

109TH CONGRESS
2^D SESSION

H. R. 5160

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 28, 2006

Received

AN ACT

To establish the Long Island Sound Stewardship Initiative.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Long Island Sound
3 Stewardship Act of 2006”.

4 **SEC. 2. FINDINGS AND PURPOSE.**

5 (a) FINDINGS.—Congress finds that—

6 (1) Long Island Sound is a national treasure of
7 great cultural, environmental, and ecological impor-
8 tance;

9 (2) 8,000,000 people live within the Long Is-
10 land Sound watershed and 28,000,000 people (ap-
11 proximately 10 percent of the population of the
12 United States) live within 50 miles of Long Island
13 Sound;

14 (3) activities that depend on the environmental
15 health of Long Island Sound contribute more than
16 \$5,000,000,000 each year to the regional economy;

17 (4) the portion of the shoreline of Long Island
18 Sound that is accessible to the general public (esti-
19 mated at less than 20 percent of the total shoreline)
20 is not adequate to serve the needs of the people liv-
21 ing in the area;

22 (5) existing shoreline facilities are in many
23 cases overburdened and underfunded;

24 (6) large parcels of open space already in public
25 ownership are strained by the effort to balance the

1 demand for recreation with the needs of sensitive
2 natural resources;

3 (7) approximately 1/3 of the tidal marshes of
4 Long Island Sound have been filled, and much of
5 the remaining marshes have been ditched, diked, or
6 impounded, reducing the ecological value of the
7 marshes; and

8 (8) much of the remaining exemplary natural
9 landscape is vulnerable to further development.

10 (b) PURPOSE.—The purpose of this Act is to estab-
11 lish the Long Island Sound Stewardship Initiative to iden-
12 tify, protect, and enhance upland sites within the Long
13 Island Sound ecosystem with significant ecological, edu-
14 cational, open space, public access, or recreational value
15 through a bi-State network of sites best exemplifying these
16 values.

17 **SEC. 3. DEFINITIONS.**

18 In this Act, the following definitions apply:

19 (1) ADMINISTRATOR.—The term “Adminis-
20 trator” means the Administrator of the Environ-
21 mental Protection Agency.

22 (2) ADVISORY COMMITTEE.—The term “Advi-
23 sory Committee” means the Long Island Sound
24 Stewardship Advisory Committee established by sec-
25 tion 8.

1 (3) REGION.—The term “Region” means the
2 Long Island Sound Stewardship Initiative Region es-
3 tablished by section 4(a).

4 (4) STATE.—The term “State” means each of
5 the States of Connecticut and New York.

6 (5) STEWARDSHIP.—The term “stewardship”
7 means land acquisition, land conservation agree-
8 ments, site planning, plan implementation, land and
9 habitat management, public access improvements,
10 site monitoring, and other activities designed to en-
11 hance and preserve natural resource-based recre-
12 ation and ecological function of upland areas.

13 (6) STEWARDSHIP SITE.—The term “steward-
14 ship site” means any area of State, local, or tribal
15 government, or privately owned land within the Re-
16 gion that is designated by the Administrator under
17 section 5(a).

18 (7) SYSTEMATIC SITE SELECTION.—The term
19 “systematic site selection” means a process of select-
20 ing stewardship sites that—

21 (A) has explicit goals, methods, and cri-
22 teria;

23 (B) produces feasible, repeatable, and de-
24 fensible results;

1 (C) provides for consideration of natural,
2 physical, and biological patterns;

3 (D) addresses replication, connectivity,
4 species viability, location, and public recreation
5 values;

6 (E) uses geographic information systems
7 technology and algorithms to integrate selection
8 criteria; and

9 (F) will result in achieving the goals of
10 stewardship site selection at the lowest cost.

11 (8) QUALIFIED APPLICANTS.—The term “quali-
12 fied applicant” means a non-Federal person that
13 owns title to property located within the borders of
14 the Region.

15 (9) THREAT.—The term “threat” means a
16 threat that is likely to destroy or seriously degrade
17 a conservation target or a recreation area.

18 **SEC. 4. LONG ISLAND SOUND STEWARDSHIP INITIATIVE**
19 **REGION.**

20 (a) ESTABLISHMENT.—There is established in the
21 States of Connecticut and New York the Long Island
22 Sound Stewardship Initiative Region.

23 (b) BOUNDARIES.—The Region consists of the imme-
24 diate coastal upland areas along—

1 (1) Long Island Sound between mean high
2 water and the inland boundary, as described on the
3 map entitled “Long Island Sound Stewardship Re-
4 gion” and dated April 21, 2004; and

5 (2) the Peconic Estuary as described on the
6 map entitled “Peconic Estuary Program Study Area
7 Boundaries” and included in the Comprehensive
8 Conservation and Management Plan for the Peconic
9 Estuary Program and dated November 15, 2001.

10 **SEC. 5. DESIGNATION OF STEWARDSHIP SITES.**

11 (a) IN GENERAL.—The Administrator may designate
12 a stewardship site in accordance with this Act any area
13 that contributes to accomplishing the purpose of this Act.

14 (b) PUBLICATION OF LIST OF RECOMMENDED
15 SITES.—The Administrator shall—

16 (1) publish in the Federal Register and make
17 available in general circulation in the States of Con-
18 necticut and New York the list of sites recommended
19 by the Advisory Committee; and

20 (2) provide a 90-day period for—

21 (A) the submission of public comment on
22 the list; and

23 (B) an opportunity for owners of such sites
24 to decline designation of such sites as steward-
25 ship sites.

1 (c) OPINION REGARDING OWNER'S RESPONSIBIL-
2 ITIES.—The Administrator may not designate an area as
3 a stewardship site under this Act unless the Administrator
4 provides to the owner of the area, and the owner acknowl-
5 edges to the Administrator receipt of, a comprehensive
6 opinion in plain English setting forth expressly the respon-
7 sibility of the owner that arises from such designation.

8 (d) DESIGNATION OF STEWARDSHIP SITES.—Not
9 later than 150 days after receiving from the Advisory
10 Committee its list of recommended sites, the Adminis-
11 trator—

12 (1) shall review the recommendations of the Ad-
13 visory Committee; and

14 (2) may designate as a stewardship site any site
15 included in the list.

16 **SEC. 6. RECOMMENDATIONS BY ADVISORY COMMITTEE.**

17 (a) IN GENERAL.—The Advisory Committee shall—

18 (1) in accordance with this section, evaluate ap-
19 plications—

20 (A) for designation of areas as stewardship
21 sites;

22 (B) to develop management plans to ad-
23 dress threats to stewardship sites; and

24 (C) to act on opportunities to protect and
25 enhance stewardship sites;

1 (2) develop recommended guidelines, criteria,
2 schedules, and due dates for the submission of appli-
3 cations and the evaluation by the Advisory Com-
4 mittee of information to recommend areas for des-
5 ignation as stewardship sites that fulfill terms of a
6 multi-year management plan;

7 (3) recommend to the Administrator a list of
8 sites for designation as stewardship sites that fur-
9 ther the purpose of this Act;

10 (4) develop management plans to address
11 threats to stewardship sites;

12 (5) raise awareness of the values of and threats
13 to stewardship sites;

14 (6) recommend that the Administrator award
15 grants to qualified applicants; and

16 (7) recommend to the Administrator ways to le-
17 verage additional resources for improved stewardship
18 of the Region.

19 (b) IDENTIFICATION OF SITES.—

20 (1) IN GENERAL.—Any qualified applicant may
21 submit an application to the Advisory Committee to
22 have a site recommended to the Administrator for
23 designation as a stewardship site.

24 (2) IDENTIFICATION.—The Advisory Committee
25 shall review each application submitted under this

1 subsection to determine whether the site exhibits val-
2 ues that promote the purpose of this Act.

3 (3) NATURAL RESOURCE-BASED RECREATION
4 AREAS.—In reviewing an application for rec-
5 ommendation of a recreation area for designation as
6 a stewardship site, the Advisory Committee may use
7 a selection technique that includes consideration
8 of—

9 (A) public access;

10 (B) community support;

11 (C) high population density;

12 (D) environmental justice (as defined in
13 section 385.3 of title 33, Code of Federal Regu-
14 lations (or successor regulations));

15 (E) open spaces; and

16 (F) cultural, historic, and scenic character-
17 istics.

18 (4) NATURAL AREAS WITH ECOLOGICAL
19 VALUE.—In reviewing an application for rec-
20 ommendation of a natural area with ecological value
21 for designation as a stewardship site, the Advisory
22 Committee may use a selection technique that in-
23 cludes consideration of—

24 (A) measurable conservation targets for
25 the Region; and

1 (B) prioritizing new sites using systematic
2 site selection, which shall include consideration
3 of—

- 4 (i) ecological uniqueness;
- 5 (ii) species viability;
- 6 (iii) habitat heterogeneity;
- 7 (iv) size;
- 8 (v) quality;
- 9 (vi) open spaces;
- 10 (vii) land cover;
- 11 (viii) scientific, research, or edu-
12 cational value; and
- 13 (ix) threats.

14 (5) DEVIATION FROM PROCESS.—The Advisory
15 Committee may accept an application to recommend
16 a site other than as provided in this subsection, if
17 the Advisory Committee—

18 (A) determines that the site makes signifi-
19 cant ecological or recreational contributions to
20 the Region; and

21 (B) provides to the Administrator the rea-
22 sons for deviating from the process otherwise
23 described in this subsection.

24 (c) SUBMISSION OF LIST OF RECOMMENDED
25 SITES.—

1 (1) IN GENERAL.—After completion of the site
2 identification process set forth in subsection (b), the
3 Advisory Committee shall submit to the Adminis-
4 trator its list of sites recommended for designation
5 as stewardship sites.

6 (2) LIMITATION.—The Advisory Committee
7 shall not include a site in the list submitted under
8 this subsection unless, prior to submission of the
9 list, the owner of the site is—

10 (A) notified of the inclusion of the site in
11 the list; and

12 (B) allowed to decline inclusion of the site
13 in the list.

14 (3) PUBLIC COMMENT.—In identifying sites for
15 inclusion in the list, the Advisory Committee shall
16 provide an opportunity for submission of, and con-
17 sider, public comments.

18 **SEC. 7. GRANTS AND ASSISTANCE.**

19 (a) IN GENERAL.—The Administrator may provide
20 grants, subject to the availability of appropriations, and
21 other assistance for projects to fulfill the purpose of this
22 Act.

23 (b) FEDERAL SHARE.—The Federal share of the cost
24 of an activity carried out using any assistance or grant

1 under this Act shall not exceed 60 percent of the total
2 cost of the activity.

3 **SEC. 8. LONG ISLAND SOUND STEWARDSHIP ADVISORY**
4 **COMMITTEE.**

5 (a) **ESTABLISHMENT.**—There is established a com-
6 mittee to be known as the “Long Island Sound Steward-
7 ship Advisory Committee”.

8 (b) **MEMBERSHIP.**—

9 (1) **IN GENERAL.**—The Administrator may ap-
10 point the members of the Advisory Committee in ac-
11 cordance with this subsection and the guidance in
12 section 320(c) of the Federal Water Pollution Con-
13 trol Act (33 U.S.C. 1330(c)), except that the Gov-
14 ernor of each State may appoint 2 members of the
15 Advisory Committee.

16 (2) **ADDITIONAL MEMBERS.**—In addition to the
17 other members appointed under this subsection, the
18 Advisory Committee may include—

19 (A) a representative of the Regional Plan
20 Association;

21 (B) a representative of marine trade orga-
22 nizations; and

23 (C) a representative of private landowner
24 interests.

1 (3) CONSIDERATION OF INTERESTS.—In ap-
2 pointing members of the Advisory Committee, the
3 Administrator shall consider—

4 (A) Federal, State, and local government
5 interests and tribal interests;

6 (B) the interests of nongovernmental orga-
7 nizations;

8 (C) academic interests;

9 (D) private interests including land, agri-
10 culture, and business interests; and

11 (E) recreational and commercial fishing in-
12 terests.

13 (4) CHAIRPERSON.—In addition to the other
14 members appointed under this subsection, the Ad-
15 ministrator may appoint as a member of the Advi-
16 sory Committee an individual to serve as the Chair-
17 person, who may be the Director of the Long Island
18 Sound Office of the Environmental Protection Agen-
19 cy.

20 (5) COMPLETION OF APPOINTMENTS.—The Ad-
21 ministrator shall complete the appointment of all
22 members of the Advisory Committee by not later
23 than 180 days after the date of enactment of this
24 Act.

1 (A) VACANCIES.—A vacancy on the Advi-
2 sory Committee—

3 (i) shall be filled not later than 90
4 days after the vacancy occurs;

5 (ii) shall not affect the powers of the
6 Advisory Committee; and

7 (iii) shall be filled in the same manner
8 as the original appointment was made.

9 (c) TERM.—

10 (1) IN GENERAL.—A member of the Advisory
11 Committee shall be appointed for a term of 4 years.

12 (2) MULTIPLE TERMS.—An individual may be
13 appointed as a member of the Advisory Committee
14 for more than 1 term.

15 (d) POWERS.—The Advisory Committee may hold
16 such hearings, meet and act at such times and places, take
17 such testimony, and receive such evidence as the Advisory
18 Committee considers advisable to carry out this Act.

19 (e) MEETINGS.—

20 (1) IN GENERAL.—The Advisory Committee
21 shall meet at the call of the Chairperson, but no
22 fewer than 4 times each year.

23 (2) INITIAL MEETING.—Not later than 30 days
24 after the date on which all members of the Advisory
25 Committee have been appointed, the Chairperson

1 shall call the initial meeting of the Advisory Com-
2 mittee.

3 (3) QUORUM.—A majority of the members of
4 the Advisory Committee shall constitute a quorum,
5 but a lesser number of members may hold hearings.

6 (f) ADAPTIVE MANAGEMENT.—

7 (1) IN GENERAL.—The Advisory Committee
8 shall use an adaptive management framework to
9 identify the best policy initiatives and actions
10 through—

11 (A) definition of strategic goals;

12 (B) definition of policy options for methods
13 to achieve strategic goals;

14 (C) establishment of measures of success;

15 (D) identification of uncertainties;

16 (E) development of informative models of
17 policy implementation;

18 (F) separation of the landscape into geo-
19 graphic units;

20 (G) monitoring key responses at different
21 spatial and temporal scales; and

22 (H) evaluation of outcomes and incorpora-
23 tion into management strategies.

24 (2) APPLICATION OF ADAPTIVE MANAGEMENT
25 FRAMEWORK.—The Advisory Committee shall apply

1 the adaptive management framework to the process
2 for making recommendations under subsections (b)
3 through (f) of section 6 to the Administrator regard-
4 ing sites that should be designated as stewardship
5 sites.

6 (3) ADAPTIVE MANAGEMENT.—The adaptive
7 management framework required by this subsection
8 shall consist of a scientific process—

9 (A) for—

10 (i) developing predictive models;

11 (ii) making management policy deci-
12 sions based upon the model outputs;

13 (iii) revising the management policies
14 as data become available with which to
15 evaluate the policies; and

16 (iv) acknowledging uncertainty, com-
17 plexity, and variance in the spatial and
18 temporal aspects of natural systems; and

19 (B) that requires that management be
20 viewed as experimental.

21 (g) TERMINATION OF ADVISORY COMMITTEE.—The
22 Advisory Committee shall terminate on December 31,
23 2011.

1 **SEC. 9. REPORTS.**

2 (a) ADMINISTRATOR.—The Administrator shall pub-
3 lish and make available to the public on the Internet and
4 in paper form—

5 (1) not later than 1 year after the date of en-
6 actment of this Act, a report that—

7 (A) assesses the role of this Act in pro-
8 tecting the Long Island Sound;

9 (B) establishes in coordination with the
10 Advisory Committee guidelines, criteria, sched-
11 ules, and due dates for evaluating information
12 to designate stewardship sites;

13 (C) includes information about any grants
14 that are available for the purchase of land or
15 property rights to protect stewardship sites; and

16 (D) accounts for funds received and ex-
17 pended during the previous fiscal year;

18 (2) an update of such report, at least every
19 other year; and

20 (3) information on funding and any new stew-
21 ardship sites more frequently than every other year.

22 (b) ADVISORY COMMITTEE.—

23 (1) REPORT.—For each of fiscal years 2007
24 through 2011, the Advisory Committee shall submit
25 to the Administrator and the decisionmaking body of
26 the Long Island Sound Study Management Con-

1 ference established under section 320 of the Federal
2 Water Pollution Control Act (33 U.S.C. 1330), an
3 annual report that contains—

4 (A) a detailed statement of the findings
5 and conclusions of the Advisory Committee
6 since the last report under this subsection;

7 (B) a description of all sites recommended
8 by the Advisory Committee to the Adminis-
9 trator for designation as stewardship sites;

10 (C) the recommendations of the Advisory
11 Committee for such legislation and administra-
12 tive actions as the Advisory Committee con-
13 siders appropriate; and

14 (D) in accordance with paragraph (2), the
15 recommendations of the Advisory Committee
16 for the awarding of grants.

17 (2) RECOMMENDATION FOR GRANTS.—

18 (A) IN GENERAL.—The Advisory Com-
19 mittee shall recommend that the Administrator
20 award grants to qualified applicants to help to
21 secure and improve the open space, public ac-
22 cess, or ecological values of stewardship sites,
23 through—

24 (i) purchase of the property of a stew-
25 ardship site;

1 (ii) purchase of relevant property
2 rights to a stewardship site; or

3 (iii) entering into any other binding
4 legal arrangement that ensures that the
5 values of a stewardship site are sustained,
6 including entering into an arrangement
7 with a land manager or property owner to
8 develop or implement a management plan
9 that is necessary for the conservation of
10 natural resources.

11 (B) **EQUITABLE DISTRIBUTION OF**
12 **FUNDS.**—The Advisory Committee shall exert
13 due diligence to ensure that its recommenda-
14 tions result in an equitable distribution of funds
15 between the States.

16 **SEC. 10. PRIVATE PROPERTY PROTECTION; NO REGU-**
17 **LATORY AUTHORITY.**

18 (a) **ACCESS TO PRIVATE PROPERTY.**—Nothing in
19 this Act—

20 (1) requires any private property owner to allow
21 public access (including Federal, State, or local gov-
22 ernment access) to the private property; or

23 (2) modifies the application of any provision of
24 Federal, State, or local law with regard to public ac-
25 cess to or use of private property, except as entered

1 into by voluntary agreement of the owner or custo-
2 dian of the property.

3 (b) LIABILITY.—Establishment of the Region does
4 not create any liability, or have any effect on any liability
5 under any other law, of any private property owner with
6 respect to any person injured on the private property.

7 (c) RECOGNITION OF AUTHORITY TO CONTROL LAND
8 USE.—Nothing in this Act modifies the authority of Fed-
9 eral, State, or local governments to regulate land use.

10 (d) PARTICIPATION OF PRIVATE PROPERTY OWNERS
11 NOT REQUIRED.—Nothing in this Act requires the owner
12 of any private property located within the boundaries of
13 the Region to participate in any land conservation, finan-
14 cial or technical assistance, or other programs established
15 under this Act.

16 (e) PURCHASE OF LAND OR INTEREST IN LAND
17 FROM WILLING SELLERS ONLY.—Funds appropriated to
18 carry out this Act may be used to purchase land or inter-
19 ests in land only from willing sellers.

20 (f) MANNER OF ACQUISITION.—All acquisitions of
21 land under this Act shall be made in a voluntary manner
22 and shall not be the result of forced takings.

23 (g) EFFECT OF ESTABLISHMENT.—

24 (1) IN GENERAL.—The boundaries of the Re-
25 gion represent the area within which Federal funds

1 appropriated for the purpose of this Act may be ex-
2 pended.

3 (2) REGULATORY AUTHORITY.—The establish-
4 ment of the Region and the boundaries of the Re-
5 gion do not provide any regulatory authority not in
6 existence immediately before the enactment of this
7 Act on land use in the Region by any management
8 entity, except for such property rights as may be
9 purchased from or donated by the owner of the
10 property (including public lands donated by a State
11 or local government).

12 **SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

13 (a) IN GENERAL.—There is authorized to be appro-
14 priated to the Administrator \$25,000,000 for each of fis-
15 cal years 2007 through 2011 to carry out this Act, includ-
16 ing for—

17 (1) acquisition of land and interests in land;

18 (2) development and implementation of site
19 management plans;

20 (3) site enhancements to reduce threats or pro-
21 mote stewardship; and

22 (4) administrative expenses of the Advisory
23 Committee and the Administrator.

24 (b) USE OF FUNDS.—Amounts made available to the
25 Administrator under this section each fiscal year shall be

1 used by the Administrator after reviewing the rec-
2 ommendations included in the annual reports of the Advi-
3 sory Committee under section 9.

4 (c) AUTHORIZATION OF GIFTS, DEVISES, AND BE-
5 QUESTS FOR SYSTEM.—In furtherance of the purpose of
6 this Act, the Administrator may accept and use any gift,
7 devise, or bequest of real or personal property, proceeds
8 therefrom, or interests therein, to carry out this Act. Such
9 acceptance may be subject to the terms of any restrictive
10 or affirmative covenant, or condition of servitude, if such
11 terms are considered by the Administrator to be in accord-
12 ance with law and compatible with the purpose for which
13 acceptance is sought.

14 (d) LIMITATION ON ADMINISTRATIVE COSTS.—Of
15 the amount available each fiscal year to carry out this Act,
16 not more than 8 percent may be used for administrative
17 costs.

Passed the House of Representatives September 27,
2006.

Attest:

KAREN L. HAAS,

Clerk.