

SAN ANTONIO MISSIONS NATIONAL HISTORICAL PARK
BOUNDARY EXPANSION ACT OF 2010

MAY 28, 2010.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. RAHALL, from the Committee on Natural Resources,
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 4438]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 4438) to authorize the Secretary of the Interior to enter into an agreement to lease space from a nonprofit group or other government entity for a park headquarters at San Antonio Missions National Historical Park, to expand the boundary of the Park, to conduct a study of potential land acquisitions, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “San Antonio Missions National Historical Park Boundary Expansion Act of 2010”.

SEC. 2. PARK HEADQUARTERS LEASE AND BOUNDARY STUDY.

Section 201 of Public Law 95–629 (16 U.S.C. 410ee) is amended—

(1) by redesignating subsections (b), (c), (d), (e), and (f) as subsections (c), (e), (f), (g), and (h) respectively;

(2) by inserting after subsection (a) the following new subsection:

“(b)(1) The Secretary shall conduct a study of lands within Bexar and Wilson Counties, Texas, to identify lands that would be suitable for inclusion within the

boundaries of the park. In conducting the study, the Secretary shall examine the natural, cultural, recreational, and scenic values and characteristics of lands within Bexar and Wilson Counties.

“(2) Not later than 3 years after the date funds are made available for the study under paragraph (1), the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the findings, conclusions, and recommendations of the study.”; and

(3) by inserting after subsection (c) (as so redesignated) the following new subsection:

“(d)(1) The Secretary may enter into a cooperative agreement with the City of San Antonio or its designee, for operation of a facility outside the boundary of the park that would provide—

“(A) office space for a headquarters and operational support for the park; and

“(B) a center for research and education.

“(2) The Secretary may plan, design, construct, and install in the facilities described in the cooperative agreement exhibits related to the resources at the park.

“(3) Notwithstanding the location of the facility described in the cooperative agreement, the Secretary may assign park staff from the park to provide interpretive services, including visitor information and education.”.

SEC. 3. BOUNDARY EXPANSION.

Section 201(a) of Public Law 95–629 (16 U.S.C. 410ee(a)) is amended as follows:

(1) By striking “In order” and inserting the following: “(1) In order”.

(2) By striking “The park shall also” and inserting the following:

“(2) The park shall also”.

(3) By striking “After advising the” and inserting the following:

“(4) After advising the”.

(4) By inserting after paragraph (2) (as so designated by paragraph (2) above) the following:

“(3) The boundary of the park is further modified to include approximately 151 acres, as depicted on the map titled ‘San Antonio Missions National Historical Park Proposed Boundary Addition 2009’, numbered 472/68,027, and dated November 2009. The map shall be on file and available for inspection in the appropriate offices of the National Park Service, U.S. Department of the Interior. The Secretary of the Interior may not use condemnation authority to acquire any lands or interests in lands under this Act.”.

Amend the title so as to read:

A bill to authorize the Secretary of the Interior to enter into a cooperative agreement for a park headquarters at San Antonio Missions National Historical Park, to expand the boundary of the Park, to conduct a study of potential land acquisitions, and for other purposes.

PURPOSE OF THE BILL

The purpose of H.R. 4438, as ordered reported, is to authorize the Secretary of the Interior to enter into a cooperative agreement for a park headquarters at San Antonio Missions National Historical Park, to expand the boundary of the Park, to conduct a study of potential land acquisitions, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

San Antonio Missions National Historical Park was established in 1978 to preserve, restore and interpret four Spanish Missions in San Antonio, Texas. The missions were established by Spain starting in the early 18th century in an effort to counter French territorial encroachments from Louisiana.

The four missions along the San Antonio River—Mission Concepción, Mission San José, Mission San Juan, and Mission Espada—flourished between 1745 and the 1780s. Increasing hostility from the Apache, and later the Comanche, coupled with inadequate military support, caused the local communities to retreat behind the missions’ walls. Disease reduced the native population,

accelerating the missions' decline, though the mission churches continue to host religious observances.

In addition to the four historic missions and their churches, the Park includes a grist mill at Mission San José, and a 270-year-old *acequia* (irrigation system), including its dam and aqueduct, at Mission Espada.

H.R. 4438 would expand the current boundaries of the Park to include 151 acres of land already found to be suitable for addition to the Park. The new boundary would encompass 118 acres that are either currently owned by the National Park Service (NPS) or in the process of being donated or transferred to the agency. Most of the costs associated with those transactions will be paid for by the San Antonio River Authority with NPS paying only a minimal portion. The additional 33 acres would either be purchased by NPS from willing sellers or donated to the Park.

The bill also would direct the NPS to study other lands in Bexar and Wilson counties that might be suitable for inclusion in the Park's boundaries. Finally, the bill would authorize the Park to enter into an agreement with the State of Texas, a local government, or a nonprofit organization to lease space outside the Park for headquarters offices and an education center.

COMMITTEE ACTION

H.R. 4438 was introduced by Representative *Ciro D. Rodriguez* (D-TX) on January 13, 2010. The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on National Parks, Forests and Public Lands. At a February 25, 2010, hearing before the Subcommittee, a representative of the National Park Service testified in support of the bill with an amendment to clarify the leasing provisions.

On May 5, 2010, the Subcommittee on National Parks, Forests and Public Lands was discharged from further consideration of H.R. 4438 and the full Natural Resources Committee met to consider the bill. Subcommittee Chairman *Raúl Grijalva* (D-AZ) offered an amendment in the nature of a substitute to address contracting issues relating to the agreement for office space and a research and education center.

Subcommittee Ranking Member *Bishop* (R-UT) offered an amendment to the amendment in the nature of a substitute to insert language stating that nothing in the bill prohibits or otherwise affects any authority to construct, maintain or operate coal-fired power generating plants. The amendment was not adopted by voice vote.

Representative *Bishop* then offered another amendment to the amendment in the nature of a substitute to insert language stating that nothing in the bill prohibits or otherwise affects any authority to construct, maintain or operate wind or solar power generating facilities. The amendment was not adopted by a roll call vote of 19 yeas and 23 nays, as follows:

Representative Bishop then offered another amendment to the amendment in the nature of a substitute to prohibit the Secretary of the Interior from using condemnation authority to acquire lands or interest in lands at the Park. The amendment was adopted by voice vote.

The amendment in the nature of a substitute, as amended, was then adopted by voice vote. The bill, as amended, was then ordered favorably to the House of Representatives by voice vote.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8, and Article IV, section 3, of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. **Cost of Legislation.** Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. **Congressional Budget Act.** As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. **General Performance Goals and Objectives.** As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill, as ordered reported, is to authorize the Secretary of the Interior to enter into a cooperative agreement for a park headquarters at San Antonio Missions National Historical Park, to expand the boundary of the Park, to conduct a study of potential land acquisitions, and for other purposes.

4. **Congressional Budget Office Cost Estimate.** Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 4438—San Antonio Missions National Historical Park Boundary Expansion Act of 2010

Summary: H.R. 4438 would authorize the National Park Service (NPS) to enter into a cooperative agreement with the state or local government, or a nonprofit organization to construct a headquarters and educational facility outside the boundary of the San Antonio Missions National Historical Park in Texas. The legislation

also would expand the boundaries of the park and require NPS to conduct a study to identify new lands to be included in the park.

Assuming appropriation of the necessary amounts, CBO estimates that the NPS would spend \$4 million over the 2011–2015 period to study and expand the park’s boundaries. CBO also estimates that the cooperative agreement provision of the bill would increase direct spending by \$10 million over the 2011–2015 period for the construction of a new headquarters and educational facility near the San Jose Mission. Because enacting the legislation would affect direct spending, pay-as-you-go procedures would apply. Enacting the bill would not affect revenues.

H.R. 4438 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 4438 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—					2011– 2015
	2011	2012	2013	2014	2015	
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated Authorization Level	1	2	1	*	*	4
Estimated Outlays	1	2	1	*	*	4
CHANGES IN DIRECT SPENDING						
Estimated Budget Authority	10	0	0	0	0	10
Estimated Outlays	1	2	4	2	1	10

Note: * = less than \$500,000.

Basis of estimate: For this estimate, CBO assumes that H.R. 4438 will be enacted near the end of fiscal year 2010, that the necessary funds will be provided for each year, and that spending will follow historical spending patterns for similar NPS projects.

Spending subject to appropriation

Section 3 would expand the boundary of the San Antonio Missions National Historic Park to include approximately 150 acres. Based on information from the NPS, about 118 of those acres are either currently owned by the NPS, would be donated to the park, or would be transferred through a land exchange with the San Antonio River Authority. The remaining 33 acres would either be purchased by NPS from willing sellers or donated. We estimate that NPS would spend about \$4 million over the next several years to acquire that remaining land. In addition, CBO estimates that the NPS would spend about \$100,000 annually to manage all of the additional acreage.

Section 2 would authorize the NPS to identify lands within Bexar and Wilson counties in the state of Texas that are suitable for inclusion within San Antonio Missions National Historic Park. The proposed study would consider the natural, cultural, recreational, and scenic values of the lands within those counties. Based on information from NPS, CBO estimates that completing the study would cost about \$350,000 over the 2011–2013 period, assuming the availability of appropriated funds.

Direct spending

H.R. 4438 would authorize the NPS to enter into a cooperative agreement with the city of San Antonio (or its designee) to build a new park headquarters, operational support building, and center for research and education. Currently, the park's headquarters are located in leased space not adjacent to the park, and the maintenance facilities and curatorial collections are housed in other locations.

Based on information from the NPS and a local nonprofit organization, CBO expects that, under the bill, the NPS would enter into a cooperative agreement for the construction of a new facility. The facility would be constructed in two phases—one to construct the headquarters and administrative support facilities and another phase to build educational and research space. Because the new facilities would be government property, the full cost of the construction should be recorded as new budget authority at the time the agreement is signed. Based on information from the NPS and the local nonprofit entity, CBO estimates that construction costs would be \$10 million over the 2011–2015 period, with no additional cost after 2015.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget reporting and enforcement procedures for legislation affecting direct spending or revenues. H.R. 4438 could affect direct spending from construction of the new federal facility. The changes in the deficit that are subject to those pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 4438, THE SAN ANTONIO MISSIONS NATIONAL HISTORICAL PARK BOUNDARY EXPANSION ACT OF 2010, AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON NATURAL RESOURCES ON APRIL 5, 2010

	By fiscal year, in millions of dollars—												
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2010–2015	2010–2020
	NET INCREASE OR DECREASE (–) IN THE DEFICIT												
Statutory Pay-As-You-Go Impact ...	0	1	2	4	2	1	0	0	0	0	0	10	10

Intergovernmental and private-sector impact: H.R. 4438 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Federal costs: Matthew Pickford; Impact on state, local, and tribal governments: Melissa Merrill; Impact on the private sector: Amy Petz.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

EARMARK STATEMENT

H.R. 4438 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) 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):

SECTION 201 OF THE ACT OF NOVEMBER 10, 1978

(Public Law 95-629)

(An Act To amend the Pennsylvania Avenue Development Corporation Act of 1972; to provide for the establishment of the San Antonio Missions National Historical Park; and for other purposes)

SEC. 201. (a) **[In order]** *(1) In order* to provide for the preservation, restoration, and interpretation of the Spanish Missions of San Antonio, Texas, for the benefit and enjoyment of present and future generations of Americans, there is hereby established the San Antonio Missions National Historical Park (hereafter in this section referred to as the “park”) consisting of Concepcion, San Jose, San Juan, and Espada Missions, together with areas and features historically associated therewith, as generally depicted on the drawing entitled “Boundary Map, San Antonio Missions National Historical Park”, numbered 930-80,022-C and dated May 1978, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, and in the offices of the Superintendent of the park. **[The park shall also]**

(2) The park shall also consist of the lands and interests therein within the area bounded by the line depicted as “Proposed Boundary Extension” on the maps entitled “San Antonio Missions National Historical Park”, numbered 472-80,075, 472-80,076, 472-80,077, 472-80,078, 472-80,079, 472-80,080, and 472-80,081 and dated June 7, 1990, which shall be on file and available for public inspection in the same manner as is such drawing. **[After advising the]**

(3) The boundary of the park is further modified to include approximately 151 acres, as depicted on the map titled “San Antonio Missions National Historical Park Proposed Boundary Addition 2009”, numbered 472/68,027, and dated November 2009. The map shall be on file and available for inspection in the appropriate offices of the National Park Service, U.S. Department of the Interior. The Secretary of the Interior may not use condemnation authority to acquire any lands or interests in lands under this Act.

(4) After advising the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives, in writing, the Secretary of the Interior (hereinafter referred to as the

“Secretary”) may make minor revisions of the boundaries of the park when necessary by publication of a revised drawing or other boundary description in the Federal Register.

(b)(1) The Secretary shall conduct a study of lands within Bexar and Wilson Counties, Texas, to identify lands that would be suitable for inclusion within the boundaries of the park. In conducting the study, the Secretary shall examine the natural, cultural, recreational, and scenic values and characteristics of lands within Bexar and Wilson Counties.

(2) Not later than 3 years after the date funds are made available for the study under paragraph (1), the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the findings, conclusions, and recommendations of the study.

[(b)] (c) For the purposes of this section, the Secretary is authorized—

(1) * * *

* * * * *

(d)(1) The Secretary may enter into a cooperative agreement with the City of San Antonio or its designee, for operation of a facility outside the boundary of the park that would provide—

(A) office space for a headquarters and operational support for the park; and

(B) a center for research and education.

(2) The Secretary may plan, design, construct, and install in the facilities described in the cooperative agreement exhibits related to the resources at the park.

(3) Notwithstanding the location of the facility described in the cooperative agreement, the Secretary may assign park staff from the park to provide interpretive services, including visitor information and education.

[(c)] (e)(1) With the exception of any property deemed necessary by the Secretary for visitor facilities or administration of the park, any owner or owners of improved property on the date of its acquisition by the Secretary may, as a condition of such acquisition, retain for themselves and their successors or assigns a right of use and occupancy of the property for noncommercial residential purposes, for twentyfive years, or, in lieu thereof, for a term ending at the death of the owner or his spouse, whichever is later. The owner shall elect the term to be reserved. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition less the fair market value on such date of the right retained by the owner.

* * * * *

[(d)] (f) The Secretary is authorized and directed to take prompt and appropriate action in accordance with the provisions of this section and any cooperative agreement hereunder to assure the protection and reservation of the historical and architectural values of the missions and the areas and features historically associated therewith within the boundaries of the park. The park shall be administered by the Secretary in accordance with this section and provisions of law generally applicable to units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535; 16

U.S.C. 1 et seq.) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-467).

[(e)] (g)(1) There is hereby authorized to be established by the Secretary, a San Antonio Missions Advisory Commission. The Commission shall be composed of seven members, each appointed for a term of two years by the Secretary, as follows:

(A) * * *

* * * * *

[(f)] (h)(1) There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section, but not more than \$10,000,000 for the acquisition of lands and interests in lands.

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DISSENTING VIEWS

Unless amended, I oppose H.R. 4438 for both fiscal and policy reasons. The stated purpose of this bill is to expand the park by an additional 151 acres. While the explanation for the necessity of the expansion was vague, the cost estimate was fairly precise: \$3,587,110. Add to this another \$350,000 that will be spent by the National Park Service to determine whether it wants even more property. With the current level of federal spending high in the red zone, we should resist pressing harder on the accelerator. I like our parks as much as any of my colleagues on the Natural Resources Committee, but I question the wisdom of going further into debt to continually expand Park Service holdings while our existing parks face a \$9 billion backlog in maintenance and upkeep. At the very least, Congress should for now limit new, non-critical acquisitions to land donated by one of the multi-billion dollar land trusts set up as tax exempt organizations for that purpose.

I appreciate that the Committee accepted a Republican “willing seller” amendment, but I believe private property rights should receive more protection than that bare minimum provision. Under this bill, homeowners and others who have not consented to being within the boundaries of this park may find themselves fending off the unwanted attention of federal stalkers pursuing their land.

I am also concerned that national parks are increasingly being used by litigation-prone environmental activists and by some in the National Park Service to control activities outside the Congressionally-determined boundaries of the park. De facto buffer zones have been used to interfere with activities such as energy projects that are planned near and even far from National Parks. To restrain this particular abuse, I offered amendments to prevent the park designation from being misused to prohibit construction and maintenance of power generating facilities—whether coal-fired, wind or solar. With some people opposed to almost any new power facility and others opposed only to those near their backyard, this has been an escalating problem, and the National Park Service has participated in killing or delaying affordable and renewable energy production from coast to coast. Unfortunately, Committee Democrats rejected these common-sense amendments on nearly party-line votes.

ROB BISHOP.

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