

**STATEMENT OF TIMOTHY C. WOOCKOCK BEFORE COMMITTEE ON
NATURAL RESOURCES, SUBCOMMITTEE ON FEDERAL LANDS ON
BEHALF OF ACADIA DISPOSAL DISTRICT
NOVEMBER 15, 2017**

“Good morning, Chairman McClintock, Ranking Member Hanabusa, and distinguished members of the House Committee on Natural Resources, Subcommittee on Federal Land.” My name is Timothy Woodcock. I am an attorney at the Maine law firm of Eaton Peabody, with my office located in Bangor, Maine. I am testifying on behalf of Acadia Disposal District, on H.R. 4266, “An Act to Clarify the Boundaries of Acadia National Park”. H.R. 4266 would amend the Acadia National Park Boundary of 1986.

I am here at the request of Congressman Bruce Poliquin. Congressman Poliquin asked me to testify because in the years leading up to the enactment of the 1986 Boundary Act, I worked for Senator Bill Cohen of Maine and am familiar with the issues that led to the enactment of the Boundary Act.

In the years since the enactment of the 1986 Boundary Act, I have worked as an attorney in Maine. My work with the 1986 Boundary Act has included issues arising from the permanent statutory boundary that Congress set for Acadia National Park as well as the Secretary’s authority to acquire

land and property interests within and outside of the Park's statutory boundary. I have also been involved in questions concerning the legal doctrine known as "the Public Trust doctrine", which concerns harvesting rights in Maine's intertidal zones.

Congressman Poliquin felt that my background in these areas might prove helpful to the Committee in its consideration of H.R. 4266. I hope that the testimony I will be offering will prove him right.

I would also like to take this moment to thank Congressman Poliquin for his hard work on this bill. When, in 2016, new questions arose about the 1986 Boundary Act, Congressman Poliquin immediately became involved and has listened to and worked with a broad spectrum of people to develop remedial legislation. His help has been critical in getting us to this point.

My work on H.R. 4266 and its predecessors has been on behalf of the Acadia Disposal District which I am representing here today. The Acadia Disposal District is a quasi-municipal corporation which is owned by the five municipalities that comprise its membership. All five municipalities are located in Hancock County on or near Mount Desert Island. These communities are: Cranberry Isles, Frenchboro, Mount Desert, Trenton, and, Tremont.

Legislation Pre-Dating Acadia National Park Boundary Act of 1986

As the committee is aware, a long history precedes H.R. 4266. It begins with the designation of Sieur de Monts National Monument in 1916. This was followed by legislation in 1919 establishing Lafayette National Park which, 10 years later, in 1929, was followed by legislation which gave the Park its present name “Acadia National Park” and broadened the Park’s potential geographic reach.

The 1919 and 1929 acts allowed the Secretary of the Interior to add land to the Park only by donation. The Secretary could not purchase or swap land. While limiting the Secretary to acquiring lands only by donation, the 1929 Act designated a broad region within which the Secretary could accept such donations—all of Hancock County as well as islands in Hancock County and certain islands Knox County.

By limiting the Secretary’s authority to add to the Park to lands donated for that purpose while at the same time designating a vast region within which such donations could be accepted, the 1919 and 1929 Acts virtually guaranteed that the Park would grow in a haphazard, piecemeal fashion. The disjointed character of the Park was complicated by relatively the dense population of Mount Desert Island and the presence of several municipalities—political subdivisions of the State of Maine.

For the affected municipalities, the transformation of parcels from private to Park land created fiscal and jurisdictional challenges. Such challenges were exacerbated when, as happened from time to time, the municipal officials were unaware that a donation was contemplated and, when it was donated, was entirely unexpected. In those instances, a municipality would suddenly be confronted with the loss of property that had long been part of its tax base and would also lose civil and criminal jurisdiction over that parcel, as well.

Background to Acadia National Park Boundary Act of 1986

By the late 1970's, the land acquisition system enacted in 1919 and reaffirmed and expanded in 1929 had been in effect for half a century.

The result was that Acadia National Park was scattered over Mount Desert Island and the Schoodic Peninsula with many Park parcels lacking any logical association with the Park. Pressure began to grow for Congress to intervene and bring order out of chaos.

The Park Service, the municipalities in and around the Park, conservation, recreational, and environmental groups, private and commercial property owners, and citizens all worked with the Congressional

Delegation to develop a coherent and predictable construct for the Park.

This took a long time—nearly 10 years.

Finally, in the First Session of the 99th Congress, the Maine Delegation introduced remedial legislation. Hearings were held on the proposed legislation. At one hearing, 15 witnesses appeared, including witnesses for several municipalities, the Natural Resources Council of Maine, the Sierra Club of Maine, as well as a group representing private property owners.

Although the witnesses did not agree on all the provisions of the bill, they all agreed that the municipalities, their citizens, and the Park needed clarity and certainty about where the boundaries to the Park lay and how the Park would grow in the future.

The solutions to these questions were incorporated into Sections 101 and 102 of the bill.

Salient Elements of Acadia National Park Boundary Act of 1986

Section 101 required the National Park Service to produce a map of the Park's boundaries and record it in certain publicly accessible places. Section 101 also enacted the boundaries on that map into law as the permanent boundary of the Park. In other words, by Section 101, Congress, established

the boundary of the Park. Moreover, Congress provided that that boundary would be “permanent.”

Section 102 of the Act broadened the Secretary’s authority to acquire land, allowing the Secretary to purchase or swap lands, but limited those new powers to lands within the Park’s boundaries.

Section 102(h) authorized the Secretary to acquire conservation easements in lands “adjacent to” the Park but it did not authorize the Secretary to take those “adjacent-to” lands in fee nor add them the Park.

The 1986 Act did not expressly repeal the Secretary’s authority under the 1919 and 1929 Acts to accept donated lands. Eventually, this raised a question as to whether the Secretary’s broad authority to accept donations under those Acts was or was not limited by the permanent boundary in Section 101 (and related provisions in Section 102) and “adjacent-to” limitations in Section 102(h) lands.

Schoodic Woods Parcel

At some point, a generous donor who had acquired a tract of land on Schoodic Peninsula, proposed conveying that parcel—later known as “Schoodic Woods”—to the Park. This proposal brought to a head the question as to whether the Secretary could accept such a donation only under

the authority of the 1986 Boundary Act or whether it could rely on the never-expressly-repealed authorities in the 1919 and 1929 Acts.

On January 24, 2014, the Acting Assistant Associate Regional Solicitor for the National Park Service issued an opinion letter concluding that, because the Acadia Boundary Act had not repealed the 1919 and 1929 Acts, the Secretary's authority to accept donations under those Acts remained intact. The Secretary then relied on the 1929 Act, in particular, to accept the Schoodic Woods donation.

Although the Secretary relied on the 1929 Act to accept Schoodic Woods and enlarge the Park, that decision did not finally answer the question as to whether the 1986 Boundary Act had repealed the authorities in the 1919 and 1920 Acts. Rather than await a formal judicial opinion on the Solicitor's letter and the legal reasoning behind it, the Maine Congressional Delegation decided to act. H.R. 4266 would resolve the questions raised by the Solicitor's letter and the acquisition of the Schoodic Woods parcel by repealing the land acquisition authorities in the 1919 and 1929 Acts (Section 6 of H.R. 4266).

In addition to addressing this important question, H.R. 4266 would address others questions that have arisen in the last 30 years but which were awaiting a suitable legislative vehicle. This provided an opportunity to

address the statutory standoff over the Town Hill Lot and the statutory directive to construct a solid waste transfer facility there.

National Park Service Contribution to Solid Waste Management

At the hearings on the 1986 Boundary Act, witnesses from municipalities explained the rationale for the Park's contribution to addressing solid waste management issues. Witnesses for several municipalities testified that those municipalities were forced to assume all the expense for managing solid waste generated by the Park and by visitors to the Park. Although witnesses for the Park disagreed with this testimony,, in the end Congress decided that the Park should be required to contribute to the management of regional solid waste.

The solution Congress enacted was very specific. Congress required that a solid waste transfer facility would be built on the Town Hill Lot (also known as the Patty Hill Lot and Lot 4DBH) within the Town of Bar Harbor (Section 102(f)). Congress picked the Town Hill Lot because the Park owned that lot and because it was not logically a part of the more coherent Park that was to emerge from the 1986 Boundary Act. The Park's conveyance of the Town Hill Lot would, therefore, be an additional contribution by the Park, along with the specified monies, to the management of solid waste.

Because the 1986 Boundary Act required a construction project—the construction of a solid waste transfer facility—Congress provided that the Park would contribute monies to the cost of that particular project. Congress reinforced this requirement by prohibiting the Secretary from transferring the Town Hill Lot until the solid waste transfer facility was built (Section 102(f)).

When the 1986 Boundary Act was under consideration, several witnesses, testifying about the solid waste management provision, cautioned against including such specific and limiting language into the bill, but it was incorporated nonetheless. Sometime after the Boundary Act was enacted into law, it became apparent that the Town Hill Lot was not suitable for a solid waste transfer facility. It also became apparent that other more efficient means existed for managing solid waste and that a solid waste transfer facility was not necessary.

Not long after the 1986 Boundary Act was passed, the Acadia Disposal District came into existence. The ADD arose from the for the five member municipalities to more efficiently manage their solid waste and to combine their resources to do so. ADD was intended to eliminate inefficiencies that existed when each town tried to manage it own solid waste stream all by itself.

For 31 years, the very strict language in Section 102(f) has prevented the Secretary from conveying the Town Hill Lot to the Town of Bar Harbor—because there is no support for the construction of a solid waste transfer facility on that site—and has also barred the Secretary from transferring the funds contemplated and provided for in the authorization/appropriation language of Section 102(f).

H.R. 4266 would cut this statutory Gordian Knot. It would remove the restriction that bars the Secretary from conveying the Town Hill Lot to the Town of Bar Harbor and it would remove the requirement that a solid waste transfer facility be built on that site.

Discussion of Section 4 and Section 9 of H.R. 4266

Section 4 and Section 9 of H.R. 4266 must be read together. Both would remove longstanding and anachronistic statutory restrictions. Section 9 concerns the Town Hill Lot in the Town of Bar Harbor. As I noted earlier, the 1986 Boundary Act allows the Secretary to convey the Town Hill Lot to the Town of Bar Harbor but only if it is used as the site of a solid waste transfer facility.

Although it is questionable whether the Town Hill Lot ever was suitable as a solid waste transfer facility, it is clearly not suitable for that use now and

has not been for decades. As Bar Harbor and the area around Bar Harbor has grown, it has become apparent that the Town Hill could serve many beneficial many uses. Section 9 would allow for these beneficial public uses by eliminating the requirement that the Town Hill Lot be used as a solid waste transfer facility and by allowing the Town of Bar Harbor to adapt it to the current needs of the citizens of Bar Harbor and the public in general.

Similarly, Section 4 would eliminate the outdated restriction that the monies authorized in 1986 could only be used for the construction of a solid waste transfer facility. It would, instead, allow those monies to be used for other solid waste management purposes. Section 4 recognizes that, while solid waste transfer facilities have their place, the region's solid waste could be handled more efficiently in other ways.

Section 4 and Section 9 would bring Section 102(f) up to date and allow the purposes which Congress had in mind in enacting Section 102(f) to be finally realized.

I hope this testimony is helpful to the Committee. I appreciate the Committee providing me with this opportunity to testify and I would be happy to answer any questions you have.

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