising 165 acres, depicted on a map entitled "Wilderness Plan, Mount Rainier National Park, Washington", numbered 105-20,007-A and dated August 1977, to be known as the Mount Rainier Wilderness.

(18) North Cascades Complex, Washington, wilderness comprising 537,120 acres, and potential wilderness additions comprising 1,508 acres, depicted on a map entitled "Wilderness Plan, North Cascades, Washington", numbered 168-20,009-B and dated January 1978, to be known as the North Cascades Wilderness.

(19) Olympic National Park, Washington, wilderness comprising 861,179 acres, and potential wilderness additions comprising 2,855 acres, depicted on a map entitled "Wilderness Plan, Olympic National Park, Washington", numbered 149-20,009-B and dated January 1978, to be known as the Olympic Wilderness.

(20) Organ Pipe Cactus National Monument, Arizona, wilderness comprising 312,600 acres, and potential wilderness additions comprising 1,240 acres, depicted on a map entitled "Wilderness Plan, Organ Pipe Cactus National Monument, Arizona", numbered 157-20,001-A and dated January 1978, to be known as the Organ Pipe Cactus Wilderness.

(21) Rocky Mountain National Park, Colorado, wilderness comprising 240,030 acres, and potential wilderness additions comprising 284 acres, depicted on a map entitled "Wilderness Plan, Rocky Mountain National Park, Colorado", numbered 121-20,015-A and dated January 1978, to be known as the Rocky Mountain Wilderness.

(22) Sequoia and Kings Canyon National Parks, California, wilderness comprising 802,880 acres, and potential wilderness additions comprising 6,570 acres, depicted on a map entitled "Wilderness Plan, Sequoia and Kings Canyon National Parks, California", numbered 102-20,003-C and dated January 1978, to be known as the Sequoia and Kings Canyon Wilderness.

(23) Theodore Roosevelt National Memorial Park, North Dakota, wilderness comprising 29,920 acres, depicted on a map entitled "Theodore Roosevelt National Memorial Park, North Dakota", numbered 387-20,007-E (sheets 1 and 2) and dated January 1978, to be known as the Theodore Roosevelt Wilderness.

(24) Yellowstone National Park, Idaho, Montana and Wyoming, wilderness comprising 2,032,721 acres, depicted on a map entitled "Wilderness Plan, Yellowstone National Park, Idaho, Montana, Wyoming", numbered 101-20,005-A and dated January 1978, to be known as the Yellowstone Wilderness.

(25) Zion National Park, Utah, wilderness comprising 120,620 acres, and potential wilderness additions comprising 10,364 acres, depicted on a map entitled "Wilderness Plan, Zion National Park, Utah", numbered 116-20,002-A and dated January 1978, to be known as the Zion Wilderness.

Sec. 2. A map and description of the boundaries of the areas designated in this Act shall be on file and available for public inspection in the office of the Director of the National Park Service, Department of the Interior, and in the office of the Superintendent of each area designated in this Act. As soon as practicable after this Act takes

effect, maps of the wilderness areas and descriptions of their boundaries shall be filed with the Interior and Insular Affairs Committees of the United States Senate and House of Representatives, and such maps and descriptions shall have the same force and effect as if included in this Act: Provided, That correction of clerical and typographical errors in such maps and descriptions may be made.

Sec. 3. All Park Service lands which represent potential wilderness additions are designated wilderness subject only to the cessation of all uses thereon prohibited by the Wilderness Act except that the Secretary of the Interior may: extend grazing permits at Dinosaur National Monument, and Grand Teton National Park; extend a missile site permit at Everglades National Park; and he may permit a realignment of roads at Guadalupe Mountains National Park and Sequoia and Kings Canyon National Parks. At such time as all uses thereon prohibited by the Wilderness Act have ceased, the Secretary of the Interior is directed to publish notice thereof in the Federal Register, and effective upon such publication the lands represented as potential wilderness additions shall be administered as wilderness.

Sec. 4. Nothing in this Act shall be construed to diminish the authority of the Coast Guard, pursuant to 14 U.S.C. 2 and 81 and title 1 of the Ports and Waterways Safety Act of 1972 (33 U.S.C. 1221), or the Federal Aviation Administration to use the areas designated wilderness by this Act within the Everglades National Park, Florida; Olympic National Park, Washington; and the Gulf Islands National Seashore, Florida and Mississippi, for navigational and maritime safety purposes.

Sec. 5. Nothing in this Act shall be construed as altering in any way any rights or claims which the Blackfeet Tribe of Indians may have within or in the vicinity of Glacier National Park; and the third sentence of Section 1 of the Act of May 11, 1910 (36 Stat. 354; 16 U.S.C. 161), as amended, is repealed.

Sec. 6. Nothing in this Act shall be construed as altering in any way the authority granted to the International Boundary Commission under the treaties between the United States and Great Britain of April 11, 1908 (35 Stat. 2003; 12 Bevans 297) and February 24, 1925 (44 Stat. 2102; 6 Bevans 7) as related to lands within the North Cascades Wilderness and the Glacier Wilderness as designated by section 1 of this Act

Sec. 7. Section 1 of the Act of January 26, 1915 (38 Stat. 798, 800; 16 U.S.C. 191), pertaining to the use for reclamation purposes of lands within Rocky Mountain National Park, is amended by deleting therefrom the proviso.

Sec. 8. The areas designated by this Act as wilderness shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act, and, where appropriate, any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

FERN LAKE CONSERVATION AND RECREATION ACT

**U.S. CODE TITLE 16, CHAPTER 1, SUBCHAPTER XXVIII, § 268A
ACQUISITION OF FERN LAKE WATERSHED**

**(SOURCE: OFFICE OF THE LAW REVISION COUNSEL OF
THE U.S. HOUSE OF REPRESENTATIVES 2008)**

(THIS PAGE INTENTIONALLY LEFT BLANK)

TITLE 16 > CHAPTER 1 > SUBCHAPTER XXVIII > § 268a

§ 268a. Acquisition of Fern Lake watershed

(a) Short title

This section may be cited as the “Fern Lake Conservation and Recreation Act”.

(b) Findings and purposes

(1) Findings

The Congress finds the following:

(A) Fern Lake and its surrounding watershed in Bell County, Kentucky, and Claiborne County, Tennessee, is ^[1] within the potential boundaries of Cumberland Gap National Historical Park as originally authorized by the Act of June 11, 1940 (54 Stat. 262; 16 U.S.C. 261 et seq.).

(B) The acquisition of Fern Lake and its surrounding watershed and its inclusion in Cumberland Gap National Historical Park would protect the vista from Pinnacle Overlook, which is one of the park’s most valuable scenic resources and most popular attractions, and enhance recreational opportunities at the park.

(C) Fern Lake is the water supply source for the city of Middlesboro, Kentucky, and environs.

(D) The 4,500-acre Fern Lake watershed is privately owned, and the 150-acre lake and part of the watershed are currently for sale, but the Secretary of the Interior is precluded by the first section of the Act of June 11, 1940 (16 U.S.C. 261), from using appropriated funds to acquire the lands.

(2) Purposes

The purposes of the section are—

(A) to authorize the Secretary of the Interior to use appropriated funds if necessary, in addition to other acquisition methods, to acquire from willing sellers Fern Lake and its surrounding watershed, in order to protect scenic and natural resources and enhance recreational opportunities at Cumberland Gap National Historical Park; and

(B) to allow the continued supply of water from Fern Lake to the city of Middlesboro, Kentucky, and environs.

(c) Land acquisition and conveyance authority, Fern Lake, Cumberland Gap National Historical Park

(1) Definitions

In this section:

(A) Fern Lake

The term "Fern Lake" means Fern Lake located in Bell County, Kentucky, and Claiborne County, Tennessee.

(B) Land

The term "land" means land, water, interests in land, and any improvements on the land.

(C) Park

The term "park" means Cumberland Gap National Historical Park, as authorized and established by the Act of June 11, 1940 (54 Stat. 262; 16 U.S.C. 261 et seq.).

(D) Secretary

The term "Secretary" means the Secretary of the Interior, acting through the Director of the National Park Service.

(2) Acquisition authorized

The Secretary may acquire for addition to the park lands consisting of approximately 4,500 acres and containing Fern Lake and its surrounding watershed, as generally depicted on the map entitled "Cumberland Gap National Historical Park, Fern Lake Watershed", numbered 380/80,004, and dated May 2001. The map shall be on file in the appropriate offices of the National Park Service.

(3) Boundary adjustment and administration

Subject to paragraph (4), the Secretary shall revise the boundaries of the park to include the land acquired under paragraph (2). The Secretary shall administer the acquired lands as part of the park in accordance with the laws and regulations applicable to the park.

(4) Conveyance of Fern Lake**(A) Conveyance required**

If the Secretary acquires Fern Lake, the Secretary shall convey, notwithstanding any other law and without consideration, to the city of Middlesboro, Kentucky, all right, title, and interest of the United States in and to Fern Lake, up to the normal operating elevation of 1,200.4 feet above sea level, along with the dam and all appurtenances associated with the withdrawal and delivery of water from Fern Lake.

(B) Terms of conveyance

In executing the conveyance under subparagraph (4)(A), the Secretary may retain an easement for scenic and recreational purposes.

(C) Reversionary interest

In the event Fern Lake is no longer used as a source of municipal water supply for the city of Middlesboro, Kentucky, and its environs, ownership of Fern Lake shall revert to the United States and it shall be managed by the Secretary as part of the park.

(5) Consultation requirements

In order to better manage lands acquired under this section in a manner that will

facilitate the provision of water for municipal needs, as well as the establishment and promotion of new recreational opportunities at the park, the Secretary shall consult with—

- (A) appropriate officials in the States of Kentucky, Tennessee, and Virginia, and political subdivisions of these States;
- (B) organizations involved in promoting tourism in these States; and
- (C) other interested parties.

[1] So in original. Probably should be “are”.

(THIS PAGE INTENTIONALLY LEFT BLANK)

**MEMORANDUM OF UNDERSTANDING AMONG THE UNITED STATES
DEPARTMENT OF THE INTERIOR AND THE STATE OF TENNESSEE AND THE
COMMONWEALTH OF KENTUCKY**

MEMORANDUM OF UNDERSTANDING
AMONG
THE UNITED STATES DEPARTMENT OF THE INTERIOR
AND
THE STATE OF TENNESSEE
AND
THE COMMONWEALTH OF KENTUCKY

THIS AGREEMENT, made this 21st day of February 1986,
by and among the United States Department of the Interior, acting
by and through the National Park Service (hereinafter referred to
as NPS); the State of Tennessee, acting by and through its Depart-
ment of Transportation (hereinafter referred to as TENNESSEE); and
the Commonwealth of Kentucky, acting by and through its Department
of Highways (hereinafter referred to as KENTUCKY).

W I T N E S S E T H:

WHEREAS, the Cumberland Gap National Historical Park (hereinafter
referred to as Park) was established in accordance with the provi-
sions of the Act of June 11, 1940, 54 Stat. 262, '6 U.S.C. 261, et
seq; and

WHEREAS, a portion of the Park is traversed by a segment of U. S.
Route 25E, a designated highway within the Federal-aid primary
systems of TENNESSEE and KENTUCKY; and

WHEREAS, Section 160(a) of the Federal-Aid Highway Act of 1973,
the Act of August 13, 1973, Public Law 93-87, provided that funds
shall be available for reconstruction and relocation of U. S.
Route 25E through the Park, including construction of a tunnel and

- 2 -

approaches thereto, so as to permit restoration of the Gap and provide adequate traffic capacity; and

WHEREAS, Section 160(b) of the Federal-Aid Highway Act of 1973, provided that upon construction, such highway and tunnel and all associated lands and rights-of-way shall be transferred to the National Park Service and managed as a part of the Park; and

WHEREAS, the Act of December 19, 1985, Public Law 99-190, further provided that funds for construction of the Cumberland Gap Tunnel shall only be available when the States of Kentucky and Tennessee have entered into an agreement with the National Park Service to operate and maintain all portions of U. S. Route 25E, including the tunnel, as well as that section of U. S. Route 25E which is scheduled to be reconstructed and designated U. S. Route 58 in Claiborne County, Tennessee, within the boundaries of the Park; and

WHEREAS, TENNESSEE, acting in accordance with the provisions of Tennessee Code Annotated §4-3-2303, and other pertinent provisions of State law; and KENTUCKY, acting in accordance with the provisions of Kentucky Revised Statutes §176.240, and other pertinent provisions of Commonwealth law, are authorized to enter into agreements with the NPS for the purposes contemplated herein.

NOW THEREFORE, in accordance with the provisions of the Act of August 15, 1985, Public Law 99-88, and in consideration of the mutual agreements herein set forth, and other good and valuable considerations, the receipt of which is hereby acknowledged, the NPS, TENNESSEE and KENTUCKY covenant and agree as follows:

1. The parties hereto acknowledge that U. S. Route 25E, a portion of which is situated within Claiborne County, Tennessee and Bell County, Kentucky, is a highway within the Federal-aid primary system, as defined in 23 U.S.C. §103.

- 3 -

2. The parties hereto recognize that, in accordance with the provisions of Public Law 93-87, and subject to the availability of appropriated funds from the Highway Trust Fund, the Federal Highway Administration (hereinafter referred to as FHWA) is charged with the responsibility of reconstruction and relocation of U. S. Route 25E through the Park, including construction of a tunnel and approaches thereto, as well as that section of U. S. Route 25E which is scheduled to be reconstructed and designated U. S. Route 58 in Claiborne County, Tennessee.

3. The parties hereto understand and agree that the NPS shall provide TENNESSEE and KENTUCKY with written notification of the date on which construction of the PROJECT will be completed. Upon the date of completion of the PROJECT, TENNESSEE and KENTUCKY agree to operate and maintain, or cause to be operated and maintained, all PROJECT facilities contemplated herein. The cost and expense of such operation and maintenance shall be borne by TENNESSEE and KENTUCKY in the following manner:

Tunnel facilities. All costs and expenses related to the operation and maintenance of the tunnel facilities contemplated herein shall be proportioned equally between TENNESSEE and KENTUCKY.

All other PROJECT facilities. TENNESSEE shall be responsible for all costs and expenses related to all other PROJECT facilities which are situated within TENNESSEE. KENTUCKY shall be responsible for all costs and expenses related to all other PROJECT facilities which are situated within KENTUCKY.

- 4 -

Operation and maintenance of the tunnel facilities and all other PROJECT facilities shall include, but not be limited to:

- (a) Tunnel. Preservation of the structural and operational characteristics for which originally designed. These include: safe, smooth, skid-resistant roadway surfaces; and proper roadway surface drainage. Replacement or repair, without unreasonable delay, of: ventilation systems; traffic control and monitoring systems; lighting systems, including bulb replacement; water diversion and control systems; firefighting equipment and systems; emergency warning and control systems; and repair of structural railings and approach guardrails. Removal of all rock and other materials blocking or interfering with tunnel access. The tunnel shall be clean, well lighted and adequately ventilated, as designed.
- (b) Operation of tunnel. Operation of the tunnel and all its facilities, including but not limited to: providing and compensating qualified personnel for all tunnel operations.
- (c) Utilities. Maintenance of all utility delivery systems, including repair and replacement. Payment of all electrical and other utility costs and charges related to the PROJECT.
- (d) Roadway surfaces. Preservation of the structural integrity of all roadways and the safety and comfort of the user. This includes a safe, smooth, skid-resistant surface, as close as practical to the original, or subsequently improved, grade and cross section.

- 5 -

- (e) Shoulders. Preservation of a safe, smooth surface which is free of obstruction, contiguous with the adjacent roadway surface, and as close as practical to the original, or subsequently improved, grade and cross section.
- (f) Roadside and median. Preservation of the roadside and median in a safe and esthetic manner through vegetation management, erosion control and litter pick-up.
- (g) Drainage. Preservation of hydraulic capacity for which the PROJECT was originally designed.
- (h) Bridges. Preservation of the structural and operational characteristics for which originally designed. These include safe, smooth, skid-resistant roadway surfaces; proper roadway surface drainage; and adequate functioning bearing devices and substructural elements. Replacement or repair of structural railing and approach guardrail should be done without unreasonable delay.
- (i) Snow and ice control. Preservation of the roadway safety, efficiency, and environment during winter driving conditions.
- (j) Traffic control devices. Preservation of clean, legible, visible, and properly functioning traffic control devices. This includes pavement markings, signing, delineators, signals, etc.
- (k) Safety appurtenances. Replacement of damaged, defective, and/or inoperable devices without unreasonable delay. This includes guardrails, impact attenuators, breakaway supports, barriers, etc.

- 6 -

- (1) Traffic safety in maintenance and utility work zones.
Develop and utilize procedures, consistent with FHWA requirements, that shall aid the safety of motorists and maintenance workers.
4. TENNESSEE and KENTUCKY agree to coordinate all maintenance operations and activities undertaken in accordance with their respective responsibilities under this Agreement. Further, TENNESSEE and KENTUCKY agree that they may enter into arrangements and contracts with each other, as well as qualified third parties, for the performance of their respective responsibilities under this Agreement.
5. Prior to completion of the PROJECT, TENNESSEE and KENTUCKY agree to jointly prepare an operations and maintenance plan for all PROJECT facilities, which are the subject of this Agreement.
6. The parties hereto understand and agree that emergency equipment including but not limited to fire trucks, ambulances, wreckers and other pertinent emergency equipment shall be provided as a cost of the tunnel construction.
7. Notwithstanding the provisions of paragraph 3 herein above, the parties hereto understand and agree that when any PROJECT facility is fully constructed and capable of safe utilization by the public prior to the date of completion of the entire PROJECT, the NPS shall provide written notification to TENNESSEE and KENTUCKY that the facility has been fully constructed and is safe for public use. Upon the date of said notification, TENNESSEE and KENTUCKY agree to operate and maintain, at their own cost and expense, such facility, in accordance with the provisions of paragraphs 3(a) through (1) hereinabove.

- 7 -

8. All operations and maintenance activities contemplated in this Agreement shall be undertaken by TENNESSEE and KENTUCKY, without unreasonable delay and with due regard to safety, in accordance with the specifications prescribed in applicable FHWA operations and maintenance guidelines.
9. The parties hereto understand and agree that, although FHWA is not a signatory party to this Agreement, inasmuch as the PROJECT involves the relocation and reconstruction of a segment of a highway which is within the Federal-aid system, all provisions of 23 U.S.C. §116, relative to maintenance of highways in the Federal-aid system, are incorporated herein by reference and made applicable to the PROJECT and all maintenance activities contemplated by this Agreement.
10. The parties hereto understand and agree that, in the event that TENNESSEE and/or KENTUCKY fail to maintain and operate the PROJECT in accordance with the provisions of this Agreement, the FHWA shall be notified and directed to follow the procedures and, if necessary, impose the sanctions prescribed in 23 U.S.C. §116(c).
11. The parties hereto understand and agree that, in the event TENNESSEE and/or KENTUCKY shall file a request with the FHWA for reclassification, redesignation or withdrawal of U. S. Route 25E and/or U. S. Route 58 from the Federal-aid system, in accordance with 23 U.S.C. §§101, et seq., the party filing such request shall simultaneously provide copies of the request to the other parties hereto, by certified mail, at the following addresses:

- 8 -

NPS

Superintendent
Cumberland Gap National Historical Park
Post Office Box 1848
Middlesboro, Kentucky 40965

TENNESSEE:

Commissioner
Tennessee Department of Transportation
Nashville, Tennessee 37219

KENTUCKY:

Commissioner
Kentucky Department of Highways
Frankfort, Kentucky 40622

12. The parties hereto understand and agree that any request filed with the FHWA for withdrawal of U. S. Route 25E and/or U. S. Route 58 from the Federal-aid system shall provide that, in the event that the request otherwise meets the requirements of FHWA for withdrawal, approval of such request shall be contingent upon the parties hereto entering into an agreement that shall assure the continued operation and maintenance of the PROJECT by TENNESSEE and KENTUCKY.

13. To the extent allowable by State and Commonwealth laws, TENNESSEE and KENTUCKY agree to indemnify and hold harmless the NPS against any and all claims for property damage, personal injury or death arising as a consequence of the operations and maintenance activities contemplated in this Agreement; provided, however, that the NPS may be liable for property damage, personal injury or death caused by the wrongful or negligent act or omission of an employee of the NPS acting within the scope of his employment in accordance with the provisions of the Federal Tort Claims Act, 28 U.S.C. §§1346(b), 2671-80.

- 9 -

14. During the performance of this Agreement, the parties hereto agree to abide by the terms of Executive Order 11246 on non-discrimination and will not discriminate against any person because of race, color, religion, sex or national origin. The parties hereto will take affirmative action to ensure that applicants are employed without regard to their race, color, religion, sex or national origin.
15. The waiver of any breach of any provision of this Agreement, whether such waiver be expressed or implied, shall not be construed to be a continuing waiver or a waiver of, or consent, to any subsequent or prior breach of the same or any other provision of this Agreement.
16. No Member or Delegate to Congress, or Resident Commissioner, shall be admitted to any share of this Agreement, or any benefit that may arise therefrom, but this restriction shall not be construed to extend to this Agreement if made within a corporation or company for its general benefit.
17. This Agreement constitutes the full, complete and entire agreement between and among the parties hereto. No modification or amendment of the Agreement shall be binding on any party hereto unless such modification or amendment shall be made in writing, executed in triplicate by all the parties hereto and incorporated in and by reference made a part of this Agreement.
18. Nothing herein shall preclude TENNESSEE and KENTUCKY from entering into an agreement delineating their respective responsibilities and obligations relative to the operations and maintenance activities contemplated in this Agreement.

19. The duties, responsibilities and obligations of TENNESSEE and KENTUCKY, under the provisions of this Agreement, shall commence upon the dates contemplated in paragraphs 3 and 7 hereof and shall remain in full force and effect so long as U. S. Route 25E and/or U. S. Route 58, situated in Tennessee and Kentucky, remain within the Federal-aid system.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives on the day and year hereinabove first written.

U. S. DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

By: *W. J. Fisher* 2/5/80
Title: *Regional Director*

Approved as to form and legal sufficiency

John R. Miller 2/5/80
Office of the Solicitor
U. S. Department of the Interior

STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION

By: *Walter Kelley*
Title: *COMMISSIONER*

Approved as to form and legal sufficiency

James B. ...
Department Attorney
Tennessee Department of Transportation

By: *Levin Evans*
Title: *State Transportation Engr.*

COMMONWEALTH OF KENTUCKY
TRANSPORTATION CABINET

By: *Charles Whisenand*
Title: *Secretary Transportation Cabinet*

Approved as to form and legal sufficiency

John R. ...
Office of General Counsel
Kentucky Transportation Cabinet

(THIS PAGE INTENTIONALLY LEFT BLANK)

**GENERAL AGREEMENT BETWEEN CUMBERLAND GAP NATIONAL
HISTORICAL PARK AND THE KENTUCKY TRANSPORTATION
CABINET**

(THIS PAGE INTENTIONALLY LEFT BLANK)

Agreement No. 1443GA523064001

RECEIVED

DEC 5 2003

GENERAL AGREEMENT
BETWEEN
CUMBERLAND GAP NATIONAL HISTORICAL PARK
AND THE
KENTUCKY TRANSPORTATION CABINET

TRANSPORTATION CABINET
STATE HIGHWAY ENGINEERS OFFICE

ARTICLE I – BACKGROUND, OBJECTIVES, AND AUTHORITIES

WHEREAS, the objectives of this agreement are to:

- Provide for the continuation of emergency medical services by the Cumberland Gap Tunnel Authority (hereinafter CGTA), a Kentucky licensed basic life support ambulance service owned by the Kentucky Transportation Cabinet (hereinafter KTC), to the Cumberland Gap Tunnel, situated within, and owned by, the Cumberland Gap National Historical Park (CGNHP; hereinafter also referred to as the "Park")
- Allow a change in administrative procedure that allows termination of the Tennessee ambulance service license requirement.
- Provide federal jurisdiction for emergency medical response at the Cumberland Gap Tunnel and its approaches within the confines of the National Historical Park to the KTC-owned and State licensed ambulance service.

WHEREAS, this General Agreement is entered into pursuant to the National Park Service Organic Act of August 25, 1916, 39 Statute 535, as amended, under legislative authority of Title 16 United States Code (U.S.C.) §1f, and Subchapter 1, Section 1a-2(g), and NPS Authorities for Cooperative Agreements; and

WHEREAS, The Agreement of February 21, 1986 between the Department of the Interior, acting by and through the National Park Service (NPS), the Tennessee Department of Transportation (TDOT) and the Kentucky Transportation Cabinet, authorized the TDOT and KTC to enter into an agreement to operate and maintain all portions of U.S. Route 25E, including the Cumberland Gap Tunnel, as well as that section of U.S. Route 58 in Claiborne County, Tennessee, within the boundaries of the Park; and

WHEREAS, an Interstate Agreement of January 20, 1995 between the KTC and TDOT named the KTC to be the lead state to administer tunnel operations and authorized the establishment of an Advisory Committee to oversee tunnel operations and maintenance of facilities specific to tunnel operations; and

WHEREAS, NPS Directive 51, under authority of the NPS Organic Act (16 USC 1-4), and delegations of authority contained in Part 245 of the Department of Interior Manual, allow the NPS to adopt all or part of the policies and guidelines established by the State EMS Bureau in which the Park is located without the State imposing its regulatory power upon the NPS in absence of specific congressional consent; and

WHEREAS, the CGTA Kentucky ambulance service license is owned by the KTC as a means of fulfilling the Agreements of February 21, 1986 and the Interstate Agreement of January 20, 1995 between TDOT and KTC, said ambulance service was established and has been in continuous operation since October 1996 for the sole and express purpose of providing emergency medical service at the Cumberland Gap Tunnel and its approaches; and

WHEREAS, the Tennessee EMS Board has adopted significant changes to their regulations regarding personnel licensure and license reciprocity that fall outside of a national standard and are above and beyond the requirements of the original scope of services and requirements for operations and maintenance of the Cumberland Gap Tunnel to be provided by the KTC and TDOT,

NOW THEREFORE, in consideration of mutual agreement herein set forth, and under due consideration, the parties hereto covenant and agree as follows:

ARTICLE II – STATEMENT OF WORK

1. The Park agrees to establish and extend jurisdiction of the service area that the CGTA ambulance service, owned by the KTC and to be solely licensed in Kentucky, may respond to provide emergency medical services to the Cumberland Gap Tunnel and its approaches. This extension of jurisdiction shall allow the Kentucky-licensed ambulance service to respond within a federally owned service area that includes areas within the states of Kentucky, Virginia, and Tennessee.
2. The KTC agrees to maintain licensing of a basic life support ambulance service according to the requirements of the Commonwealth of Kentucky Board of Emergency Medical Services, to fulfill the obligations to the Cumberland Gap Tunnel as designated in the aforementioned Agreements of 1986 and 1995.
3. The KTC agrees to ensure that emergency response personnel are trained and certified to, at minimum, the Emergency Medical Technician – Basic (EMT-B) level. Training will be conducted using national standard curricula and EMT-B personnel will be tested, certified, and their certification maintained, as required by the Commonwealth of Kentucky.

ARTICLE III – TERM OF AGREEMENT

The duties, responsibilities, and obligations of the parties shall commence immediately upon signature approval of this GA and shall remain in full force and effect under the same terms and conditions contemplated in Section 12 and Section 19, in the above referenced Agreement dated February 21, 1986.

ARTICLE IV – KEY OFFICIALS (NPS & OTHER PARTY)

Cumberland Gap National Historical Park Kentucky Transportation Cabinet

Official Administrators:

Mark Woods
Superintendent
Cumberland Gap National Historical Park
Middlesboro, Kentucky 40965
(606) 248-2817

J. M. Yowell
Chief Highway Engineer
Kentucky Transportation Cabinet
State Office Bldg.
Frankfort, Kentucky 40622
(502) 564-2277

ARTICLE V – PROPERTY UTILIZATION

The Park will provide use of facilities at the Cumberland Gap Tunnel to support the operations and maintenance of that property and its approaches as per the Agreements of February 21, 1986, and January 20, 1995.

ARTICLE VI – PRIOR APPROVAL, IF APPLICABLE

NOT APPLICABLE

ARTICLE VII – REPORTS AND/OR DELIVERABLES, IF APPLICABLE

NOT APPLICABLE

ARTICLE VIII – TERMINATION

See Article III – Term of Agreement

ARTICLE IX – STANDARD CLAUSES

1. **Civil Rights** - During the performance of this Agreement, the participants agree to abide by the terms of USDI-Civil Rights Assurance Certification of Non-discrimination, and will not discriminate against any person because of race, color, religion, sex, or national origin. The participants will take affirmative action to ensure that applicants are employed without regard to their race, color, religion, sex, or national origin.
2. **Officials Not to Benefit** – No member or delegate to Congress, or resident Commissioner, shall be admitted to any share or part of this Agreement, or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this Agreement if made with a corporation for its general benefit.
3. **Promotions** – Kentucky Transportation Cabinet shall not publicize, or otherwise circulate, promotional material (such as advertisements, sales brochures, press releases, speeches, still and motion pictures, articles, manuscripts, or other publications) that states or implies Governmental, Departmental, Bureau, or government employee endorsement of a product, service, or position that the Kentucky Transportation Cabinet represents. No release of information relating to this agreement may imply that the Government approves of the Kentucky Transportation Cabinet's work product, or considers the Kentucky Transportation Cabinet's work product to be superior to other products or services.
4. **Public Information Release** – The Kentucky Transportation Cabinet must obtain prior Government approval from the Park for any public information releases which refer to the Department of Interior, any bureau, park unit, or employee (by name or title), or this agreement. The specific text, layout, photographs, etc., of the proposed release must be submitted with the request for approval.

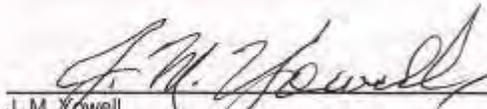
ARTICLE X – AUTHORIZING SIGNATURES

Agreed upon and approved by:



Mark Woods
Superintendent, Cumberland Gap National Historical Park

12-1-05
Date



J. M. Yowell
State Highway Engineer, Kentucky Transportation Cabinet

12/5/03
Date

**SURFACE MINING CONTROL AND RECLAMATION ACT OF 1977
30 U.S.C. §§ 1234-1328;
30 CFR PART 700 ET SEQ
(SECTION 522 ONLY)**

(THIS PAGE INTENTIONALLY LEFT BLANK)

Section 522 of the Public Law 95-87, the Surface Mining Control and Reclamation Act of 1977 (SMCRA), passed August 3, 1977 (revised through December 31, 1993).

Source: <http://www.osmre.gov/topic/SMCRA/SMCRA.shtm>

522. DESIGNATING AREAS UNSUITABLE FOR SURFACE COAL MINING
[30 U.S.C. 1272]

SEC. 522. (a)(1) To be eligible to assume primary regulatory authority pursuant to section 503, each State shall establish a planning process enabling objective decisions based upon competent and scientifically sound data and information as to which, if any, land areas of a State are unsuitable for all or certain types of surface coal mining operations pursuant to the standards set forth in paragraphs (2) and (3) of this subsection but such designation shall not prevent the mineral exploration pursuant to the Act of any area so designated.

(2) Upon petition pursuant to subsection (c) of this section, the State regulatory authority shall designate an area as unsuitable for all or certain types of surface coal mining operations if the State regulatory authority determines that reclamation pursuant to the requirements of this Act is not technologically and economically feasible.

(3) Upon petition pursuant to subsection (c) of this section, a surface area may be designated unsuitable for certain types of surface coal mining operations if such operations will -
(A) be incompatible with existing State or local land use plans or programs; or
(B) affect fragile or historic lands in which such operations could result in significant damage to important historic, cultural, scientific, and esthetic values and natural systems; or
(C) affect renewable resource lands in which such operations could result in a substantial loss or reduction of long-range productivity of water supply or of food or fiber products, and such lands to include aquifers and aquifer recharge areas; or
(D) affect natural hazard lands in which such operations could substantially endanger life and property, such lands to include areas subject to frequent flooding and areas of unstable geology.

(4) To comply with this section, a State must demonstrate it has developed or is developing a process which includes -

(A) a State agency responsible for surface coal mining lands review;
(B) a data base and an inventory system which will permit proper evaluation of the capacity of different land areas of the State to support and permit reclamation of surface coal mining operations;
(C) a method or methods for implementing land use planning decisions concerning surface coal mining operations; and
(D) proper notice, opportunities for public participation, including a public hearing prior to making any designation or redesignation, pursuant to this section.

(5) Determinations of the unsuitability of land for surface coal mining, as provided for in this section, shall be integrated as closely as possible with present and future land use planning and regulation processes at the Federal, State, and local levels.

(6) The requirements of this section shall not apply to lands on which surface coal mining operations are being conducted on the date of enactment of this Act or under a permit issued pursuant to this Act, or where substantial legal and financial commitments in such operation were in existence prior to January 4, 1977.

(b) The Secretary shall conduct a review of the Federal lands to determine, pursuant to the standards set forth in paragraphs (2) and (3) of subsection (a) of this section, whether there are areas on Federal lands which are unsuitable for all or certain types of surface coal mining

operations: Provided, however, That the Secretary may permit surface coal mining on Federal lands prior to the completion of this review. When the Secretary determines an area on Federal lands to be unsuitable for all or certain types of surface coal mining operations, he shall withdraw such area or condition any mineral leasing or mineral entries in a manner so as to limit surface coal mining operations on such area. Where a Federal program has been implemented in a State pursuant to section 504, the Secretary shall implement a process for designation of areas unsuitable for surface coal mining for non-Federal lands within such State and such process shall incorporate the standards and procedures of this section. Prior to designating Federal lands unsuitable for such mining, the Secretary shall consult with the appropriate State and local agencies.

(c) Any person having an interest which is or may be adversely affected shall have the right to petition the regulatory authority to have an area designated as unsuitable for surface coal mining operations, or to have such a designation terminated. Such a petition shall contain allegations of facts with supporting evidence which would tend to establish the allegations. Within ten months after receipt of the petition the regulatory authority shall hold a public hearing in the locality of the affected area, after appropriate notice and publication of the date, time, and location of such hearing. After a person having an interest which is or may be adversely affected has filed a petition and before the hearing, as required by this subsection, any person may intervene by filing allegations of facts with supporting evidence which would tend to establish the allegations. Within sixty days after such hearing, the regulatory authority shall issue and furnish to the petitioner and any other party to the hearing, a written decision regarding the petition, and the reasons therefore. In the event that all the petitioners stipulate agreement prior to the requested hearing, and withdraw their request, such hearing need not be held.

(d) Prior to designating any land areas as unsuitable for surface coal mining operations, the regulatory authority shall prepare a detailed statement on (i) the potential coal resources of the area, (ii) the demand for coal resources, and (iii) the impact of such designation on the environment, the economy, and the supply of coal.

(e) After the enactment of this Act and subject to valid existing rights no surface coal mining operations except those which exist on the date of enactment of this Act shall be permitted - (1) on any lands within the boundaries of units of the National Park System, the National Wildlife Refuge Systems, the National System of Trails, the National Wilderness Preservation System, the Wild and Scenic Rivers System, including study rivers designated under section 5(a) of the Wild and Scenic Rivers Act and National Recreation Areas designated by Act of Congress;

(2) on any Federal lands within the boundaries of any national forest: Provided, however, That surface coal mining operations may be permitted on such lands if the Secretary finds that there are no significant recreational, timber, economic, or other values which may be incompatible with such surface mining operations and -

(A) surface operations and impacts are incident to an underground coal mine; or

(B) where the Secretary of Agriculture determines, with respect to lands which do not have significant forest cover within those national forests west of the 100th meridian, that surface mining is in compliance with the Multiple-Use Sustained-Yield Act of 1960, the Federal Coal Leasing Amendments Act of 1975, the National Forest Management Act of 1976, and the provisions of this Act: And provided further, That no surface coal mining operations may be permitted within the boundaries of the Custer National Forest;

(3) which will adversely affect any publicly owned park or places included in the National Register of Historic Sites unless approved jointly by the regulatory authority and the Federal,

State, or local agency with jurisdiction over the park or the historic site;

(4) within one hundred feet of the outside right-of-way line of any public road, except where mine access roads or haulage roads join such right-of-way line and except that the regulatory authority may permit such roads to be relocated or the area affected to lie within one hundred feet of such road, if after public notice and opportunity for public hearing in the locality a written finding is made that the interests of the public and the landowners affected thereby will be protected; or

(5) within three hundred feet from any occupied dwelling, unless waived by the owner thereof, nor within three hundred feet of any public building, school, church, community, or institutional building, public park, or within one hundred feet of a cemetery.

(THIS PAGE INTENTIONALLY LEFT BLANK)