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APPROVED
OCT 11 1974

THE WHITE HOUSE
WASHINGTON

ACTION

Last Day - October 15

October 10, 1974

Postal
10/12/74
To Archives
10/15/74

MEMORANDUM FOR:

THE PRESIDENT

FROM:

KEN COLE

SUBJECT:

Enrolled Bill H.R. 10088

Big Cypress National
Preserve, Florida

Attached for your consideration is House bill, H.R. 10088, sponsored by Representative Haley, which establishes the Big Cypress National Preserve in Florida and authorizes appropriations of not more than \$116,000,000 and \$900,000 for land acquisition and development, respectively.

Roy Ash and Secretary Morton recommend approval. Additional background information is provided in Roy's enrolled bill report (Tab A).

We have checked with the Counsel's office (Chapman) and Bill Timmons who both recommend approval.

RECOMMENDATION

That you sign House bill H.R. 10088 (Tab B).



APPROVED
OCT 11 1974

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

OCT 9 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 10088 - Big Cypress National
Preserve, Florida
Sponsor - Rep. Haley (D) Florida and 24 others

Last Day for Action

October 15, 1974 - Tuesday

Purpose

Establishes the Big Cypress National Preserve in Florida and authorizes appropriations of not more than \$116,000,000 and \$900,000 for land acquisition and development, respectively.

Agency Recommendations

Office of Management and Budget	Approval
Department of the Interior	Approval
Federal Energy Administration	Approval (Informally)
Department of Transportation	No objection
Department of Commerce	No objection (Informally)
Federal Power Commission	No objection (Informally)
General Services Administration	No objection
Council on Environmental Quality	No objection
Department of the Army	No objection (informally)
Department of Agriculture	Defers to Interior
Department of Justice	Defers to Interior



Discussion

The Big Cypress Watershed is a vast (about 2,450 square miles), flat marsh-like expanse of land lying north of the Everglades National Park which serves as a giant reservoir and control system for much of the water that flows southward into the Everglades National Park. Although water is its principal resource, the area also serves as an important wildlife sanctuary.

In recent years, there has been increasing concern that a large portion of the Everglades National Park's sensitive subtropical environment could be radically altered because the wetlands to the north were being drained and developed. Accordingly in November of 1971, President Nixon announced that his Administration would propose legislation to acquire 547,000 acres of the Big Cypress. In support of this decision, Secretary Morton in conjunction with the President's Environmental Message of 1972 submitted to Congress a bill to establish a 547,000 acre Big Cypress National Fresh Water Reserve at a cost of \$156,000,000 (proposed Federal funding subsequently reduced by \$40,000,000 following an agreement by the State of Florida to pay that much in land acquisition costs).

H.R. 10088 would establish the Big Cypress National Preserve in Florida comprising about 570,000 acres to be administered by the Secretary of the Interior as a unit of the National Park System. The Secretary would be authorized to acquire lands and waters by donation, purchase or exchange although State or other public lands could be acquired only by donation. The enrolled bill expresses the "intent of the Congress that the Secretary should substantially complete the acquisition" within 6 years of enactment and within 1 year of enactment requires the Secretary to submit to Congress a detailed acquisition program covering the subsequent 5 years.

The Secretary would be prohibited in most cases from acquiring improved property or oil and gas rights without the consent of the owner. In this regard, owners of improved property could reserve a right of use and occupancy, but in doing so would be deemed to have waived their rights for relocation benefits. The Secretary would be allowed to issue regulations designed to maintain the ecological integrity of the preserve including those pertaining to the control of mineral exploration and extraction, road construction, the use of motorized vehicles, grazing, and agriculture.

Hunting, fishing, and trapping would generally be allowed within the preserve in accordance with applicable Federal and State laws. With respect to the Miccosukee and Seminole Indians, the enrolled bill would: (1) continue their rights to usual and customary use and occupancy of the area; and (2) give them a right of first refusal on any concession contract in the preserve. Within 5 years of enactment, the Secretary would be required to report to the President his recommendations as to the suitability of any area within the preserve for preservation as wilderness.

H.R. 10088 would authorize appropriations of not more than \$116,000,000 and \$900,000 for land acquisition and development, respectively. However, no Federal funds could be appropriated until Florida transfers to the United States (1) all lands within the preserve it owns or acquires and (2) all lands or any remaining money associated with its agreement to acquire \$40,000,000 worth of lands within the preserve.

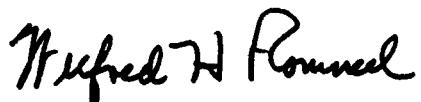
In reporting on the enrolled bill, the House Interior Committee noted that H.R. 10088 would establish a new category within the national park system and explained that the preserve category:

" . . . refers more definitively to the keeping or safeguarding of something basically protected and perpetuated for an intended or stated purpose . . . national preserves will be areas of land and/or water which may vary in size, but which possess within their boundaries exceptional values or qualities illustrating the natural heritage of the Nation."

It should be noted that while the Senate Interior Committee generally shared the favorable House viewpoint, Senators Fannin, Hansen, Buckley, McClure and Bartlett offered the minority view that Federal funding should be \$40,000,000 instead of \$116,000,000 and that the acreage of the preserve should be diminished proportionally.

In its enrolled bill letter, Interior states that:

"Enactment of legislation to protect the Big Cypress Watershed and the Everglades National Park was twice recommended by the Administration in Messages to the Congress. The protection of this priceless ecological resource will do much to assure future generations of Americans that we have acted wisely as custodians of our unique natural heritage. Accordingly, we strongly recommend the approval of the enrolled bill, H.R. 10088."



Assistant Director for
Legislative Reference

Enclosures



**GENERAL COUNSEL OF THE
DEPARTMENT OF COMMERCE**
Washington, D.C. 20230

OCT 8 1974

Honorable Roy L. Ash
Director, Office of Management
and Budget
Washington, D. C. 20503

Attention: Assistant Director for Legislative Reference

Dear Mr. Ash:

This is in reply to your request for the views of this Department concerning H.R. 10088, an enrolled enactment

"To establish the Big Cypress National Preserve
in the State of Florida, and for other purposes."

Since this legislation provides adequate flexibility for commercial exploitation of natural resources within the area of the Preserve, the Department of Commerce interposes no objection to approval by the President of H.R. 10088. We urge, however, that prior to any recommendation as to the suitability of areas within the Preserve for designation as wilderness areas, adequate surveys be made to determine the nature of the mineral resources of the area.

Enactment of H.R. 10088 would involve no expenditure of funds by the Department of Commerce.

Sincerely,

Karl E. Bakke

General Counsel

FEDERAL POWER COMMISSION
WASHINGTON, D.C. 20426

ENROLLED BILL
H.R. 10088 - 93d Congress

08 9 1974

Honorable Roy L. Ash
Director, Office of Management and Budget
Executive Office of the President
Washington, D. C. 20503

Attention: Mrs. Louise Garziglia
Legislative Reference Division
Room 7201, New Executive Office Building

Dear Mr. Ash:

This is in response to Mr. Rommel's request of October 3, 1974, for views on H.R. 10088, an Enrolled Bill, "To establish the Big Cypress National Preserve in the State of Florida, and for other purposes."

The enrolled bill authorizes the Secretary of the Interior to acquire up to 570,000 acres of land and water which would comprise the Big Cypress National Preserve in Florida. The purposes of the bill are "to assure the preservation, conservation, and protection of the natural, scenic, hydrologic, floral and faunal, and recreational values of the Big Cypress Watershed" and "to provide for the enhancement and public enjoyment thereof."

The proposed Preserve encompasses portions of both the Sunniland and the Forty Mile Bend Oil Fields. Based on information available to our staff as of August 1973, wells within the Forty Mile Bend Field were abandoned in 1956 and are no longer producing. There are oil wells in the Sunniland Field which are still producing. There is no indication of any natural gas production. Since the proposed Preserve would permit the retention and exploitation of oil and gas rights, it appears that the establishment of the Preserve would not have an adverse effect on available energy supplies or the future development of reserves.

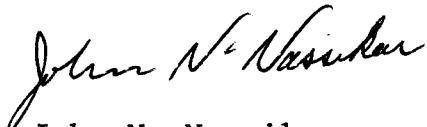
Honorable Roy L. Ash

- 2 -

The Commission had previously commented on an Interior Department draft proposal to create "Big Cypress National Fresh Water Reserve", by letter dated January 28, 1972 (copy attached). The enrolled bill refers to a National Park Service Map, dated November 1971, which could not be obtained by our staff for review of power interests because of the 48-hour comment period. However, because of the similarity of dates of the map and our previous staff review, we assume similar boundaries in the two proposals. Based on this assumption, our staff review indicates that there are no existing and no known plans to construct bulk power generation or transmission facilities in the area.

Accordingly, the Commission would have no objection to the establishment of the Big Cypress National Preserve.

Sincerely,



John N. Nassikas
Chairman

Enclosure:

Letter to Hon. George P. Shultz, 1/28/72

FEDERAL POWER COMMISSION
WASHINGTON, D.C. 20426

Interior's draft bill "To authorize the acquisition of the Big Cypress National Fresh Water Reserve in the State of Florida, and for other purposes."

Honorable George P. Shultz
Director, Office of Management and Budget
Executive Office of the President
Washington, D. C. 20503

JAN 28 1972

Attention: Mrs. Louise Garziglia
Legislative Reference Division
Room 458, Executive Office Building

Dear Mr. Shultz:

This is in reply to Mr. Hyde's Legislative Referral Memorandum of December 20, 1971, requesting the Commission's comments on Interior's draft bill to authorize the acquisition of the Big Cypress National Fresh Water Reserve in the State of Florida, and for other purposes.

The draft bill authorizes the Secretary of the Interior to acquire up to 547,000 acres of privately owned land which, together with approximately 37,000 acres of publicly owned land, would comprise an area in Florida known as the Big Cypress National Fresh Water Reserve. The Reserve is to be administered by the Secretary of the Interior, in cooperation with the State of Florida or any appropriate political subdivision thereof, in order to preserve the area's esthetic benefits, its abundant variety of plant and wildlife, and to preserve its economic benefits, as, for example, its plentiful water supply on which the Everglades National Park is dependent.

The proposed Reserve lies directly north of the western portion of Everglades National Park. It would occupy most of that portion of Collier County east of State Highway 29 and south of the Collier-Hendry County line. Most of the area is

Honorable George P. Shultz

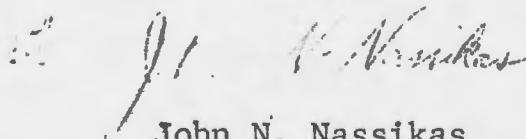
-2-

swamp or marsh land with little or no human habitation.

The proposed bill provides that any agreement between the Federal Government and the State of Florida to manage the Reserve shall contain provisions to limit or control, among other things, exploration for and extraction of oil and gas, any draining or constructing works to alter the natural water courses, and new construction of any kind. On the basis of our review, it appears that the establishment of the proposed Big Cypress Fresh Water Reserve would not adversely affect any power interests. There are no existing plants or known potential sites for hydroelectric or steam-electric power development within the proposed Reserve. Also, there are no transmission lines presently within the proposed Reserve. A possible future high-voltage transmission line directly connecting the Miami and Fort Myers areas is shown in the Southeast Regional Advisory Committee Report, printed in Part II of the 1970 National Power Survey. As depicted, however, this line would not fall within the proposed Reserve.

However, our records do show that the Sunniland Oil Field is in the immediate vicinity of the Big Cypress area. In addition, based on a preliminary appraisal of the geological information available to the Commission, our records indicate a favorable potential for future hydrocarbon production. Therefore, though the Commission is aware of the importance of the Big Cypress Watershed to Everglades National Park, as well as to other surrounding land and estuarine areas in southern Florida, the Commission recommends that study be made of the oil and gas potential before any definite action is taken to limit the development of the hydrocarbon resources of this area.

Sincerely,



John N. Nassikas
Chairman

To: Warren Hendrick
10-10-74
11:15 a.m.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

OCT 9 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 10088 - Big Cypress National Preserve, Florida
Sponsor - Rep. Haley (D) Florida and 24 others

Last Day for Action

October 15, 1974 - Tuesday

Purpose

Establishes the Big Cypress National Preserve in Florida and authorizes appropriations of not more than \$116,000,000 and \$900,000 for land acquisition and development, respectively.

Agency Recommendations

Office of Management and Budget

Approval

Department of the Interior
Federal Energy Administration
Department of Transportation
Department of Commerce
Federal Power Commission
General Services Administration
Council on Environmental Quality
Department of the Army

Approval
Approval (Informally)
No objection
No objection (Infor.
No objection (Informally,
No objection
No objection
No objection
No objection
(informally)
Defers to Interior
Defers to Interior

Department of Agriculture
Department of Justice

ACTION

Last Day - October 15

October 10, 1974

MEMORANDUM FOR: THE PRESIDENT
FROM: KEN COLE
SUBJECT: Enrolled Bill H.R. 10088 - Big Cypress
National Preserve, Florida

Attached for your consideration is House bill, H.R. 10088, sponsored by Representative Haley. This bill establishes the Big Cypress National Preserve in Florida and authorizes appropriations of not more than \$116,000,000 and \$900,000 for land acquisition and development, respectively.

Roy Ash recommends approval and provides you with additional background information in his enrolled bill report (Tab A).

We have checked with the Counsel's office (Chapman) and Bill Timmons who also recommend approval.

RECOMMENDATION

That you sign House bill H.R. 10088 (Tab B).

ACTION

Last Day - October 15

October 10, 1974

MEMORANDUM FOR: THE PRESIDENT
FROM: KEN COLE
SUBJECT: Enrolled Bill H.R. 10088 - Big Cypress
National Preserve, Florida

Attached for your consideration is House bill, H.R. 10088, sponsored by Representative Haley. This bill establishes the Big Cypress National Preserve in Florida and authorizes appropriations of not more than \$116,000,000 and \$900,000 for land acquisition and development, respectively.

Rep Ash recommends approval and provides you with additional background information in his enrolled bill report (Tab A).

We have checked with the Counsel's office (Chapman) and Bill Timmons who also recommend approval.

RECOMMENDATION

That you sign House bill H.R. 10088 (Tab B).

ACTION

Last Day - October 15

October 10, 1974

MEMORANDUM FOR:

THE PRESIDENT

FROM:

KEN COLE

SUBJECT:

Enrolled Bill H.R. 10088 - Big Cypress
National Preserve, Florida

Attached for your consideration is House bill, H.R. 10088, sponsored by Representative Haley. This bill establishes the Big Cypress National Preserve in Florida and authorizes appropriations of not more than \$116,000,000 and \$900,000 for land acquisition and development, respectively.

Roy Ash recommends approval and provides you with additional background information in his enrolled bill report (Tab A).

We have checked with the Counsel's office (Chapman) and Bill Timmons who also recommend approval.

RECOMMENDATION

That you sign House bill H.R. 10088 (Tab B).

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 640

Date: October 9, 1974

Time: 11:30 a.m.

FOR ACTION: Michael Duval
 Norm Ross
 Bill Buchen
 Bill Timmonscc (for information): Warren K. Hendriks
Jerry Jones
Paul Theis

FROM THE STAFF SECRETARY

DUE: Date: Thursday, October 10, 1974 Time: 2:00 p.m.

SUBJECT: Enrolled Bill H.R. 10088 - Big Cypress National Preserve, Florida

ACTION REQUESTED:

- For Necessary Action For Your Recommendations
- Prepare Agenda and Brief Draft Reply
- For Your Comments Draft Remarks

REMARKS:

Please return to Kathy Tindle - West Wing

There is a signing ceremony planned for Friday, October 11 at 3:30. Your promptness would be appreciated.

Thank you.

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President

THE WHITE HOUSE
WASHINGTON

10/9/74

TO: WARREN HENDRIKS

RDL

Robert D. Linder



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

OCT 17 1974

Dear Mr. Ash:

This responds to your request for the views of this Department on the enrolled bill H.R. 10088, "To establish the Big Cypress National Preserve in the State of Florida, and for other purposes."

We strongly recommend that the President approve this enrolled bill.

Enrolled bill H.R. 10088 establishes the "Big Cypress National Preserve" in the State of Florida and defines the area included therein by reference to a boundary map. The Secretary of the Interior is authorized to acquire the lands, waters or interests therein, within the preserve by purchase, donation, exchange, or transfer from another Federal agency, but lands owned by the State of Florida or any of its subdivisions may be acquired only by donation. No improved property nor oil and gas rights may be acquired without the consent of the owner unless such property is threatened with or subject to a use detrimental to the preserve. Section 1 also contains two exceptions to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, which would waive the need for appraisal and the opportunity for owners to accompany appraisers for unimproved property of 40 acres or less.

Section 2 directs the Secretary to acquire the lands within the preserve as expeditiously as possible, and he is required to advise the Interior Committees and the Appropriations Committees within 1 year after the date of enactment of the Act of a detailed plan of acquisition which shall indicate (1) the lands essential to the protection and public enjoyment of the preserve, (2) the lands which he has previously acquired for the purpose of the preserve, and (3) the annual acquisition program (including the level of funding) which he recommends for the ensuing 5 fiscal years. Section 2(c) declares that it is the express intent of the Congress that the Secretary should substantially complete the land acquisition program within 6 years.

Section 3 of H.R. 10088 permits an owner of an improved property to retain a right of use and occupancy for a term of 25 years or lifetime, as the owner elects. Any owner retaining such a right



Save Energy and You Serve America!

would be entitled to receive the fair market value of his property at the time of acquisition less the value of the right retained. This section also requires the Secretary to consider applicable State or local regulations in connection with his authority to terminate right of occupancy when he determines that it is being exercised in a manner inconsistent with the purposes of the Act. Section 4 provides that the area shall be administered so as to preserve its natural values in accordance with the general authorities applicable to other units of the National Park System and requires the Secretary to develop and publish rules and regulations to limit or control the use of Federal lands with respect to such activities as mineral exploration, agriculture and new construction.

Section 5 requires the Secretary to permit hunting, fishing and trapping within the preserve in accordance with State and Federal laws, but it allows him to designate zones where, or periods when, no hunting, fishing, trapping or entry may be permitted for reasons of public safety, administration, floral and faunal protection and management, or public use and enjoyment. Insofar as hunting, fishing and trapping are concerned, he is required to consult with the State before promulgating such regulations, except in emergencies. The Miccosukee and Seminole Indians are to be permitted to continue their usual and customary uses subject to such reasonable rules and regulations as the Secretary may promulgate. In addition they are to be permitted to continue their present residential occupancy of lands within the preserve along the Tamiami Trail, which they have occupied for a number of years. Section 6 is designed to give members of the Miccosukee and Seminole Tribes a right of first refusal on any concession contract in the preserve.

Section 7 requires the Secretary to review the preserve under the terms of the Wilderness Act and to report his recommendations concerning the suitability of including any portion of it in the Wilderness System. Section 8 authorizes the appropriation of \$116,000,000 for land acquisition and \$9,000,000 for development and stipulates that any funds donated by the State of Florida to the United States pursuant to chapter 73-131 of the Florida statutes must be used for the acquisition of lands and interest within the preserve.

Everglades National Park, authorized in 1934, represents one of the most unique ecosystems in the world. The biological values of the park, however, depend on fresh water supplies, and considerably more than half of the 1,400,533 acres within the authorized boundaries is dependent upon the Big Cypress for its supply of fresh water.

A vital factor in the Big Cypress-Everglades ecosystem is the almost imperceptible slope of the land. This results in exceedingly slow drainage, which extends the "wet months" well beyond the period of actual rainfall. A water level change of only a few inches oftentimes affects thousands of acres, and can seriously disrupt the food chain on which the larger animals in the park depend.

The Big Cypress Watershed serves as a natural water storage area, and supplements the man-made storage areas in conservation areas one, two, and three, that are considered vital for the protection of an adequate fresh water supply for south Florida.

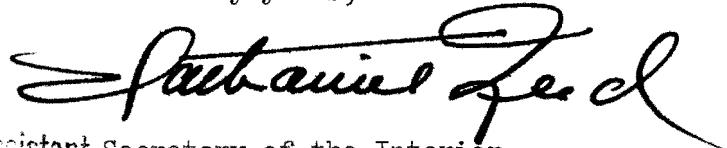
Aside from its water supply benefits, Big Cypress is a highly significant resource in itself. The Big Cypress is a wilderness of sloughs, tree islands (or hammocks), and bay and cypress heads. Cypress dominates, and gives the area its name. Large portions of Big Cypress have so far experienced little man-made disturbance. Nearly all the wildlife species native to semitropical Florida are contained within the watershed. Big Cypress provides important feeding, nesting, and wintering areas, as well as a resting place for migrating birds. Acquisition of the Big Cypress Swamp would preserve important habitat for at least nine species of wildlife determined by the Secretary of the Interior to be threatened with extinction. To species that have far wider ranges, Big Cypress, along with the adjacent Everglades National Park, serves as a stronghold or retreat.

The State of Florida has made available \$40 million for land acquisition purposes in the Big Cypress area. We have worked with the State on the terms of agreement whereby the State will either acquire and donate lands in this amount or donate whatever part of the \$40 million which remains unexpended for land acquisition. The estimated cost of acquiring the private land within the proposed Big Cypress Reserve is \$156 million which, less the \$40 million offered by the State of Florida, can be reduced to \$116 million, as provided in H.R. 10088.

Enactment of legislation to protect the Big Cypress Watershed and the Everglades National Park was twice recommended by the Administration in Messages to the Congress. The protection of this priceless ecological resource will do much to assure future generations of Americans that we have acted wisely as

custodians of our unique natural heritage. Accordingly, we
strongly recommend the approval of the enrolled bill
H.R. 10088.

Sincerely yours,



Gale A. Norton

Assistant Secretary of the Interior

Honorable Roy L. Ash
Director, Office of
Management and Budget
Washington, D.C.

FEDERAL ENERGY ADMINISTRATION
WASHINGTON, D.C. 20461

OCT 7 1974

MEMORANDUM FOR: Wilfred H. Rommel
Assistant Director for
Legislative Reference
Office of Management and Budget

ATTN: Ron Peterson

FROM: Robert E. Montgomery, Jr. b6
General Counsel

SUBJECT: Enrolled Bill Report on H.R. 10088 -
The Big Cypress National Preserve

This is in response to your request for the views of the Federal Energy Administration on the subject enrolled bill.

H.R. 10088 would establish the Big Cypress National Preserve in the State of Florida, and would authorize the Secretary of the Interior to acquire property for the preserve and administer the preserve as a unit of the National Park System. The Secretary is not authorized to acquire oil and gas rights in any property without the consent of the owner unless the Secretary determines that such property is subject to, or threatened with, uses which are, or would be, detrimental to the purposes of the preserve.

Based upon information obtained from the Department of the Interior that exploration for, and extraction of, oil, gas, and other minerals may be carried on in the preserve subject to rules and regulations promulgated by the Secretary of the Interior, the FEA recommends that the President sign the bill into law.



OFFICE OF THE SECRETARY OF TRANSPORTATION

WASHINGTON, D.C. 20590

OCT 4 1974

Honorable Roy L. Ash
Director
Office of Management and Budget
Washington, D. C. 20503

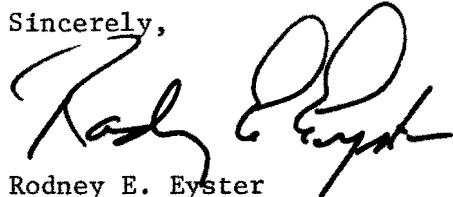
Dear Mr. Ash:

This is in response to your request for the views of the Department of Transportation on H. R. 10088, an enrolled bill,

"To authorize the establishment of the Big Cypress National Preserve in the State of Florida, and for other purposes."

The Department has reviewed the enrolled bill, and it appears to meet the problems raised in our previous comments on the proposal, which were transmitted to the Director of OMB on January 28, 1972. Accordingly, we see no reason why the bill should not be signed.

Sincerely,

A handwritten signature in black ink, appearing to read "Rodney E. Eyster".

Rodney E. Eyster
General Counsel

UNITED STATES OF AMERICA
GENERAL SERVICES ADMINISTRATION
WASHINGTON, DC 20405



OCT 7 1974

Honorable Roy L. Ash
Director, Office of
Management and Budget
Washington, DC 20503

Dear Mr. Ash:

By referral dated October 3, 1974, from the Assistant Director for Legislative Reference, your office requested the views of the General Services Administration on enrolled bill H.R. 10088, 93rd Congress, an act "To establish the Big Cypress National Preserve in the State of Florida, and for other purposes."

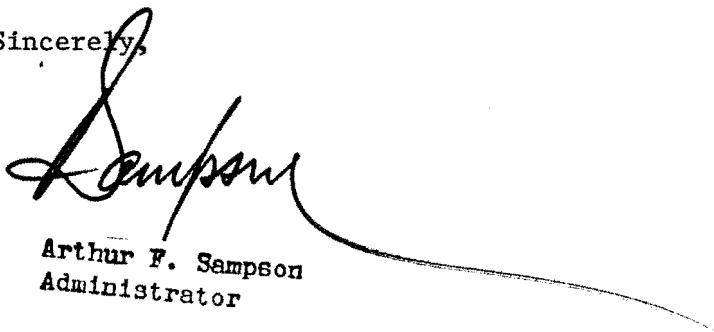
We note that the Secretary of the Interior may acquire lands within the boundaries of the Preserve from other Federal agencies without the screening for possible need for such property by other Federal agencies which normally would follow a declaration of such property as excess. However, since in the course of any such screening the desire of the Department of the Interior to obtain the property for inclusion in the preserve would likely be a paramount consideration, we raise no objection on this account.

We are concerned that H.R. 10088 requires the Department of the Interior to depart from the uniformity required by all Federal agencies in the acquisition of real property required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 by permitting the acquisition of certain lands for the Big Cypress National Preserve without a prior appraisal and without the opportunity of the owner to accompany an appraiser in the case where an appraisal is made (section 1(c)). Furthermore, we are concerned that section 3(c) deprives an owner whose property is acquired from receiving the benefits of the Uniform Relocation Assistance Act if he retains a right of use and occupancy. This departure is not permitted in the case of an acquisition by any other agency of the government and we are unaware of any reason why the owners of property acquired for Big Cypress National Preserve should be deprived of these benefits. However, we refrain from a recommendation for veto since this departure pertains only to one specific property.

Accordingly, GSA does not object to Presidential approval of the enrolled bill.

We recommend strongly, however, that the committee of jurisdiction be advised of the Administration's support of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) in view of two enrolled bills that have come to our attention upon which we are currently commenting and further the recent amendments to the Land and Water Conservation Fund Act also permitting a deviation from Public Law 91-646. GSA plans to recommend corrective legislation as concerns the Land and Water Conservation Fund Act program to the next session of Congress.

Sincerely,

A handwritten signature in black ink, appearing to read "Sampson".

Arthur F. Sampson
Administrator

**EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY**
722 JACKSON PLACE, N. W.
WASHINGTON, D. C. 20006

OCT 7 1974

MEMORANDUM FOR W. H. ROMMEL
OFFICE OF MANAGEMENT AND BUDGET

ATTN: Mrs. Garziglia

SUBJECT: Enrolled Bills

- a) H.R. 10088, "To establish the Big Cypress National Preserve in the State of Florida, and for other purposes".
- b) H.R. 11546, "To authorize the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes".

This is in response to your request of October 3, for our views on the subject enrolled bills.

The Council has no objection to the approval and enactment of these bills.

Gary Widman
Gary Widman
General Counsel



DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20250

Honorable Roy L. Ash
Director, Office of Management
and Budget

October 7 1974

Dear Mr. Ash:

As you requested, here is our report on the enrolled enactment H.R. 10088, "To establish the Big Cypress National Preserve in the State of Florida, and for other purposes."

The enrolled enactment would establish the Big Cypress National Preserve of not more than 570,000 acres within the State of Florida to be administered by the Secretary of the Interior in order to assure the preservation, conservation, and protection of the natural, scenic, hydrologic, floral and faunal and recreational values of the Big Cypress Watershed and to provide for the enhancement and public enjoyment thereof. Within one year after enactment, the Secretary would submit to the appropriate Committees of Congress a detailed plan covering the lands essential to the protection and public enjoyment of the preserve, lands previously acquired for the preserve and the annual acquisition program (including the level of funding) recommended for the ensuing five fiscal years. The Congress would expect the Secretary to substantially complete the land acquisition program within six years following enactment. In addition, within five years following enactment, the Secretary would review the Big Cypress National Preserve and report his recommendations to the President as to the suitability or nonsuitability of any area within the preserve for designation as wilderness under the Wilderness Act.

The enrolled enactment now before the President would not change the status of any National Forest lands, would not affect lands immediately adjacent to the National Forests, nor have a major effect on other responsibilities of the Department of Agriculture in the area. We therefore defer to the recommendations of the Department of the Interior on the advisability of the President's signing this legislation.

Sincerely,

Robert W. Long
Assistant Secretary for Conservation,
Research and Education

Department of Justice
Washington, D.C. 20530

OCT 7 1974

Honorable Roy L. Ash
Director, Office of Management
and Budget
Washington, D. C. 20503

Dear Mr. Ash:

In compliance with your request, I have examined a facsimile of the enrolled bill H.R. 10088, 93rd Congress, "To establish the Big Cypress National Preserve in the State of Florida, and for other purposes."

The provisions of this enrolled bill appear appropriate for the purposes of the bill, and present no constitutional or other legal questions.

In view of the fact that the Department of the Interior has the primary interest in the enrolled bill, we defer to that Department as to whether the bill should have Executive approval.

Sincerely,


W. Vincent Rakestraw
Assistant Attorney General

THE WHITE HOUSE

WASHINGTON

ACTION MEMORANDUM

RUSA
LOG NO.: 640

Date: October 9, 1974

Time: 11:30 a.m.

FOR ACTION: ✓ Michael Duval
Norm Ross
Phil Buchen
Bill Timmonscc (for information): Warren K. Hendriks
Jerry Jones
Paul Theis

FROM THE STAFF SECRETARY

DUE: Date: Thursday, October 10, 1974 Time: 2:00 p.m.

SUBJECT: Enrolled Bill H.R. 10088 - Big Cypress National
Preserve, Florida

ACTION REQUESTED:

- For Necessary Action For Your Recommendations
- Prepare Agenda and Brief Draft Reply
- For Your Comments Draft Remarks

REMARKS:

OK *Mike Duval*

Please return to Kathy Tindle - West Wing

There is a signing ceremony planned for
Friday, October 11 at 3:30. Your promptness
would be appreciated.

Thank you.

*Norm : who is doing signing
ceremony staff work?*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a
delay in submitting the required material, please
telephone the Staff Secretary immediately.Warren K. Hendriks
For the President

THE WHITE HOUSE
WASHINGTON

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LOG NO.: 640

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ACTION REQUESTED:

- For Necessary Action For Your Recommendations
 Prepare Agenda and Brief Draft Reply
 For Your Comments Draft Remarks

REMARKS:

No objection

P.C.

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Thank you.

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Warren K. Hendriks
For the President

THE WHITE HOUSE

WASHINGTON

October 10, 1974

MEMORANDUM FOR: MR. WARREN HENDRIKS
FROM: WILLIAM E. TIMMONS *BT*
SUBJECT: Action Memorandum - Log No. 640
Enrolled Bill H.R. 10088 - Big Cypress
National Preserve, Florida

The Office of Legislative Affairs concurs in the attached proposal and has no additional recommendations.

There will not be a signing ceremony for this event.

Attachment

THE WHITE HOUSE

WASHINGTON

ACTION MEMORANDUM

RUSH
LOG NO.: 640

Date: October 9, 1974

Time: 11:30 a.m.

FOR ACTION: Michael Duval
Norm Ross
Phil Buchen
 Bill Timmonscc (for information): Warren K. Hendriks
Jerry Jones
Paul Theis

FROM THE STAFF SECRETARY

DUE: Date: Thursday, October 10, 1974 Time: 2:00 p.m.

SUBJECT: Enrolled Bill H.R. 10088 - Big Cypress National Preserve, Florida

ACTION REQUESTED:

- For Necessary Action For Your Recommendations
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 For Your Comments Draft Remarks

REMARKS:

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If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Warren K. Hendriks
For the President

ESTABLISHING THE BIG CYPRESS NATIONAL PRESERVE IN THE STATE OF FLORIDA, AND FOR OTHER PURPOSES

SEPTEMBER 13, 1973.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed.

Mr. HALEY, from the Committee on Interior and Insular Affairs, submitted the following

R E P O R T

[To accompany H.R. 10088]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 10088) to establish the Big Cypress National Preserve in the State of Florida, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

P U R P O S E

The purpose of H.R. 10088,¹ and its companion H.R. 10089, is to establish the Big Cypress National Preserve in the State of Florida, and, in so doing, to protect a significant portion of the Big Cypress Watershed. Not only is the Big Cypress nationally significant for its own natural values, but it is critical to the survival of considerably more than half of the Nation's most famous subtropical environment—the Everglades National Park.

L O C A T I O N A N D D E S C R I P T I O N O F T H E A R E A

A. THE BIG CYPRESS WATERSHED

Altogether, the Big Cypress Watershed consists of approximately 2450 square miles of land located primarily in Collier, Monroe and Dade Counties in southern Florida. This massive area is a very flat

¹ H.R. 10088, H.R. 10089 and H.R. 10253 are identical measures which were cosponsored by Representatives Haley, Saylor, Taylor of North Carolina, Hosmer, Johnson of California, Don H. Clausen, Udall, Camp, Burton, Meeds, Melcher, Sikes, Burke of Florida, Frey, Bennett, Fuqua, Rogers, Pepper, Fascell, Chappell, Gibbons, Young of Florida, Bafalis, Lehman, Gunter, Folsey, Kastenmeier, O'Hara, Kazen, Dellenback, Vigorito, Bingham, Seiberling, Cronin, Won Pat, Owens, de Lugo, Ruppe, and Towell. These bills represent the recommendation of the Committee on Interior and Insular Affairs. They are the outgrowth of public hearings and consideration of H.R. 46 by Representatives Haley, Sikes, Burke of Florida, Frey, Bennett, Fuqua, Rogers, Pepper, Fascell, Chappell, Gibbons, Young of Florida, Bafalis, Lehman, and Gunter and H.R. 4866 by Representatives Saylor, Regula, and Towell.

expanse of land lying north of the Everglades National Park which slopes gently seaward at a rate of about two inches per mile. Because of this flatness any variation in the terrain—any depression or protrusion—alters the water flow and results in a significant change in the character of the covering vegetation. Similarly, any difference in the water level—even a few inches—can affect thousands of acres of land.

Basically, the watershed can be divided into three subbasins. One, consisting of about 450 square miles of land, drains generally southeastwardly towards the eastern half of the Everglades National Park. Another, located on the western side of the watershed, if permitted to drain naturally, would flow slowly into the Gulf Coast estuaries and bays. The third which includes three-fifths of the entire watershed, is centrally located and drains in a southward direction through a large portion of the Everglades National Park into the Gulf of Mexico.

Water is the principal natural resource of this entire region. Any change in it can result in a significant change in the ecology of areas dependent on the flow. On the eastern side of the Big Cypress Watershed, for example, a large portion of the Everglades National Park was threatened because the wetlands to the north were being drained and developed. As a result, under the leadership of the former Director of the National Park Service, George B. Hartzog, Jr., negotiations were initiated with the Corps of Engineers and the State of Florida which resulted in formal agreements which resolved the dilemma by guaranteeing an adequate future water supply for that portion of the park.

In the western subbasin an extensive network of canals has been excavated and the development of residential, industrial and agricultural areas is well advanced. This canal system rapidly drains fresh water to the sea and has seriously altered the quality, quantity and seasonality of the flow which is delivered from the swamp into the estuaries. Such developments have adversely affected the normal biological processes that once occurred, but it is generally conceded that man's activities are so far advanced that restoration of the natural terrain is not reasonably practical.

The central subbasin, however, remains relatively undisturbed by man. Here, except for two canals, water feeds naturally from the Big Cypress Swamp through the western portion of the Everglades National Park. It is in this subbasin that the entire Big Cypress National Preserve will be located if authorized as recommended by the Committee on Interior and Insular Affairs.

B. RELATIONSHIP OF THE BIG CYPRESS WATERSHED TO THE EVERGLADES NATIONAL PARK

Much of the water for the Everglades National Park comes from rainfall within its boundaries, and part of it comes from releases made from Lake Okeechobee, but the contiguous Big Cypress Swamp accounts for about 56 percent of the water entering the park from outside its boundaries. The total quantity of water entering the park is significant; however, the method of its delivery is equally important. Generally the heaviest rainfalls in the area come during the summer and early fall. The average rainfall totals 57 inches annually with as much as 85 percent of this occurring during the months of May through

October. Much of this water is lost to evaporation and transpiration, but a large amount is stored in the extensive Big Cypress Marsh system which serves as a giant reservoir and control system.

As the drier months approach, the water moves slowly across the flat terrain and into the bays and estuaries and the higher elevations gradually begin to dry up. Unlike manmade water systems which are designed to capture water and accelerate its runoff, this natural system filters the water and permits natural biological processes to develop, mature, and nourish the fish and wildlife communities which are dependent upon it. Without this water and its natural drainage it is generally agreed that the Everglades National Park will change drastically.

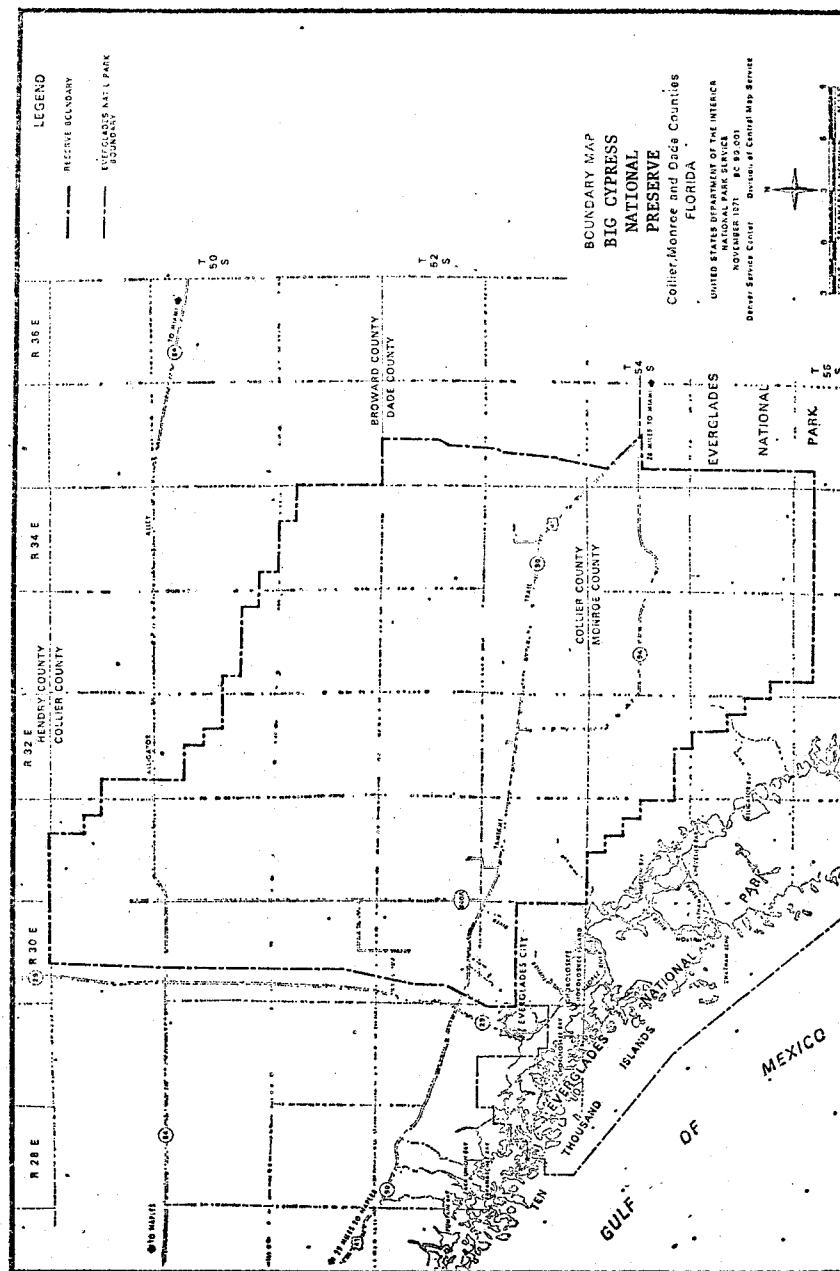
C. THE BIG CYPRESS NATIONAL PRESERVE

The proposed Big Cypress National Preserve is a large, complex, mostly undeveloped portion of the original watershed. Coupled with the contiguous northwestern portion of the Everglades National Park and its estuary, it is said to form a nearly complete hydrologic unit. Although the preserve is characteristic of the entire watershed in its natural state, it represents only three-eighths of the swamp area (more than 900 square miles). It is typically flat, like the other parts of the area, but there are some pools and sloughs which serve as water catchment areas during the dry months and there are numerous areas where higher elevations support vegetation that cannot tolerate frequent or constant flooding. Altogether the proposed preserve includes 570,000 acres of land—522,000 of which are presently in private ownership and 48,000 of which are publicly owned.

Some areas of the swamp are seldom flooded. Depending on the richness of the soil these higher grounds support slash pine, saw palmetto, cabbage palms and mixed hardwoods. Slight depressions in these pinelands, known as hardwood hammocks, like the transition zones in the swamp, consist of pines, cypress, magnolia and other trees typical of the forests of the Southeast. The bald cypress is found along with swamp hardwoods in the watershed areas which are frequently inundated, but between the pine flatlands and the cypress swamps there is a treeless area supporting mixed sedges and, in wetter areas, a sawgrass marsh occurs. Generally, only the sloughs—which are natural, wide, shallow depressions—cypress ponds, and manmade canals are relatively permanent water areas. During the dry season, these places become the retreats for all kinds of aquatic forms that depend upon water for survival.

As the fresh water drains seaward, the salty seawaters intrude into the estuaries which are dominated by coastal mangroves. Here, the fresh waters and the salty solutions are mixed by the constant tidal circulation into a nutrient rich, brackish solution which provides an excellent habitat for hundreds of species of aquatic organisms. These bay and estuarine zones are more productive than either the marsh above or the sea beyond. Because the natural flow of fresh water progresses slowly towards the sea it provides nearly perfect conditions for many shrimp, game fish, blue crabs, oysters and other life forms that require a brackish habitat for their reproduction and survival.

Naturally, anything that interferes with the natural flow of fresh water will radically alter this sensitive subtropical environment.



Drainage works, roads, airport facilities, or any other construction activities which divert the water, or channel it, or cause it to recede will not only affect the significant fishery resources, but will ultimately affect all forms of life in the region since the water level is the most significant factor affecting the sophisticated food chain that begins

with plant life, the earliest forms of organic life in the swamp, and the fish and wildlife that are ultimately dependent upon them.

Although water is the principal resource of the Big Cypress ecosystem, the Big Cypress has many inherent values which warrant its protection and inclusion in the National Park System.

It is difficult to imagine an area with more outstanding scientific values than Big Cypress-Everglades ecosystem. Students of the evolution of life and biologists will find the resources of this area almost unequaled. It is equally important as a wildlife sanctuary. In addition to the thousands of migrating birds which utilize the area as a feeding, nesting and resting place, it provides the proper habitat for more than twenty animals whose status has been listed by the Secretary of Interior as rare, endangered, or otherwise in jeopardy.²

Botanists will be interested in the wide variety of plant life and its relationship to the hydrologic and topographic features of the area. It is said to be the only area outside of the tropics where epiphytes are found in such abundance and variety—including seven species of orchids which are found nowhere else in the world.

Since the area included in the preserve is largely undeveloped at the present time and because it will be managed in a manner which will assure its return to the true wilderness character which once prevailed, it will offer many outdoor recreation opportunities to the visiting public. During significant portions of the year, primitive camping, hiking, and sightseeing, will be popular activities. Naturalists and wildlife observers will come to see the flora and fauna in their natural setting and hunters and fishermen will continue to find the area popular. While the use of all terrain vehicles must be carefully

² The Draft Environmental Impact Statement submitted to the Committee in connection with its hearings during the 92d Congress included the following information:

"Rare and Endangered Species.—Twenty-one animals whose status is rare, endangered or otherwise in jeopardy are found in the area and have been listed in the Bureau of Sport Fisheries and Wildlife "Red Book." (Ref. 8.) Although several species are found only in the estuaries, they depend on resources originating in Big Cypress Swamp.

Endangered species or subspecies are those whose prospects of survival and reproduction in the wild are in immediate jeopardy and unless a determined effort is made to protect them, they will probably become extinct. Nine species and subspecies found in or are dependent on Big Cypress Watershed were designated and included in a list published in the Federal Register, October 13, 1971, as follows:

Felis concolor coryi (Florida Panther)
Trichechus manatus latirostris (Florida Manatee)
Alligator mississippiensis (American Alligator)
Pelecanus occidentalis (Brown Pelican)
Rostrohamus sociabilis plumbeus (Florida Everglade Kite)
Haliaeetus l. leucocephalus (Southern Bald Eagle)
Ammospiza mirabilis (Cape Sable Sparrow)
Falco peregrinus tundrius (Arctic Peregrine Falcon)
Dendrocopos borealis hylophorus (Southern Red-cockaded Woodpecker)

Rare species or subspecies are those not presently threatened with extinction, but are vulnerable because they exist in such small numbers or are so restricted throughout their range that they may become endangered if their population is reduced or their environment worsens. Rare species dependent on Big Cypress follows:

Ardea o. occidentalis (Florida Great White Heron)
Grus canadensis pratensis (Florida Sandhill Crane)

Peripheral species or subspecies are animals whose occurrence in the United States is at the edge of their natural range. Should habitat be reduced in this country, these animals may become rare or endangered in the United States but not within their total range. The following animals of the Big Cypress are in this category:

Ajaia ajaja (Roseate Spoonbill)
Mycteria americana (Wood Ibis)
Dichromantassa r. rugescens (Eastern Reddish Egret)
Pandion haliaetus carolinensis (American Osprey)
Buteo brachyurus (Short-tailed Hawk)
Chelonoidis mydas (Green Turtle)
Coccyzus minor mynardi (Florida Mangrove Cuckoo)
Vireo altiloqua barbatulus (Cuban Black-whiskered Vireo)

Animals of undetermined status are those which have been suggested for designation as rare or endangered but present information is inadequate for positive designation. In the Big Cypress the two following animals are of undetermined status:

Musculia vison evergladensis (Everglades Mink)
Neofiber alleni (Round-tailed Muskrat)"

regulated by the Secretary to protect the natural, wildlife and wilderness values of the preserve, the bill does not prohibit their use along designated roads and trails.

Visitation within the Big Cypress Preserve is expected to reach 1.4 million visitors annually by the end of the fifth year after authorization. Comparable visitation rates at the Everglades National Park indicate that more than 1.7 million visits were recorded at the park in 1972—almost three times the number of visitors in 1962. While some of those who visit the area are from local communities, the majority of the visitors come from outside the State.

CRITERIA FOR A NATIONAL PRESERVE

In the past, the Congress has authorized and established many areas for inclusion in the national park system: national parks, national monuments, national recreation areas, national historic sites, and others. A systematic effort has been made to establish standards or criteria for each of these different categories in an effort to maintain the integrity of the values which each attempts to serve. The description of the Big Cypress area as a national preserve will establish a new category which can serve as a feasible and desirable vehicle for the consideration of other nationally significant natural areas which differ from the qualities attributed to national parks and national recreation areas. The committee chose to call the area a preserve rather than a reserve, feeling that such distinction may be important. Reserve refers to stock—a commodity held for future use. Preserve refers more definitively to the keeping or safeguarding of something basically protected and perpetuated for an intended or stated purpose, as with the specific objectives for Big Cypress provided by this legislation.

In general, national preserves will be areas of land and/or water which may vary in size, but which possess within their boundaries exceptional values or qualities illustrating the natural heritage of the Nation. Such areas would often be characterized by significant scientific values, including, but not limited to, ecological communities illustrating the process of succession, natural phenomena, or climax communities. In addition they could be characterized by a habitat supporting a vanishing, rare or restricted species; a relict flora or fauna persisting from an earlier period; or large concentrations of wildlife species. Other scientific, geologic, geomorphic or topographic values might also contribute to the purposes for which an area might be recognized.

The principal thrust of these areas should be the preservation of the natural values which they contain. They might differ, in some respects, from national parks and monuments insofar as administrative policies are concerned. Hunting, for example, subject to reasonable regulation by the Secretary, could be permitted to the extent compatible with the purposes for which the area is established. Other activities, including the extraction of minerals, oil, and gas could be permitted if such activities could be conducted without jeopardizing the natural values which the area seeks to preserve. Management of the watershed resources might also be appropriate if that would enhance the value of the preserve as it serves other needs.

All management activities within these areas should be directed toward maintaining the natural and scientific values of the area,

including the preservation of the flora and fauna and the reestablishment of the indigenous plant and animal life, if possible. Areas where scientific discoveries or historical events took place would contribute to the values of the preserve and should be managed in a manner which will maximize both the natural and historical values.

National preserves may accommodate significant recreational uses without impairing the natural values, but such public use and enjoyment would be limited to activities where, or periods when, such human visitation would not interfere with or disrupt the values which the area is created to preserve.

Construction of physical facilities of any kind would be minimized and would be limited to those developments which are essential to the preservation and management of the area and the safety of the public. To the extent such facilities are deemed necessary and appropriate they would be constructed in a manner which would minimize their impact on the environment and their intrusion on the natural setting.

INTEREST OF THE STATE OF FLORIDA

Few States have shown as much interest in helping to protect their natural treasures as the State of Florida. In 1934, when the Everglades National Park was authorized, the State donated nearly 900,000 acres of land for the park and was instrumental in securing the donation of an additional 35,000 acres of private lands. In addition, it donated \$2 million to the United States to acquire additional private lands within the park boundaries. Except for some 4,400 acres acquired from the Farmers Home Administration because of farm foreclosures, no Federal funds were used to purchase any of these parklands until 1966. Since that time, the Congress has authorized and appropriated \$24 million to purchase about 100,000 acres of land within the park which still remains in private ownership.

The State's interest has not diminished in the decades that have followed. Recently, it agreed to acquire a large portion of the Fakahatchee Strand which is a 20-30 mile fresh water slough located in the central subbasin of the watershed to the west of the proposed Big Cypress National Preserve and it acquired more than 4,000 acres of coastal land south of Marco Island. In addition, it has taken legal action to prevent the drainage of the Gum Slough area and has implemented strict regulations on drilling for oil and gas in the Big Cypress area.

Most importantly, however, the State has shown its willingness to co-operate with the Federal Government in preserving this important portion of the Big Cypress Watershed by declaring the lands within the proposed preserve as an "area of critical State concern", which has the effect of subjecting it to restrictive environmental controls. In addition, by action of the State Legislature, and with the approval of the Governor, the State has made \$40 million available this year to begin the purchase of lands within the proposed Big Cypress Preserve. Under the terms of that Act, the Governor and the cabinet are empowered to acquire lands and "to donate and convey title in the land and water areas so acquired or currently owned by the State to the government of the United States or its agency together with any unencumbered funds remaining from the forty million dollars set aside for acquisition of the area proposed. . . ."

LEGISLATIVE BACKGROUND AND COMMITTEE RECOMMENDATION

During the 92nd Congress several Members of the Committee on Interior and Insular Affairs visited the Big Cypress area. In addition to making an intensive aerial survey of the region to see its relationship with the Everglades National Park and other adjacent lands and waters, the Members had an opportunity to see part of the area from the ground. Field hearings were conducted by the Subcommittee on National Parks and Recreation at Fort Myers, Florida, on February 15, 1972, and additional hearings were held in Washington on September 16, 1972. On May 10 and 11, 1973, the Subcommittee again conducted public hearings on this subject in Washington and heard witnesses express their views for and against the proposed legislation. The Subcommittee considered this matter in open session and recommended H.R. 46, with amendments, to the Full Committee.

On August 1, 1973, the Committee on Interior and Insular Affairs considered the Subcommittee recommendations and approved the legislation with various amendments by a voice vote. At the conclusion of the consideration of the legislation the Committee requested that a "clean bill" embodying all Committee amendments be prepared and reported to the House. Accordingly, the Committee now recommends the enactment of H.R. 10088, without amendment.

SECTION-BY-SECTION ANALYSIS OF H.R. 10088

Section 1 establishes the Big Cypress National Preserve and defines the area included therein by reference to a boundary map. (see p. 4). The bill requires a detailed boundary description to be prepared and published in the Federal Register. Altogether (including approximately 522,000 of privately owned lands and 48,000 acres of publicly held lands), the preserve would total 570,000 acres of land and water. The Secretary is authorized to acquire the lands within the preserve by purchase, donation, exchange, or transfer from another Federal agency, but lands owned by the State of Florida or any of its subdivisions may be acquired only by donation.

Section 2 provides for a legislative taking of all privately held lands within the preserve except single family residences (together with up to 3 acres of land) which were constructed, or were under construction, on November 23, 1971. Under the terms of the bill, title to most of the area would pass to the United States upon execution of an agreement between the Secretary and the Governor assuring the donation of all State-owned or acquired lands and any remaining unencumbered funds dedicated by the State to the acquisition of lands within the preserve. The United States would become liable to pay just compensation to the former owners for any properties so taken. Jurisdiction to determine just compensation for the interests taken is placed in the U.S. District Court for the district in which the land is located. Under the terms of the bill, the owner may negotiate with the Secretary concerning the value of the land or he may bring an action in the local U.S. District Court within one year after the date of enactment; however, after that period of time, the Secretary may cause an action to be brought to determine what amount constitutes just compensation. While ownerships of three acres or less are exempt from the legislative taking if they contain a private dwelling, the Secretary is

not precluded from acquiring such properties by eminent domain if such lands are subjected to, or threatened with, adverse uses which would be detrimental to the preserve. If the Secretary finds that fee title to any of the lands acquired by the legislative taking is not required to accomplish the purposes of this Act, then he may revest title to the former owner, with his consent, subject to such terms and conditions as are deemed necessary to carry out the objectives of this legislation. In such cases, the Secretary must reduce the payment to the landowner by an amount equal to the fair market value of the right revested. The bill prohibits revesting any title where full compensation has been paid.

Section 3 permits an owner of an improved property (defined by the terms of the bill to be a residential property consisting of three acres or less) to retain a right of use and occupancy for a term of 25 years or lifetime, as the owner elects. Any owner retaining such a right would be entitled to receive the fair market value of his property at the time of acquisition less the value of the right retained (usually one percent of the market value per year). Subsection (c) provides that owners who take advantage of this provision automatically waive any relocation assistance benefits.

Section 4 provides that the area shall be administered so as to preserve its natural values in accordance with the general authorities applicable to other units of the National Park System. As a designated unit of the National Park System, it is to be administered, managed and maintained in perpetuity by the Secretary through the National Park Service. In administering the area, the legislation directs the Secretary to develop and publish appropriate regulations to limit or control specified activities on Federal lands, but it requires him to consult and cooperate with the Secretary of Transportation with respect to rights-of-way within the preserve. If Interstate 75 utilizes the Tamiami Trail right-of-way it is to be a limited access roadway designed and constructed in a manner which will enhance the values of the preserve and cause the least possible adverse environmental impact.

Section 5 requires the Secretary to permit hunting, fishing and trapping within the preserve in accordance with State and Federal laws, but it allows him to designate zones where, or periods when, no hunting, fishing, trapping or entry may be permitted for reasons of public safety, administration, floral and faunal protection and management, or public use and enjoyment. Insofar as hunting, fishing and trapping are concerned, he is required to consult with the State before promulgating such regulations, except in emergencies. The Miccosukee and Seminole Indians have traditionally used much of this area for hunting, fishing and ceremonial purposes. They are to be permitted to continue such usual and customary uses subject to such reasonable rules and regulations as the Secretary may promulgate. In addition they are to be permitted to continue their present residential occupancy of lands within the preserve along the Tamiami Trail which they have occupied for a number of years. The preserve boundaries were drawn so as not to include any reservation lands, but the Miccosukees hold a 50-year permit to a strip of land 5 miles long by 500 feet wide in the Everglades National Park and have customarily occupied certain lands along the Tamiami Trail.

Section 6 is designed to give members of the Miccosukee and Seminole Tribes who were engaged in comparable revenue producing visitor services on January 1, 1972, a right of first refusal on contracts to provide such services within the preserve in the future. This provision is designed to protect those who now provide services to the public within the area by creating a right for them to continue such activities so long as they perform in a manner which the Secretary finds accomplishes the purposes of the Act. It does not preclude any individual, or group, or tribal organization from applying for any new services which might be offered in the future, but in those cases the Secretary must determine who could best serve the public need. In the event that all applicants are qualified then equity would suggest that the local tribal groups or individuals should be given first preference in contracts to provide visitor services.

Section 7 requires the Secretary to review the preserve under the terms of the Wilderness Act and to report his recommendations concerning the suitability of including any portion of it in the Wilderness System.

Section 8 authorizes the appropriation of \$116,000,000 for land acquisition and \$900,000 for development, but it precludes the appropriation of any Federal funds unless the Governor of the State of Florida (acting for the State) and the Secretary execute, within 90 days, an agreement which would irrevocably commit the State to donate to the United States all State lands within the preserve, together with the unexpended portion of the \$40,000,000 which it has dedicated to the acquisition of lands in the area.

Cost

Because speculation in lands in this area has been widespread, land costs will be substantial. Land prices will undoubtedly continue to escalate unless prompt acquisition action is taken. Furthermore thousands of absentee land-owners living throughout the world have purchased relatively small tracts so that the administrative costs of tracing title and contacting them constitute a significant portion of the total land acquisition costs. To halt the escalation and reduce the administrative costs, as well as to assure the prompt purchase and protection of this important area, the Committee has included in its recommendations a provision which has the effect of passing title to the lands immediately upon the execution of an agreement between the Secretary of the Interior and the Governor of the State of Florida to donate to the United States the State lands and any remaining unencumbered funds which have been dedicated by the State to the acquisition of lands within the preserve.

It is estimated that the total land costs for this project could reach \$156 million. Of this amount, the State of Florida has agreed to donate lands and/or funds equivalent to \$40 million; thus, bringing the Federal share down to the \$116 million recommended in the bill. Because the bill provides for the immediate acquisition of title, rather than spacing the acquisition program over a period of ten or more years, a significant reduction in land costs should be effected.

Development costs will be nominal and are limited by the terms of the bill to no more than \$900,000. Since the area is to be maintained in its natural state, the construction of facilities, if any, within the preserve will be limited to those which are deemed essential to the

proper management and administration of the area. Naturally, any such construction should be accomplished in a manner which will constitute no adverse environmental impact on the area which the Congress is seeking to preserve.

DEPARTMENTAL REPORT AND EXECUTIVE COMMUNICATION

The favorable report of the Department of the Interior (dated May 9, 1973), together with an executive communication from the Secretary of the Interior (dated February 15, 1973) follow:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., May 9, 1973.

Hon. JAMES A. HALEY,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your Committee's request for the views of this Department on H.R. 46, a bill "To authorize the acquisition of the Big Cypress National Fresh Water Reserve in the State of Florida, and for other purposes."

We recommend enactment of H.R. 46, if amended as suggested below, or of H.R. 4866, the Administration's bill to authorize acquisition of the Big Cypress National Fresh Water Reserve, to which the President referred in his State of the Union Message on Natural Resources and the Environment of February 15, 1973.

H.R. 46 would authorize the Secretary of the Interior to acquire lands, waters, and interests therein within an area depicted on a map on file with the Department. The area is to be known as the Big Cypress National Fresh Water Reserve, and is to be administered by the Secretary of the Interior, in accordance with the laws applicable to the National Park System. The bill would authorize the Secretary to enter into an agreement with the State of Florida or a local government, pursuant to which that government might manage and administer the lands acquired for the reserve, subject to the provisions and limitations of the bill. The Secretary is directed to permit hunting, fishing, and trapping within the reserve in accordance with applicable State and Federal laws. Section 5 of the bill authorizes the appropriation of such sums as may be necessary to carry out the provisions of the Act, but not to exceed \$156 million for the acquisition of lands and interests therein.

H.R. 46 is identical to the Administration's Big Cypress proposal of the 92d Congress. The only difference between H.R. 4866, the Administration's present bill, and H.R. 46 or the Administration's bill in the 92d Congress is a technical change made to refine acreage limitations. The legislation proposed to the 92d Congress contemplated acquisition of not to exceed 547,000 acres of private land and approximately 37,000 acres of publicly owned land. Since that time, the National Park Service has obtained more detailed maps of the area involved in the Big Cypress proposal and has recalculated the acreage within the Big Cypress boundaries.

The proposal to the 93d Congress has been revised to reflect the National Park Service's refined estimates—522,000 acres of private land, and approximately 48,000 acres of publicly owned land.

The reduction in cost which could result from acquiring fewer acres of private land has been almost offset by the inflation which has occurred in the value of private lands since the proposal was sent to the Congress in February 1972. Therefore no change has been made in the Administration's present bill from the original land cost figure of \$156 million.

We would suggest that H.R. 46 be amended as follows to incorporate the revised acreage figures: revise line 1 of page 3 to read "not encompass more than five hundred and twenty-two thou".

We urge the Congress to take early and favorable action on either H.R. 4866 or H.R. 46, if amended, to authorize the Big Cypress National Fresh Water Reserve. We believe the biological values of Everglades National Park depend on continued availability to the park of the fresh water supplies of Big Cypress. Big Cypress Watershed further serves as a natural water storage area and supplements the man-made storage areas that are considered vital for the protection of an adequate fresh water supply for south Florida. Finally, aside from its water supply benefits, Big Cypress is a highly significant resource in itself. It provides important feeding, nesting, and wintering areas, as well as a resting place for migrating birds. Acquisition of the Big Cypress Swamp would preserve important habitat for a number of species of wildlife in danger of extinction. To other species that have a wider range, the Big Cypress, along with the Everglades National Park, serves as a valuable stronghold or retreat.

The Office of Management and Budget has advised that the enactment of H.R. 4866 or an identical bill would be in accord with the program of the President.

Sincerely yours,

LAURENCE E. LYNN, Jr.,
Assistant Secretary of the Interior.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., February 15, 1973.

Hon. CARL ALBERT,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Enclosed is a draft of a bill "To authorize the acquisition of the Big Cypress National Fresh Water Reserve in the State of Florida, and for other purposes," to which the President refers in his Environment and Natural Resources State of the Union Message transmitted to you today.

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

The bill authorizes the Secretary of the Interior to acquire lands, waters, and interests therein within an area depicted on a map on file with the Department. The area to be acquired, consisting of not to exceed 522,000 acres of private land and approximately 48,000 acres of publicly owned land, is to be known as the Big Cypress National Fresh Water Reserve.

The reserve is to be administered by the Secretary of the Interior in accordance with the laws applicable to the National Park System. However, the bill authorizes the Secretary to enter into an agreement with the State of Florida or a local government, pursuant to which it may manage and administer the lands acquired for the reserve, subject to the provisions and limitations of the bill. The Secretary is directed to permit hunting, fishing, and trapping within the reserve in accordance with applicable State and Federal laws. Section 5 of the bill authorizes the appropriation of such sums as may be necessary, but not to exceed \$156 million for the acquisition of lands and interests therein.

Everglades National Park, authorized in 1934, represents one of the most unique ecosystems in the world. The biological values of the park however depend on fresh water supplies, and considerably more than half of the 1,400,533 acres within the authorized boundaries is dependent upon the Big Cypress for its supply of fresh water.

A vital factor in the Big Cypress-Everglades ecosystem is the almost imperceptible slope of the land. This results in exceedingly slow drainage, which extends the "wet months" well beyond the period of actual rainfall. A water level change of only a few inches oftentimes affects thousands of acres, and can seriously disrupt the food chain on which the large animals in the park depend.

The Big Cypress Watershed serves as a natural water storage area, and supplements the man-made storage areas in conservation areas one, two, and three, that are considered vital for the protection of an adequate fresh water supply for south Florida.

Aside from its water supply benefits, Big Cypress is a highly significant resource in itself. The Big Cypress is a wilderness of sloughs, tree islands (or hammocks), and bay and cypress heads. Cypress dominates, and gives the area its name. Large portions of Big Cypress have so far experienced little man-made disturbance. Nearly all the wildlife species native to semitropical Florida are contained within the watershed. Big Cypress provides important feeding, nesting, and wintering areas, as well as a resting place for migrating birds. Acquisition of the Big Cypress Swamp would preserve important habitat for at least nine species of wildlife determined by the Secretary of the Interior to be threatened with extinction. To species that have far wider ranges, Big Cypress, along with the adjacent Everglades National Park, serves as a stronghold or retreat.

We urge the Congress to take early and favorable action to authorize the Big Cypress National Fresh Water Reserve, as proposed herein.

A draft of an environmental impact statement, prepared in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, was forwarded to your Committee during the 92d Congress, by letter dated February 4, 1972.

The Office of Management and Budget has advised that the enactment of the enclosed bill would be in accord with the Administration's program.

Sincerely yours,

ROGERS C. B. MORTON,
Secretary of the Interior.

Enclosures.

A BILL To authorize the acquisition of the Big Cypress National Fresh Water Reserve in the State of Florida, and for other purposes.

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

(a) the unique natural environment of the Big Cypress area of southwestern Florida should be protected from further development which would significantly and adversely affect its ecology;

(b) the Big Cypress is a fragile area, ecologically interlocked with Everglades National Park and the continued viability of Everglades National Park and certain of the estuarine fisheries of south Florida are directly dependent upon fresh water of adequate quality and volume from the Big Cypress area; and

(c) appropriate measures must be taken by the United States and the State of Florida to assure the conservation of fresh water from the Big Cypress area.

It is, accordingly, the purpose of this Act to provide for the protection of the Big Cypress area and for appropriate uses thereof through cooperative action by the Federal Government and the State of Florida.

SEC. 2. In order to effectuate the purpose of this Act the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to acquire by donation, purchase with donated or appropriated funds, transfer from any other Federal agency, or exchange, lands, waters, and interests therein within the area generally depicted on the map entitled "Boundary Map, Big Cypress National Fresh Water Reserve, Florida", numbered BC-91,001, and dated November 1971, which shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. The Secretary may from time to time make minor revisions in the boundaries of the area by publication of a revised map or other boundary description in the *Federal Register*, and he may acquire property within the revised boundaries in accordance with the provisions of this section: *Provided*, That the boundaries of the area may not encompass more than 522,000 acres of privately owned land. Property owned by the State of Florida or any political subdivision thereof may be acquired only by donation. Notwithstanding any other provision of law, Federal property within the boundaries of the area may, with the concurrence of the head of the administering agency, be transferred to the administrative jurisdiction of the Secretary for the purposes of this Act, without a transfer of funds.

SEC. 3. (a) The owner of improved property on the date of its acquisition by the Secretary may, as a condition of such acquisition, retain for himself and his heirs and assigns a right of use and occupancy of the improved property for noncommercial residential purposes for a definite term of not more than twenty-five years or, in lieu thereof, for a term ending at the death of the owner or the death of his spouse, whichever is later. The owner shall elect the term to be reserved. Unless this property is wholly or partially donated to the United States, the Secretary shall pay the owner the fair market value of the property on the date of acquisition less the fair market value on that date of the right retained by the owner. A right retained pursuant to this section shall be subject to termination by the Secretary upon his determination that it is being exercised in a manner inconsistent

with the purposes of this Act, and it shall terminate by operation of law upon the Secretary's notifying the holder of the right of such determination and tendering to him an amount equal to the fair market value of that portion of the right which remains unexpired.

(b) As used in this Act the term "improved property" means a detached, one-family dwelling, construction of which was begun before November 23, 1971, which is used for noncommercial residential purposes, together with not to exceed three acres of the land on which the dwelling is situated, such land being in the same ownership as the dwelling, together with any structures accessory to the dwelling which are situated on such land.

SEC. 4. The area within the boundaries depicted on the map referred to in section 2, or as such boundaries may be revised, shall be known as the Big Cypress National Fresh Water Reserve, and it shall be administered by the Secretary in accordance with the laws applicable to the National Park System, and in a manner consistent with the findings and purposes of this Act. The Secretary is authorized to enter into an agreement with the State of Florida, or any political subdivision thereof having jurisdiction over the lands, waters, and interests therein within the reserve, pursuant to which such State or political subdivision may agree to manage and administer any property acquired by the Secretary pursuant to this Act for the purpose of protecting the unique natural environment of the Big Cypress area. Any such agreement shall contain provisions which, as applied to the area within the reserve, will limit or control the use of the lands and waters therein for the purposes of motorized access, exploration for and extraction of oil, gas, and other minerals, grazing, draining or constructing works to alter the natural water courses, agriculture, hunting, fishing, and trapping, new construction of any kind, and such other uses as the Secretary determines must be limited or controlled in order to carry out the purpose of this Act; *Provided, however*, that the Secretary shall consult and cooperate with the Secretary of Transportation to assure that necessary transportation facilities shall be located within existing or reasonably expanded rights-of-way and constructed within the reserve in a manner consistent with the purposes of this Act.

SEC. 5. The Secretary shall permit hunting, fishing, and trapping on lands and waters under his jurisdiction within the reserve in accordance with the applicable laws of the United States and the State of Florida, except that he may designate zones where and periods when no hunting, fishing, or trapping may be permitted for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment. Except in emergencies, any regulations prescribing such restrictions shall be put into effect only after consultation with the appropriate State agency having jurisdiction over hunting, fishing, and trapping activities. Notwithstanding this section or any other provision of this Act, the Secretary may authorize members of the Miccosukee Tribe of Indians of Florida and members of the Seminole Tribe of Florida to continue their usual and customary use and occupancy of Federal lands and waters within the reserve, including hunting, fishing and trapping on a subsistence basis and traditional tribal ceremonials.

SEC. 6. Notwithstanding any other provision of law, before entering into any contract for the provision of revenue-producing visitor services, the Secretary shall provide those members of the Miccosukee and Seminole Indian Tribes who on January 1, 1972, were engaged in the provision of similar services, a reasonable opportunity to continue providing such services within the reserve in accordance with such terms and conditions as he may by agreement, hereby authorized, provide.

SEC. 7. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, but not to exceed \$156,000,000 for the acquisition of lands and interests therein.

BIG CYPRESS NATIONAL FRESH WATER RESERVE

[Estimated man-years of civilian employment and expenditures for the 1st 5 years of proposed new or expanded programs]

	19CY	19CY+1	19CY+2	19CY+3	19CY+4
Executive direction: permanent, total.....	2	2	2	2	2
Substantive:					
Permanent.....	4	7	9	10	
Seasonal.....	1	4	4	4	
Total, substantive.....	5	11	13	14	
Total, executive direction and substantive.....	2	7	13	15	16
Estimated expenditures:					
Personnel services.....	29,622	89,144	154,506	182,075	190,400
All other.....	17,384,478	17,293,656	17,275,194	17,340,825	17,180,700
Total.....	17,414,100	17,382,800	17,429,700	17,522,900	17,371,100
Estimated obligations:					
Land and property acquisition.....	17,000,000	17,000,000	17,000,000	17,000,000	17,000,000
Developments.....	363,000	181,000	150,000	181,000	20,000
Operations (management protection and main-tenance).....	51,100	201,800	279,700	341,900	351,100
Total.....	17,414,100	17,382,800	17,429,700	17,522,900	17,371,100

Calendar No. 1077

93d CONGRESS }
2d Session }

SENATE }

REPORT
No. 93-1128

ESTABLISHING THE BIG CYPRESS NATIONAL PRESERVE, FLORIDA

AUGUST 22, 1974.—Ordered to be printed

Mr. JACKSON, from the Committee on Interior and Insular Affairs,
submitted the following

REPORT

[To accompany H.R. 10088]

The Committee on Interior and Insular Affairs, to which was referred the bill (H.R. 10088) to establish the Big Cypress National Preserve in the State of Florida, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

PURPOSE OF THE BILL

The purpose of H.R. 10088, as amended, is to establish the Big Cypress National Preserve in the State of Florida. The proposed Preserve will protect a large portion of the Big Cypress Watershed, which is significant for its own natural values and critical to the survival of considerably more than half of the Nation's most famous subtropical environment—the Everglades National Park.

LOCATION AND DESCRIPTION OF THE AREA

A. The Big Cypress Watershed

Altogether, the Big Cypress Watershed consists of approximately 2,450 square miles of land located primarily in Collier, Monroe and Dade Counties in southern Florida. This massive area is a very flat expanse of land lying north of the Everglades National Park which slopes gently seaward at a rate of about two inches per mile. Because of this flatness any variation in the terrain—any depression or protrusion—alters the water flow and results in a significant change in the character of the covering vegetation. Similarly, any difference in

the water level—even a few inches—can affect thousands of acres of land.

Basically, the watershed can be divided into three subbasins. One, consisting of about 450 square miles of land, drains generally southeastwardly towards the eastern half of the Everglades National Park. Another, located on the western side of the watershed, if permitted to drain naturally, would flow slowly into the Gulf Coast estuaries and bays. The third which includes three-fifths of the entire watershed, is centrally located and drains in a southward direction through a large portion of the Everglades National Park into the Gulf of Mexico.

Water is the principal natural resource of this entire region. Any change in it can result in a significant change in the ecology of areas dependent on the flow. On the eastern side of the Big Cypress Watershed, for example, a large portion of the Everglades National Park was threatened because the wetlands to the north were being drained and developed. As a result, under the leadership of the former Director of the National Park Service, George B. Hartzog, Jr., negotiations were initiated with the Corps of Engineers and the State of Florida which resulted in formal agreements which resolved the dilemma by guaranteeing an adequate future water supply for that portion of the park.

In the western subbasin an extensive network of canals has been excavated and the development of residential, industrial and agricultural areas is well advanced. This canal system rapidly drains fresh water to the sea and has seriously altered the quality, quantity and seasonality of the flow which is delivered from the swamp into the estuaries. Such developments have adversely affected the normal biological processes that once occurred, but it is generally conceded that man's activities are so far advanced that restoration of the natural terrain is not reasonably practical.

The central subbasin, however, remains relatively undisturbed by man. Here, except for two canals, water feeds naturally from the Big Cypress Swamp through the western portion of the Everglades National Park. It is in this subbasin that the entire Big Cypress National Preserve will be located if authorized as recommended by the Committee on Interior and Insular Affairs.

B. Relationship of the Big Cypress Watershed to the Everglades National Park

Much of the water for the Everglades National Park comes from rainfall within its boundaries, and part of it comes from releases made from Lake Okeechobee, but the contiguous Big Cypress Swamp accounts for about 56 percent of the water entering the park from outside its boundaries. The total quantity of water entering the park is significant; however, the method of its delivery is equally important. Generally the heaviest rainfalls in the area come during the summer and early fall. The average rainfall totals 57 inches annually with as much as 85 percent of this occurring during the months of May through October. Much of this water is lost to evaporation and transpiration, but a large amount is stored in the extensive Big Cypress Marsh system which serves as a giant reservoir and control system.

As the drier months approach, the water moves slowly across the flat terrain and into the bays and estuaries and the higher elevations gradually begin to dry up. Unlike manmade water systems which are designed to capture water and accelerate its runoff, this natural system filters the water and permits natural biological processes to develop, mature, and nourish the fish and wildlife communities which are dependent upon it. Without this water and its natural drainage it is generally agreed that the Everglades National Park will change drastically.

C. The Big Cypress National Preserve

The proposed Big Cypress National Preserve is a large, complex, mostly undeveloped portion of the original watershed. Coupled with the contiguous northwestern portion of the Everglades National Park and its estuary, it is said to form a nearly complete hydrologic unit. Although the preserve is characteristic of the entire watershed in its natural state, it represents only three-eighths of the swamp area (more than 900 square miles). It is typically flat, like the other parts of the area, but there are some pools and sloughs which serve as water catchment areas during the dry months and there are numerous areas where higher elevations support vegetation that cannot tolerate frequent or constant flooding. Altogether the proposed preserve includes 570,000 acres of land—522,000 of which are presently in private ownership and 48,000 of which are publicly owned.

Some areas of the swamp are seldom flooded. Depending on the richness of the soil these higher grounds support slash pine, saw palmetto, cabbage palms and mixed hardwoods. Slight depressions in these pinelands, known as hardwood hammocks, like the transition zones in the swamp, consist of pines, cypress, magnolia and other trees typical of the forests of the Southeast. The bald cypress is found along with swamp hardwoods in the watershed areas which are frequently inundated, but between the pine flatlands and the cypress swamps there is a treeless area supporting mixed sedges and, in wetter areas, a sawgrass marsh occurs. Generally, only the sloughs—which are natural, wide, shallow depressions—cypress ponds, and manmade canals are relatively permanent water areas. During the dry season, these places become the retreats for all kinds of aquatic forms that depend upon water for survival.

As the fresh water drains seaward, the salty seawaters intrude into the estuaries which are dominated by coastal mangroves. Here, the fresh waters and the salty solutions are mixed by the constant tidal circulation into a nutrient rich, brackish solution which provides an excellent habitat for hundreds of species of aquatic organisms. These bay and estuarine zones are more productive than either the marsh above or the sea beyond. Because the natural flow of fresh water progresses slowly towards the sea it provides nearly perfect conditions for many shrimp, game fish, blue crabs, oysters and other life forms that require a brackish habitat for their reproduction and survival.

Naturally, anything that interferes with the natural flow of fresh water will radically alter this sensitive subtropical environment. Drainage works, roads, airport facilities, or any other construction activities which divert the water, or channel it, or cause it to recede will not only affect the significant fishery resources, but will ultimately

affect all forms of life in the region since the water level is the most significant factor affecting the sophisticated food chain that begins with plant life, the earliest forms of organic life in the swamp, and the fish and wildlife that are ultimately dependent upon them.

Although water is the principal resource of the Big Cypress ecosystem, the Big Cypress has many inherent values which warrant its protection and inclusion in the National Park System.

It is difficult to imagine an area with more outstanding scientific values than Big Cypress-Everglades ecosystem. Students of the evolution of life and biologists will find the resources of this area almost unequaled. It is equally important as a wildlife sanctuary. In addition to the thousands of migrating birds which utilize the area as a feeding, nesting and resting place, it provides the proper habitat for more than twenty animals whose status has been listed by the Secretary of Interior as rare, endangered, or otherwise in jeopardy.¹

Botanists will be interested in the wide variety of plant life and its relationship to the hydrologic and topographic features of the area. It is said to be the only area outside of the tropics where epiphytes are found in such abundance and variety—including seven species of orchids which are found nowhere else in the world.

Since the area included in the preserve is largely undeveloped at the present time and because it will be managed in a manner which will assure its return to the true wilderness character which once prevailed, it will offer many outdoor recreation opportunities to the visiting public. During significant portions of the year, primitive

¹ The Draft Environmental Impact Statement submitted to the Committee in connection with its hearings during the 92d Congress included the following information:

"Rare and Endangered Species.—Twenty-one animals whose status is rare, endangered or otherwise in jeopardy are found in the area and have been listed in the Bureau of Sport Fisheries and Wildlife "Red Book." (Ref. 8.) Although several species are found only in the estuaries, they depend on resources originating in Big Cypress Swamp.

Endangered species or subspecies are those whose prospects of survival and reproduction in the wild are in immediate jeopardy and unless a determined effort is made to protect them, they will probably become extinct. Nine species and subspecies found in or are dependent on Big Cypress Watershed were designated and included in a list in the Federal Register, October 13, 1971, as follows:

Felis concolor coryi (Florida Panther)

Trichechus manatus latirostris (Florida Manatee)

Alligator mississippiensis (American Alligator)

Pelecanus occidentalis (Brown Pelican)

Rostrhamus sociabilis plumbeus (Florida Everglade Kite)

Haliaeetus l. leucocephalus (Southern Bald Eagle)

Ammospiza mirabilis (Cape Sable Sparrow)

Falco peregrinus tundrius (Arctic Peregrine Falcon)

Dendrocopos borealis hystomus (Southern Red-cockaded Woodpecker)

Rare species or subspecies are those not presently threatened with extinction, but are vulnerable because they exist in such small numbers or are so restricted throughout their range that they may become endangered if their population is reduced or their environment worsens. Rare species dependent on Big Cypress follows:

Ardea o. occidentalis (Florida Great White Heron)

Grus canadensis pratensis (Florida Sandhill Crane)

Peripheral species or subspecies are animals whose occurrence in the United States is at the edge of their natural range. Should habitat be reduced in this country, these animals may become rare or endangered in the United States but not within their total range. The following animals of the Big Cypress are in this category:

Ajaia ajaja (Roseate Spoonbill)

Mycteria americana (Wood Ibis)

Dichromonaissa r. rugescens (Eastern Reddish Egret)

Pandion haliaetus carolinensis (American Osprey)

Buteo brachyurus (Short-tailed Hawk)

Chelonnia mydas (Green Turtle)

Coccycuza minor mynardi (Florida Mangrove Cuckoo)

Virgo altiloqua barbatulus (Cuban Black-whiskered Vireo)

Animals of undetermined status are those which have been suggested for designation as rare or endangered but present information is inadequate for positive designation. In the Big Cypress the two following animals are of undetermined status:

Muscula vison evergladensis (Everglades Mink)

Neofiber alleni (Round-tailed Muskrat)."

camping, hiking, and sightseeing will be popular activities. Naturalists and wildlife observers will come to see the flora and fauna in their natural setting and hunters and fishermen will continue to find the area popular. While the use of all terrain vehicles must be carefully regulated by the Secretary to protect the natural, wildlife and wilderness values of the preserve, the bill does not prohibit their use along designated road and trails.

Visitation within the Big Cypress Preserve is expected to reach 1.4 million visitors annually by the end of the fifth year after authorization. Comparable visitation rates at the Everglades National Park indicate that more than 1.7 million visits were recorded at the park in 1972—almost three times the number of visitors in 1962. While some of those who visit the area are from local communities, the majority of the visits come from outside the State.

CRITERIA FOR A NATIONAL PRESERVE

In the past, the Congress has authorized and established many areas for inclusion in the national park system: national parks, national monuments, national recreation areas, national historic sites, and others. A systematic effort has been made to establish standards or criteria for each of these different categories in an effort to maintain the integrity of the values which each attempts to serve. The description of the Big Cypress area as a national preserve will establish a new category which can serve as a feasible and desirable vehicle for the consideration of other nationally significant natural areas which differ from the qualities attributed to national parks and national recreation areas. The committee chose to call the area a preserve rather than a reserve, feeling that such distinction may be important. Reserve refers to stock—a commodity held for future use. Preserve refers more definitively to the keeping or safeguarding of something basically protected and perpetuated for an intended or stated purpose, as with the specific objectives for Big Cypress provided by this legislation.

In general, national preserves will be areas of land and/or water which may vary in size, but which possess within their boundaries exceptional values or qualities illustrating the natural heritage of the Nation. Such areas would often be characterized by significant scientific values, including, but not limited to, ecological communities illustrating the process of succession, natural phenomena, or climax communities. In addition they could be characterized by a habitat supporting a vanishing, rare or restricted species; a relict flora or fauna persisting from an earlier period; or large concentrations of wildlife species. Other scientific, geologic, geomorphic or topographic values might also contribute to the purposes for which an area might be recognized.

The principal thrust of these areas should be the preservation of the natural values which they contain. They might differ, in some respects, from national parks and monuments insofar as administrative policies are concerned. Hunting, for example, subject to reasonable regulation by the Secretary, could be permitted to the extent compatible with the purposes for which the area is established. Other activities, including the extraction of minerals, oil, and gas could be permitted if such

activities could be conducted without jeopardizing the natural values which the area seeks to preserve. Management of the watershed resources might also be appropriate if that would enhance the value of the preserve as it serves other needs.

All management activities within these areas should be directed toward maintaining the natural and scientific values of the area, including the preservation of the flora and fauna and the reestablishment of the indigenous plant and animal life, if possible. Areas where scientific discoveries or historical events took place would contribute to the values of the preserve and should be managed in a manner which will maximize both the natural and historical values.

National preserves may accommodate significant recreational uses without impairing the natural values, but such public use and enjoyment would be limited to activities where, or periods when, such human visitation would not interfere with or disrupt the values which the area is created to preserve.

Construction of physical facilities of any kind would be minimized and would be limited to those developments which are essential to the preservation and management of the area and the safety of the public. To the extent such facilities are deemed necessary and appropriate they would be constructed in a manner which would minimize their impact on the environment and their intrusion on the natural setting.

INTEREST OF THE STATE OF FLORIDA

Few States have shown as much interest in helping to protect their natural treasures as the State of Florida. In 1934, when the Everglades National Park was authorized, the State donated nearly 900,000 acres of land for the park and was instrumental in securing the donation of an additional 35,000 acres of private lands. In addition, it donated \$2 million to the United States to acquire additional private lands within the park boundaries. Except for some 4,400 acres acquired from the Farmers Home Administration because of farm foreclosures, no Federal funds were used to purchase any of these parklands until 1966. Since that time, the Congress has authorized and appropriated \$24 million to purchase about 100,000 acres of land within the park which still remains in private ownership.

The State's interest has not diminished in the decades that have followed. Recently, it agreed to acquire a large portion of the Fakahatchee Strand which is a 20-30 mile fresh water slough located in the central subbasin of the watershed to the west of the proposed Big Cypress National Preserve and it acquired more than 4,000 acres of coastal land south of Marco Island. In addition, it has taken legal action to prevent the drainage of the Gum Slough area and has implemented strict regulations on drilling for oil and gas in the Big Cypress area.

Most importantly, however, the State has shown its willingness to co-operate with the Federal Government in preserving this important portion of the Big Cypress Watershed by declaring the lands within the proposed preserve as an "area of critical State concern", which has the effect of subjecting it to restrictive environmental controls. In addition, by action of the State Legislature, and with the approval

of the Governor, the State has made \$40 million available this year to begin the purchase of lands within the proposed Big Cypress Preserve. Under the terms of that Act, the Governor and the cabinet are empowered to acquire lands and "to donate and convey title in the land and water areas so acquired or currently owned by the State to the government of the United States or its agency together with any unencumbered funds remaining from the forty million dollars set aside for acquisition of the area proposed. . . ."

COMMITTEE AMENDMENTS

The Committee amended H.R. 10088 by deleting the legislative taking provision contained in the House-passed bill, and instead authorized the Secretary of the Interior to acquire the land under the normal acquisition procedures but stating that Congress expected the acquisition to be completed within six years.

The Committee also modified the acquisition authority by prohibiting condemnation of all improved residential and commercial property, including mineral estate, but not including limestone, unless such property is threatened with or subject to a use detrimental to the Preserve.

In addition, the Committee adopted an amendment recommended by the Department of the Interior which would provide for two exceptions to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. These provisions would waive the need for appraisal and the opportunity for owners to accompany appraisers for unimproved property of forty acres or less.

There are approximately 35,000 small landowners within the Big Cypress area which would be subject to acquisition under H.R. 10088. In addition to permitting the Secretary to accept property which the State of Florida has acquired prior to the effective date of the Act. This amendment would relieve the Secretary of certain duties required of him under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. Among other things, that Act requires that properties must be appraised, and once the appraisal is reviewed and approved by the acquiring agency, the amount offered as just compensation for the lands being acquired may not be less than their appraised fair market value. In order to expedite the acquisition of the many properties in the Big Cypress area this amendment would permit the Secretary to accept an offer of the sale without the necessity of having the property appraised. The Relocation Act, in addition, requires that the landowners be afforded the opportunity to accompany the Government's appraiser during the appraiser's inspection of the property. Because of the tremendous number of small landowners in the area, many of whom do not reside even within the State of Florida, it would be extremely difficult to comply with this requirement and attempts at compliance could materially delay the completion of the land acquisition program. Accordingly, the amendment also absolves the Secretary from this requirement with respect to unimproved properties of 40 acres or less. Properties which are improved will generally involve landowners who reside in the area, and accordingly, difficulties with this group are not anticipated.

The Department recommended two additional provisions to the proviso: that the Secretary (1) may accept donations of property acquired by the State of Florida prior to the effective date of this Act, with respect to which all payments and assistance and assurances have not been provided in accordance with sections 210 and 305 of that Act, (2) may pay the State's share of payments and assistance and provide assistance and assurances otherwise required of the State under sections 210 and 305 of that Act, with respect to properties acquired by the State of Florida prior to the effective date of this Act.

The Committee did not accept this part of the proposed amendment. The Uniform Relocation Assistance Act requires States to provide assistance in moving and replacement housing whenever Federal funds are used in the acquisition of land or the acquisition is in furtherance of a Federal purpose.

The State expenditures in the Big Cypress area are not contingent upon Congressional enactment of this legislation, are pursuant to an approved State plan, and have been fully authorized. The Committee believes that the State purchase and donation does not fall within the scope of the Relocation Act and that the addition of his language would not only expand the coverage of the Relocation Act but would inhibit future State actions related to conservation. The Cypress area has been declared to be an area of Critical State Concern and the \$40 million will be spent whether or not this legislation is enacted.

The Committee adopted an amendment to section 3 to guarantee that applicable State or local regulations should be complied with in connection with the authority of the Secretary to terminate right of occupancy when he determines that it is being exercised in a manner inconsistent with the purposes of the Act.

The term "improved property" has been revised. The new definition has the effect not only of exempting all commercial and residential properties, as of November 23, 1971, from the taking, but it also permits owners of commercial as well as residential property and improved property used for agricultural and religious purposes to retain 25-year or life occupancy rights in the event of acquisition. House-passed bill only permits such rights to residential property owners.

The Committee also strengthened the House language by granting the Miccosukee and Seminole Tribes a right of first refusal on any concession contract in the preserve. The amendment also provides a procedure to be followed should both tribes wish to assume the contract. Language was also included to clarify the fact that the traditional rights of these tribes are protected within the proposed Preserve.

SECTION-BY-SECTION ANALYSIS OF H.R. 10088

Section 1 establishes the Big Cypress National Preserve and defines the area included therein by reference to a boundary map. (see p. 4). The bill requires a detailed boundary description to be prepared and published in the Federal Register. Altogether (including approximately 522,000 of privately owned lands and 48,000 acres of publicly held lands), the preserve would total 570,000 acres of land and water. The Secretary is authorized to acquire the lands within the preserve by purchase, donation, exchange, or transfer from another Federal

agency, but lands owned by the State of Florida or any of its subdivisions may be acquired only by donation. However, condemnation of all improved residential and commercial property, including mineral estate, but not including limestone, is prohibited unless such property is threatened with or subject to a use detrimental to the Preserve.

This section also contains two exceptions to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, which would waive the need for appraisal and the opportunity for owners to accompany appraisers for unimproved property of forty acres or less.

Section 2 recognizes the efforts of the State of Florida in the preservation of the Big Cypress area, directs the Secretary to expedite acquisition of the land and contains a Congressional expectation that the acquisition should be completed within six years from the date of enactment.

Section 3 permits an owner of an improved property to retain a right of use and occupancy for a term of 25 years or lifetime, as the owner elects. Any owner retaining such a right would be entitled to receive the fair market value of his property at the time of acquisition less the value of the right retained. The section also requires the Secretary to consider applicable State or local regulations in connection with his authority to terminate right of occupancy when he determines that it is being exercised in a manner inconsistent with the purposes of the Act.

Subsection (b) defines "improved property" and subsection (c) provides that owners who take advantage of this provision automatically waive any relocation assistance benefits.

Section 4 provides that the area shall be administered so as to preserve its natural values in accordance with the general authorities applicable to other units of the National Park System. As a designated unit of the National Park System, it is to be administered, managed and maintained in perpetuity by the Secretary through the National Park Service. In administering the area, the legislation directs the Secretary to develop and publish appropriate regulations to limit or control specified activities on Federal lands, but it requires him to consult and cooperate with the Secretary of Transportation with respect to rights-of-way within the preserve. If Interstate 75 utilizes the Tamiami Trail right-of-way it is to be a limited access roadway designed and constructed in a manner which will enhance the values of the preserve and cause the least possible adverse environmental impact.

Section 5 requires the Secretary to permit hunting, fishing and trapping within the preserve in accordance with State and Federal laws, but it allows him to designate zones where, or periods when, no hunting, fishing, trapping or entry may be permitted for reasons of public safety, administration, floral and faunal protection and management, or public use and enjoyment. Insofar as hunting, fishing and trapping are concerned, he is required to consult with the State before promulgating such regulations, except in emergencies. The Miccosukee and Seminole Indians have traditionally used much of this area for hunting, fishing and ceremonial purposes. They are to be permitted to continue such usual and customary uses subject to

such reasonable rules and regulations as the Secretary may promulgate. In addition they are to be permitted to continue their present residential occupancy of lands within the preserve along the Tamiami Trail which they have occupied for a number of years. The preserve boundaries were drawn so as not to include any reservation lands, but the Miccosukees hold a 50-year permit to a strip of land 5 miles long by 500 feet wide in the Everglades National Park and have customarily occupied certain lands along the Tamiami Trail.

Section 6 is designed to give members of the Miccosukee and Seminole Tribes a right of first refusal on any concession contract in the preserve.

Section 7 requires the Secretary to review the preserve under the terms of the Wilderness Act and to report his recommendations concerning the suitability of including any portion of it in the Wilderness System.

Section 8 authorizes the appropriation of \$116,000,000 for land acquisition and \$900,000 for development and stipulates that any funds donated by the State of Florida to the United States pursuant to chapter 73-131 of the Florida statutes must be used for the acquisition of lands and interests within the Preserve.

COST

It is estimated that the total land costs for this project could reach \$156 million. Of this amount, the State of Florida has agreed to donate lands and/or funds equivalent to \$40 million, thus bringing the Federal share down to the \$116 million recommended in the bill.

Development costs will be nominal and are limited by the terms of the bill to no more than \$900,000. Since the area is to be maintained in its natural state, the construction of facilities, if any, within the preserve will be limited to those which are deemed essential to the proper management and administration of the area. Naturally, any such construction should be accomplished in a manner which will constitute no adverse environmental impact on the area which the Congress is seeking to preserve.

LEGISLATIVE HISTORY

The Parks and Recreation Subcommittee held open hearings on the Big Cypress project in the 92d Congress and again in the 93rd Congress on March 21 and 22, 1974. Members of the Committee and staff have visited the area and made an intensive aerial survey of the region to see its relationship with the Everglades National Park and other adjacent lands and waters.

COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs in open executive mark-up session on August 14, 1974, recommended that H.R. 10088, as amended, be favorably reported to the Senate.

TABULATION OF VOTES

In accordance with section 133(b) of the Legislative Reorganization Act of 1946, as amended, the following is a tabulation of votes taken during consideration of H.R. 10088 by the Committee on Interior and Insular Affairs:

A roll call vote was taken on an amendment to reduce the sum authorized in the House-passed bill for acquisition of land from \$116,000,000 to \$40,000,000.00. The vote was as follows:

Jackson—No	Fannin—Yea
Bible—Yea	Hansen—Yea
Church—No	Hatfield—No
Metcalf—No	Buckley—Absent
Johnston—No	McClure—Yea
Abourezk—No	Bartlett—Yea
Haskell—No	
Nelson—No	
Metzenbaum—No	

The amendment failed to carry by a vote of 9 to 5.

A roll call vote was taken on the reporting of H.R. 10088, as amended, favorably to the Senate as follows:

Jackson—Yea	Fannin—No
Bible—Yea	Hansen—No
Church—Yea	Hatfield—Yea
Metcalf—Yea	Buckley—Absent
Johnston—Yea	McClure—No
Abourezk—Yea	Bartlett—No
Haskell—Present	
Nelson—Yea	
Metzenbaum—Yea	

The bill was ordered favorably reported by a vote of 9 to 4, with one voting "present".

EXECUTIVE COMMUNICATION

An Executive Communication from the Department of the Interior submitting and recommending legislation to authorize the acquisition of the Big Cypress National Fresh Water Reserve is set forth in full as follows:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., February 15, 1973.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a draft of a bill to authorize the acquisition of the Big Cypress National Fresh Water Reserve in the State of Florida, and for other purposes, to which the President refers

in his Environment and Natural Resources State of the Union Message transmitted to you today.

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

The bill authorizes the Secretary of the Interior to acquire lands, waters, and interests therein within an area depicted on a map on file with the Department. The area to be acquired, consisting of not to exceed 522,000 acres of private land and approximately 48,000 acres of publicly owned land, is to be known as the Big Cypress National Fresh Water Reserve.

The reserve is to be administered by the Secretary of the Interior in accordance with the laws applicable to the National Park System. However, the bill authorizes the Secretary to enter into an agreement with the State of Florida or a local government, pursuant to which it may manage and administer the lands acquired for the reserve, subject to the provisions and limitations of the bill. The Secretary is directed to permit hunting, fishing, and trapping within the reserve in accordance with applicable State and Federal laws. Section 5 of the bill authorizes the appropriation of such sums as may be necessary, but not to exceed \$156 million for the acquisition of lands and interests therein.

Everglades National Park, authorized in 1934, represents one of the most unique ecosystems in the world. The biological values of the park however depend on fresh water supplies, and considerably more than half of the 1,400,533 acres within the authorized boundaries is dependent upon the Big Cypress for its supply of fresh water.

A vital factor in the Big Cypress-Everglades ecosystem is the almost imperceptible slope of the land. This results in exceedingly slow drainage, which extends the "wet months" well beyond the period of actual rainfall. A water level change of only a few inches oftentimes affects thousands of acres, and can seriously disrupt the food chain on which the larger animals in the park depend.

The Big Cypress Watershed serves as a natural water storage area, and supplements the man-made storage areas in conservation areas one, two, and three, that are considered vital for the protection of an adequate fresh water supply for south Florida.

Aside from its water supply benefits, Big Cypress is a highly significant resource in itself. The Big Cypress is a wilderness of sloughs, tree islands (or hammocks), and bay and cypress heads. Cypress dominates, and gives the area its name. Large portions of Big Cypress have so far experienced little man-made disturbance. Nearly all the wildlife species native to semitropical Florida are contained within the watershed. Big Cypress provides important feeding, nesting, and wintering areas, as well as a resting place for migrating birds. Acquisition of the Big Cypress Swamp would preserve important habitat for at least nine species of wildlife determined by the Secretary of the Interior to be threatened with extinction. To species that have far wider ranges, Big Cypress, along with the adjacent Everglades National Park, serves as a stronghold or retreat.

We urge the Congress to take early and favorable action to authorize the Big Cypress National Fresh Water Reserve, as proposed herein.

A draft of an environmental impact statement, prepared in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, was forwarded to your Committee during the 92d Congress, by letter dated February 4, 1972.

The Office of Management and Budget has advised that the enactment of the enclosed bill would be in accord with the Administration's program.

Sincerely yours,

ROGERS C. B. MORTON,
Secretary of the Interior.

A BILL To authorize the acquisition of the Big Cypress National Fresh Water Reserve in the State of Florida, and for other purposes

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

(a) the unique natural environment of the Big Cypress area of southwestern Florida should be protected from further development which would significantly and adversely affect its ecology;

(b) the Big Cypress is a fragile area, ecologically interlocked with Everglades National Park and the continued viability of Everglades National Park and certain of the estuarine fisheries of south Florida are directly dependent upon fresh water of adequate quality and volume for the Big Cypress area; and

(c) appropriate measures must be taken by the United States and the State of Florida to assure the conservation of fresh water from the Big Cypress area.

It is, accordingly, the purpose of this Act to provide for the protection of the Big Cypress area and for appropriate uses thereof through cooperative action by the Federal Government and the State of Florida.

Sec. 2. In order to effectuate the purpose of this Act the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to acquire by donation, purchase with donated or appropriated funds, transfer from any other Federal agency, or exchange, lands, waters, and interests therein within the area generally depicted on the map entitled "Boundary Map, Big Cypress National Fresh Water Reserve, Florida", numbered BC-91-001, and dated November 1971, which shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. The Secretary may from time to time make minor revisions in the boundaries of the area by publication of a revised map or other boundary description in the *Federal Register*, and he may acquire property within the revised boundaries in accordance with the provisions of this section: *Provided*, That the boundaries of the area may not encompass more than 522,000 acres of privately owned land. Property owned by the State of Florida or any political subdivision thereof may be acquired only by donation. Notwithstanding any other provision of law, Federal property within the boundaries of the area may, with the concurrence of the head of the administering agency, be transferred to the administrative jurisdiction

of the Secretary for the purposes of this Act, without a transfer of funds.

SEC. 3. (a) The owner of improved property on the date of its acquisition by the Secretary may, as a condition of such acquisition, retain for himself and his heirs and assigns a right of use and occupancy of the improved property for noncommercial residential purposes for a definite term of not more than twenty-five years or, in lieu thereof, for a term ending at the death of the owner or the death of his spouse, whichever is later. The owner shall elect the term to be reserved. Unless this property is wholly or partially donated to the United States, the Secretary shall pay the owner the fair market value of the property on the date of acquisition less the fair market value on that date of the right retained by the owner. A right retained pursuant to this section shall be subject to termination by the Secretary upon his determination that it is being exercised in a manner inconsistent with the purposes of this Act, and it shall terminate by operation of law upon the Secretary's notifying the holder of the right of such determination and tendering to him an amount equal to the fair market value of that portion of the right which remains unexpired.

(b) As used in this Act the term "improved property" means a detached, one-family dwelling, construction of which was begun before November 23, 1971, which is used for noncommercial residential purposes, together with not to exceed three acres of the land on which the dwelling is situated, such land being in the same ownership as the dwelling, together with any structures accessory to the dwelling which are situated on such land.

SEC. 4. The area within the boundaries depicted on the map referred to in section 2, or as such boundaries may be revised, shall be known as the Big Cypress National Fresh Water Reserve, and it shall be administered by the Secretary in accordance with the laws applicable to the National Park System, and in a manner consistent with the findings and purposes of this Act. The Secretary is authorized to enter into an agreement with the State of Florida, or any political subdivision thereof having jurisdiction over the lands, waters, and interests therein within the reserve, pursuant to which such State or political subdivision may agree to manage and administer any property acquired by the Secretary pursuant to this Act for the purpose of protecting the unique natural environment of the Big Cypress area. Any such agreement shall contain provisions which, as applied to the area within the reserve, will limit or control the use of the lands and waters therein for the purposes of motorized access, exploration for and extraction of oil, gas, and other minerals, grazing, draining or constructing works to alter the natural water courses, agriculture, hunting, fishing, and trapping, new construction of any kind, and such other uses as the Secretary determines must be limited or controlled in order to carry out the purpose of this Act; *Provided, however,* That the Secretary shall consult and cooperate with the Secretary of Transportation to assure that necessary transportation facilities shall be located within existing or reasonably expanded rights-of-way and constructed within the reserve in a manner consistent with the purposes of this Act.

SEC. 5. The Secretary shall permit hunting, fishing, and trapping on lands and waters under his jurisdiction within the reserve in accordance with the applicable laws of the United States and the State of Florida, except that he may designate zones where and periods when no hunting, fishing, or trapping may be permitted for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment. Except in emergencies, any regulations prescribing such restrictions shall be put into effect only after consultation with the appropriate State agency having jurisdiction over hunting, fishing, and trapping activities. Notwithstanding this section or any other provision of this Act, the Secretary may authorize members of the Miccosukee Tribe of Indians of Florida and members of the Seminole Tribe of Florida to continue their usual and customary use and occupancy of Federal lands and waters within the reserve, including hunting, fishing and trapping on a subsistence basis and traditional tribal ceremonials.

SEC. 6. Notwithstanding any other provision of law, before entering into any contract for the provision of revenue-producing visitor services, the Secretary shall provide those members of the Miccosukee and Seminole Indian Tribes who on January 1, 1972, were engaged in the provision of similar services, a reasonable opportunity to continue providing such services within the reserve in accordance with such terms and conditions as he may by agreement, hereby authorized, provide.

SEC. 7. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, but not to exceed \$156,000,000 for the acquisition of lands and interests therein.

MINORITY VIEWS

We feel the purpose of H.R. 10088, to establish the Big Cypress National Preserve in the State of Florida, is a noble one for it would preserve and protect a large portion of the Big Cypress watershed. This serves as a natural water storage area which is vital for an adequate fresh water supply for South Florida. We do have, however, two major objections to the bill as reported. First, the land acreage is excessive. The bill calls for acquisition of approximately 570,000 acres, of which 522,000 are private and 48,000 are public ownership. There are some 35,000 land owners involved. We believe the purpose of the Act could be accomplished by the acquisition of fewer acres. Second, we are concerned about the total authorization which will reach a \$156 million—\$900,000 for development and \$116 million for acquisition. The amendment offered by the Senator from Louisiana, Senator Johnston, to reduce the authorization for acquisition of land from \$116 million to \$40 million was appropriate. Had the amendment been adopted, we believe a commensurate reduction in the total acreage would have been in order.

PAUL FANNIN.
CLIFFORD P. HANSEN.
JAMES L. BUCKLEY.
JAMES A. McCLOURE.
DEWEY F. BARTLETT.

(16)



Ninety-third Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the twenty-first day of January,
one thousand nine hundred and seventy-four*

An Act

To establish the Big Cypress National Preserve in the State of Florida, and
for other purposes.

*Be it enacted by the Senate and House of Representatives of the
United States of America in Congress assembled, That (a) in order
to assure the preservation, conservation, and protection of the natural,
scenic, hydrologic, floral and faunal, and recreational values of the
Big Cypress Watershed in the State of Florida and to provide for
the enhancement and public enjoyment thereof, the Big Cypress
National Preserve is hereby established.*

(b) The Big Cypress National Preserve (hereafter referred to as
the "preserve") shall comprise the area generally depicted on the map
entitled "Big Cypress National Preserve", dated November 1971 and
numbered BC-91,001, which shall be on file and available for public
inspection in the Offices of the National Park Service, Department of
the Interior, Washington, District of Columbia, and shall be filed
with appropriate offices of Collier, Monroe, and Dade Counties in the
State of Florida. The Secretary of the Interior (hereafter referred to
as the "Secretary") shall, as soon as practicable, publish a detailed
description of the boundaries of the preserve in the Federal Register
which shall include not more than five hundred and seventy thousand
acres of land and water.

(c) The Secretary is authorized to acquire by donation, purchase
with donated or appropriated funds, transfer from any other Federal
agency, or exchange, any lands, waters, or interests therein which are
located within the boundaries of the preserve: *Provided*, That any
lands owned or acquired by the State of Florida, or any of its sub-
divisions, may be acquired by donation only: *Provided further*, That
no Federal funds shall be appropriated until the Governor of Florida
executes an agreement on behalf of the State which (i) provides for
the transfer to the United States of all lands within the preserve pre-
viously owned or acquired by the State and (ii) provides for the dona-
tion to the United States of all lands acquired by the State within the
preserve pursuant to the provision of "the Big Cypress Conservation
Act of 1973" (Chapter 73-131 of the Florida Statutes) or provides for
the donation to the United States of any remaining moneys appro-
priated pursuant to such Act for the purchase of lands within the pre-
serve. No improved property, as defined by this Act, nor oil and gas
rights, shall be acquired without the consent of the owner unless the
Secretary, in his judgment, determines that such property is subject
to, or threatened with, uses which are, or would be, detrimental to the
purposes of the preserve. The Secretary may, if he determines that the
acquisition of any other subsurface estate is not needed for the pur-
poses of the preserve, exclude such interest in acquiring any lands
within the preserve. Notwithstanding the provisions of section 301 of
the Uniform Relocation Assistance and Real Property Acquisition
Policies Act of 1970 (84 Stat. 1894, 1904) the Secretary (i) may eval-
uate any offer to sell land within the preserve by any landowner and
may, in his discretion, accept any offer not in excess of \$10,000 without
an appraisal and (ii) may direct an appraisal to be made of any unim-
proved property within the preserve without notice to the owner or
owners thereof. Notwithstanding any other provision of law, any fed-
erally owned lands within the preserve shall, with the concurrence
of the head of the administering agency, be transferred to the admin-
istrative jurisdiction of the Secretary for the purposes of this Act,
without transfer of funds.

SEC. 2. (a) In recognition of the efforts of the State of Florida in the preservation of the area, through the enactment of chapter 73-131 of the Florida statutes, "The Big Cypress Conservation Act of 1973", the Secretary is directed to proceed as expeditiously as possible to acquire the lands and interests in lands necessary to achieve the purposes of this Act.

(b) Within one year after the date of the enactment of this Act, the Secretary shall submit, in writing, to the Committee on Interior and Insular Affairs and to the Committees on Appropriations of the United States Congress a detailed plan which shall indicate:

(i) the lands and areas which he deems essential to the protection and public enjoyment of this preserve,

(ii) the lands which he has previously acquired by purchase, donation, exchange or transfer for administration for the purpose of this preserve, and

(iii) the annual acquisition program (including the level of funding) which he recommends for the ensuing five fiscal years.

(c) It is the express intent of the Congress that the Secretary should substantially complete the land acquisition program contemplated by this Act within six years after the date of its enactment.

SEC. 3. (a) The owner of an improved property on the date of its acquisition by the Secretary may, as a condition of such acquisition, retain for himself and his heirs and assigns a right of use and occupancy of the improved property for a definite term of not more than twenty-five years or, in lieu thereof, for a term ending at the death of the owner or the death of his spouse, whichever is later. The owner shall elect the term to be reserved. Unless this property is wholly or partially donated to the United States, the Secretary shall pay the owner the fair market value of the property on the date of acquisition less the fair market value, on that date, of the right retained by the owner. A right retained pursuant to this section shall be subject to termination by the Secretary upon his determination that it is being exercised in a manner inconsistent with the purposes of this Act, which shall include the exercise of such right in violation of any applicable State or local laws and ordinances, and it shall terminate by operation of law upon the Secretary's notifying the holder of the right of such determination and tendering to him an amount equal to the fair market value of that portion of the right which remains unexpired.

(b) As used in this Act, the term "improved property" means:

(i) a detached, one family dwelling, construction of which was begun before November 23, 1971, which is used for noncommercial residential purposes, together with not to exceed three acres of land on which the dwelling is situated and such additional lands as the Secretary deems reasonably necessary for access thereto, such land being in the same ownership as the dwelling, and together with any structures accessory to the dwelling which are situated on such lands and

(ii) any other building, construction of which was begun before November 23, 1971, which was constructed and is used in accordance with all applicable State and local laws and ordinances, together with as much of the land on which the building is situated, such land being in the same ownership as the building, as the Secretary shall designate to be reasonably necessary for the continued enjoyment and use of the building in the same manner and to the same extent as existed in November 23, 1971, together with any structures accessory to the building which are situated on the lands so designated. In making such designation

the Secretary shall take into account the manner of use in which the building, accessory structures, and lands were customarily enjoyed prior to November 23, 1971.

(c) Whenever an owner of property elects to retain a right of use and occupancy as provided in this section, such owner shall be deemed to have waived any benefits or rights accruing 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 such sections such owner shall not be considered a displaced person as defined in section 101(6) of such Act.

SEC. 4. (a) The area within the boundaries depicted on the map referred to in section 1 shall be known as the Big Cypress National Preserve. Such lands shall be administered by the Secretary as a unit of the National Park System in a manner which will assure their natural and ecological integrity in perpetuity in accordance with the provisions of this Act and with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4), as amended and supplemented.

(b) In administering the preserve, the Secretary shall develop and publish in the Federal Register such rules and regulations as he deems necessary and appropriate to limit or control the use of Federal lands and waters with respect to:

- (1) motorized vehicles,
- (2) exploration for and extraction of oil, gas, and other minerals,
- (3) grazing,
- (4) draining or constructing of works or structures which alter the natural water courses,
- (5) agriculture,
- (6) hunting, fishing, and trapping,
- (7) new construction of any kind, and
- (8) such other uses as the Secretary determines must be limited or controlled in order to carry out the purposes of this Act: *Provided*, That the Secretary shall consult and cooperate with the Secretary of Transportation to assure that necessary transportation facilities shall be located within existing or reasonably expanded rights-of-way and constructed within the reserve in a manner consistent with the purposes of this Act.

SEC. 5. The Secretary shall permit hunting, fishing, and trapping on lands and waters under his jurisdiction within the preserve in accordance with the applicable laws of the United States and the State of Florida, except that he may designate zones where and periods when no hunting, fishing, trapping, or entry may be permitted for reasons of public safety, administration, floral and faunal protection and management, or public use and enjoyment. Except in emergencies, any regulations prescribing such restrictions relating to hunting, fishing, or trapping shall be put into effect only after consultation with the appropriate State agency having jurisdiction over hunting, fishing, and trapping activities. Notwithstanding this section or any other provision of this Act, members of the Miccosukee Tribe of Indians of Florida and members of the Seminole Tribe of Florida shall be permitted, subject to reasonable regulations established by the Secretary, to continue their usual and customary use and occupancy of Federal or federally acquired lands and waters within the preserve, including hunting, fishing, and trapping on a subsistence basis and traditional tribal ceremonials.

SEC. 6. Notwithstanding any other provision of law, before entering into any contract for the provision of revenue producing visitor services,

(i) the Secretary shall offer those members of the Miccosukee and Seminole Indian Tribes who, on January 1, 1972, were engaged in the provision of similar services, a right of first refusal to continue providing such services within the preserve subject to such terms and conditions as he may deem appropriate, and

(ii) before entering into any contract or agreement to provide new revenue-producing visitor services within the preserve, the Secretary shall offer to the Miccosukee Tribe of Indians of Florida and the Seminole Tribe of Florida the right of first refusal to provide such services, the right to be open for a period of ninety days. Should both Tribes respond with proposals that satisfy the terms and conditions established by the Secretary, the Secretary may allow the Tribes an additional period of ninety days in which to enter into an inter-Tribal cooperative agreement to provide such visitor services, but if neither tribe responds with proposals that satisfy the terms and conditions established by the Secretary, then the Secretary shall provide such visitor services in accordance with the Act of October 9, 1965 (79 Stat. 969, 16 U.S.C. 20). No such agreement may be assigned or otherwise transferred without the consent of the Secretary.

SEC. 7. Within five years from the date of the enactment of this Act, the Secretary shall review the area within the preserve 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 preserve 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.

SEC. 8. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, but not to exceed \$116,000,000 for the acquisition of lands and interests in lands and not to exceed \$900,000 for development. Any funds donated to the United States by the State of Florida pursuant to chapter 73-131 of the Florida statutes shall be used solely for the acquisition of lands and interests in land within the preserve.

Speaker of the House of Representatives.

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

October 3, 1974

Dear Mr. Director:

The following bills were received at the White House on October 3rd:

S. 2382
H.R. 4861
H.R. 10088
H.R. 11546
H.R. 16102

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder
Chief Executive Clerk

The Honorable Roy L. Ash
Director
Office of Management and Budget
Washington, D. C.