

FLOWER GARDEN BANKS NATIONAL MARINE SANCTUARY

MARCH 21, 1994.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. STUDDS of Massachusetts, from the Committee on Merchant Marine and Fisheries, submitted the following

REPORT

[To accompany H.R. 3886]

The committee on Merchant Marine and Fisheries, to whom was referred the bill (H.R. 3886) to amend the boundaries of the Flower Garden Banks National Marine Sanctuary, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 3886 is to amend the boundaries of the Flower Garden Banks National Marine Sanctuary to include a nearby area known as Stetson Bank. Inclusion of Stetson Bank within the Sanctuary boundary will ensure protection and preservation of the Bank and association resources.

BACKGROUND AND NEED FOR LEGISLATION

The Flower Garden Banks National Marine Sanctuary (FGBNMS) was created by Public Law 102-251, which designated the area as the tenth National Marine Sanctuary. The Flower Garden Banks are located approximately 100 nautical miles off the Texas coast and are the northernmost coral reefs on the North American continental shelf. The Flower Garden Banks provide significant habitat for a variety of reef fishes and invertebrates, as well as a feeding ground for manta rays, whale sharks, and spotted dolphins.

The FGBNMS was created to protect the area from degradation. The most severe threats to the Sanctuary resources included anchoring and mooring atop the coral banks and overfishing. Regulations to protect the Sanctuary were published in the Federal Register on December 5, 1991. Prohibited activities within the Sanc-

tuary include injuring or removing a sanctuary resource, anchoring or mooring, altering the seabed, fishing, and discharging or depositing certain materials. Under FGBNMS regulations, it is prohibited to explore for, develop, or produce oil, natural gas, or minerals in areas of the Sanctuary that have been designated a "no activity zone" by the Minerals Management Service.

H.R. 3886 expands the FGBNMS to include a smaller nearby bank, known as Stetson Bank. Stetson Bank is an important sport diving and recreational fishing resource in the Gulf of Mexico. The bank is characterized by a spectacular array of invertebrates and fishes, and is a well-known location for shell collecting and spear fishing. Depletion of these resources and evidence of severe anchor damage led to a call for the Bank to be included within the boundaries of FGBNMS.

As defined by H.R. 3886, Stetson Bank encompasses an area of approximately 482 acres or 0.75 square miles. Stetson Bank has been designated by the Minerals Management Service as a no activity zone with regard to oil and gas exploration, development, and production. Provisions of the bill would place the Bank within the same regulatory and management regime as FGBNMS.

Inclusion of Stetson Bank within the boundaries of FGBNMS will provide the protections necessary to ensure the preservation of the Bank and its valuable resources.

COMMITTEE ACTION

On February 24, 1994, Representative Solomon P. Ortiz, Chairman of the Subcommittee on Oceanography, Gulf of Mexico, and the Outer Continental Shelf, introduced H.R. 3886. The bill was referred to the Committee on Merchant Marine and Fisheries, and subsequently to the Subcommittee on Oceanography, Gulf of Mexico, and the Outer Continental Shelf.

The Subcommittee on Oceanography, Gulf of Mexico, and the Outer Continental Shelf met to mark up H.R. 3886 on March 10, 1994. The bill was ordered reported without amendment by the Subcommittee by voice vote.

On March 16, 1994, the full Committee met to consider and mark up H.R. 3886. The bill was ordered reported without amendment to the House of Representatives by voice vote.

SECTION-BY-SECTION ANALYSIS

Section 1. Flower Garden Banks boundary modification

Section 1 modifies the boundaries of the Flower Garden Banks National Marine Sanctuary, as designated by Public Law 102-251, to include the area known as Stetson Bank. This modification is to be completed notwithstanding section 304 of the National Marine Sanctuaries Act (16 U.S.C. 1434), which describes the administrative process for the designation of a national marine sanctuary. The area is to be managed and regulated as though it had been designated by the Secretary of Commerce under the National Marine Sanctuaries Act. The Committee does not intend to trigger environmental review procedures under the National Environmental Policy Act with this minor boundary change to the existing Sanctuary.

Section 1(b) directs the Secretary of Commerce to prepare a chart depicting the new boundaries of the FGBNMS. The Secretary is further directed to submit copies of this chart to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate. The Committee expects that copies of the chart will be prepared and submitted to Congress as soon as possible after the Secretary has determined whether any minor boundary changes are needed under subsection (d)(2).

Section 1(c) states that the regulations issued by the Secretary of Commerce to implement the designation of FGBNMS apply to Stetson Bank, unless modified by the Secretary. The regulations are to take effect for Stetson Bank 45 days after the date of enactment of this Act. This will allow the Secretary time to determine whether any regulatory changes are needed to better manage Stetson Bank as part of the larger Sanctuary. It also provides interim protection of Stetson Bank resources pending the publication of the notice under subsection (e) and the period of Congressional review following that notice. Given that only technical changes in the regulations, if any, should be needed, the Committee does not consider sections 552 and 553 of the Administrative Procedure Act to be applicable to the execution of subsection (c).

Section 1(d) defines Stetson Bank as the area within the 52 meter isobath: (1) depicted on the Department of the Interior, Minerals Management Service map titled "Western Gulf of Mexico, Lease Sale 143, September 1993, Biologically Sensitive Areas, Map 3 of 3, Final"; and (2) labeled as "Stetson" on this map. Section 1(d)(2) allows the Secretary of Commerce to make minor changes to the boundaries to protect coral resources or to simplify administration of the Sanctuary. The Committee expects that changes pursuant to this paragraph will only be made to establish precise geographical boundaries for Stetson Bank and will neither significantly enlarge the area described in this subsection, nor restrict oil, gas, or mineral exploration, development, or production activities otherwise allowed outside of the "no activity zone" designated for Stetson Bank by the Minerals Management Service.

Section 1(e) directs the Secretary of Commerce to publish in the Federal Register a notice describing the new boundaries of FGBNMS and any modification of regulations needed to implement the boundary change. Section 1(e)(2) states that this notice is considered to be the notice required to be published under section 304(b)(1) of the National Marine Sanctuaries Act. This means that the boundary amendments and the extension of the FGBNMS regulations to Stetson Bank will be effective after a Congressional review period of 45 days of continuous session of Congress.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment of H.R. 3886 will have no significant inflationary impact on prices and costs in the operation of the national economy.

COST OF THE LEGISLATION

Clause 7(a) of rule XIII of the Rules of the House of Representatives requires an estimate by the Committee of the costs which would be incurred in carrying out H.R. 3886. However, clause 7(d) 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 403 of the Congressional Budget Act of 1974.

COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirements of clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, no oversight findings or recommendations on the subject of H.R. 3886 have been made by the Committee during the 103d Congress.

2. With respect to the requirements of clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 3886 does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. With respect to the requirements of clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Operations on the subject of H.R. 3886.

4. With respect to the requirements of clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has not received a cost estimate for H.R. 3886 from the Director of the Congressional Budget Office.

CHANGES IN EXISTING LAW

If enacted, H.R. 3886 would make no changes in existing law.

DEPARTMENTAL REPORTS

The Committee has received no departmental reports on H.R. 3886.