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104TH CONGRESS
1ST SESSION

H. R. 877

To establish a Wounded Knee National Tribal Park, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 9, 1995

Mr. JOHNSON of South Dakota (for himself, Mr. WILLIAMS, Mr. UNDERWOOD, Mr. RICHARDSON, Mr. FALEOMAVAEGA, and Mr. MILLER of California) introduced the following bill; which was referred to the Committee on Resources

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A BILL

To establish a Wounded Knee National Tribal Park, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Wounded Knee National Tribal Park Establishment Act of 1995''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) in December of 1890, approximately 350 to 375 Sioux men, women, and children under the leadership of Chief Big Foot journeyed from the Chey-

enne River Indian Reservation to the Pine Ridge Indian Reservation at the invitation of Chief Red Cloud to help make peace between the non-Indians and Indians;

(2) the journey of Chief Big Foot and his band of Minneconjou Sioux occurred during the Ghost Dance Religion period when extreme hostility existed between Sioux Indians and non-Indians residing near the Sioux reservations, and the United States Army assumed control of the Sioux reservations;

(3) Chief Big Foot and his band were intercepted on the Pine Ridge Indian Reservation at Porcupine Butte by Major Whitside, surrendered unconditionally under a white flag of truce, and were escorted to Wounded Knee Creek, where Colonel Forsyth assumed command;

(4) on December 29, 1890, an incident occurred in which soldiers under the command of General Forsyth killed and wounded over 300 members of the band of Chief Big Foot, most all of whom were unarmed and entitled to protection of their rights to property, person, and life under Federal law;

(5) the 1890 Wounded Knee Massacre is a historically significant event because the event marks

the last military encounter of the Indian wars period of the 19th century;

(6) in S. Con. Res. 153 (101st Cong., 2d Sess.), Congress apologized to the Sioux people for the 1890 Massacre;

(7)(A) paragraph (2) of such concurrent resolution provides that Congress ''expresses its support for the establishment of a suitable and appropriate Memorial to those who were so tragically slain at Wounded Knee which could inform the American public of the historic significance of the events at Wounded Knee and accurately portray the heroic and courageous campaign waged by the Sioux people to preserve and protect their lands and their way of life during this period''; and

(B) paragraph (3) of such concurrent resolution provides that Congress ''expresses its commitment to acknowledge and learn from our history, including the Wounded Knee Massacre, in order to provide a proper foundation for building an ever more humane, enlightened, and just society for the future'';

(8) the Wounded Knee Massacre site, and sites relating to the 1890 Wounded Knee Massacre and Ghost Dance Religion on the Cheyenne River Indian Reservation and Pine Ridge Indian Reservation, are

nationally significant cultural and historic sites that must be protected through the designation of the sites as a national tribal park; and

(9) the Wounded Knee Massacre is a nationally significant event that must be memorialized by establishing suitable and appropriate memorials to the Indian victims of the Massacre, located on the Cheyenne River Indian Reservation and Pine Ridge Indian Reservation.

(b) PURPOSES.—The purposes of this Act are to—

(1) establish the Wounded Knee National Tribal Park consisting of—

(A) sites relating to the 1890 Wounded Knee Massacre and Ghost Dance Religion located on the Cheyenne River Indian Reservation; and

(B) the 1890 Wounded Knee Massacre Site and sites relating to the Massacre and Ghost Dance Religion located on the Pine Ridge Indian Reservation;

(2) establish suitable and appropriate national monuments within both units of the Wounded Knee National Tribal Park to memorialize the Indian victims of the 1890 Wounded Knee Massacre; and

(3) authorize feasibility studies to—

(A) establish the route of Chief Big Foot from the Cheyenne River Indian Reservation to Wounded Knee as a national historic trail; and

(B) establish a visitor information and orientation center on the Cheyenne River Indian Reservation.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) COMMISSION.—The term ''Commission'' means the Wounded Knee National Tribal Park Advisory Commission established under section 8(a).

(2) NORTH UNIT.—The term ''North Unit'' means the area of the Park comprised of the sites referred to in section 2(b)(1)(A).

(3) PARK.—The term ''Park'' means the Wounded Knee National Tribal Park established under section 4.

(4) REAL PROPERTY.—For the purposes of this Act, the term ''real property'' includes lands, and all mineral rights, water rights, easements, permanent structures, and fixtures on such lands.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(6) SOUTH UNIT.—The term ''South Unit'' means the area of the Park comprised of the sites referred to in section 2(b)(1)(B).

SEC. 4. ESTABLISHMENT OF WOUNDED KNEE NATIONAL TRIBAL PARK.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish a national tribal park to be known as the ''Wounded Knee National Tribal Park'', as generally described in the third alternative of the report completed by the National Park Service entitled ''Draft Study of Alternatives, Environmental Assessment, Wounded Knee, South Dakota,'' and dated January 1993, and as more particularly described in this Act.

(2) AREA INCLUDED IN PARK.—The Wounded Knee National Tribal Park shall consist of—

(A) a North Unit that may include—

(i) such sites relating to the 1890 Wounded Knee Massacre and Ghost Dance Religion, including the campsite of Chief Big Foot at Deep Creek, as the Cheyenne River Sioux Tribe, in consultation with the Director of the National Park Service, considers necessary to include in such unit;

(ii) a cultural center and museum complex;

(iii) projects described in section 9(b)(2); and

(iv) a suitable and appropriate national monument to memorialize Chief Big Foot and his band of Minneconjou Sioux; and

(B) a South Unit that may include—

(i) the 1890 Wounded Knee Massacre site, as generally described in the 1990 boundaries studies authorized by the National Park Service, and such other sites relating to the 1890 Wounded Knee Massacre and Ghost Dance Religion as the Oglala Sioux Tribe, in consultation with the Director of the National Park Service, considers necessary to include in such unit;

(ii) a cultural center and museum complex at or near the Wounded Knee Massacre site;

(iii) projects described in section 9(b)(2); and

(iv) a suitable and appropriate national monument to memorialize the Sioux

Indians involved in the 1890 Wounded Knee Massacre.

(b) COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—The Secretary shall enter into a cooperative agreement with each of the Cheyenne River Sioux Tribe with respect to the North Unity, and Oglala Sioux Tribe with respect to the South Unit to carry out planning, design, construction, operation, maintenance, and replacement activities, as appropriate, for the units.

(2) REQUIREMENTS FOR COOPERATIVE AGREEMENTS.—A cooperative agreement entered into under paragraph (1) shall set forth, in a manner acceptable to the Secretary—

(A)(i) the responsibilities of the parties referred to in paragraph (1) with respect to the North Unit and the South Unit; and

(ii) the manner in which contracts to carry out such activities will be administered;

(B) the procedures and requirements for the approval and acceptance of the design of, and construction of the North Unit and South Unit;

(C) such Federal management policies described in the publication entitled ''Management

Policies, U.S. Department of the Interior, National Park Service, 1988'' as the Secretary considers necessary to qualify both units of the Park for affiliation;

(D) a general management plan for each unit of the Park that shall include plans—

(i) to protect and preserve the religious sanctity of the Wounded Knee Massacre site and other religious sites located within each unit;

(ii) to restore the Wounded Knee Massacre site, and other important historic sites located within the units, to the original condition of the sites at the time of the Massacre, including the removal of all buildings and structures that have no historical significance;

(iii) for the enactment of tribal zoning ordinances to protect areas surrounding each unit from commercial development and exploitation;

(iv) for the implementation of a continuing program of public involvement, interpretation, and visitor education concern-

ing Lakota Sioux history and culture within each unit;

(v) to protect, interpret, and preserve important archaological and paleontological sites within each unit;

(vi) for visitor use facilities, and the training and employing of tribal members within each unit, as provided in subsection (e); and

(vii) to waive or require entrance fees at the Wounded Knee Massacre site; and

(E) the role and responsibilities of the Advisory Commission established under section 8(a) in relation to both units.

(c) TITLE.—

(1) PROPERTY ACQUIRED FOR THE NORTH UNIT.—Title to all real property acquired for the North Unit of the Wounded Knee National Tribal Park shall be held in trust by the United States for the Cheyenne River Sioux Tribe.

(2) PROPERTY ACQUIRED FOR THE SOUTH UNIT.—Title to all real property acquired in the South Unit of the Wounded Knee National Tribal Park shall be held in trust by the United States for the Oglala Sioux Tribe.

(d) TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—The Secretary may provide technical assistance to the Cheyenne River Sioux Tribe and Oglala Sioux Tribe for carrying out the activities described in subsection (b)(1).

(2) TRAINING.—In addition to providing the assistance described in paragraph (1), the Secretary may train and employ members of the tribes concerning the operation and maintenance of both units, including training in—

(A) the provision of public services, management of visitor use facilities, interpretation and visitor education on Sioux history and culture, and artifact curation at both units; and

(B) the interpretation, management, protection, and preservation of other historical and natural properties at both units.

(e) APPLICATION OF THE INDIAN SELF-DETERMINATION ACT.—Except as otherwise provided in this Act, the activities described in subsection (b)(1) shall be subject to the Indian Self-Determination Act (25 U.S.C. 450f et seq.).

SEC. 5. ACQUISITION OF LANDS FOR WOUNDED KNEE NATIONAL TRIBAL PARK.

(a) IN GENERAL.—The Cheyenne River Sioux Tribe and Oglala Sioux Tribe may acquire by purchase from a willing seller, by gift or devise, by exchange, or in other manner—

(1) surface and subsurface rights to any tract of fee-patented or trust land; or

(2) easements that cover such lands,

that those tribes, in consultation with the Secretary, consider necessary for inclusion in the North Unit or the South Unit of the Wounded Knee National Tribal Park.

(b) FINANCIAL ASSISTANCE.—The Secretary may provide financial assistance to the Cheyenne River Sioux Tribe and the Oglala Sioux Tribe to acquire land and any interest in land or other real property that is necessary for a unit of the Park.

SEC. 6. MANAGEMENT.

(a) MANAGEMENT OF NORTH UNIT.—

(1) IN GENERAL.—The Cheyenne River Sioux Tribe, or a designated agency or authority of that tribe, shall operate, maintain, and manage the North Unit pursuant to the terms and conditions contained in a cooperative agreement between the Secretary and the Cheyenne River Sioux Tribe entered into by the Secretary and the tribe pursuant to section 4(b).

(2) EXCLUSION.—The Cheyenne River Sioux Tribe shall have no jurisdiction or authority over the South Unit.

(b) MANAGEMENT OF SOUTH UNIT.—

(1) IN GENERAL.—The Oglala Sioux Tribe, or a designated agency or authority of such tribe, shall operate, maintain, and manage the South Unit pursuant to the terms and conditions contained in a cooperative agreement between the Secretary and the Oglala Sioux Tribe entered into by the Secretary and the tribe pursuant to section 4(b).

(2) EXCLUSION.—The Oglala Sioux Tribe shall have no jurisdiction or authority over the North Unit.

SEC. 7. PLANNING AND DESIGN OF NATIONAL MONUMENTS; FEASIBILITY STUDIES.

(a) MONUMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the national monuments on the North Unit and South Unit authorized by subparagraphs (A)(iv) and (B)(iv) of section 4(a)(2) shall be planned, designed, and constructed by the Secretary, after consultation with an advisory committee that the Secretary shall appoint in consultation with—

(A) the Wounded Knee Survivors Association of the Cheyenne River Indian Reservation;

(B) the Wounded Knee Survivors Association of the Pine Ridge Indian Reservation; and

(C) direct descendants of the band of Minneconjou Sioux of Chief Big Foot.

(2) AUTHORITY OF THE CHEYENNE RIVER SIOUX TRIBAL COUNCIL AND THE OGLALA SIOUX TRIBAL COUNCIL.—(A) The Cheyenne River Sioux Tribal Council and the Oglala Sioux Tribal Council shall have no authority to plan and design the monuments referred to in paragraph (1).

(B) The Cheyenne River Sioux Tribal Council and the Oglala Sioux Tribal Council shall have the authority to enter into contracts for the construction, operation, maintenance, and replacement of the monuments under the Indian Self-Determination Act (25 U.S.C. 450f et seq.).

(b) FEASIBILITY STUDIES.—

(1) IN GENERAL.—The Secretary shall complete feasibility studies to—

(A) establish and mark the route taken by Chief Big Foot and his band from the Cheyenne River Indian Reservation to Wounded Knee as a national historic trail; and

(B) establish a visitor information and orientation center on the Cheyenne River Indian Reservation.

(2) REPORT.—Not later than 1 year after funds are initially made available to the Secretary for a feasibility study conducted under this subsection, the Secretary shall complete the study and submit a report that contains the findings of the study to Congress.

SEC. 8. WOUNDED KNEE NATIONAL TRIBAL PARK ADVISORY COMMISSION.

(a) IN GENERAL.—There is established within the Department of the Interior the Wounded Knee National Tribal Park Advisory Commission. The Commission shall advise regularly the Cheyenne River Sioux Tribe and Oglala Sioux Tribe, or any designated agency or authority of either tribe, concerning the management and administration of the North Unit and South Unit.

(b) ROLE AND RESPONSIBILITIES.—The role and responsibilities of the Commission shall be defined in the cooperative agreements that the Secretary shall enter into with the Cheyenne Sioux Tribe and Oglala Sioux Tribe under section 4(b). The Cheyenne River Sioux Tribe and Oglala Sioux Tribe, or any designated agency or authority

of either such tribe, shall consult with the Commission not less frequently than 4 times each year.

(c) PERIOD OF OPERATION.—The Commission shall exist for such time as either the North Unit or the South Unit is in existence.

(d) MEMBERSHIP.—The Secretary shall appoint 17 members of the Commission. In addition, the Director of the National Park Service or a designee of the Director shall serve as an ex-officio member of the Commission. The Secretary shall appoint the members of the Commission after consulting with, and soliciting a recommendation from each of the following:

(1) The Chairman of the Cheyenne River Sioux Tribe.

(2) The President of the Oglala Sioux Tribe.

(3) The Chairman of the Wounded Knee Community Council on the Pine Ridge Indian Reservation.

(4) The Chairman of the Wounded Knee Subcommunity Council on the Pine Ridge Indian Reservation.

(5) The Chairman of the White Clay Community Council on the Pine Ridge Indian Reservation.

(6) The Chairman of District No. 3 on the Cheyenne River Indian Reservation.

(7) The Chairman of Red Scaffold Community on the Cheyenne River Indian Reservation.

(8) The Chairman of Cherry Creek Community on the Cheyenne River Reservation.

(9) The Chairman of Bridger Community on the Cheyenne River Reservation.

(10) The Chairman of the Board of Directors of the Oglala Sioux Parks and Recreation Authority.

(11) The President of the Wounded Knee Survivors Association of the Cheyenne River Indian Reservation.

(12) The President of the Wounded Knee Survivors Association of the Pine Ridge Indian Reservation.

(13) The Secretary of the Smithsonian Institution.

(14)(i) The Governor of the State of South Dakota and the historic preservation officer of such State.

(ii) The Governor of the State of Nebraska and the historic preservation officer of such State.

(e) CHAIR.—The offices of Chairman and Vice Chairman of the Commission shall be rotated between the Chairman of the Cheyenne River Sioux Tribe (or a designated representative of the Chairman) and the President

of the Oglala Sioux Tribe (or a designated representative of the President) on a year-to-year basis. If both the Chairman and Vice Chairman are absent from any meeting, the members of the Commission who are present at the meeting shall select a member who is present to serve in the place of the Chairman for the meeting.

(f) MEETINGS.—The Commission shall meet at the call of the Chairman or a majority of its members. In a manner consistent with the public meeting requirements of the Federal Advisory Committee Act (5 U.S.C. App.), the Commission shall from time to time meet with persons concerned with Park issues relating to the North Unit or South Unit. The Commission shall record all minutes and resolutions of the Commission and make such records available to the public upon request.

(g) ADMINISTRATIVE DIRECTOR.—

(1) IN GENERAL.—The Secretary, in consultation with the Commission, shall employ an Administrative Director for the Commission and define the duties of the Administrative Director. The Administrative Director shall be paid at a rate not to exceed the annual rate of basic pay payable for grade GS–12 of the General Schedule under subchapter IV of chapter 53 of title 5, United States Code, without regard to—

(A) the provisions of title 5, United States Code, governing appointments in the competitive service; and

(B) the provisions of chapter 51, and subchapter III of chapter 52 of that title relating to classification and General Schedule pay rates.

(2) OFFICE.—The office and staff of the Administrative Director shall be located at such location as the Secretary considers appropriate.

(h) SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission, on a nonreimbursable basis, such administrative support services as the Commission, in consultation with the Secretary, may request.

(i) EXPENSES.—Members of the Commission who are not otherwise employed by the Federal Government, while away from their homes or regular places of business in the performance of services for the Commission, shall be allowed travel and all other related 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, United States Code.

(j) APPLICABILITY OF FEDERAL ADVISORY ACT.—Except with respect to any requirement for reissuance of a charter, and except as otherwise provided in this Act, the provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Commission established under this Act.

SEC. 9. FUNDRAISER AGREEMENTS WITH NONPROFIT CORPORATIONS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Cheyenne River Sioux Tribe and the Oglala Sioux Tribe, or a designated agency or authority of either tribe, may, with the approval of the Secretary, enter into an agreement with a nonprofit corporation to raise funds from private sources to be used in lieu of, or supplement, any Federal funds made available by appropriations pursuant to the authorization under section 11.

(b) NEW PROJECTS.—The Cheyenne River Sioux Tribe and the Oglala Sioux Tribe, or a designated agency or authority of either tribe, shall have the power and authority to enter into a separate agreement with a nonprofit corporation to—

(1) raise funds from private sources to pay for all obligations, costs, and fees for professional services contracted, incurred, or assumed by the tribe, or a designated agency or authority of the tribe, that

are related, directly or indirectly, to the development or establishment of the Park; and

(2) raise funds from private sources to plan, design, construct, operate, maintain, and replace—

(A) an international amphitheater dedicated to the Indigenous Peoples of the Americas to be located at or near the Wounded Knee Massacre site, which, if constructed, shall become the permanent home of the Francis Jansen sculpture; and

(B) any other project that the Cheyenne River Sioux Tribe or the Oglala Sioux Tribe may, in consultation with the Secretary, choose to include within the North Unit or South Unit.

SEC. 10. DUTIES OF OTHER FEDERAL ENTITIES.

The appropriate official of any Federal entity that conducts or supports activities that directly affect the Park shall consult with the Secretary and the Cheyenne River Sioux Tribe and the Oglala Sioux Tribe with respect to such activities to minimize any adverse effects on the Park.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

SEC. 12. RULE OF STATUTORY CONSTRUCTION.

Nothing contained in this Act is intended to abrogate, modify, or impair any rights or claims of the Cheyenne River Sioux Tribe or Oglala Sioux Tribe, that are based on any treaty, Executive order, agreement, Act of Congress, or other legal basis.

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HR 877 IH——2

HR 877 IH——3