

LEGISLATION

Big South Fork National River and Recreation Area was authorized by Section 108 of the Water Resources Act of 1974 (Public Law 93-251). The following insertion is a copy of that section, as amended.

[Laws in effect as of January 2, 2001]

[CITE: 16USC460ee]

(a) "Secretary" defined; statement of purposes; boundaries; acquisition of outside sites for administrative, visitor orientation, and recreation facilities

As used in this section the term "Secretary" shall mean the Secretary of the Army, acting through the Chief of Engineers. The Secretary, in accordance with the national recreation area concept included in the interagency report prepared pursuant to section 218 of the Flood Control Act of 1968 (Public Law 90-483) by the Corps of Engineers, the Department of the Interior, and the Department of Agriculture, as modified by this section, is authorized and directed to establish on the Big South Fork of the Cumberland River in Kentucky and Tennessee the Big South Fork National River and Recreation Area (hereafter in this section referred to as the "National Area") for the purposes of conserving and interpreting an area containing unique cultural, historic, geologic, fish and wildlife, archeologic, scenic, and recreational values, preserving as a natural, free-flowing stream the Big South Fork of the Cumberland River, major portions of its Clear Fork and New River stems, and portions of their various tributaries for the benefit and enjoyment of present and future generations, the preservation of the natural integrity of the scenic gorges and valleys, and the development of the area's potential for healthful outdoor recreation. The boundaries shall be as generally depicted on the drawing prepared by the Corps of Engineers and entitled "Big South Fork National River and Recreation Area" identified as map number BSF-NRRA(1)(A) and dated October 1972, which shall be on file and available for public inspection in the office of the District Engineer, U.S. Army Engineer District, Nashville, Tennessee. The Secretary may acquire sites at locations outside such boundaries, as he determines necessary, for administrative and visitor orientation facilities. The Secretary may also acquire a site outside such boundaries at or near the location of the historic Tabard Inn in Ruby, Tennessee, including such lands as he deems necessary, for the establishment of a lodge with recreational facilities as provided in subsection (e)(3) of this section.

(b) Transfer of responsibility for planning, acquisition, and development, and administrative jurisdiction to Secretary of the Interior; boundary revisions; acreage limitation

Effective upon November 15, 1990, responsibility for all planning, acquisition, and development, as well as administrative jurisdiction over all Federal lands, water, interests therein, and improvements thereon, within the National Area is hereby transferred to the Secretary of the Interior. The Secretary may complete all acquisition and development activities in progress on November 15, 1990, and the Secretary and the Secretary of the Interior may, by mutual agreement, provide for an orderly and phased assumption of responsibilities (including but not limited to land acquisition and the construction of necessary access roads, day-use facilities, campground facilities, lodges, and administrative buildings) and available funds by the Secretary of the Interior in furtherance of the purposes of this section. The Secretary of the Interior shall administer the National Area in accordance with sections 1, 2, 3, and 4 of this title, as amended and supplemented. The authorities set forth in this section which were available to the Secretary immediately prior to November 15, 1990, shall after November 15, 1990, be available to the Secretary of the Interior. In the administration of the National Area the Secretary may utilize such statutory authority available to him for the conservation and management of wildlife and natural resources as he deems appropriate to carry out the purposes of this section. The Secretary of the Interior may, after transfer to him, revise the boundaries from time to time, but the total acreage within such boundaries shall not exceed one hundred and twenty-five thousand acres. Following such transfer the authorities

Federal and State laws, except that he may designate zones where, and establish periods when, no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment. Except in emergencies, any rules and regulations of the Secretary or the Secretary of the Interior pursuant to this subsection shall be put into effect only after consultation with the appropriate State agency responsible for hunting, fishing, and trapping activities.

(e) Gorge areas division: restrictions, limited motorboat access, operation and maintenance of rail line, access routes, maintenance of roads for nonvehicular traffic, ingress and egress of residents, protection of values; adjacent areas division: restrictions, boundaries; Rugby area; Federal consultations with involved agencies respecting development and management of adjacent National Area; Blue Heron Mine community, restoration; rail and alternative transportation study; report to Congress

(1) The National Area shall be established and managed for the purposes of preserving and interpreting the scenic, biological, archeological, and historical resources of the river gorge areas and developing the natural recreational potential of the area for the enjoyment of the public and for the benefit of the economy of the region. The area within the boundary of the National Area shall be divided into two categories; namely, the gorge areas and adjacent areas as hereinafter defined.

(2)

(A) Within the gorge area, no extraction of, or prospecting for minerals, petroleum products, or gas shall be permitted. No timber shall be cut within the gorge area except for limited clearing necessary for establishment of day-use facilities, historical sites, primitive campgrounds, and access roads. No structures shall be constructed within the gorge area except for structures associated with the improvement of historical sites specified in paragraphs (5), (6), and (8), except for day-use facilities and primitive campgrounds along the primary and secondary access routes specified herein and within 500 feet of such roads, and except for primitive campgrounds accessible only by water or on foot. No motorized transportation shall be allowed in the gorge area except on designated access routes, existing routes for administration of the National Area, existing routes for access to cemeteries; except that motorboat access into the gorge area shall be permitted up to a point one-tenth of a mile downstream from Devils' Jumps and except for the continued operation and maintenance of the rail line currently operated and known as the K&T Railroad. The Secretary of the Interior shall impose limitations on the use of existing routes for access to cemeteries. The Secretary shall acquire such interest in the K&T Railroad right-of-way by easement as he deems necessary to protect the scenic, esthetic, and recreational values of the gorge area and the adjacent areas.

(B) Primary access routes into the gorge area may be constructed or improved upon the general route of the following designated roads: Tennessee Highway Numbered 52, FAS 2451 (Leatherwood Ford Road), the road into the Blue Heron Community, and Kentucky Highway Numbered 92.

(C) Secondary access roads in the gorge area may be constructed or improved upon the following routes: the roads from Smith Town, Kentucky, to Worley, Kentucky, the road crossing the Clear Fork at Burnt Mill Bridge, the road from Goad, Tennessee, to Zenith, Tennessee, the road from Co-Operative, Kentucky, to Kentucky Highway Numbered 92, the road entering the gorge across from the mouth of Alum Creek in Kentucky, the road crossing the Clear Fork at Peters Bridge, the road entering the gorge across from the mouth of Station Camp Creek.

(D) All other existing roads in the gorge area shall be maintained for nonmotorized traffic only, except that nothing in this section shall abrogate the right of ingress and egress of those who remain in occupancy under subsection (c)(1) of this section.

(E) Road improvement or maintenance and any construction of roads or facilities in the gorge area as permitted by this section shall be accomplished by the Secretary in a manner that will protect the declared values of this unique natural scenic resource.

(3) In adjacent areas: the removal of timber shall be permitted only where required for the development or maintenance of public use and for administrative sites and shall be accomplished with careful regard for scenic and environmental values; prospecting for minerals and the extraction of minerals from the adjacent areas shall be permitted only where the adit to any such mine can be located outside the boundary of the National Area; no surface mining or strip mining shall be permitted; prospecting and drilling for petroleum products and natural gas shall be permitted in the adjacent area under such regulations as the Secretary or the Secretary of the Interior, after jurisdiction over the national river and recreation area has been transferred to him under subsection (b) of this section, may prescribe to minimize detrimental environment impact, such regulations shall provide among other things for an area limitation for each such operation, zones where operations will not be permitted, and safeguards to prevent air and water pollution; no storage facilities for petroleum products or natural gas shall be located within the boundary of the National Area except as necessary and incidental to production; the Secretary

is authorized to construct two lodges with recreational facilities within the adjacent areas so as to maximize and enhance public use and enjoyment of the National Area; construction of all roads and facilities in the adjacent areas shall be undertaken with careful regard for the maintenance of the scenic and esthetic values of the gorge area and the adjacent areas.

(4) The gorge area as set out in paragraphs (1) and (2) of this subsection shall consist of all lands and waters of the Big South Fork, Clear Fork, and New York River which lie between the gorge or valley rim on either side (where the rim is not clearly defined by topography, the gorge boundary shall be established at an elevation no lower than that of the nearest clearly demarked rim on the same side of the valley), and those portions of the main tributaries and streams in the watersheds of the Big South Fork, Clear Fork, and New River that lie within a gorge or valley rim on either side, except that no lands or waters north of Kentucky Highway Numbered 92 shall be included. The designated adjacent areas shall consist of the balance of the National Area.

(5) The Secretary, and the Secretary of the Interior, shall consult and cooperate with the Tennessee Historical Commission and the Rugby Restoration Association and with other involved agencies and associations, both public and private concerning the development and management of the National Area in the area adjacent to Rugby, Tennessee. Development within the area adjacent to Rugby, Tennessee, shall be designed toward preserving and enhancing the historical integrity of the community and any historical sites within the boundary of the National Area.

(6) The Secretary, or the Secretary of the Interior, after jurisdiction over the National Area has been transferred to him under subsection (b) of this section, shall provide for the restoration of the Blue Heron Mine community in a manner which will preserve and enhance the historical integrity of the community and will contribute to the public's understanding and enjoyment of its historical value. To that end the Secretary, or the Secretary of the Interior, after jurisdiction over the National Area has been transferred to him under subsection (b) of this section, may construct and improve structures within and may construct and improve a road into this community.

(7) The Secretary shall study the desirability and feasibility of reestablishing rail transportation on the abandoned O&W railbed or an alternative mode of transportation within the National Area upon the O&W roadbed, and shall report to Congress his recommendation with regard to development of this facility.

(8) Improvement of Charit Creek Lodge and historic structures.— The Secretary of the Interior may make improvements to the Charit Creek Lodge and associated facilities and to historic structures determined to be eligible for listing in the National Register of Historic Places. Such improvements shall be made in a manner consistent with the historic scene and the limited ability of the National Area to accommodate additional use and development. Improvements to the Charit Creek Lodge and associated facilities shall be made within the approximately 30 acres of cleared land existing on November 15, 1990, and within carrying capacity limitations determined by the National Park Service.

(f) Federal power and water resources projects; license and other restrictions; limitations inapplicable to external areas

The Federal Energy Regulatory Commission shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act ([41 Stat. 1063](#)) as amended ([16 U.S.C. 791a](#) et seq.), within or directly affecting the National Area and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which the National Area was established. Nothing contained in the preceding sentence shall preclude licensing of, or assistance to, developments below or above the National Area or on any stream tributary thereto which will not invade the National Area or unreasonably diminish the scenic, recreation, and fish and wildlife values present in the area on March 7, 1974. No department or agency of the United States shall recommend authorization of any water resources project that would have a direct and adverse effect on the values for which the National Area was established, or request appropriations to begin construction of any such project, whether heretofore or hereafter authorized, without advising the Secretary or the Secretary of the Interior, after jurisdiction over the National Area has been transferred to him under subsection (b) of this section, in writing of its intention so to do at least sixty days in advance, and without specifically reporting to the Congress in writing at the time it makes its recommendations or request in what respect construction of such project would be in conflict with the purposes of this section and would affect the National Area and the values to be protected under this section.

(g) Transportation facilities; study and establishment

The Secretary shall study transportation facilities in the region served by the National Area and shall establish transportation facilities to enhance public access to the National Area. In this connection the Secretary is authorized to acquire and maintain public roads, other than State highways, necessary to

serve the public use facilities within the National Area, and to establish and maintain, at Federal cost an interior and circulating road system sufficient to meet the purposes of this section. Any existing public road, which at the time of its acquisition continues to be a necessary and essential part of the county highway system, may, upon mutual agreement between the Secretary and the owner of such road, be relocated outside of the National Area and if not so relocated such road shall be maintained at Federal expense and kept open at all times for general travel purposes. Nothing in this subsection shall abrogate the right of egress and ingress of those persons who may remain in occupancy under subsection (c) of this section. Nothing in this subsection shall preclude the adjustment, relocation, reconstruction, or abandonment of State highways situated in the National Area, with the concurrence of the agency having the custody of such highways upon entering into such arrangements as the Secretary or the Secretary of the Interior, after jurisdiction over the National Area has been transferred to him under subsection (b) of this section, deems appropriate and in the best interest of the general welfare.

(h) New River plan and programs; transmittal to Congress

In furtherance of the purpose of this subsection the Secretary in cooperation with the Secretary of Agriculture, the heads of other Federal departments and agencies involved, and the State of Tennessee and its political subdivisions, shall formulate a comprehensive plan for that portion of the New River that lies upstream from United States Highway Numbered 27. Such plan shall include, among other things, programs to enhance the environment and conserve and develop natural resources, and to minimize siltation and acid mine drainage. Such plan, with recommendations, including those as to costs and administrative responsibilities, shall be completed and transmitted to the Congress within one year from March 7, 1974.

(i) Water quality protection; interagency cooperation

The Secretary or the Secretary of the Interior, after jurisdiction over the National Area has been transferred to him under subsection (b) of this subsection, shall consult and cooperate with other departments and agencies of the United States and the States of Tennessee and Kentucky in the development of measures and programs to protect and enhance water quality within the National Area and to insure that such programs for the protection and enhancement of water quality do not diminish other values that are to be protected under this section.

(j) Real and personal property tax losses; reimbursement; authorization of appropriations

(1) Until such time as the transfer of jurisdiction to the Secretary of the Interior authorized by subsection (b) of this section shall take place, for the purpose of financially assisting the States of Tennessee and Kentucky, McCreary County, Kentucky, and Scott, Morgan, Pickett, and Fentress Counties in Tennessee, because of losses which these jurisdictions will sustain by reason of the fact that certain lands and other property within their boundaries may be included within the National Area established by this section and thereafter will no longer be subject to real and personal property taxes levied or imposed by them, payments shall be made to them on an annual basis in an amount equal to those taxes levied or imposed on such property for the last taxable year immediately preceding March 7, 1974.

(2) For the purpose of enabling the Secretary to make such payments during the fiscal years ending June 30, 1975, June 30, 1976, June 30, 1977, June 30, 1978, and June 30, 1979, there are authorized to be appropriated such sums as may be necessary.

(k) Authorization of appropriations; prohibition of appropriation from Land and Water Conservation Fund

There are authorized to be appropriated \$156,122,000 to carry out the provisions of this section, other than subsection (j) of this section. Costs for the National Area shall be provided in the same manner as costs for national recreation areas administered by the Secretary of the Interior through the National Park Service.

NOTES:

Source

([Pub. L. 93-251](#), title I, § 108, Mar. 7, 1974, [88 Stat. 43](#); [Pub. L. 94-587](#), § 184, Oct. 22, 1976, [90 Stat. 2940](#); [Pub. L. 95-91](#), title IV, § 402(a)(1)(A), Aug. 4, 1977, [91 Stat. 583](#); [Pub. L. 99-662](#), title XI, § 1110, Nov. 17, 1986, [100 Stat. 4231](#); [Pub. L. 101-561](#), § 1, Nov. 15, 1990, [104 Stat. 2778](#).)

References in Text

Section 218 of the Flood Control Act of 1968, referred to in subsec. (a), is section 218 of [Pub. L. 90-483](#), Aug. 13, 1968, [82 Stat. 749](#), which was not classified to the Code.

The Federal Property and Administrative Services Act of 1949, as amended, referred to in subsec. (c)(1), is act June 30, 1949, ch. 288, [63 Stat. 377](#), as amended. Except for title III of the Act, which is classified generally to subchapter IV (§ 251 et seq.) of chapter [4](#) of Title [41](#), Public Contracts, the Act was repealed and reenacted by [Pub. L. 107-217](#), §§ 1, [6 \(b\)](#), Aug. 21, 2002, [116 Stat. 1062](#), 1304, as chapters 1 to 11 of Title [40](#), Public Buildings, Property, and Works.

The Federal Power Act, referred to in subsec. (f), is act June 10, 1920, ch. 285, [41 Stat. 1063](#), as amended, which is classified generally to chapter 12 (§ 791a et seq.) of this title. For complete classification of this Act to the Code, see section [791a](#) of this title and Tables.

Codification

In subsec. (c)(1), “public ownership on October 22, 1976,” substituted for “public ownership at the time of enactment of this section” for purposes of codification, Oct. 22, 1976, being date of approval of [Pub. L. 94-587](#).

Amendments

1990—Subsec. (b). [Pub. L. 101-561](#), § 1(a), struck out par. (1) designation, substituted “Effective upon November 15, 1990, responsibility for all planning, acquisition, and development, as well as administrative jurisdiction over all Federal lands, water, interests therein, and improvements thereon, within the National Area is hereby transferred to the Secretary of the Interior. The Secretary may complete all acquisition and development activities in progress on November 15, 1990, and the Secretary and the Secretary of the Interior may, by mutual agreement, provide for an orderly and phased assumption of responsibilities (including but not limited to land acquisition and the construction of necessary access roads, day-use facilities, campground facilities, lodges, and administrative buildings) and available funds by the Secretary of the Interior in furtherance of the purposes of this section. The Secretary of the Interior shall administer the National Area in accordance with sections [1](#), [2](#), [3](#), and [4](#) of this title, as amended and supplemented. The authorities set forth in this section which were available to the Secretary immediately prior to November 15, 1990, shall after November 15, 1990, be available to the Secretary of the Interior.” for “The Secretary shall establish the National Area by publication of notice thereof in the Federal Register when he determines that the United States has acquired an acreage within the boundaries of the National Area that is efficiently administrable for the purposes of this section. After publication of notice, and after he has completed the construction of necessary access roads, day-use facilities, campground facilities, lodges, and administrative buildings, the Secretary shall transfer the jurisdiction of the National Area to the Secretary of the Interior who shall administer the National Area in accordance with sections [1](#), [2](#), [3](#), and [4](#) of this title, as amended and supplemented.”, struck out at end of par. (1) “The Secretary may, prior to the transfer to the Secretary of the Interior, revise the boundaries from time to time, but the total acreage within such boundaries shall not exceed one hundred and twenty-five thousand acres.”, and struck out par. (2) which read as follows: “The Secretary may by agreement with the Secretary of the Interior provide for interim management by the Department of the Interior, in accordance with the provisions of sections [1](#), [2](#), [3](#), and [4](#) of this title, as amended and supplemented, of any portion or portions of the project which constitute a logically and efficiently administrable area. The Secretary is authorized to transfer funds to the Department of the Interior for the costs of such interim management out of funds appropriated for the project.”

Subsec. (e)(2)(A). [Pub. L. 101-561](#), § 1(b), substituted “No structures shall be constructed within the gorge area except for structures associated with the improvement of historical sites specified in paragraphs (5), (6), and (8), except for day-use facilities and primitive campgrounds along the primary and secondary access routes specified herein and within 500 feet of such roads, and except for primitive campgrounds accessible only by water or on foot. No motorized transportation shall be allowed in the gorge area except on designated access routes, existing routes for administration of the National Area, existing routes for access to cemeteries; except that motorboat access into the gorge area shall be permitted up to a point one-tenth of a mile downstream from Devils’ Jumps and except for the continued operation and maintenance of the rail line currently operated and known as the K&T Railroad. The Secretary of the Interior shall impose limitations on the use of existing routes for access to cemeteries.” for “No structures shall be constructed within the gorge except for reconstruction and improvement of the historical sites specified in paragraphs (5) and (6) of this subsection and except for necessary day-use

facilities along the primary and secondary access routes specified herein and within five hundred feet of such roads, and except for primitive campgrounds accessible only by water or on foot. No motorized transportation shall be allowed in the gorge area except on designated access routes and except that motorboat access into the gorge area shall be permitted up to a point one-tenth of a mile downstream from Devil's Jumps; and except for the continued operation and maintenance of the rail line currently operated and known as the K & T Railroad."

Subsec. (e)(2)(D). [Pub. L. 101-561](#), § 1(c), substituted "nonmotorized" for "nonvehicular".

Subsec. (e)(8). [Pub. L. 101-561](#), § 1(d), added par. (8).

Subsec. (k). [Pub. L. 101-561](#), § 1(e), substituted "Costs for the National Area shall be provided in the same manner as costs for national recreation areas administered by the Secretary of the Interior through the National Park Service" for "No moneys shall be appropriated from the Land and Water Conservation Fund to carry out the purposes of this section".

1986—Subsec. (k). [Pub. L. 99-662](#) substituted "\$156,122,000" for "\$103,522,000".

1976—Subsec. (a). [Pub. L. 94-587](#), § 184(a), provided for acquisition of outside sites for administrative, visitor orientation, and recreation facilities.

Subsec. (b). [Pub. L. 94-587](#), § 184(b), designated existing provisions as par. (1) and added par. (2).

Subsec. (c)(1). [Pub. L. 94-587](#), § 184(c), inserted "which were in public ownership on October 22, 1976," after "political subdivisions thereof".

Subsec. (e)(2)(A). [Pub. L. 94-587](#), § 184(d), provided for motorboat access into the gorge area, continued operation and maintenance of the rail line, and acquisition by the Secretary of an interest in the rail line easement for protection of scenic, esthetic, and recreational values of the gorge area and the adjacent areas.

Subsec. (e)(2)(C). [Pub. L. 94-587](#), § 184(e), authorized construction of a secondary access road upon the road entering the gorge across from the mouth of Station Camp Creek.

Subsec. (k). [Pub. L. 94-587](#), § 184(f), substituted "\$103,522,000" for "\$32,850,000".

Transfer of Functions

"Federal Energy Regulatory Commission" substituted for "Federal Power Commission" in subsec. (f) pursuant to [Pub. L. 95-91](#), § 402(a)(1)(A), which is classified to section [7172 \(a\)\(1\)\(A\)](#) of Title [42](#), The Public Health and Welfare.

Federal Power Commission terminated and functions with regard to licenses and permits for dams, reservoirs, or other works for development and improvement of navigation and for development and utilization of power across, along, from, or in navigable waters under part I of Federal Power Act ([16 U.S.C. 792](#) et seq.) transferred to Federal Energy Regulatory Commission by sections [7172 \(a\)\(1\)\(A\)](#) and [7293](#) of Title [42](#).