

APPENDIX C: MNRRA ENABLING LEGISLATION

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TITLE 16--CONSERVATION

CHAPTER 1--NATIONAL PARKS, MILITARY PARKS, MONUMENTS, AND SEASHORES

SUBCHAPTER CXI--MISSISSIPPI NATIONAL RIVER AND RECREATION AREA

Part A--Mississippi National River and Recreation Area

Sec. 460zz-6. Authorization of appropriations

There is authorized to be appropriated such sums as may be
necessary
to carry out this part.

(Pub. L. 100-696, title VII, Sec. 707, Nov. 18, 1988, 102 Stat. 4607.)

TITLE 16--CONSERVATION

CHAPTER 1--NATIONAL PARKS, MILITARY PARKS, MONUMENTS, AND SEASHORES

SUBCHAPTER CXI--MISSISSIPPI NATIONAL RIVER AND RECREATION AREA

Part A--Mississippi National River and Recreation Area

Sec. 460zz-1. Establishment

(a) In general

There is hereby established the Mississippi National River and
Recreation Area (hereinafter in this subchapter referred to as the
``Area'') which shall consist of the State designated Mississippi
Critical Area encompassing that portion of the Mississippi River and
adjacent lands generally within the Saint Paul-Minneapolis Metropolitan
Area, as depicted on the map entitled Mississippi National River and
Recreation Area numbered MI-NRA/80,000 and dated April 1987. The map
shall be on file and available for public inspection in the offices of
the Department of the Interior in Washington, District of Columbia, and
in the offices of the Metropolitan Council of the Twin Cities Area in
Saint Paul, Minnesota.

(b) Boundaries

The Secretary of the Interior (hereinafter referred to as the
``Secretary'') shall publish in the Federal Register, as soon as
practicable after November 18, 1988, a detailed description and map of
the boundaries established under subsection (a) of this section.

(Pub. L. 100-696, title VII, Sec. 702, Nov. 18, 1988, 102 Stat. 4600.)

Section Referred to in Other Sections

This section is referred to in sections 460zz-2, 460zz-3 of this title.

TITLE 16--CONSERVATION

CHAPTER 1--NATIONAL PARKS, MILITARY PARKS, MONUMENTS, AND SEASHORES

SUBCHAPTER CXI--MISSISSIPPI NATIONAL RIVER AND RECREATION AREA

Part A--Mississippi National River and Recreation Area

Sec. 460zz-2. Mississippi River Coordinating Commission

(a) Establishment

There is hereby established a Mississippi River Coordinating Commission whose purpose shall be to assist Federal, State, and local authorities in the development and implementation of an integrated resource management plan for those lands and waters as specified in section 460zz-1 of this title. The Commission shall consist of the following 22 members appointed by the Secretary of the Interior:

- (1) The Director of the National Park Service, or his designee.
- (2) The Chief of the Corps of Engineers, or his designee.
- (3) The Director of the Fish and Wildlife Service, or his designee.
- (4) Three individuals, from recommendations by the Governor of Minnesota, to represent the Minnesota Department of Natural Resources, Department of Transportation, and Minnesota Environmental Quality Board.
- (5) One individual, to represent the Minnesota Historical Society.
- (6) One individual, to represent the Metropolitan Council of the Twin Cities Area.
- (7) Four elected officials, to represent the cities of Saint Paul and Minneapolis.
- (8) Four elected officials, from recommendations by the Governor of Minnesota, to represent the interests of the other affected municipalities and counties.
- (9) One individual, to represent the Metropolitan Parks and Open Spaces Commission.
- (10) One individual, from recommendations by the Governor of Minnesota, to represent the interests of commercial navigation.
- (11) Four individuals, from recommendations by the Governor of Minnesota, to be chosen from the general public.

(b) Terms

(1) Except as provided in paragraphs (2) and (3), members (other than ex officio members) shall be appointed for terms of three years.

(2) Of the members first appointed--

(A) Under paragraph (4) of subsection (a) of this section:

(i) One shall be appointed for a term of one year.

(ii) One shall be appointed for a term of two years.

(B) Under paragraphs (7) and (8) of subsection (a) of this section, one shall be appointed for a term of one year.

(C) Under paragraph (11) of subsection (a) of this section:

(i) One shall be appointed for a term of one year.

(ii) One shall be appointed for a term of two years.

(iii) One shall be appointed for a term of four years.

(3) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(c) Compensation

Members of the Commission shall serve without pay. While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5.

(d) Chairperson

The Chairperson of the Commission shall be appointed by the Secretary from among the members of the Commission nominated by the Governor of Minnesota and shall serve for a term of three years.

(e) Quorum

Twelve members of the Commission shall constitute a quorum.

(f) Meetings

The Commission shall meet at the call of the Chairman \1\ or a majority of its members.

 \1\ So in original. Probably should be ``Chairperson``.

(g) Development of policies and programs

As a coordinator and advisory organization, the Commission shall assist the Secretary, the State of Minnesota and local units of government, endeavoring to use existing Federal, State, regional, and

local plans and programs where consistent with the intent and goals of this part, in developing the following:

- (1) Policies and programs for the preservation and enhancement of the environmental values of the Area.
- (2) Policies and programs for enhanced public outdoor recreation opportunities in the Area.
- (3) Policies and programs for the conservation and protection of the scenic, historical, cultural, natural and scientific values of the Area.
- (4) Policies and programs for the commercial utilization of the Area and its related natural resources, consistent with the protection of the values for which the Area is established as the Mississippi National River and Recreation Area.

(h) Staff

The Secretary shall provide the Commission with such staff and technical assistance as the Secretary, after consultation with the Commission, considers appropriate to enable the Commission to carry out its duties. Upon request of the Secretary, any Federal agency may provide information, personnel, property, and services on a reimbursable basis, to the Commission to assist in carrying out its duties under this part. The Secretary may accept the services of personnel detailed from the State of Minnesota or any political subdivision of the State and may reimburse the State or such political subdivision for such services. The Commission may procure temporary and intermittent services under section 3109(b) of title 5.

(i) Plan

Within 3 years after appointment of the full membership of the Commission, the Commission shall submit to the Secretary and the Governor of Minnesota a comprehensive plan for land and water use measures for the area to be developed and implemented by the responsible Federal agencies, the State of Minnesota, and local political subdivisions. The plan shall endeavor to use existing Federal, State, regional, and local plans and where consistent with the intent and goals of this part shall coordinate those plans to present a unified comprehensive plan for the Area. The plan shall include but not be limited to each of the following:

- (1) A program for management of existing and future land and water use which--
 - (A) considers and details the application of a variety of land and water protection and management techniques;
 - (B) includes a policy statement for the use of Federal, State, and local regulatory responsibilities to manage land and water resources in a manner consistent with the purposes of this

part; and
 (C) recognizes existing economic activities within the area
 \2\ and provides for the management of such activities,
 including barge transportation and fleeting and those
 indigenous
 industries and commercial and residential developments which
 are
 consistent with the findings and purposes of this part.

 \2\ So in original. Probably should be capitalized.

(2) A program providing for coordinated implementation and
 administration of the plan with proposed assignment of
 responsibilities to the appropriate governmental unit at the
 Federal, State, regional and local levels, including each of the
 following:

(A) Ways in which local, regional, State, and Federal
 policies and permits may better be coordinated to the goals and
 policies of this part.

(B) A financial plan to provide and support the public
 improvements and services recommended in the plan; and a
 mechanism for coordinating local, regional, State, and Federal
 planning to promote the purposes of this part.

(C) How the goals and policies of the management plan will
 be compatible with the existing channel maintenance program on
 the Mississippi River, and the existing Federal, State,
 regional, and local programs and goals on the Minnesota and
 Saint Croix Rivers.

et (D) The provisions of the Clean Water Act [33 U.S.C. 1251
 seq.] and the Safe Drinking Water Act (title XIV of the Public
 Health Service Act) [42 U.S.C. 300f et seq.] which pertain to
 the surface waters of the Mississippi National River and
 Recreation Area.

(3) A coordination and consistency component which details the
 ways in which local, State, and Federal programs and policies may
 best be coordinated to promote the purposes of this part.

(4) A program for the coordination and consolidation, to the
 extent feasible, of permits that may be required by Federal, State,
 and local agencies having jurisdiction over land and waters within
 the Area.

(j) Development of plan

(1) In developing the plan the Commission shall consult on a
 regular
 basis with appropriate officials of any local government or Federal or
 State agency which has jurisdiction over lands and waters within the
 Area.

(2) In developing the plan the Commission shall consult with
 interested conservation, business, professional and citizen
 organizations.

(3) In developing the plan the Commission shall conduct public
 hearings within the Area, and at such other places as may be
 appropriate, for the purposes of providing interested persons with the

opportunity to testify with respect to matters to be addressed by the plan.

(k) Approval of plan

The Commission shall submit the plan to the Secretary and the Governor of Minnesota, for their review. The Governor shall act on the plan within 90 days and shall submit the plan to the Secretary along with any recommendations. The Secretary shall approve or disapprove the plan within 90 days. In reviewing the plan the Secretary shall consider each of the following:

- (1) The adequacy of public participation.
- (2) Assurances of plan implementation from State and local officials.
- (3) The adequacy of regulatory and financial tools that are in place to implement the plan.
- (4) Plan provisions for continuing oversight of the plan implementation by the Secretary and the Governor of Minnesota.

If the Secretary disapproves the plan, he shall, within 60 days after the date of such disapproval advise the Governor and Commission in writing of the reasons therefor, together with his recommendations for revision. The Commission shall within 90 days of receipt of such notice of disapproval revise and resubmit the plan to the Governor for his review. Following his review, the Governor shall submit the revised plan, together with any recommendations he may have, to the Secretary who shall approve or disapprove the revision within 60 days.

(l) Interim program

Prior to the adoption of the Commission's plan, the Secretary and the Commission shall monitor all land and water use activities within the Area to ensure that said activities are in keeping with the purposes of this part, and shall advise and cooperate with the appropriate Federal, State, and local governmental entities to minimize adverse impacts on the values for which the Area is established.

(m) Commission review

The Commission shall assist the Secretary and the Governor of Minnesota in reviewing and monitoring the implementation of the plan by Federal, State, and local governmental agencies having jurisdiction in the Area. The Commission may, after providing, for public comment and subject to the review and approval, as set forth in subsection (k) of this section, modify said plan, if the Commission determines that such modification is necessary to further the purposes of this part.

(n) Termination of Commission

The Commission shall terminate on the date 10 years after November 18, 1988. Following termination of the Commission the State is authorized to establish a State Commission which shall exercise the functions and authorities described in subsection (m) of this section. The Secretary of the Interior and the Secretary of the Army are authorized and directed to participate as members of such State Commission.

(Pub. L. 100-696, title VII, Sec. 703, Nov. 18, 1988, 102 Stat. 4600; Pub. L. 101-40, Sec. 4(2), June 20, 1989, 103 Stat. 82; Pub. L. 102-525, title III, Sec. 302, Oct. 26, 1992, 106 Stat. 3441.)

References in Text

The Clean Water Act, referred to in subsec. (i)(2)(D), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92-500, Sec. 2, Oct. 18, 1972, 86 Stat. 816, also known as the Federal Water Pollution Control Act, which is classified generally to chapter 26 (Sec. 1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

The Safe Drinking Water Act, referred to in subsec. (i)(2)(D), is title XIV of act July 1, 1944, as added Pub. L. 93-523, Sec. 2(a), Dec. 16, 1974, 88 Stat. 1660, as amended, which is classified generally to subchapter XII (Sec. 300f et seq.) of chapter 6A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

Amendments

1992--Subsec. (i). Pub. L. 102-525 substituted ``3 years after appointment of the full membership of the Commission'' for ``3 years after November 18, 1988''.

1989--Subsec. (d). Pub. L. 101-40 substituted ``and shall serve'' for ``to serve''.

Section Referred to in Other Sections

This section is referred to in sections 460zz-3, 460zz-4, 460zz-5 of this title.

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SUBCHAPTER CXI--MISSISSIPPI NATIONAL RIVER AND RECREATION AREA

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Sec. 460zz-3. Federal lands and developments

(a) Lands

Notwithstanding any other provision of law, any Federal property located within the boundaries of the Area as identified on the map referred to in section 460zz-1 of this title, is hereby transferred

without consideration to the administrative jurisdiction of the Secretary for use by him in implementing the purposes of this part, except as follows:

(1) Facilities and lands administered by the Secretary of the Army through the Corps of Engineers for navigational and flood control purposes may continue to be used by the Secretary of the Army subject to the provisions of subsection (b) of this section.

(2) Federal property on which there is located any building or other structure which is in use (as of November 18, 1988) or for which a lease is in effect shall not be transferred under this subsection without the concurrence of the administering agency.

(b) Federal agency activities

(1) In general

Before any department, agency, or instrumentality of the United States issues or approves any license or permit for any facility or undertaking within the Area and before any such department, agency, or instrumentality commences any undertaking or provides any

Federal

assistance to the State or any local governmental jurisdiction for any undertaking within the Area, the department, agency, or instrumentality shall notify the Secretary. The Secretary shall review the proposed facility or undertaking to assess its compatibility with the plan approved under section 460zz-2 of this title. The Secretary shall make a determination with respect to the compatibility or incompatibility of a proposed facility or undertaking within 60 days of receiving notice under this subsection. If the Secretary determines that the proposed facility or undertaking is incompatible with the plan, he shall immediately notify such Federal department, agency, or instrumentality and request such department, agency, or instrumentality to take the actions necessary to conform the proposed facility or undertaking

to

the plan. The Federal department, agency, or instrumentality shall, within 60 days after receiving the Secretary's request, notify the Secretary of the specific decisions made in response to the

request.

To the extent that such department, agency, or instrumentality does not then conform such facility or undertaking to the request of the Secretary, the Secretary is directed to notify the Congress in writing of the incompatibility of such facility or undertaking with the plan approved under section 460zz-2 of this title.

(2) Navigation

(A) Nothing in this part shall be deemed to impact or otherwise affect such existing statutory authority as may be vested in the Secretary of the Department in which the Coast Guard is operating

or

the Secretary of the Army for the maintenance of navigation aids

and

navigation improvements: Provided, That in exercising such

authority

the Secretary of the Army, through the Corps of Engineers and the Secretary of the Department in which the Coast Guard is operating,

shall not take any action that would have a direct and adverse effect on the values for which the Area is established unless such action is essential for the protection of public health or safety

or
is necessary for national security or defense.

(B) In planning for the development and public use of the Area, the Secretary shall consult with the Secretary of the Army to assure that public use of adjacent or related water resource developments or flood control projects and that of the Area are compatible.

(Pub. L. 100-696, title VII, Sec. 704, Nov. 18, 1988, 102 Stat. 4604.)

Transfer of Functions

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

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SUBCHAPTER CXI--MISSISSIPPI NATIONAL RIVER AND RECREATION AREA

Part A--Mississippi National River and Recreation Area

Sec. 460zz-4. Administration

(a) Authorities

The Secretary shall administer the Area in accordance with this part. Only those lands within the Area under the direct jurisdiction of the Secretary shall be administered in accordance with the provisions of law generally applicable to units of the National Park System. Other lands and waters within the Area shall be administered under State and local laws. In the case of any conflict between the provisions of this part and such generally applicable provisions of law, the provisions of this part shall govern.

(b) State and local authorities

The Secretary shall consult and cooperate with the State of Minnesota and its political subdivisions concerning the development and management of Federal lands within the Area.

(c) Land acquisition

Within the boundaries of the Area, the Secretary is authorized, in consultation with the State of Minnesota and the affected local governmental unit, to acquire land and interests therein by donation, purchase with donated or appropriated funds, exchange or transfer, except as provided in paragraphs (1) and (2).

(1) Any lands or interests therein owned by the State of Minnesota or any political subdivision thereof may be acquired only by donation.

(2) Privately owned lands or interests therein may be acquired only with the consent of the owner thereof unless the Secretary makes a determination pursuant to subsection (d)(2) of this section.

In no event may the Secretary use the authority provided in subsection (d)(3) of this section to acquire land or interests in land without the owner's consent for any use exercised prior to January 1, 1987, that is consistent with the plan under section 460zz-2 of this title.

(d) Review of local plans

(1) Authority

For the purpose of protecting the integrity of the Area the Secretary shall cooperate and consult with the State and the appropriate political subdivisions to review all relevant local plans, laws and ordinances to determine whether they substantially conform to the plan approved pursuant to section 460zz-2 of this title. Additionally the Secretary shall in consultation with the State and its political subdivisions determine the adequacy of enforcement of such plans, laws, and ordinances, including review of building permits and zoning variances granted by local governments, and amendments to local laws and ordinances. The Secretary shall enter into agreements with the State or its political subdivisions to provide, on behalf of the Secretary, professional services necessary for the review of such local plans, laws, and ordinances, and of amendments thereto and variances therefrom, and for the monitoring or the enforcement thereof by local governments having jurisdiction over any areas to which the management plan applies.

(2) Purpose

The purpose of review under paragraph (1) shall be to determine the degree to which actions by local governments are compatible with the purposes of this subchapter. Following the approval of the plan under section 460zz-2 of this title and after a reasonable period of time has elapsed, upon a finding by the Secretary that such plans, laws and ordinances are nonexistent, are otherwise not in conformance with the plan or are not being enforced in a manner consistent with the plan, and if the Secretary determines that there is no feasible alternative available to prevent uses which would be

substantially incompatible with the plan, the Secretary may exercise the authority available to him under the provisions of paragraph (3).

(3) Enforcement

In those sections of the Area where local plans, laws and ordinances, or amendments thereto or variances therefrom are found by the Secretary not to be in conformance with the plan approved pursuant to section 460zz-2 of this title, or are not being enforced in a manner consistent with the plan, the Secretary shall notify the local government authority concerned. The Secretary may withhold from the local government authority concerned or, require reimbursement of, (A) Federal funds made available for implementation of the plan, or (B) any grant under section 460zz-5(a) of this title if the local plan, law, ordinance, amendment, or variance is not modified to conform with the plan and enforced in such manner as will carry out the purposes of this part. If the State has not initiated, within a 60-day period, such judicial or other action as necessary to ensure conformity with the plan, and if noncompliance with the plan or failure to enforce the plan continues after the end of such 60-day period, the Secretary may acquire, subject to appropriations, land or interests in land under this subsection without the consent of the owner thereof. Land and interests in land acquired pursuant to this subsection shall be restricted to the geographical area of the local government unit failing to conform with the plan and shall be limited to those lands clearly and directly required, in the judgment of the Secretary, for the protection of the Area in a manner compatible with the plan.

(e) Retention by owner of use and occupancy

The Secretary may permit the owner or owners of any improved residential property acquired by the Secretary under this part to retain a right of use and occupancy of the property for noncommercial \1\ residential uses not incompatible with the plan approved under section 460zz-2 of this title. The provisions of subsection (c), (d), and (e) of section 460ii-1 of this title shall apply to the retention of such rights, except that for purposes of this part, the applicable date shall be January 1, 1987 in lieu of January 1, 1975 and the purposes of this part shall be substituted for the purposes referred to in section 460ii-1(d) of this title.

 \1\ So in original. Probably should be ``noncommercial''.

(Pub. L. 100-696, title VII, Sec. 705, Nov. 18, 1988, 102 Stat. 4605;
Pub. L. 101-40, Sec. 4(1), June 20, 1989, 103 Stat. 82.)

Amendments

1989--Subsec. (a). Pub. L. 101-40 substituted ``Other'' for ``Our''
in third sentence.

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SUBCHAPTER CXI--MISSISSIPPI NATIONAL RIVER AND RECREATION AREA

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Sec. 460zz-5. State and local assistance and jurisdiction

(a) Grants

Upon approval of the plan under section 460zz-2 of this title, the
Secretary is authorized to make grants to the State of Minnesota, or
its
political subdivisions, to cover not more than 50 percent of the cost
of
acquisition and development within the Area of lands and waters or
interests therein in a manner consistent with the purposes of this
part.

(b) Cooperative agreements

The Secretary is authorized to enter into cooperative agreements
with the State of Minnesota or any political subdivision thereof
pursuant to which he may assist in the planning for and interpretation
of non-Federal publicly owned lands within the Area.

(c) Technical assistance

To enable the State of Minnesota and its political subdivisions to
develop and implement programs compatible with the plan, the Secretary
shall provide such technical assistance to the State and its political
subdivisions as he deems appropriate.

(d) State and local jurisdiction

Nothing in this part shall diminish, enlarge, or modify any right
of
the State of Minnesota or any political subdivision thereof, to
exercise
civil and criminal jurisdiction or to carry out State fish and wildlife

laws, rules, and regulations within the Area, or to tax persons, corporations, franchises, or private property on the lands and waters included in the Area.

(Pub. L. 100-696, title VII, Sec. 706, Nov. 18, 1988, 102 Stat. 4607.)

Section Referred to in Other Sections

This section is referred to in section 460zz-4 of this title.

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SUBCHAPTER CXI--MISSISSIPPI NATIONAL RIVER AND RECREATION AREA

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Sec. 460zz-6. Authorization of appropriations

There is authorized to be appropriated such sums as may be necessary to carry out this part.

(Pub. L. 100-696, title VII, Sec. 707, Nov. 18, 1988, 102 Stat. 4607.)

