

CRS Report for Congress

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World Heritage Convention and U.S. National Parks

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Summary

On March 6, 2001, Congressman Don Young introduced H.R. 883, the American Land Sovereignty Act. H.R. 883 requires congressional approval to add any lands owned by the United States to the World Heritage List, a UNESCO-administered list established by the 1972 World Heritage Convention. Two years ago, on May 20, 1999, the House passed (by voice vote) an identical bill also numbered H.R. 883, but the legislation did not pass in the Senate. Sponsors of that bill expressed concern that adding a U.S. site to the U.N. list, which is currently done under executive authority, might not protect the rights of private property owners or the states. The Clinton Administration and opponents of the bill argued that the designation has no effect on property rights and does not provide the United Nations with any legal authority over U.S. territory. In related legislation, P.L. 106-429, in which H.R. 5526, the Foreign Operations, Export Financing, and Related Programs appropriations act for 2001 was referenced, contained language prohibiting funding from this bill for the United Nations World Heritage Fund. The FY2000 contribution to the Fund was \$450,000. The World Heritage Fund provides technical assistance to countries requesting help in protecting World Heritage sites. This paper describes the operation of the UNESCO Convention and will be updated periodically. This legislation would also affect U.S. participation in the UNESCO Man and the Biosphere Program, which includes some of the same sites. For information on that program, see CRS Report RS20220, *Biosphere Reserves and the U.S. MAB Program*.

There are currently 690 natural and cultural sites in 122 countries listed on the World Heritage List established under the World Heritage Convention. Twenty U.S. sites are listed, including Yellowstone and Grand Canyon National Parks, Independence Hall, and the Statue of Liberty. The World Heritage in Danger list currently has 30 sites in 24 countries, including Yellowstone National Park and Everglades National Park. Yellowstone National Park was listed on the sites in danger list in 1995 and the Everglades was listed in 1993. The 1980 National Historic Preservation Act establishes the Interior Department as the administrator and coordinator of U.S. activities under the Convention. H.R. 883, the American Land Sovereignty Act, would place conditions on Interior's

authority to nominate new sites and require specific congressional authorization for new nominations.

About the Convention

The Convention Concerning the Protection of the World Cultural and Natural Heritage, popularly known as the World Heritage Convention, was adopted by the General Conference of the United Nations Educational, Scientific, and Cultural Organization (UNESCO) in 1972. The United States initiated and led the development of the treaty and was the first nation to ratify it in 1973. Currently, 162 nations are parties to the Convention. The Convention's purpose is to identify and list worldwide natural and cultural sites and monuments considered to be of such exceptional interest and such universal value that their protection is the responsibility of all mankind. Each country adopting the Convention pledges to protect listed sites and monuments within its borders and refrain from activities which harm World Heritage sites in other countries. The Convention states in Article 4 that each party to it "recognizes that the duty of ensuring the identification, protection, conservation, presentation and transmission to future generations of the cultural and natural heritage situated on its territory, belongs primarily to that state."¹ The international community agrees to help protect them through the World Heritage Committee and Fund.

World Heritage Committee and Fund

The World Heritage Committee, composed of 21 specialists from member nations elected for 6-year terms, administers the Convention. (The United States was mostly recently a member of the Committee for a term ending October 1999). The Committee has two principal tasks. First, it recognizes the sites nominated by member states to be included on the World Heritage List, based on the criteria established by the Committee. Decisions on additions to the List are generally made by consensus. UNESCO provides administrative assistance to the Committee but has no role in its decisions. The Committee monitors the sites and when a site is seriously endangered, it may be put on a List of World Heritage in Danger after consultation with the country in which the site is located. In 1992, the Committee adopted a plan to improve its operations, including an increased focus on monitoring conditions at existing sites rather than adding new sites to the List.

The Committee also administers the World Heritage Fund, which provides technical and financial aid to countries requesting assistance. Assistance can include such support as expert studies, training, and equipment for protection. World Heritage Fund technical assistance must be requested by a member country in an agreement with the Committee, which sets conditions for the assistance. The World Heritage Fund receives income from several sources. Member states pay dues equal to 1% of their UNESCO contribution. The United States is not a member of UNESCO and therefore does not contribute as a member. The Fund also receives voluntary contributions from governments, donations from institutions, individuals, and from national or international promotional activities. The United States contributed \$450,000 voluntarily to this program in FY2000, an amount appropriated in the Foreign Operations Appropriation. A similar contribution was

¹ Convention concerning the protection of the world cultural and natural heritage. 27 UST 37.

requested for FY2001. This contribution was prohibited by P.L. 106-429. Virtually no other U.S. money was contributed to this program.

U.S. Participation

The National Park Service is the primary U.S. contact for World Heritage sites in the United States. The National Historic Preservation Act Amendment of 1980 (P.L. 96-515) charges the Department of Interior with coordinating and directing U.S. activities under the Convention, in cooperation with the Departments of State, Commerce, and Agriculture, the Smithsonian Institution, and the Advisory Council on Historic Preservation. The National Park Service administers all the U.S. sites with funds appropriated by Congress, except for several that are owned by states, a foundation, and an Indian tribe.

Legislation

American Land Sovereignty Protection Act. H.R. 883 was introduced by Representative Don Young on March 6, 2001, and referred to the Committee on Resources. It has 30 cosponsors. The legislation amends the National Historic Preservation Act of 1980 (P.L. 96-515) to require a determination by the Interior Department that the designation of a new site will not adversely affect private land within ten miles of the site, a report to Congress on the impact of the designation on existing and future uses of the land and surrounding private land, and specific authorization by Congress for new World Heritage site designations. The bill also terminates and prohibits unauthorized designation of biosphere reserves under the UNESCO Man and the Biosphere Program.

Foreign Operations, Export Financing, and Related Appropriations Act, 2001. (P.L. 106-429, as passed by Congress, enacted by reference in H.R. 5526.) Section 580 of this bill states that none of the funds appropriated or made available by this Act may be provided for the U.S. contribution to the United Nations World Heritage Fund. P.L. 106-429 was signed by the President on November 6, 2000.

Issues for Congress

Impact of the Convention on U.S. Sovereignty

Although the debate on the American Land Sovereignty Protection bill was often couched in terms which included U.N. influence over U.S. parks and monuments, supporters of the American Land Sovereignty Protection Act were primarily concerned that a lack of a congressional role in designating the sites and a lack of congressional oversight of implementation of the act undermines the congressional role under the Constitution to make rules governing land belonging to the United States. As the House Resources Committee web site on the legislation stated: "By using these international designations, the Executive Branch is able to guide domestic land use policies without

consulting Congress.”² Supporters express concern that even though there may be no international or U.N. direct control of U.S. sites, federal agency managers may take into account the international rules of the World Heritage program in making land use decisions, or use the designation to undermine local land use decisions, often without the advice or even the knowledge of local authorities or property owners.

The World Heritage Convention does not give the United Nations authority over U.S. sites. The Department of State has testified that under the terms of the World Heritage Convention, management and sovereignty over the sites remain with the country where the site is located. Supporters of the World Heritage system note that member countries nominate sites for the World Heritage List voluntarily and agree to develop laws and procedures to protect them using their own constitutional procedures. Most of the U.S. sites named have already been accorded protection in law as national monuments or parks. In commenting on the bill, the Clinton Administration stated that the designation does not give the United Nations the authority to affect land management decisions within the United States and has not been utilized to exclude Congress from land management decisions. The Department of State noted that the Convention itself has no role or authority beyond listing sites and offering technical advice and assistance. Supporters of the convention assert that World Heritage status has been the impetus behind closer cooperation between federal agencies and state and local authorities.

Impact of Placement on the World Heritage List

Inclusion on the World Heritage List increases knowledge and interest in sites throughout the world. Many countries use the World Heritage designation to increase tourism to site areas. Designation also brings international attention and support to protect endangered sites. In 1993, the World Heritage Committee supported the United States in protecting Glacier Bay National Park and Preserve by publicizing U.S. concerns about a Canadian open pit mine near the Bay and reminding the Canadian government of its obligations under the Convention to protect the site. In 1996, international concern, including concern raised by U.S. citizens, was instrumental in changing the plans of a Polish company to build a shopping center near Auschwitz Concentration Camp in Poland, a World Heritage Site. In March of 2000, Mexico dropped plans to develop a salt plant on the shores of a gray whale breeding ground in a protected Mexican area designated as a World Heritage Site.

Supporters of legislation restricting U.S. World Heritage participation express concern about the impact of the designation on private property near the sites. They suggest that agreeing to manage the site in accordance with the international convention may have an impact on the use of private land nearby, or may even be an indirect way of complying with treaties which the Congress has not approved. They claim that advocacy groups use federal regulations and international land use designations to frustrate the public land management decision-making process. The Interior Department has testified,

² U.S. Congress. House. Committee on Resources. [<http://www.house.gov/resources/106thcong/fullcomm/sovereignty.htm>].

on the other hand, that the nomination procedure includes open public meetings and congressional notification on sites being considered.

Yellowstone National Park

In June 1995, the U.S. Department of the Interior notified the World Heritage Committee that Yellowstone was in danger and requested an on-site visit. In a follow up letter, the Department of the Interior noted actions which the United States was taking to address the situation. A team organized by the World Heritage Center reviewed actual and potential threats to the park. In December 1995, based on this visit and consultations with U.S. government officials, the World Heritage Committee placed Yellowstone on the List of World Heritage in Danger, citing threats posed by plans for a gold mine just over 1 mile from the Park, the introduction of non-native fish into Yellowstone Lake, and activities to eliminate brucellosis from Park bison herds. The World Heritage Committee noted that any response to the threat was a U.S. domestic decision and asked that the U.S. government keep the committee informed of actions taken by the United States and to assess what more must be done in order to remove Yellowstone from the endangered list.

Both the non native fish and the Park bison herds are the subject of ongoing federal, state, and local discussions. The gold mine issue has been resolved. Congress appropriated funds to compensate the mine owners for not developing it. The non-native fish problem is ultimately unresolvable, but Park authorities are working to minimize the number of non native fish in Yellowstone lake. The Administration will continue to report annually to the World Heritage Committee on both Yellowstone and Everglades National Parks until they are removed from the endangered list. The World Heritage Committee will continue to list both parks on the World Heritage in Danger List in consultation with the United States. The December meeting of the World Heritage Committee will be the next opportunity for the United States to report on actions taken to eliminate the danger to the parks, or to discuss changes to their designation. It is too early to know what the Bush Administration position will be on this topic.