

The original documents are located in Box 9, folder “1974/10/15 HR4861 Expansion of Piscataway Park Maryland” of the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library.

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APPROVED
OCT 15 1974

THE WHITE HOUSE
WASHINGTON

ACTION

Last Day - October 15

October 15, 1974

*Posted
10/15/74
To Archie
10/16/74*

MEMORANDUM FOR:

THE PRESIDENT

FROM:

KEN COLE

SUBJECT:

Enrolled Bill H. R. 4861
Expansion of Piscataway Park,
Maryland

BACKGROUND

Attached for your consideration is House bill H.R. 4861 sponsored by Representative Saylor (deceased), which expands by means of a legislative taking the Piscataway Park in Maryland and increases the Park's authorization for land acquisition from \$5,657,000 to \$10,557,000.

This bill would enlarge Piscataway Park along the Potomac River by acquiring land in the Marshall Hall Amusement Park area, including acres of land to which a scenic easement has already been acquired, as well as acres outside the current boundary and the Fort Washington marina.

Roy Ash has provided you with additional background information in his enrolled bill report (Tab A).

At Saturday's meeting you indicated your decision to sign the bill.

RECOMMENDATION

That you sign H.R. 4861 at Tab B.



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

OCT 8 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 4861 - Expansion of
Piscataway Park, Maryland
Sponsor - Rep. Saylor (R) Pennsylvania (deceased)

Last Day for Action

October 15, 1974 - Tuesday

Purpose

Expands by means of a legislative taking the Piscataway Park in Maryland and increases the Park's authorization for land acquisition from \$5,657,000 to \$10,557,000.

Agency Recommendations

Office of Management and Budget	Disapproval
Department of the Interior	Disapproval (Veto Message attached)
Department of Justice	Disapproval
Council on Environmental Quality	No objection

Discussion

Piscataway Park, located on the Maryland side of the Potomac River generally east and south of Mt. Vernon, is a unit of the National Capital Park System that was established in 1961 for the purpose of preserving the historic view across the river from the privately owned Mt. Vernon. Over the last decade Interior has acquired in fee all of Piscataway Park's riverfront property. In addition, Interior is in the final stages of establishing a scenic easement zone which generally extends up to one mile inland from the fee zone and southward on the Potomac's eastern riverfront below Mt. Vernon. Together these fee and scenic easement zones assure the continuing integrity of the view from Mt. Vernon.

H.R. 4861 would expand the fee zone in Piscataway Park by 625 acres -- 446 acres of which are already within the scenic easement zone, including the Marshall Hall Amusement Park. The remaining 179 acres constitutes two areas: (1) the 9 acre Marshall Hall Marina -- east of Mt. Vernon; and (2) two parcels totalling 170 acres which are contiguous to the extreme south end of the present scenic easement zone. Acquisition would be by legislative taking with payment from the Land and Water Conservation Fund at fair market value including interest at 6 percent per annum from the date of enactment to the date of payment. The Secretary of the Interior would be required to phase out all operations at the Marshall Hall Amusement Park by January 1, 1980. In addition, the enrolled bill would direct the Secretary to implement a development plan which would assure greater public access to and use of the area.

H.R. 4861 would increase the appropriation authorization for fee acquisition at Piscataway Park from \$5,657,000 to \$10,557,000.

In reporting on the enrolled bill, the House Interior Committee asserted that:

"While there may be room for a difference of opinion on the merits of including all of these lands in the fee acquisition zone of Piscataway Park, the majority of the members of the Committee on Interior and Insular Affairs agreed that past history argues persuasively for securing full control over the use of these lands. According to a 1972 publication of the Department of the Interior both of the properties at the extremes of the park are visible from the Mount Vernon estate, viz. the 14-acre riverfront parcel at the southern end of the park and the 9-acre marina adjoining Fort Washington. The development of these unrestricted, commercially zoned lands would certainly constitute an adverse intrusion of the otherwise peaceful and relatively undeveloped scene from George Washington's home.

* * *

". . . Not unlike most other areas of the national park system, development monies for Piscataway Park have been severely limited or nonexistent and the committee would urge a more aggressive program in this regard. Such development, of course, can only be legally undertaken on lands in which the United States holds title in fee simple."

However, in offering dissenting views, Committee members O'Hara, Steiger, Towell, and Ketchum took the view that if Piscataway Park were to remain as an undeveloped scenic background to Mt. Vernon, then the existing fee and scenic easement zones are generally adequate.

Interior has steadfastly opposed H.R. 4861 in reporting to the Congress, and the Department now recommends that the enrolled bill be vetoed based on the following reasons.

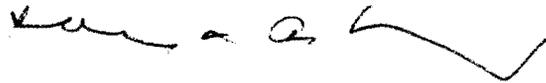
1. Congress has never previously considered fee acquisition of the Marshall Hall Amusement Park or any type of acquisition of the marina which cannot be seen from Mt. Vernon or of lands downstream from the amusement park as necessary to protect the overview.
2. Restrictive scenic easements have been obtained and give adequate control over the amusement park and other areas that are within the overview.
3. Fee acquisition would be an inappropriate use of scarce acquisition funds.
4. Legislative taking can be justified only in some cases where "an area is in immediate danger of irreparable harm and where funds are not available for purchase of that area" -- Piscataway Park clearly does not meet these conditions. Justice in its enrolled bill letter also recommends veto on the basis of the objectionable legislative taking provision.

5. The Department has no desire to assume the management of Marshall Hall Amusement Park.

6. Because of the "ecologically fragile" character of Piscataway Park, there are no plans to further develop the area. (NOTE: the area does not legitimately qualify as deserving National Park System status because it lacks characteristics that would be of national significance).

We believe the arguments Interior makes are convincing and we concur that H.R. 4861 warrants veto. The basic issue comes down to whether or not fee acquisition of an additional 625 acres at a cost of about \$5 million is necessary to preserve the scenic view across the river from Mt. Vernon. On the merits this acquisition is clearly not required.

There is attached for your consideration a veto message prepared by Interior.



Director

Enclosures

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. 4861, "To amend the Act of October 4, 1961, providing for the preservation and protection of certain lands known as Piscataway Park in Prince Georges and Charles Counties, Maryland, and for other purposes."

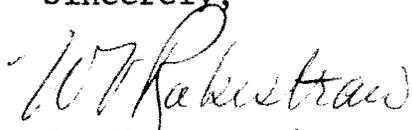
This bill would amend the Act of October 4, 1961, as amended, which created Piscataway Park along the Potomac River opposite Mt. Vernon. Essentially, this bill constitutes a legislative taking of private land in the Marshall Hall area on the downstream side of the park totaling approximately 625 acres. Included in this total are 446 acres of land over which a scenic easement has already been acquired, 171 acres currently outside the park boundary, and the 8 acre Fort Washington Marina, located across Piscataway Creek from the park. The appropriation authorization for Piscataway Park is increased by \$4,900,000, to \$10,557,000 to provide for this taking.

In the view of the Department of Justice, a legislative taking should not occur except in extraordinary circumstances which would justify this exceptional mode of acquisition. In the absence of such circumstances, a legislative taking is the least desirable mode of acquisition as it does not permit an orderly review or procedure based upon considerations involving individual estates in properties, the precise public need for the area acquired,

considerations of cost relative to the property acquired, and the necessity for consideration of private and public easements which otherwise might lead to frequent and protracted litigation.

The Department of Justice therefore joins with the Department of the Interior in recommending against Executive approval of the bill. In view of the fact that the Department of the Interior has the primary interest in the subject matter of this bill, we defer to that Department as to what should be included in any veto message.

Sincerely,

A handwritten signature in cursive script, appearing to read "W. Vincent Rakestraw".

W. Vincent Rakestraw
Assistant Attorney General

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

OCT 6 1976

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

ATTN: Mrs. Garziglia

SUBJECT: H.R. 4861, Enrolled Bill, "To amend the Act of October 4, 1961, providing for the preservation and protection of certain lands known as Piscataway Park in Prince Georges and Charles Counties, Maryland, and for other purposes."

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

The Council has no objection to the approval and enactment of this bill.



Gary Widman
General Counsel

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 635

Date: October 9, 1974

Time: 9:00 a.m.

FOR ACTION: Michael Duval
Norm Ross
✓ Phil Buchen
Bill Timmons
Paul Theis

cc (for information): Warren K. Hendriks
Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: Friday, October 11, 1974

Time: 2:00 p.m.

SUBJECT: Enrolled Bill H.R. 4861 - Expansion of Piscataway Park, Maryland

ACTION REQUESTED:

___ For Necessary Action

XX For Your Recommendations

___ Prepare Agenda and Brief

___ Draft Reply

___ For Your Comments

___ Draft Remarks

REMARKS:

Please return to Kathy Tindle - West Wing

*W.K.H.
D.C.*

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

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 635

Date: October 9, 1974

Time: 9:00 a.m.

FOR ACTION: ✓ Michael Duval
Norm Ross
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FROM THE STAFF SECRETARY

DUE: Date: Friday, October 11, 1974

Time: 2:00 p.m.

SUBJECT: Enrolled Bill H.R. 4861 - Expansion of Piscataway
Park, Maryland

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS: OK - veto

Michael Duval

Please return to Kathy Tindle - West Wing

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Warren K. Hendriks
For the President

Date: October 9, 1974

Time: 9:00 a.m.

FOR ACTION: ~~Michael Duval~~
~~Norm Ross~~
~~Phil Buchen~~
 Bill Timmons
~~Paul Theis~~

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TO FROM THE STAFF SECRETARY

DUE: Date: Friday, October 11, 1974

Time: 2:00 p.m.

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ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

10/10/74

Please return to Kathy Tindle - West Wing



THIS IS IMPORTANT TO GOP MEMBERS. IT'S A TRIBUTE TO JOHN SAYLOR. JOE SKUBITZ FEELS VERY STRONGLY, AS DOES SEN BOALL. LEGISLATIVE HISTORY SHOWS INTENT IS NOT TO SET PREZEDENT. WILL BE FINANCED OUT OF ERISTING LAND + WATER FUND. WE HAVE MANY POTENTIAL VETOS ON BIG LEGISLATION. SHUD NOT MESS WITH VETO ON THIS. ALL VOTES VOICE EXCEPT FIRST WHICH WAS 334-4.

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

B.T.

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 635

Date: October 9, 1974

Time: 9:00 a.m.

FOR ACTION: Michael Duval
Norm Ross
Phil Buchen
Bill ~~1974 OCT 9~~ ~~10~~ ~~11~~ ~~12~~ ~~13~~ ~~14~~ ~~15~~ ~~16~~ ~~17~~ ~~18~~ ~~19~~ ~~20~~ ~~21~~ ~~22~~ ~~23~~ ~~24~~ ~~25~~ ~~26~~ ~~27~~ ~~28~~ ~~29~~ ~~30~~ ~~31~~ ~~NOV 1~~ ~~2~~ ~~3~~ ~~4~~ ~~5~~ ~~6~~ ~~7~~ ~~8~~ ~~9~~ ~~10~~ ~~11~~ ~~12~~ ~~13~~ ~~14~~ ~~15~~ ~~16~~ ~~17~~ ~~18~~ ~~19~~ ~~20~~ ~~21~~ ~~22~~ ~~23~~ ~~24~~ ~~25~~ ~~26~~ ~~27~~ ~~28~~ ~~29~~ ~~30~~ ~~31~~ ~~DEC 1~~ ~~2~~ ~~3~~ ~~4~~ ~~5~~ ~~6~~ ~~7~~ ~~8~~ ~~9~~ ~~10~~ ~~11~~ ~~12~~ ~~13~~ ~~14~~ ~~15~~ ~~16~~ ~~17~~ ~~18~~ ~~19~~ ~~20~~ ~~21~~ ~~22~~ ~~23~~ ~~24~~ ~~25~~ ~~26~~ ~~27~~ ~~28~~ ~~29~~ ~~30~~ ~~31~~ ~~JAN 1~~ ~~2~~ ~~3~~ ~~4~~ ~~5~~ ~~6~~ ~~7~~ ~~8~~ ~~9~~ ~~10~~ ~~11~~ ~~12~~ ~~13~~ ~~14~~ ~~15~~ ~~16~~ ~~17~~ ~~18~~ ~~19~~ ~~20~~ ~~21~~ ~~22~~ ~~23~~ ~~24~~ ~~25~~ ~~26~~ ~~27~~ ~~28~~ ~~29~~ ~~30~~ ~~31~~ ~~FEB 1~~ ~~2~~ ~~3~~ ~~4~~ ~~5~~ ~~6~~ ~~7~~ ~~8~~ ~~9~~ ~~10~~ ~~11~~ ~~12~~ ~~13~~ ~~14~~ ~~15~~ ~~16~~ ~~17~~ ~~18~~ ~~19~~ ~~20~~ ~~21~~ ~~22~~ ~~23~~ ~~24~~ ~~25~~ ~~26~~ ~~27~~ ~~28~~ ~~29~~ ~~30~~ ~~31~~ ~~MAR 1~~ ~~2~~ ~~3~~ ~~4~~ ~~5~~ ~~6~~ ~~7~~ ~~8~~ ~~9~~ ~~10~~ ~~11~~ ~~12~~ ~~13~~ ~~14~~ ~~15~~ ~~16~~ ~~17~~ ~~18~~ ~~19~~ ~~20~~ ~~21~~ ~~22~~ ~~23~~ ~~24~~ ~~25~~ ~~26~~ ~~27~~ ~~28~~ ~~29~~ ~~30~~ ~~31~~ ~~APR 1~~ ~~2~~ ~~3~~ ~~4~~ ~~5~~ ~~6~~ ~~7~~ ~~8~~ ~~9~~ ~~10~~ ~~11~~ ~~12~~ ~~13~~ ~~14~~ ~~15~~ ~~16~~ ~~17~~ ~~18~~ ~~19~~ ~~20~~ ~~21~~ ~~22~~ ~~23~~ ~~24~~ ~~25~~ ~~26~~ ~~27~~ ~~28~~ ~~29~~ ~~30~~ ~~31~~ ~~MAY 1~~ ~~2~~ ~~3~~ ~~4~~ ~~5~~ ~~6~~ ~~7~~ ~~8~~ ~~9~~ ~~10~~ ~~11~~ ~~12~~ ~~13~~ ~~14~~ ~~15~~ ~~16~~ ~~17~~ ~~18~~ ~~19~~ ~~20~~ ~~21~~ ~~22~~ ~~23~~ ~~24~~ ~~25~~ ~~26~~ ~~27~~ ~~28~~ ~~29~~ ~~30~~ ~~31~~ ~~JUN 1~~ ~~2~~ ~~3~~ ~~4~~ ~~5~~ ~~6~~ ~~7~~ ~~8~~ ~~9~~ ~~10~~ ~~11~~ ~~12~~ ~~13~~ ~~14~~ ~~15~~ ~~16~~ ~~17~~ ~~18~~ ~~19~~ ~~20~~ ~~21~~ ~~22~~ ~~23~~ ~~24~~ ~~25~~ ~~26~~ ~~27~~ ~~28~~ ~~29~~ ~~30~~ ~~31~~ ~~JUL 1~~ ~~2~~ ~~3~~ ~~4~~ ~~5~~ ~~6~~ ~~7~~ ~~8~~ ~~9~~ ~~10~~ ~~11~~ ~~12~~ ~~13~~ ~~14~~ ~~15~~ ~~16~~ ~~17~~ ~~18~~ ~~19~~ ~~20~~ ~~21~~ ~~22~~ ~~23~~ ~~24~~ ~~25~~ ~~26~~ ~~27~~ ~~28~~ ~~29~~ ~~30~~ ~~31~~ ~~AUG 1~~ ~~2~~ ~~3~~ ~~4~~ ~~5~~ ~~6~~ ~~7~~ ~~8~~ ~~9~~ ~~10~~ ~~11~~ ~~12~~ ~~13~~ ~~14~~ ~~15~~ ~~16~~ ~~17~~ ~~18~~ ~~19~~ ~~20~~ ~~21~~ ~~22~~ ~~23~~ ~~24~~ ~~25~~ ~~26~~ ~~27~~ ~~28~~ ~~29~~ ~~30~~ ~~31~~ ~~SEP 1~~ ~~2~~ ~~3~~ ~~4~~ ~~5~~ ~~6~~ ~~7~~ ~~8~~ ~~9~~ ~~10~~ ~~11~~ ~~12~~ ~~13~~ ~~14~~ ~~15~~ ~~16~~ ~~17~~ ~~18~~ ~~19~~ ~~20~~ ~~21~~ ~~22~~ ~~23~~ ~~24~~ ~~25~~ ~~26~~ ~~27~~ ~~28~~ ~~29~~ ~~30~~ ~~31~~ ~~OCT 1~~ ~~2~~ ~~3~~ ~~4~~ ~~5~~ ~~6~~ ~~7~~ ~~8~~ ~~9~~ ~~10~~ ~~11~~ ~~12~~ ~~13~~ ~~14~~ ~~15~~ ~~16~~ ~~17~~ ~~18~~ ~~19~~ ~~20~~ ~~21~~ ~~22~~ ~~23~~ ~~24~~ ~~25~~ ~~26~~ ~~27~~ ~~28~~ ~~29~~ ~~30~~ ~~31~~ ~~NOV 1~~ ~~2~~ ~~3~~ ~~4~~ ~~5~~ ~~6~~ ~~7~~ ~~8~~ ~~9~~ ~~10~~ ~~11~~ ~~12~~ ~~13~~ ~~14~~ ~~15~~ ~~16~~ ~~17~~ ~~18~~ ~~19~~ ~~20~~ ~~21~~ ~~22~~ ~~23~~ ~~24~~ ~~25~~ ~~26~~ ~~27~~ ~~28~~ ~~29~~ ~~30~~ ~~31~~ ~~DEC 1~~ ~~2~~ ~~3~~ ~~4~~ ~~5~~ ~~6~~ ~~7~~ ~~8~~ ~~9~~ ~~10~~ ~~11~~ ~~12~~ ~~13~~ ~~14~~ ~~15~~ ~~16~~ ~~17~~ ~~18~~ ~~19~~ ~~20~~ ~~21~~ ~~22~~ ~~23~~ ~~24~~ ~~25~~ ~~26~~ ~~27~~ ~~28~~ ~~29~~ ~~30~~ ~~31~~

cc (for information): Warren K. Hendriks
Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: Friday, October 11, 1974

Time: 2:00 p.m.

SUBJECT: Enrolled Bill H.R. 4861 - Expansion of Piscataway Park, Maryland

ACTION REQUESTED:

___ For Necessary Action

XX ___ For Your Recommendations

___ Prepare Agenda and Brief

___ Draft Reply

___ For Your Comments

___ Draft Remarks

REMARKS:

Please return to Kathy Tindle - West Wing

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

ACTION
Last day - Tuesday, Oct. 15

October 11, 1974

MEMORANDUM FOR: THE PRESIDENT
FROM: KEN COLE
SUBJECT: Enrolled Bill: Expansion of Piscataway Park, Maryland - H.R. 4861

BACKGROUND

Attached for your consideration is House bill, H. R. 4861, sponsored by Representative Saylor (deceased). This bill expands by means of a legislative taking the Piscataway Park in Maryland and increases the Park's authorization for land acquisition from \$5,657,000 to \$10,557,000.

This bill would enlarge Piscataway Park along the Potomac River by acquiring land in the Marshall Hall Amusement Park area, including acres of land to which a scenic easement has already been acquired, as well as acres outside the current Park boundary and the Fort Washington marina.

ARGUMENTS FOR SIGNING

This bill is important to GOP members and is a tribute to John Saylor. Congressman Skubitz feels very strongly, as does Senator Beall. The legislative history shows that the intent is not to set a precedent and the expansion will be financed out of the existing Land and Water Conservation Fund. We have many potential vetoes on big legislation and should not veto this bill. The bill passed by all voice votes except the first which was 334-4.

ARGUMENTS FOR VETO

The principal purpose of the 1961 legislation which created Piscataway Park was to preserve the view across the Potomac River from

Mount Vernon in its historic state. Neither at the time of the original enactment nor at the time of subsequent increases in appropriation authorizations in 1966 and 1972 did the Congress or the Department of the Interior consider any additional acquisitions necessary to protect the overview. Fee acquisition would be an inappropriate use of scarce acquisition funds. The Fort Washington marina is not visible from Mount Vernon and therefore its purchase could not be justified on the ground of protecting the view from that historic site. The remaining areas specified for fee acquisition by the bill are either already adequately protected by purchase of scenic easements or are excluded from the Park because they are not considered needed to protect the view from Mount Vernon.

STAFF AND AGENCY POSITIONS

Bill Timmons recommends that you sign H. R. 4861.

Roy Ash, Secretary Morton, and Attorney General Saxbe recommend veto of H. R. 4861. Mr. Ash provides you with additional background information in his enrolled bill report (Tab A).

DECISION - H. R. 4861

Sign (Tab B) _____

Veto _____
(Sign veto message at
Tab C)

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

OCT 8 1974

To Warren
10-9-74
8:45 a.m.
Wendish

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 4861 - Expansion of
Piscataway Park, Maryland
Sponsor - Rep. Saylor (R) Pennsylvania (deceased)

Last Day for Action

October 15, 1974 - Tuesday

Purpose

Expands by means of a legislative taking the Piscataway Park in Maryland and increases the Park's authorization for land acquisition from \$5,657,000 to \$10,557,000.

Agency Recommendations

Office of Management and Budget	Disapproval
Department of the Interior	Disapproval (Veto Message attached)
Department of Justice	Disapproval
Council on Environmental Quality	No objection

Discussion

Piscataway Park, located on the Maryland side of the Potomac River generally east and south of Mt. Vernon, is a unit of the National Capital Park System that was established in 1961 for the purpose of preserving the historic view across the river from the privately owned Mt. Vernon. Over the last decade Interior has acquired in fee all of Piscataway Park's riverfront property. In addition, Interior is in the final stages of establishing a scenic easement zone which generally extends up to one mile inland from the fee zone and southward on the Potomac's eastern riverfront below Mt. Vernon. Together these fee and scenic easement zones assure the continuing integrity of the view from Mt. Vernon.

H.R. 4861 would expand the fee zone in Piscataway Park by 625 acres -- 446 acres of which are already within the scenic easement zone, including the Marshall Hall Amusement Park. The remaining 179 acres constitutes two areas: (1) the 9 acre Marshall Hall Marina -- east of Mt. Vernon; and (2) two parcels totalling 170 acres which are contiguous to, the extreme south end of the present scenic easement zone. Acquisition would be by legislative taking with payment from the Land and Water Conservation Fund at fair market value including interest at 6 percent per annum from the date of enactment to the date of payment. The Secretary of the Interior would be required to phase out all operations at the Marshall Hall Amusement Park by January 1, 1980. In addition, the enrolled bill would direct the Secretary to implement a development plan which would assure greater public access to and use of the area.

H.R. 4861 would increase the appropriation authorization for fee acquisition at Piscataway Park from \$5,657,000 to \$10,557,000.

In reporting on the enrolled bill, the House Interior Committee asserted that:

"While there may be room for a difference of opinion on the merits of including all of these lands in the fee acquisition zone of Piscataway Park, the majority of the members of the Committee on Interior and Insular Affairs agreed that past history argues persuasively for securing full control over the use of these lands. According to a 1972 publication of the Department of the Interior both of the properties at the extremes of the park are visible from the Mount Vernon estate, viz. the 14-acre riverfront parcel at the southern end of the park and the 9-acre marina adjoining Fort Washington. The development of these unrestricted, commercially zoned lands would certainly constitute an adverse intrusion of the otherwise peaceful and relatively undeveloped scene from George Washington's home.

* * *

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However, in offering dissenting views, Committee members O'Hara, Steiger, Towell, and Ketchum took the view that if Piscataway Park were to remain as an undeveloped scenic background to Mt. Vernon, then the existing fee and scenic easement zones are generally adequate.

Interior has steadfastly opposed H.R. 4861 in reporting to the Congress, and the Department now recommends that the enrolled bill be vetoed based on the following reasons.

1. Congress has never previously considered fee acquisition of the Marshall Hall Amusement Park or any type of acquisition of the marina which cannot be seen from Mt. Vernon or of lands downstream from the amusement park as necessary to protect the overview.
2. Restrictive scenic easements have been obtained and give adequate control over the amusement park and other areas that are within the overview.
3. Fee acquisition would be an inappropriate use of scarce acquisition funds.
4. Legislative taking can be justified only in some cases where "an area is in immediate danger of irreparable harm and where funds are not available for purchase of that area" -- Piscataway Park clearly does not meet these conditions. Justice in its enrolled bill letter also recommends veto on the basis of the objectionable legislative taking provision.

5. The Department has no desire to assume the management of Marshall Hall Amusement Park.

6. Because of the "ecologically fragile" character of Piscataway Park, there are no plans to further develop the area. (NOTE: the area does not legitimately qualify as deserving National Park System status because it lacks characteristics that would be of national significance).

We believe the arguments Interior makes are convincing and we concur that H.R. 4861 warrants veto. The basic issue comes down to whether or not fee acquisition of an additional 625 acres at a cost of about \$5 million is necessary to preserve the scenic view across the river from Mt. Vernon. On the merits this acquisition is clearly not required.

There is attached for your consideration a veto message prepared by Interior.

(Signed) Roy L. Ash
Director

Enclosures

TO THE HOUSE OF REPRESENTATIVES:

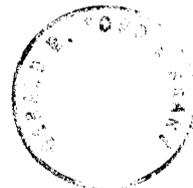
I return herewith, without my approval, H.R. 4861, a bill "to amend the Act of October 4, 1961, providing for the preservation and protection of certain lands known as Piscataway Park in Prince Georges and Charles Counties, Maryland, and for other purposes."

This bill would enlarge Piscataway Park along the Potomac River by acquiring land in the Marshall Hall Amusement Park area, including 446 acres of land to which a scenic easement has already been acquired, as well as 171 acres outside the current park boundary and the eight-acre Fort Washington marina.

The principal purpose of the 1961 legislation which created Piscataway Park, including a "scenic protection area" back from the Potomac River, was to preserve the view across the river from Mount Vernon in its historic state. Neither at the time of the original enactment nor at the time of subsequent increases in appropriation authorizations in 1966 and 1972 did the Congress or the Department of the Interior consider any additional acquisitions necessary to protect the overview.

The parcel on which the amusement park is situated is proposed by H.R. 4861 for fee acquisition. Restrictive easements have now been obtained on all of this parcel, however, and these restrictive easements give adequate control. Fee acquisition would be an inappropriate use of scarce acquisition funds.

The Fort Washington marina is not visible from Mount Vernon, and therefore its purchase could not be justified on the ground of protecting the view from that historic site.



The remaining areas specified for fee acquisition by the bill are either already adequately protected by purchase of scenic easements or are excluded from the park because they are not considered needed to protect the view from Mount Vernon.

With the completion of the easement acquisition program, additional funds for which were authorized in 1972, the objective of preserving the overview of Mount Vernon will have been accomplished.

For these reasons, I believe that the existing legislation is adequate to accomplish the purposes set forth by Congress in 1961 and that the approval of H.R. 4861 would not be desirable.

THE WHITE HOUSE,

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 635

Date: October 9, 1974

Time: 9:00 a.m.

FOR ACTION: Michael Duval
 Norm Ross
 Phil Buchen
 Bill Timmons
 Paul Theis

cc (for information): Warren K. Hendriks
Jerry Jones

Refer note comments

FROM THE STAFF SECRETARY

DUE: Date: ~~Wednesday~~ October 11, 1974

Time: 2:00 p.m.

SUBJECT: Enrolled Bill H.R. 4861 - Expansion of Piscataway Park, Maryland

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

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 11 1961

Dear Mr. Ash:

This responds to your request for the views of this Department on the enrolled bill H.R. 4861 "To amend the Act of October 4, 1961, providing for the preservation and protection of certain lands known as Piscataway Park in Prince Georges and Charles Counties, Maryland, and for other purposes."

We recommend that the President not approve this enrolled bill.

Enrolled bill H.R. 4861 would amend the Act of October 4, 1961, as amended, which created Piscataway Park along the Potomac River opposite Mt. Vernon, by substituting a new map reference for the map dated January 25, 1966, which currently defines the boundaries of Piscataway Park. The bill provides for the legislative taking of (1) land in the Marshall Hall area on the downstream side of the park, including 446 acres of land to which a scenic easement has already been acquired, as well as an additional 171 acres currently outside the park boundary, and (2) the 8-acre Fort Washington marina, located across Piscataway Creek from the park. The bill also provides for an appropriation authorization in the amount of \$10,557,000 in place of the existing limitation of \$5,657,000, which was set last year by P.L. 92-533 (86 Stat. 1063).

The principal purpose of the 1961 legislation which created the park, including a "scenic protection area" back from the Potomac River, was to preserve the view across the river from Mt. Vernon in its historic state. Neither at the time of the original enactment nor at the time of subsequent increases in appropriation authorizations in 1966 and 1972 did the Congress or the Department consider fee acquisition of Marshall Hall Amusement Park, or any type of acquisition of the marina or of lands downstream from the amusement park, necessary to protect the overview. We believe that the existing legislation continues to be satisfactory to accomplish the purposes set forth by Congress in 1961.



Save Energy and You Serve America!

The parcel on which the amusement park is situated is proposed by H.R. 4861 for fee acquisition. Restrictive easements have now been obtained on all of this parcel, however, and we believe that these restrictive easements give adequate control. Fee acquisition would be an inappropriate use of scarce acquisition funds. The Fort Washington marina is not visible from Mount Vernon at all, and therefore its purchase could not be justified on the ground of protecting the view from that historic site. The remaining areas specified for fee acquisition by the bill are already adequately protected by purchase of scenic easements or are not now within the park because they are not considered necessary to protect the view from Mount Vernon. We believe that with the completion of the easement acquisition program, additional funds for which were authorized in 1972, the objective of preserving the overview of Mount Vernon will have been accomplished.

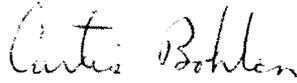
We also strongly oppose the legislative taking provision of H.R. 4861. While a taking may be justified in some instances where an area is in immediate danger of irreparable harm and where funds are not available for purchase of that area, we do not believe these conditions exist in Piscataway Park. On the contrary, upon enactment the United States would assume responsibility for an amusement park which is already developed and in operation. No irreparable natural or historical values would be saved by such action, and we have no desire to undertake the management of Marshall Hall Amusement Park.

We estimate that acquiring in fee the approximately 625 acres contemplated by H.R. 4861 would cost approximately \$4.9 million.

During hearings on this legislation, the proponents asserted that acquisition of the proposed area will add a state road to the park, which will give access to the river and provide accessible space for picnicking, biking and camping. We would note, however, that the public currently does have access to the river and the park from that state road and other roads. We would further note that the Park Service does not have any extensive development plans for Piscataway Park, because it is an ecologically fragile area.

For these reasons we recommend against the approval of this enrolled bill.

Sincerely yours,

A handwritten signature in cursive script that reads "Curtis Bohlen".

Acting Assistant Secretary of the Interior

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

TO THE HOUSE OF REPRESENTATIVES

I return herewith, without my approval, H.R. 4861, a bill "To amend the Act of October 4, 1961, providing for the preservation and protection of certain lands known as Piscataway Park in Prince Georges and Charles Counties, Maryland, and for other purposes."

H.R. 4861, as enrolled, would enlarge Piscataway Park along the Potomac River by legislatively taking land in the Marshall Hall Amusement Park area, including 446 acres of land to which a scenic easement has already been acquired, as well as 171 acres outside the current park boundary and the 8-acre Fort Washington marina, across Piscataway Creek from the park.

The principal purpose of the 1961 legislation which created Piscataway Park, including a "scenic protection area" back from the Potomac River, was to preserve the view across the river from Mt. Vernon in its historic state. Neither at the time of the original enactment nor at the time of subsequent increases in appropriation authorizations in 1966 and 1972 did the Congress or the Department of the Interior consider fee acquisition of Marshall Hall Amusement Park, or any type of acquisition of the marina or of lands downstream from the amusement park, necessary to protect the overview.

The parcel on which the amusement park is situated is proposed by H.R. 4861 for fee acquisition. Restrictive easements have now been obtained on all of this parcel, however, and these restrictive easements give adequate control. Fee acquisition would be an inappropriate use of scarce acquisition funds. The Fort Washington marina is not visible from Mount Vernon at all, and therefore its purchase could not be justified on the ground of protecting the view from that historic site. The remaining areas specified for fee

acquisition by the bill are already adequately protected by purchase of scenic easements or are not now within the park because they are not considered necessary to protect the view from Mount Vernon. With the completion of the easement acquisition program, additional funds for which were authorized in 1972, the objective of preserving the overview of Mount Vernon will have been accomplished.

For these reasons, I believe that the existing legislation is adequate to accomplish the purposes set forth by Congress in 1961 and that the approval of H.R. 4861 would not be desirable.

THE WHITE HOUSE

October , 1974

AMENDING THE ACT OF OCTOBER 4, 1961, PROVIDING FOR THE
PRESERVATION AND PROTECTION OF CERTAIN LANDS KNOWN AS
PISCATAWAY PARK IN PRINCE GEORGES AND CHARLES COUNTIES,
MD., AND FOR OTHER PURPOSES

JANUARY 31, 1974.—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

REPORT

together with

DISSENTING VIEWS

[To accompany H.R. 4861]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 4861) to amend the act of October 4, 1961, providing for the preservation and protection of certain lands known as Piscataway Park in Prince Georges and Charles Counties, Md., and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Page 1, beginning on line 3, strike all after the enacting clause and insert in lieu thereof the following:

That the Act of October 4, 1961 (75 Stat. 780), providing for the preservation and protection of certain lands in Prince Georges and Charles Counties, Maryland, as amended, is amended as follows:

(a) In section 2(b), amend the first sentence by striking out "drawing entitled 'Piscataway Park,' numbered NCR 69.714-18, and dated January 25, 1966," and inserting in lieu thereof "drawing entitled 'Piscataway Park,' numbered PIS-P-7000, and dated Revised January, 1973."

(b) In section 2(b), delete the words "The property herein described is more particularly depicted on the drawing numbered 1961-1, a copy of which is on file with the Secretary of the Interior."

(c) In section 2(c), delete the first sentence and insert in lieu thereof the following:

"Effective on the date of enactment of this Act, there is hereby vested in the United States all right, title and interest in, and the right to immediate possession of, all real property within the boundaries of the parcels designated A, B,

C and D, as shown on the drawing referenced in subsection 2(b). The United States will pay just compensation to the owners of any property taken pursuant to this subsection and the full faith and credit of the United States is hereby pledged to the payment of any judgment so entered against the United States. Payment shall be made by the Secretary of the Treasury from moneys available and appropriated from the Land and Water Conservation Fund, subject to the appropriation limitation contained in section 4 of this Act, upon certification to him by the Secretary of the Interior of the agreed negotiated value of such property, or the valuation of the property awarded by judgment, including interest at the rate of six per centum per annum from the date of taking to the date of payment therefor. In the absence of a negotiated agreement or an action by the owner within one year after the date of enactment of this Act, the Secretary may initiate proceedings at any time seeking a determination of just compensation in a court of competent jurisdiction. The Secretary shall allow for the orderly termination of all operations on real property acquired by the United States in parcels A, B, C and D of this subsection, and for the removal of equipment, facilities and personal property therefrom. To further the preservation objective of this Act, the Secretary of the Interior may accept donations of scenic easements in the land within the area designated as 'Scenic Protection Area' on the drawing referred to in subsection (b) of this section."

(d) In section 4, delete "\$5,657,000" and insert "\$10,557,000".

PURPOSE

The purpose of H.R. 4861 by the late Representative John P. Saylor of Pennsylvania was to authorize the completion of the acquisition of certain lands in Maryland across the Potomac River from Mount Vernon in order to assure the integrity of the view from the home of the Nation's first President and from Fort Washington.

BACKGROUND

Known as Piscataway Park—a unit of the National Capital Park System—the area involved in H.R. 4861 has a long and complex history. Initially, legislation presented to the Congress provided for the acquisition and preservation of the lands within the panoramic view from the Mount Vernon estate and Fort Washington from Piscataway Creek to the area known as Marshall Hall. As the legislation evolved, it was ultimately amended so that the Marshall Hall property was included in the scenic easement zone rather than in the fee acquisition area.

In the years following its authorization in 1961, numerous valuable tracts of land were acquired by civic minded persons and organizations and donated in fee to the Government for inclusion in the park. Altogether more than 475 of the 837 acres of land acquired in the fee acquisition zone have been donated. In addition, property owners holding title to more than half of the land in the scenic easement zone donated easements covering their properties. Some people had the understanding—though there is nothing in the records to substantiate the claim—that the owners of Marshall Hall had agreed to donate a scenic easement covering that property if it were excluded from the fee acquisition zone; however, in spite of efforts to secure such a donation it was never forthcoming.

As the years passed, land values in this area skyrocketed as they have throughout the entire Washington Metropolitan region. Coupling the natural escalation with limited funding, it was inevitable that an additional authorization would be needed to complete the program. In

order to move this project forward, the Congress twice turned its attention to this area in 1966 and in 1972 and approved legislation ultimately increasing the appropriation ceiling to \$5,657,000. In the intervening years, the owners of Marshall Hall developed several different schemes for developing the land under their control. At one point in time, plans were unveiled to develop a theme park (similar to a Disneyland) on the property and the owners succeeded in having the lands rezoned; however, subsequent litigation ultimately halted that plan. Later, an agreement between the Park Service and the owners was worked out to exchange the key Potomac River tracts now involved in H.R. 4861 for parklands in Greenbelt, Md., but that agreement was voided in the Department before the Congress had an opportunity to consider it.

Finally, the Government condemned a scenic easement covering the Marshall Hall Amusement Park and ultimately reached a settlement with the owners in April 1972. Under the terms of that settlement, the owners may not alter the general appearance or dimensions of the present structures unless they decide to construct low density, single-family residences, but the amusement park as it presently exists can continue indefinitely.

Under H.R. 4861, if enacted, fee title to the Marshall Hall Amusement Park would be acquired immediately as well as the fee title to three other tracts belonging to, or under the control of, the same owners. All of the lands involved are visible from the Mount Vernon estate, according to an authoritative report published by the Department of the Interior in 1972, entitled "Potential Adverse Environmental Impact of Two Tracts of Land Controlled by Joseph I. Goldstein Across from Mount Vernon." In addition two other tracts which are under different ownerships would be added to the fee acquisition zone.

NEED

As recommended by the committee, H.R. 4861 provides:

(1) for the acquisition of the 111-acre Marshall Hall Amusement Park which is presently within the Scenic Easement Zone and over which a scenic easement has been acquired;

(2) for the acquisition of a 157-acre tract of land adjacent to Marshall Hall, which is zoned for commercial development and which is subject to the control of the same owners;

(3) for the acquisition of another 14-acre parcel having 700 feet of river frontage adjacent to Marshall Hall, which is zoned for commercial development and which is also under the control of the same owners;

(4) for the acquisition of 330-acres of undeveloped land which was acquired by its present owners at auction from the owners of Marshall Hall and over which a scenic easement was voluntarily conveyed to the Government;

(5) for the fee acquisition of a small wedge-shaped parcel (4.7 acres) of land located between the above-mentioned property and the fee acquisition zone; and

(6) for the fee acquisition of the Marshall Hall Marina (totaling about 9 acres), which is zoned for commercial development, adjoining Fort Washington.

While there may be room for a difference of opinion on the merits of including all of these lands in the fee acquisition zone of Piscataway Park, the majority of the members of the Committee on Interior and Insular Affairs agreed that past history argues persuasively for securing full control over the use of these lands. According to a 1972 publication of the Department of the Interior both of the properties at the extremes of the park are visible from the Mount Vernon estate, viz. the 14-acre riverfront parcel at the southern end of the park and the 9-acre marina adjoining Fort Washington. The development of these unrestricted, commercially zoned lands would certainly constitute an adverse intrusion of the otherwise peaceful and relatively undeveloped scene from George Washington's home.

At the same time, the acquisition of the amusement park would enable the National Park Service to remove from the scene a highly commercial enterprise which is neither consistent with the overall environment nor with the purposes for which the Piscataway Park was established. In addition, it would preclude any possible adverse uses from emerging on lands which are now totally unrestricted, and some of which have already been commercially zoned.

With respect to the remaining lands over which scenic controls have already been acquired (viz. the 330 acres known as the Tricent Tract), it is understood that the owners purchased the land as a holding action at public auction in an effort to assure their preservation. Since the lands were located within the scenic protection area, the owners voluntarily conveyed the customary scenic easement to the Government at the appraised value and they are willing to convey their remaining interest at cost if such acquisition is authorized by the Congress.

PUBLIC USE AND ENJOYMENT OF THE AREA

It should be remembered that the basic purpose of Piscataway Park is to preserve the view from Mount Vernon and Fort Washington; however, that should not be interpreted so narrowly as to preclude the reasonable installation of public use facilities, such as modest picnic areas, trails, and the like. Not unlike most other areas of the national park system, development monies for Piscataway Park have been severely limited or nonexistent and the committee would urge a more aggressive program in this regard. Such development, of course, can only be legally undertaken on lands in which the United States holds title in fee simple. This, too, argues persuasively for the enactment of H.R. 4861 because it would have the effect of adding some 625 acres of land in fee to the 1,058 acres presently owned in fee by the Government.

Naturally, as we approach the celebration of the Bicentennial interest in places associated with the birth of the Nation will intensify. Few places will be the focus of greater public attention than the home of the Father of this Nation so it is highly appropriate that this long-term effort be capped with this final action by the Congress.

The committee recognized the urgency of acting promptly. Notwithstanding the lack of positive leadership from the Department to resolve this issue, the committee not only agreed to expand the park

boundaries in several key locations, but it provided that the lands should be subject to a declaration of taking upon the date of enactment of the legislation. By this action, it is believed that the original objective of the Congress will be accomplished so that no further authorizing action should be required.

COST

To date the Congress has authorized the appropriation of \$5,657,000 for the acquisition of lands and interests in lands at Piscataway. While many of the members of the committee are skeptical of the increase which departmental witnesses said would be required if H.R. 4861 is enacted, the bill carries the sum which the Department indicated would be necessary. The new authorization ceiling totals \$10,557,000—representing an increase of \$4,900,000.

COMMITTEE RECOMMENDATION

By a record vote of 28 for and 5 against (two voting "present"), the Committee on Interior and Insular Affairs approved H.R. 4861, as amended, and accordingly recommends the enactment of the bill.

DEPARTMENTAL REPORT

The negative report of the Department of the Interior, dated October 15, 1973, which was before the committee during its deliberations on the legislation, follows:

UNITED STATES DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., October 15, 1973.

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

DEAR MR. CHAIRMAN: This responds to the request of your committee for the views of this Department on H.R. 4861, a bill to amend the act of October 4, 1961, providing for the preservation and protection of certain lands known as Piscataway Park in Prince Georges and Charles Counties, Md., and for other purposes.

We recommend against enactment of this bill.

H.R. 4861 would amend the act of October 4, 1961, as amended, which created Piscataway Park along the Potomac River opposite Mt. Vernon, by substituting a new map reference for the map dated January 25, 1966, which currently defines the boundaries of Piscataway Park. The number and date of the new map are left blank in the bill, but it appears from remarks made by the sponsor in the Congressional Record upon introduction of the bill (p. H. 1183, Congressional Record, Feb. 27, 1973) that the bill contemplates fee acquisition of (1) land in the Marshall Hall area on the downstream side of the park, including 446 acres of land to which a scenic easement has already been acquired, as well as an additional 171 acres currently outside the park boundary, and (2) the 8-acre Fort Washington marina, located across Piscataway Creek from the park. The bill also provides for an

open-ended appropriation authorization in place of the existing limitation of \$5,657,000, which was set last year by Public Law 92-533 (86 Stat. 1063).

The principal purpose of the 1961 legislation which created the park, including a "scenic protection area" back from the Potomac River, was to preserve the view across the river from Mt. Vernon in its historic state. Neither at the time of the original enactment nor at the time of subsequent increases in appropriation authorizations in 1966 and 1972 did the Congress or the Department consider fee acquisition of Marshall Hall Amusement Park, or any type of acquisition of the marina or of lands downstream from the amusement park, necessary to protect the overview. We believe that the existing legislation continues to be satisfactory to accomplish the purposes set forth by Congress in 1961.

The parcel on which the amusement park is situated is apparently being proposed by H.R. 4861 for fee acquisition. Restrictive easements have now been obtained on all of this parcel, however, and we believe that these restrictive easements give adequate control. Fee acquisition would be an inappropriate use of scarce acquisition funds. The Fort Washington marina is not visible from Mount Vernon at all, and therefore its purchase could not be justified on the ground of protecting the view from that historic site. The remaining areas specified for fee acquisition by the bill are already adequately protected by purchase of scenic easements or are not now within the park because they are not considered necessary to protect the view from Mount Vernon. We believe that with the completion of the easement acquisition program, additional funds for which were authorized in 1972, the objective of preserving the overview of Mount Vernon will have been accomplished.

We estimate that acquiring in fee the approximately 625 acres contemplated by H.R. 4861 would cost approximately \$4.9 million.

Mention is made by the sponsor that acquisition of the proposed area will add a state road to the park, which will give access to the river and provide accessible space for picnicking, biking and camping. We would note, however, that the public currently does have access to the river and the park from that state road and other roads. We would further note that the Park Service does not have any extensive development plans for Piscataway Park, because it is an ecologically fragile area.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

NATHANIAL REED,
Assistant Secretary of the Interior.

DISSENTING VIEWS OF THE HONORABLE JAMES G. O'HARA

The principal objectives of the 1961 legislation creating Piscataway Park were to preserve and protect the historic, cultural, and recreational values of the open and wooded lands situated along the Potomac River, which may be viewed from the Mount Vernon Estate.

Twelve years after the creation of the park, there has been no development of the recreational and cultural aspects of the area for the general public, nor are there presently any plans for such development. In fact, the public is largely unaware of their right to gain access to Piscataway Park to view Mount Vernon and adequate guide signs are singularly lacking.

There have been repeated objections by the adjacent private land holders to the development of the park. A proposed five-car parking area off the access road within the area, for example, was opposed by the local property owners last spring.

The park service has apparently backed off from its plan to develop the park and is now calling Piscataway an "ecologically fragile area." H.R. 4861 does not address itself to the issue of developing the park for general citizen use.

But, we must know what will become of Piscataway Park before we spend over \$4.9 million on the acquisition of land in fee as provided for in H.R. 4861. Do we plan to develop the area as a recreational facility with easy access for the public, or do we want the area simply as a backdrop for Mount Vernon? If Piscataway Park is developed into a recreational area with trails, picnic sites, and camping facilities, then the purchase of the property in fee and acquisition of a fee interest in additional lands outside the boundaries of the original park may be justified. If Piscataway Park will be merely a scenic background then the existing scenic easement, perhaps with slight additions, is adequate to preserve the view from historic Mount Vernon.

JAMES G. O'HARA.
SAM STEIGER.
DAVID G. TOWELL.
WILLIAM M. KETCHUM.

(7)

CHANGES IN EXISTING LAW

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

ACT OF OCTOBER 4, 1961 (75 STAT. 780), AS AMENDED,
(80 STAT. 319), (86 STAT. 1063)

That in order to preserve for the benefit of present and future generations the historic and scenic values, the unusual cultural, scientific, and recreational values, and the present open and wooded character of certain lands situated along the Potomac River in Prince Georges and Charles Counties, Maryland, and in order to preserve lands which provide the principal overview from the Mount Vernon Estate and Fort Washington, in a manner that will insure, insofar as practicable, the natural beauty of such lands as it existed at the time of the construction and active use of Mount Vernon Mansion and Fort Washington, the Secretary of the Interior is authorized to acquire and administer lands and interests therein, in the manner hereinafter provided.

SEC. 2. (a) The Secretary of the Interior is authorized to accept donations of lands or interests therein located in Prince Georges and Charles Counties, Maryland, in the vicinity of Piscataway Creek, held by the Accokeek Foundation or other foundations or organizations for public use.

(b) When the Secretary of the Interior receives a commitment, subject to such conditions as shall be agreeable to him and the potential donor or donors, in accordance with which commitment the property referred to in subsection (a) will be donated to the United States for purposes of this Act, he is authorized to acquire by such means as he finds are in the public interest other land and interests in land lying generally within the area identified as 'Fee Acquisition Area' on the [drawing entitled 'Piscataway Park', numbered NCR 69.714-18, and dated January 25, 1966] *drawing entitled 'Piscataway Park' numbered PIS-P-7000, and dated Revised January, 1973,* which is on file and available for public inspection in the offices of the National Park Service, Department of the Interior. [The property herein described is more particularly depicted on drawing numbered 1961-1, a copy of which is on file with the Secretary of the Interior.]

Within the above-described area the Secretary shall not condemn improved residential property. As used herein "improved residential property", means a detached, one-family dwelling and structures accessory thereto, the construction of which was begun before May 1, 1961, which are used solely for noncommercial residential purposes, together

(8)

with one acre of land on which the improvements are situated, or all of such lesser acreage as the owner may hold.

With respect to any property acquired within the 'Fee Acquisition Area' except property donated to the United States, the Secretary may convey a freehold or leasehold interest therein, subject to such terms and conditions as assure the Secretary control over the property and its use solely in accordance with the purposes of this Act. When the Secretary exercises his discretion to convey such interest, he shall do so to the highest bidder, in accordance with such regulations as he may prescribe, but such conveyance shall be at not less than the fair market value of the property, as determined by the Secretary. Within the 'Fee Acquisition Area', the Secretary may accept title to any non-Federal property or interest therein and in exchange therefore he may convey to the grantor of such property any federally owned property or interest therein within such area. The values of the properties so exchanged either shall be approximately equal, or if they are not approximately equal the values shall be equalized by the payment of cash to the grantor from moneys appropriated to carry out the provisions of this Act or to the Secretary as the circumstances require. The proceeds received from any conveyance under this subsection shall be credited to the Land and Water Conservation Fund in the Treasury of the United States.

(c) [To further the preservation objective of this Act the Secretary may accept donations of scenic easements in the land within the described area now leased and operated by the Marshall Hall Park, Incorporated, as more specifically described in a deed, recorded in the land records of Charles County, Maryland, in folio 126, liber 131, and the area designated as 'Scenic Protection Area' on the drawing referred to in subsection (b) of this section.] *Effective on the date of enactment of this Act, there is hereby vested in the United States all right, title and interest, in and the right to immediate possession of, all real property within the boundaries of the parcels designated A, B, C and D, as shown on the drawing referenced in subsection 2(b). The United States will pay just compensation to the owners of any property taken pursuant to this subsection and the full faith and credit of the United States is hereby pledged to the payment of any judgment so entered against the United States. Payment shall be made by the Secretary of the Treasury from moneys available and appropriated from the Land and Water Conservation Fund, subject to the appropriation limitation contained in section 4 of this Act, upon certification to him by the Secretary of the Interior of the agreed negotiated value of such property, or the valuation of the property awarded by judgment, including interest at the rate of six per centum per annum from the date of taking to the date of payment therefor. In the absence of a negotiated agreement or an action by the owner within one year after the date of enactment of this Act, the Secretary may initiate proceedings at any time seeking a determination of just compensation in a court of competent jurisdiction. The Secretary shall allow for the orderly termination of all operations on real property acquired by the United States in parcels A, B, C and D of this subsection, and for the removal of equipment, facilities and personal property therefrom. To further the preservation objective of this*

Act, the Secretary of the Interior may accept donations of scenic easements in the land within the area designated as 'Scenic Protection Area' on the drawing referred to in subsection (b) of this section. The Secretary may also acquire by other appropriate means scenic easements in the area referred to in this subsection when, in his judgment, such action is necessary in order to assure uniform application of scenic control. To further achieve the purpose of this Act he may cooperate and enter into agreements and covenants with property owners, groups thereof, and nonprofit organizations and may also cooperate with the State of Maryland and the political subdivisions thereof in order to promote and achieve scenic preservation through zoning and such other means as may be feasible.

SEC. 3. Land and interests therein acquired pursuant to this Act shall be administered in accordance with the Act entitled "An Act to establish a National Park Service, and for other purposes," approved August 25, 1916 (Stat. 535), as amended and supplemented.

SEC. 4. There are hereby authorized to be appropriated such sums, but not more than **[\$5,657,000]** \$10,557,000, to carry out the provisions of this Act.



AMENDING THE ACT OF OCTOBER 4, 1961, PROVIDING FOR THE PRESERVATION AND PROTECTION OF CERTAIN LANDS KNOWN AS PISCATAWAY PARK IN PRINCE GEORGES AND CHARLES COUNTIES, MD.

JULY 30, 1974.—Ordered to be printed

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

REPORT

[To accompany H.R. 4861]

The Committee on Interior and Insular Affairs, to which was referred the bill (H.R. 4861) to amend the Act of October 4, 1961, providing for the preservation and protection of certain lands known as Piscataway Park in Prince Georges and Charles Counties, Maryland, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

PURPOSE OF BILL

The purpose of H.R. 4861, as amended, is to authorize the acquisition of certain lands in Maryland across the Potomac River from Mount Vernon in order to assure the integrity of the view from the home of the Nation's first President.

BACKGROUND

Known as Piscataway Park—a unit of the National Capital Park System—the area involved in H.R. 4861 has a long and complex history. Initially, legislation presented to the Congress provided for the acquisition and preservation of the lands within the panoramic view from the Mount Vernon estate and Fort Washington from Piscataway Creek to the area known as Marshall Hall. As the legislation evolved, it was ultimately amended so that the Marshall Hall property was included in the scenic easement zone rather than in the fee acquisition area.

In the years following its authorization in 1961, numerous valuable tracts of land were acquired by civic minded persons and organizations and donated in fee to the Government for inclusion in the park. Altogether more than 475 of the 837 acres of land acquired in the fee acquisition zone have been donated. In addition, property owners holding title to more than half of the land in the scenic easement zone donated easements covering their properties. Some people had the understanding—though there is nothing in the records to substantiate the claim—that the owners of Marshall Hall had agreed to donate a scenic easement covering that property if it were excluded from the fee acquisition zone; however, in spite of efforts to secure such a donation it was never forthcoming.

As the years passed, land values in this area skyrocketed as they have throughout the entire Washington Metropolitan region. Coupling the natural escalation with limited funding, it was inevitable that an additional authorization would be needed to complete the program. In order to move this project forward, the Congress twice turned its attention to this area in 1966 and in 1972 and approved legislation ultimately increasing the appropriation ceiling to \$5,657,000. In the intervening years, the owners of Marshall Hall developed several different schemes for developing the land under their control. At one point in time, plans were unveiled to develop a theme park (similar to a Disneyland) on the property and the owners succeeded in having the lands rezoned; however, subsequent litigation ultimately halted that plan. Later, an agreement between the Park Service and the owners was worked out to exchange the key Potomac River tracts now involved in H.R. 4861 for parklands in Greenbelt, Md., but that agreement was voided in the Department before the Congress had an opportunity to consider it.

Finally, the Government condemned a scenic easement covering the Marshall Hall Amusement Park and ultimately reached a settlement with the owners in April 1972. Under the terms of that settlement, the owners may not alter the general appearance or dimensions of the present structures unless they decide to construct low density, single-family residences, but the amusement park as it presently exists can continue indefinitely.

Under H.R. 4861, as amended, the Secretary of the Interior is required to acquire within one year from the date of enactment the Marshall Hall Amusement Park and three other tracts belonging to, or under the control of, the same owners. All of the lands involved are visible from the Mount Vernon estate, according to an authoritative report published by the Department of the Interior in 1972, entitled "Potential Adverse Environmental Impact of Two Tracts of Land Controlled by Joseph I. Goldstein Across from Mount Vernon." In addition two other tracts which are under different ownerships would also be acquired.

NEED

As recommended by the committee, H.R. 4861 provides:

(1) for the acquisition of the 111-acre Marshall Hall Amusement Park which is presently within the Scenic Easement Zone and over which a scenic easement has been acquired;

(2) for the acquisition of a 157-acre tract of land adjacent to Marshall Hall, which is zoned for commercial development and which is subject to the control of the same owners;

(3) for the acquisition of another 14-acre parcel having 700 feet of river frontage adjacent to Marshall Hall, which is zoned for commercial development and which is also under the control of the same owners;

(4) for the acquisition of 330-acres of undeveloped land which was acquired by its present owners at auction from the owners of Marshall Hall and over which a scenic easement was voluntarily conveyed to the Government;

(5) for the fee acquisition of a small wedge-shaped parcel (4.7 acres) of land located between the above-mentioned property and the fee acquisition zone; and

(6) for the fee acquisition of the Marshall Hall Marina (totaling about 9 acres), which is zoned for commercial development, adjoining Fort Washington.

While there may be room for a difference of opinion on the merits of including all of these lands in the fee acquisition zone of Piscataway Park, the majority of the members of the Committee on Interior and Insular Affairs agreed that past history argues persuasively for securing full control over the use of these lands. According to a 1972 publication of the Department of the Interior both of the properties at the extremes of the park are visible from the Mount Vernon estate, viz. the 14-acre riverfront parcel at the southern end of the park and the 9-acre marine adjoining Fort Washington. The development of these unrestricted, commercially zoned lands would certainly constitute an adverse intrusion of the otherwise peaceful and relatively undeveloped scene from George Washington's home.

At the same time, the acquisition of the amusement park would enable the National Park Service to remove from the scene a highly commercial enterprise which is neither consistent with the overall environment nor with the purposes for which the Piscataway Park was established. In addition, it would preclude any possible adverse uses from emerging on lands which are now totally unrestricted, and some of which have already been commercially zoned.

With respect to the remaining lands over which scenic controls have already been acquired (viz. the 330 acres known as the Tricent Tract), it is understood that the owners purchased the land as a holding action at public auction in an effort to assure their preservation. Since the lands were located within the scenic protection area, the owners voluntarily conveyed the customary scenic easement to the Government at the appraised value and they are willing to convey their remaining interest at cost if such acquisition is authorized by the Congress.

PUBLIC USE AND ENJOYMENT OF THE AREA

It should be remembered that the basic purpose of Piscataway Park is to preserve the view from Mount Vernon and Fort Washington; however, that should not be interpreted so narrowly as to preclude the reasonable installation of public use facilities, such as modest picnic areas, trails, and the like. Not unlike most other areas of the national

park system, development monies for Piscataway Park have been severely limited or nonexistent and the committee would urge a more aggressive program in this regard. Such development, of course, can only be legally undertaken on lands in which the United States holds title in fee simple. This, too, argues persuasively for the enactment of H.R. 4861 because it would have the effect of adding some 625 acres of land in fee to 1,058 acres presently owned in fee by the Government.

Naturally, as we approach the celebration of the Bicentennial interest in places associated with the birth of the Nation will intensify. Few places will be the focus of greater public attention than the home of the Father of this Nation so it is highly appropriate that this long-term effort be capped with this final action by the Congress.

Cost

To date the Congress has authorized the appropriation of \$5,657,000 for the acquisition of lands and interests in lands at Piscataway. While many of the members of the committee are skeptical of the increase which departmental witnesses said would be required if H.R. 4861 is enacted, the bill carries the sum which the Department indicated would be necessary. The new authorization ceiling totals \$10,557,000—representing an increase of \$4,900,000.

COMMITTEE AMENDMENTS

The Committee amended H.R. 4861 by deleting the provision calling for a legislative taking and instead requires the Secretary to acquire the land within one year from the date of enactment. The Committee amendment confers on the Secretary the full scope of acquisition authority available to the Federal government. This authority contains the ability to file a declaration of taking, and it is the express intent and directive of the Committee that should the Secretary not be able to negotiate a sale within one year, *he must* file a declaration of taking to comply with the law.

At the time of the passage of the Biscayne National Monument in the State of Florida in 1968, the Senate Interior Committee formulated a policy under which the Interior Department is requested to consult with the Committee before filing a declaration of taking in a park area. In this instance, the Committee feels that the need to move ahead warrants an advance approval of the declaration of taking, and, in fact, the Committee directs that such action be taken if that is the only way to acquire the land within the one-year period. The Committee also understands that the impoundment provisions of the recently enacted Congressional Budget and Impoundment Control Act of 1974 (Public Law 93-344) are effective and applicable to any attempt to evade Congressional intent as expressed in this legislation and the appropriation of the \$4.9 million needed to acquire these lands.

A new map was prepared which more accurately depicts the area involved in the bill, and the Committee also amended H.R. 4861 to reflect the designation of the revised map.

COMMITTEE RECOMMENDATION

The Parks and Recreation Subcommittee held an open hearing on H.R. 4861 on June 4, 1974, and the full Committee on Interior and Insular Affairs in open executive mark-up session on July 15, 1974, unanimously ordered the bill, as amended, favorably reported to the Senate.

DEPARTMENTAL REPORT

The report of the Department of the Interior on H.R. 4861 is set forth in full as follows:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., May 15, 1974.

HON. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: There is pending before your Committee H.R. 4861, a bill "To amend the Act of October 4, 1961, providing for the preservation and protection of certain lands known as Piscataway Park in Prince Georges and Charles Counties, Maryland, and for other purposes", which passed the House of Representatives on Rebruary 4, 1974.

We recommend against enactment of this bill.

H.R. 4861 would amend the Act of October 4, 1961, as amended, which created Piscataway Park along the Potomac River opposite Mt. Vernon, by substituting a new map reference for the map dated January 25, 1966, which currently defines the boundaries of Piscataway Park. The bill provides for the legislative taking of (1) land in the Marshall Hall area on the downstream side of the park, including 446 acres of land to which a scenic easement has already been acquired, as well as an additional 171 acres currently outside the park boundary, and (2) the 8-acre Fort Washington marina, located across Piscataway Creek from the park. The bill also provides for an appropriation authorization in the amount of \$10,557,000 in place of the existing limitation of \$5,657,000, which was set last year by P.L. 92-533 (86 Stat. 1063).

The principal purpose of the 1961 legislation which created the park, including a "scenic protection area" back from the Potomac River, was to preserve the view across the river from Mt. Vernon in its historic state. Neither at the time of the original enactment nor at the time of subsequent increases in appropriation authorizations in 1966 and 1972 did the Congress or the Department consider fee acquisition of Marshall Hall Amusement Park, or any type of acquisition of the marina or of lands downstream from the amusement park, necessary to protect the overview. We believe that the existing legislation continues to be satisfactory to accomplish the purposes set forth by Congress in 1961.

The parcel on which the amusement park is situated is apparently being proposed by H.R. 4861 for fee acquisition. Restrictive easements have now been obtained on all of this parcel, however, and we believe

that these restrictive easements give adequate control. Fee acquisition would be an inappropriate use of scarce acquisition funds. The Fort Washington marina is not visible from Mount Vernon at all, and therefore its purchase could not be justified on the ground of protecting the view from that historic site. The remaining areas specified for fee acquisition by the bill are already adequately protected by purchase of scenic easements or are not now within the park because they are not considered necessary to protect the view from Mount Vernon. We believe that with the completion of the easement acquisition program, additional funds for which were authorized in 1972, the objective of preserving the overview of Mount Vernon will have been accomplished.

We strongly oppose the legislative taking provision of H.R. 4861. Legislative taking can result in uncontrollable budgetary obligations, seriously hampering our flexibility to follow an orderly acquisition schedule. Further, legislative taking reduces the opportunity for the most efficient use of available acquisition funds by creating an obligation of payment whenever a final judgment is rendered, and automatically giving top priority to the area in question. Other authorized funds from the same source are then necessarily assigned a lesser priority. While a taking may be justified in some instances where an area is in immediate danger of irreparable harm and where funds are not available for purchase of that area, we do not believe these conditions exist in Piscataway Park. On the contrary, upon enactment the United States would assume responsibility for an amusement park which is already developed and in operation. No irreparable natural or historical values would be saved by such action, and we have no desire to undertake the management of Marshall Hall Amusement Park.

We estimate that acquiring in fee the approximately 625 acres contemplated by H.R. 4861 would cost approximately \$4.9 million.

Mention has been made that acquisition of the proposed area will add a state road to the park, which will give access to the river and provide accessible space for picnicking, biking and camping. We would note, however, that the public currently does have access to the river and the park from that state road and other roads. We would further note that the Park Service does not have any extensive development plans for Piscataway Park, because it is an ecologically fragile area.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

NATHANIEL REED,
Assistant Secretary of the Interior.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of Rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, H.R. 4861, as reported, are shown as follows (existing law proposed to be

omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman) :

ACT OF OCTOBER 4, 1961 (75 STAT. 780), AS AMENDED

* * * * *

SEC. 2(b). When the Secretary of the Interior receives a commitment, subject to such conditions as shall be agreeable to him and the potential donor or donors, in accordance with which commitment the property referred to in subsection (a) will be donated to the United States for purposes of this Act, he is authorized to acquire by such means as he finds are in the public interest other land and interests in land lying generally within the area identified as "Fee Acquisition Area" on the [drawing entitled "Piscataway Park", numbered NCR 69.714-18, and dated January 25, 1966.] *drawing entitled "Piscataway Park," numbered PIS-P-90,000 and dated July 19, 1974,* which is on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

* * * * *

[The property herein described is more particularly depicted on drawing numbered 1961-1, a copy of which is on file with the Secretary of the Interior.]

* * * * *

[To further the preservation objective of this Act the Secretary may accept donations of scenic easements in the land within the described area now leased and operated by the Marshall Hall Park, Incorporated, as more specifically described in a deed, recorded in the land records of Charles County, Maryland, in folio 126, liber 131, and the area designated as "Scenic Protection Area" on the drawing referred to in subsection (b) of this section.] *Within one year from the date of enactment of this Act, the Secretary shall acquire all right, title and interest in all real property within the boundaries of the parcels designated A, B, C, and D, as shown on the drawing referenced in subsection 2(b) by purchase with donated or appropriated funds, donation or exchange.*

* * * * *

SEC. 4. That section 4 of the Act of October 4, 1961 (75 Stat. 780, 782), as amended (80 Stat. 319), is further amended by deleting "\$4,132,000" and inserting ["\$5,657,000".] *\$10,557,000".*

○

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 amend the Act of October 4, 1961, providing for the preservation and protection of certain lands known as Piscataway Park in Prince Georges and Charles Counties, Maryland, 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 Act of October 4, 1961 (75 Stat. 780), providing for the preservation and protection of certain lands in Prince Georges and Charles Counties, Maryland, as amended, is amended as follows:

(a) In section 2(b), amend the first sentence by striking out "drawing entitled 'Piscataway Park,' numbered NCR 69.714-18, and dated January 25, 1966," and inserting in lieu thereof "drawing entitled 'Piscataway Park,' numbered PIS-P-90,000, and dated July 19, 1974".

(b) In section 2(b), delete the words "The property herein described is more particularly depicted on the drawing numbered 1961-1, a copy of which is on file with the Secretary of the Interior."

(c) In section 2(c), delete the first sentence and insert in lieu thereof the following: "Effective on the date of enactment of this Act, there is hereby vested in the United States all right, title and interest in, and the right to immediate possession of, all real property within the boundaries of the parcels designated A, B, C, and D, as shown on the drawing referenced in subsection 2(b). The United States will pay just compensation to the owners of any property taken pursuant to this subsection and the full faith and credit of the United States is hereby pledged to the payment of any judgment so entered against the United States. Payment shall be made by the Secretary of the Treasury from moneys available and appropriated from the Land and Water Conservation Fund, subject to the appropriation limitation contained in section 4 of this Act, upon certification to him by the Secretary of the Interior of the agreed negotiated value of such property, or the valuation of the property awarded by judgment, including interest at the rate of six (6) per centum per annum from the date of taking to the date of payment therefor. In the absence of a negotiated settlement or an action by the owner within one year after the date of enactment of this Act, the Secretary may initiate proceedings at any time seeking a determination of just compensation in a court of competent jurisdiction. The Secretary shall allow for the orderly termination of all operations on real property acquired by the United States in parcels A, B, C, and D of this subsection, and for the removal of equipment, facilities, and personal property therefrom: *Provided*, That in no event shall the Secretary allow operations at the Marshall Hall Amusement Park to continue beyond January 1, 1980. The Secretary shall, on lands acquired for the purposes of this park, implement a development plan which will assure public access to, and public use

H. R. 4861—2

and enjoyment of, such lands. To further the preservation objective of this Act, the Secretary of the Interior may accept donations of scenic easements in the land within the area designated as 'Scenic Protection Area' on the drawing referred to in subsection (b) of this section."

(d) In section 4, delete "\$5,657,000" and insert "\$10,557,000".

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.

October 3, 1974

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