

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION

Call to Order: By SENATOR CHET BLAYLOCK, on February 11, 1991,
at 3:00 P. M.

ROLL CALL

Members Present:

Chet Blaylock, Chairman (D)
Harry Fritz, Vice Chairman (D)
Robert Brown (R)
Bill Farrell (R)
H.W. Hammond (R)
Dennis Nathe (R)
Dick Pinsoneault (D)
Mignon Waterman (D)

Members Excused: Bill Yellowtail, (D)

Staff Present: Eddy McClure (Legislative Council).

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

HEARING ON SJR 13

Presentation and opening statement by sponsor:

Senator Greg Jergeson from Senate District 8 presented SJR 13, a joint resolution urging congress to amend Nez Perce National Historical Park.

Senator Jergeson said that his district encompasses the Bear Paw Battlefield site and that last session he served on the Natural Resources subcommittee. Exhibits 1. One of the things that the committee did was meet jointly with the long range building committee and try to make some decisions on the Montana State Park system and within that system is included the Bear Paw Battlefield. The Montana Department of Fish, Wildlife and Parks had suggested in their proposal to charge fees for entrance and use of their state parks with the Bear Paw Battlefield site being one of the places where fees would be set. The Senator said that at the time he objected to a fee being charged because it was not a preserved area.

The sponsor said that since the last session a great many people from Washington, Oregon, Idaho and Montana have worked on a

proposal to get several of these sites included into the national park system in the state of Montana. The governor and the Department of Fish, Wildlife and Parks support the proposal to transfer the Bear Paw Battlefield from the state of Montana to the federal government.

Senator Jergeson said that probably the sago of Chief Joseph and Looking Glass and the other great chiefs of the Nez Perce nation, their lives and the story of what they went through before the final battle in the Bear Paws is of great significance and ought to be recognized for the accomplishments that those people had.

Senator Jergeson extended an invitation to each member of the committee to come to Chinook to visit the Bear Paw battlefield site and also the display in the museum which is located there and currently is listed as being one of the best displays in the country. It starts out with a mural that covers a whole wall and a video which describes the battlefield site. There is also a painting of the final surrender. The senator said that he believed the painting is one of the finest pieces of art that can be found in a local museum anywhere in the country. After one has seen the video presentation in the museum, a visit to the battlefield is more meaningful.

Senator Jergeson presented a letter (Exhibit 2) from Yvette Joseph about the chronology of events that have gone on in recent years. He also present a copy of the bill that Congress considered last session (Exhibit 3). It also includes supporting testimony.

Proponents' Testimony:

K. L. Cool, Director of Montana Department of Fish, Wildlife and Parks testified in support of SJR 13.

The speaker said that the resources of the Bear Paw Battlefield in the Big Hole and at the Canyon Creek site should be protected because of the importance that they played in our nation's history. The National Parks Service is in a position to do that and the Department supports that. In supporting SJR 13, the Department will commit the agency and Mr. Cool said that he personally would commit the agency to cooperate fully with Congress and the National Park Service to designate and operate these three areas as national historic sites.

Questions From Committee Members:

Senator Brown asked if Yvette Joseph was related to Chief Joseph. Senator Jergeson answered that he thought they were not related since "Joseph" was not Chief Joseph's last name. He had an Indian name.

Senator Pinsoneault asked if both of these areas are geographically identified and surveyed.

Senator Jergeson said that There are identified boundaries to the Bear Paw Battlefield site placed there in current time by the state of Montana and the Department of Fish, Wildlife and Parks. There are negotiations going on with a nearby land owner about a land trade since there is still some private land in the area that was a part of the battlefield and is not state property.

Senator Pinsoneault asked how much acreage was in the Bear Paw? Senator Jergeson said between 160-200 acres. The land trade would involve 40-60 acres.

Senator Farrell asked if the Big Hole Battlefield is now designated a federal land site. Mr. Cool answered that it is state land and under protection of the Department of Fish, Wildlife and Parks.

Senator Fritz said that the Nez Perce National Historic Trail has been designated together with the Lewis and Clark route and it connects Fort Fizzle (near Lolo), the Big Hole and Canyon Creek (near Laurel). He said that Fort Fizzle is presently an open field marked with a sign and accessible to the public. Some boundaries could probably be determined archaeologically but they can not be seen with the naked eye. He said that he did not know who owns Fort Fizzle. Canyon Creek is on private land and undeveloped. He thought that Bear Paw is a state site with some markers and trails.

Senator Farrell requested that Fort Fizzle be included because he said that is a location where there was a defensive line of about 2-300 troupes and where the Indian people went around before they got to the Big Hole. He said that there is a designated place; he did not know who owns it; he thought the site might be on Forest Service land.

The committee agreed to wait until February 13 to take executive action on SJR 13.

EXECUTIVE ACTION ON SB 82

Discussion:

Senator Hammond told the committee that he had called seven school superintendents in his district to discuss SB 82 with them. He said that they were concerned about the guaranteed tax base in SB 82 and how it would affect their area. He said that the superintendent at Saco seemed to be the best informed and was the most concerned probably because he had experience with a situation where the school received money through an audit and were not allowed to keep it because of a guaranteed tax base.

Senator Brown requested voting be postponed until February 13.

Greg Groepper, Jan Thomson, OPI, discussed SB 82. Exhibit 5.

EXECUTIVE ACTION ON SB 234

Recommendation and Vote:

SENATOR WATERMAN MOVED TO TABLE SB 234. VOTE WAS UNANIMOUS.
MOTION PASSED.

ADJOURNMENT

Adjournment At: 5:00 P. M.



SENATOR CHET BLAYLOCK, Chairman



BETSY CLARK, Secretary

CB/bc

DRAFT RESOLUTION FOR MONTANA STATE LEGISLATURE

WHEREAS, The State of Montana recognizes the historic and national significance of the Bear Paw Battlefield, the Big Hole Battlefield and Canyon Creek sites in Montana as the final chapters in the famous Nez Perce War of 1877, and

WHEREAS, The State of Montana and its Indian and non-Indian citizens hold dearly this historic and nationally significant legacy with the Nez Perce War of 1877, and

WHEREAS, The State of Montana and its Indian and non-Indian citizens wish to see these historic sites preserved and interpreted by the United States National Park Service, in a manner appropriate to the important role they play in our Nation's history, and

WHEREAS, The U. S. National Park Service conducted an Additions Study which in its Draft Report released in 1989, recommends that thirteen sites be added to the existing Nez Perce National Historical Park system, included three sites located in the State of Montana, and

WHEREAS, The existing legislation which established the Nez Perce National Historical Parks in 1965, limits the designation of sites under that park system to within the State of Idaho, and

WHEREAS, To include the other historically significant sites such as Chief Joseph's Grave Site in Nespelem, Washington, the Bear Paw Battlefield, Big Hole Battlefield and Canyon Creek sites in Montana will require an amendment to the Nez Perce National Historical Parks legislation, and

WHEREAS, The citizens of Montana wholeheartedly support the enactment of legislation extending the eligibility of sites designated under the Nez Perce National Historical Parks to other states, including the State of Montana, and

WHEREAS, The Bear Paw Battlefield as the site of the final battle of the Nez Perce Indians and the now historic surrender speech of Chief Joseph, deserves protection, recognition and historic interpretation for the citizens of Montana and for all people traveling through our State.

NOW THEREFORE BE IT RESOLVED, That the Montana State Legislature calls upon our United States Congressional delegation to support legislation amending the Nez Perce National Historical Parks to extend designation of sites to include the Bear Paw Battlefield, the Big Hole Battlefield and Canyon Creek sites in the State of Montana.

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DRAFT

NEZ PERCE NATIONAL HISTORICAL PARK:

ADDITIONS STUDY

U.S. DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
PACIFIC NORTHWEST REGION

1989

This draft report has not been cleared by the Department of the Interior or the Office of Management and Budget and does not necessarily reflect the recommendations of the Secretary of the Interior.

EXECUTIVE SUMMARY



This study examines sixteen sites located in Idaho, Oregon, Washington, and Montana as possible additions to Nez Perce National Historical Park, headquartered in Spalding, Idaho. This report, which updates the unpublished 1969 National Park Service report "Nez Perce Additions: A Study of Alternatives," was undertaken at the request of Senators Hatfield and Packwood and Congressman Robert F. Smith of the Oregon congressional delegation in response to concern expressed by representatives of the Wallowa, Oregon, community, the Nez Perce Tribal Executive Committee, and the Confederated Tribes of the Umatilla. This draft study was prepared by the Pacific Northwest Region, National Park Service. Members of the study team included representatives of the U.S. Forest Service and the U.S. Bureau of Indian Affairs, as well as regional and park personnel.

Thirteen of the sixteen sites studied are suitable/feasible for addition to the park. The majority of these sites, which are discussed in detail in the "Site Evaluation" section of the report, are associated with the 1877 Nez Perce War. Three of the sites are located in Idaho and could be added to the park through cooperative agreements under the existing legislation. The remaining sites are located in Oregon, Washington, and Montana. The existing legislation would have to be amended to 1) permit inclusion of sites outside of the current State of Idaho boundaries, 2) increase the existing ceiling on the funds and acreage authorized for acquisition of lands and scenic easements, and 3) increase the existing ceiling on construction and development funds in the park.

Incorporation of these additional sites, increased cooperation with other local, state, and federal groups and agencies in interpreting and managing the resources related to the park's themes, and further development of existing park resources are all strategies considered by this report to enhance the park's ability to present a comprehensive overview of the history and culture of the Nez Perce, as mandated by the authorizing legislation.

Sites suitable/feasible for addition to the Nez Perce National Historical Park:

1. Tolo Lake (ID)
2. Looking Glass' 1877 Campsite (ID)
3. Buffalo Eddy (WA/ID)
4. Doug Bar (WA/ID)
5. Camas Meadows Battle Sites (ID)
6. Joseph Canyon Viewpoint (OR)
7. Old Chief Joseph's Gravesite and Cemetery (OR)
8. Traditional Campsite at the Fork of the Lostine and Wallowa Rivers (OR)
9. Burial Site of Chief Joseph the Younger (WA)
10. Nez Perce Campsites (WA)
11. Big Hole National Battlefield (MT)
12. Bear's Paw Battleground (MT)
13. Canyon Creek (MT)

Amendment to the Nez Perce National Historical Parks

To amend the Act of May 15, 1965, authorizing the Secretary of the Interior to designate the Nez Perce National Historical Park in the State of Idaho, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled. That it is the purpose of this Act to facilitate protection and provide interpretation of sites in the Nez Perce country of Idaho ***and in the states of Oregon, Washington, Montana, Wyoming and Oklahoma*** that have exceptional value in commemorating the history of the Nation.

Sec. 2. To implement this purpose the Secretary of the Interior may designate as the Nez Perce National Historical Park various component sites in Federal and non-Federal ownership relating to the early Nez Perce culture, the Lewis and Clark Expedition through the area, the fur trade, missionaries, gold mining and logging, the Nez Perce war of 1877, and such other sites as he finds will depict the role of the Nez Perce country in the westward expansion of the Nation. ***"Sites to be so designated shall include the following sites as described in the 1989 National Park Service draft "Nez Perce National Historical Park Additions Study": Tofo Lake, Idaho; Looking Glass' 1877 Campsite, Idaho; Buffalo Eddy, Washington and Idaho; Traditional Crossing Site Near Doug Bar, Oregon and Idaho; Camas Meadows Battle Sites, Idaho; Joseph Canyon Viewpoint, Oregon; Old Chief Joseph's Gravesite and Cemetary, Oregon (limited to the portion***

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that is, on the date of enactment of this Act, owned by the United States or United States Forest Service in trust for the Umatilla and Nez Perce tribes); Traditional Campsite at the Fork of the Lostine and Wallowa Rivers, Oregon; Burial Site of Chief Joseph the Younger, Washington; Nez Perce Campsites, Washington; Big Hole National Battlefield, Montana; Bear's Paw Battleground, Montana; and Canyon Creek, Montana."

Sec. 3. The Secretary of the Interior may acquire by donation or with donated funds such lands, or interests therein, and other property which in his judgment will further the purpose of this Act and he may purchase with appropriated funds land, or interests therein, required for the administration of the Nez Perce National Historical Park. ~~Provided, That he may purchase no more than one thousand five hundred acres in fee, and no more than one thousand five hundred acres in scenic easements.~~ The Nez Perce Tribe's governing body, if it so desires, with the approval of the Secretary of the Interior, is authorized to sell, donate, or exchange tribal-owned lands held in trust needed to further the purpose of this Act.

Sec. 4. (a) Indian trust land may be designated by the Secretary of the Interior for inclusion in the Nez Perce National Historical Park with the concurrence of the beneficial owner. Sites in Federal ownership under the administrative jurisdiction of other Government agencies may likewise be designated by the Secretary of the Interior for inclusion in the Nez Perce National Historical Park with the concurrence of the agency having administrative control unless the administering agency consents thereto. ~~Not more than one thousand and five hundred acres overall shall be~~

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~~designated pursuant to the foregoing provisions of this subsection.~~ The Secretary of the Interior may cooperate with the Nez Perce Tribe or the administering agency, as the case may be, in research into and interpretation of the significance of any site so designated and in providing desirable interpretive services and facilities and other facilities required for public access to and use and enjoyment of the site and in conservation of the scenic and other resources thereof.

(b) The Secretary of the Interior may enter into cooperative agreements with the owners of property which, under the provisions of this Act, may be designated for inclusion in Nez Perce National Historical Park as sites in non-Federal ownership, and he may assist in the preservation, renewal, and interpretation of the properties, provided the cooperative agreements shall contain, but not be limited to, provisions that: (1) the Secretary has right of access at all reasonable times to all public portions of the property for the purpose of conducting visitors through the property and interpreting it to the public, and (2) no changes or alterations shall be made in the properties, including buildings and grounds, without the written consent of the Secretary.

Sec. 5. When the Secretary of the Interior determines that he has acquired title to, or interest in, sufficient properties or determines that he has entered into appropriate cooperative agreements with owners of non-Federal properties, or any combination thereof including the designation of sites already in Federal ownership, he shall by publication in the Federal Register establish the Nez Perce National Historical Park and thereafter administer the Federal property under his administrative

jurisdiction in accordance with the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), as amended and supplemented.

Sec. 6. (a) In order to carry out the purpose of this Act the Secretary of the Interior may contract and make cooperative agreements with the ~~State of Idaho, its~~ **States of Idaho, Oregon, Washington, Montana, Wyoming or Oklahoma, their** political subdivisions or agencies, corporations, associations, the Nez Perce Tribe, or individuals, to protect, preserve, maintain, or operate any site, object, or property included within the Nez Perce National Historical Park, regardless of whether title thereto is in the United States: Provided, That no contract or cooperative agreement shall be made or entered into which will obligate the general fund of the Treasury unless or until Congress has appropriated money for such purpose.

(b) To facilitate the interpretation of the Nez Perce country the Secretary is authorized to erect and maintain tablets or markers in accordance with the provisions contained in the Act approved August 21, 1935, entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes" (49 Stat. 666).

Sec. 7. There are hereby authorized to be appropriated the sums of not more than ~~\$630,000~~ **\$2,130,000** for the acquisition of lands and interests in land and not more than ~~\$1,337,000~~ **\$9,300,000** for construction, restoration work, and other improvements at the Nez Perce National Historical Park under this Act.

2. SJR-13

KAI
KAUFFMAN AND ASSOCIATES, INC.
206 G. STREET, N. E.
SUITE 200
WASHINGTON, D. C. 20002
(202) 543-3944

MEMO

TO: Yvette Joseph
FROM: Jo Ann Kauffman
DATE: January 15, 1991
RE: Nez Perce National Historical Parks Chronology



May 15, 1965

Public Law 89-19 was enacted to authorize the Secretary of the Interior to designate the Nez Perce National Historical Park in the State of Idaho. Twenty-four (24) sites were designated, and today represent the entire Nez Perce National Historical Park. The park is headquartered at Spaulding, Idaho. Auto-tour maps are available indicating the location and significance of each site. All existing sites are within the Idaho borders and depict locations significant to the Nez Perce War of 1877, Nez Perce culture and history including the Lewis and Clark encounter with the Nez Perce people.

1969

The National Park Service studied the need to expand the Nez Perce National Historical Park and issued its report, "Nez Perce Additions and A Study of Alternatives" upon the requests of Senator Mark Hatfield (R-OR), former Senator Wayne L. Morse and former Representative Al Ullman. Subsequently, Representative Ullman introduced bills in both the 91st and 92nd Congresses to amend PL 89-19 to allow for the inclusion of sites in Oregon. Although the Congress and the Park Service did not take action, interest remained active in the Wallowa communities to recognize sites in Oregon such as Old Chief Joseph's gravesite.

1986

Various meetings were held between the Nez Perce Tribe, the Confederated Tribes of the Umatilla Reservation, the Park Service and Wallowa County citizens regarding the designation, protection and interpretation of additional sites. These groups contacted Senators Hatfield and Packwood and Congressman Robert F. Smith who in turn contacted the National Park Service on this issue.

1989

The National Park Service issued its draft report "Nez Perce National Historical Park: Additions Study," which called for the inclusion of thirteen (13) additional sites to the park system which are critical to the history of the Nez Perce tribe and the War of 1877. The study recommended that Congress pass the necessary amendment to PL 89-19 which would allow the designation of sites outside the State of Idaho. The sites recommended to be added to the Nez Perce National Historical Park were:

1. Tolo Lake (ID)
2. Looking Glass' 1877 Campsite (ID)
3. Buffalo Eddy (WA/ID)
4. Doug Bar (OR/ID)

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5. Camas Meadows Battle Sites (ID)
6. Joseph Canyon Viewpoint (OR)
7. Old Chief Joseph's Gravesite and Cemetery (OR)
8. Traditional Campsite at the Fork of the Lostine and Wallowa Rivers (OR)
9. Burial Site of Chief Joseph the Younger (WA)
10. Nez Perce Campsites (WA)
11. Big Hole National Battlefield (MT)
12. Bear's Paw Battleground (MT)
13. Canyon Creek (MT)

June 28, 1990

In the U.S. Senate, S.2804 was introduced by Senators McClure (R-ID), Adams (D-WA), Baucus (D-MT), Burns (R-MT) and Symms (R-ID). On the same day in the U.S. House of Representatives H.R.5195 was introduced by Representatives Craig (R-ID), McDermott (D-WA) and Rhodes (R-AZ). These companion bills called for the amendment of PL 89-19 according to the findings of the 1989 National Park Service Draft report.

July 30, 1990

The U.S. Senate Energy and Natural Resources Subcommittee on Public Lands, National Parks and Forests held hearings on various bills including S.2804.

September 19, 1990

The U.S. Senate Energy and Natural Resources Committee approved S.2804 with amendments. The amendments included the elimination of all Oregon sites (sponsored by Senator Hatfield), the elimination of the Doug Bar Crossing site (sponsored by Senator McClure) and the addition of five sites not originally in the National Park Service study (sponsored by Senator Burns).

October 17, 1990

The US Senate passed S.2804 by unanimous consent with amendments and sent the bill to the U.S. House of Representatives for consideration. The amendment offered on the Senate floor by Senator Hatfield restored the Oregon sites in S.2804 with explanation.

October 28, 1990

The House of Representatives was not able to approve S.2804 before the 101st Congress adjourned. The bill therefore died, and will be reintroduced in the first session of the 102nd Congress in 1991.

Today the Nez Perce Tribe is actively pursuing the enactment of legislation which will enable sites in Idaho, Oregon, Washington, Montana, Wyoming and Oklahoma to be designated under the Nez Perce National Historical Park.

and Americans with disadvantages will have enhanced opportunities to become more positive contributors to society.

By Mr. McCURE (for himself, Mr. ADAMS, Mr. BAUCUS, Mr. BURNS, and Mr. SYMMS):

S. 2804. A bill to amend the Act of May 15, 1965, authorizing the Secretary of the Interior to designate the Nez Perce National Historical Park in the State of Idaho, and for other purposes; to the Committee on Energy and Natural Resources.

NEZ PERCE NATIONAL HISTORICAL PARK

Mr. McCURE. Mr. President, I am pleased to introduce today legislation which will expand the Nez Perce National Historical Park, to include additional historically significant sites in my own State of Idaho, as well as in Oregon, Washington, Montana, Wyoming, and Oklahoma. This legislation is the result of a lengthy study conducted by the National Park Service, which identified a series of historical sites for potential inclusion in the existing Nez Perce National Historical Park headquartered in Spaulding, ID. I am pleased to note that this legislation has the bipartisan support of Senators from each of the States containing sites, and also has the strong support of the Nez Perce Tribal Executive Committee, the governing body of the tribe, located in Lapwai, ID, that is so much a part of the history of our Nation and the more recent history of the Pacific Northwest.

Since the time when the Nez Perce National Historical Park was established by act of Congress on May 15, 1965, additional attention has been devoted to the study of the Nez Perce war of 1877, the last military action in which the United States of America and an Indian tribe were engaged in hostilities. Beyond the scholarly research and study that has occurred over the last 35 years, there remains an image of Chief Joseph of the Nez Perce, retreating from the Northwest, engaging in battle after battle against a superior force of U.S. soldiers and arms, as he led his band in a more than thousand-mile journey across Idaho, Wyoming, and Montana. Military historians to this day recognize the Nez Perce efforts as one of the great tactical retreats in military history. The citizens of my State are proud to have the existing, unique Nez Perce National Historical Park located in the State of Idaho. It involves cooperative management of 24 sites by the National Park Service, the Nez Perce Tribe, the State of Idaho, the U.S. Forest Service, the Bureau of Indian Affairs, and private landowners. Only four of the current sites are owned by the National Park Service.

The present geographical limitation in the statute specifying sites located only in the State of Idaho, requires that this unique park be limited to telling only a part of the story of Chief Joseph and the Nez Perce war of

1877. Such borders did not, however, exist during the fall and winter of 1877 when Chief Joseph led his band of Nez Perce on a forced march across more than a thousand miles of unforgiving wilderness, the U.S. Army hot on their heels.

Unwilling to give up claims to historic homelands in the Wallowa Lake area of northeastern Oregon—Joseph's birthplace—and move quietly onto a Government reservation near present day Lewiston, ID, he tried to negotiate a solution to the problem that would allow both sides to save face and avert an all-out war.

But, the Army was not the only problem Joseph had to contend with. He even had trouble convincing some of his own people that a peaceful solution was best. Unable to get the Army to negotiate, he moved his camp to Tolo Lake near the present town of Grangeville, ID. It was from this camp that several young men rode, anxious to test their mettle by challenging Joseph's authority. Riding south along the nearby Salmon River, they attacked and killed a number of white miners and ranchers. The final spark had been ignited. The Nez Perce war—the last action in which the U.S. Army and an Indian tribe were engaged in hostilities—had begun.

After the raids on Salmon River, Joseph was left with few choices. He could either surrender and submit his people to whatever punishment the Army deemed appropriate or, he could attempt to lead them to a sanctuary beyond the reach of the Federal Government. He chose the latter, ordered the camp to prepare to march and set out for Canada.

Over the next 5 months, under constant pressure from the relentless pursuit of the trailing soldiers, he led his band of men, women, and children along a winding path that led them through parts of Idaho, Wyoming, and Montana.

Joseph's fighting force was both outgunned and outnumbered by the Army and the trek became a series of rearguard skirmishes for them. Choosing to avoid the fighting and killing whenever possible, he managed—on more than one occasion—to avoid the Army's best laid plans to entrap him. Military historians recognize the Nez Perce efforts as one of the greatest tactical retreats in recent history. During the march, members of the band lived in a state of extreme deprivation and constantly found themselves under threat of attack by the Army. Despite all the odds against them, it appeared as if they might actually make it to Canada as Joseph swung his band northward shortly after crossing the extreme northwest corner of what is now Yellowstone National Park.

But Joseph's luck had run out. On October 5, 1877, he surrendered to General Miles following the final confrontation with the Army at the Bear Paw battlefield in north central Mon-

tana—only 40 miles short of the Canadian sanctuary he sought for his people.

Instead of being returned to the reservation in Idaho, Joseph and his band were exiled to Oklahoma's Indian territory where scores died.

These and other important chapters of the saga, occurring while the war was in progress and after Chief Joseph and his band were exiled to Oklahoma, unfortunately remain unmarked and untold. The purpose of this legislation is to fill in those chapters, by including those historically significant sites that are critical to a full understanding of the importance of the Nez Perce Tribe in the history of our Nation. Our bill would expand the Nez Perce Park to include sites ranging from Wallowa County in northeastern Oregon, Chief Joseph's birthplace, and a crucial part of the 1877 war, to the Bear Paw battlefield in Montana, where the Nez Perce surrender occurred. In addition, the legislation includes the site of Chief Joseph's final resting place in a graveyard in Nespelem, WA, on the Colville Indian Reservation, and also makes it possible to later include historically significant sites in Wyoming and Oklahoma that are also very much part of the Nez Perce's fascinating history.

It is a fitting tribute to Chief Joseph's memory, and an inspiring commentary on the centennial spirit that binds our States in the Northwest that brings the sponsors of this legislation to the floor of the U.S. Senate to introduce this legislation today. I urge my colleagues to work with us to see that this legislation is passed and signed by President Bush during the 101st Congress.

Mr. President, I want to reemphasize that in this case all 50 States joined in the appeal to the Supreme Court of the United States. I look forward to very broad and bipartisan support to this legislation. I think it is an action that should be taken. We should take the invitation of the Court to legislate very seriously. This legislation is, I think, due and timely.

Mr. BURNS. Mr. President, it is with great pride I rise today to join my colleagues in cosponsoring the Nez Perce National Trail Amendments Act of 1990.

In the summer of 1877 a small group of Nez Perce Indians began a journey from the tip of eastern Oregon, through the Idaho Territory, and over the Bitterroot Mountains into Montana Territory stopping finally at the Bear Paw Mountain just south of Canada.

Five Nez Perce bands were involved in this venture, numbering about 800 people, including 125 warriors. They trailed more than 2,000 head of horses along with their personnel possessions. They made this historic trek in less than 4 months.

Chief Joseph was forced to flee from his home country in the Wallowa

Valley where Oregon, Washington, and Idaho meet today, because he was driven to surrender by General Howard of the U.S. Army.

General Howard, under increasing criticism from local residents and from newspapers throughout the country, summoned troops from up and down the west coast to begin an encircling movement to trap the elusive Nez Perce.

On July 11, Howard's forces met the Nez Perce near the Clearwater River, and they fought for 2 days with neither side winning. Finally, the Nez Perce withdrew, once again evading capture by a much stronger force.

It was now clear to the nontreaty Nez Perce that they could not escape from the Army in Idaho Territory. In council, the five bands agreed to follow the leadership of Chief Looking Glass, who persuaded them to turn their backs on their homeland and head east to join the Crow Tribe in buffalo country. They would follow the Lolo Trail, which Nez Perce hunters had used for centuries, and join the Crows in Montana Territory. The Nez Perce wished only to find a place where the Army would leave them alone and where they would be far enough from settlements to avoid further clashes.

Chief Joseph's important role in this effort was to shepherd the Nez Perce dependents along the way; his hope was to bring them back home again when things settled down.

By early August, the Indians had crossed the mountains and reached the Bitterroot Valley in Montana. They were among friendly Montana settlers, and General Howard was far behind them. But a second force, Gen. John Gibbon, who commanded the 7th U.S. Infantry in the western part of Montana Territory, had entered the valley in pursuit.

Chief Looking Glass, unaware of Gibbons' forces, slowed the pace of travel even though some of the chiefs and warriors urged haste.

On August 7 Chief Looking Glass reached the banks of the Big Hole Valley. He felt that there was enough time and space between he and any danger. They set up a camp of 89 teepees and celebrated for the first time in many weeks.

During the night General Gibbons and his men moved in on the unsuspecting Nez Perce. At dawn shots were fired and the beginning of what would be a 3-day bloody battle. The Nez Perce were able to recover from their surprise and hold their own against the Army; they forced the intruders back across the river. Quickly they gathered themselves and headed south.

Knowing they had suffered a major loss of warriors they decided to head toward the Crow reservation to ask for assistance in the battle with the returned threat of the Army. They were rejected by the Crow and the Shoshone

because of their decision to avoid trouble with the Army.

On September 30, in the Bear Paw Mountains of Montana, just south of the Canadian border, the Nez Perce were surprised by Army troops under the command of Col. Nelson A. Miles. The chiefs rallied their followers, but after 5 days of fighting and intermittent negotiations, they finally surrendered to Miles, more from exhaustion than from defeat.

Of the 800 nontreaty Nez Perce who had started the trek to Canada, some had been killed in battles or skirmishes en route, some had succeeded in reaching Canada, some were hiding out in the hills, and others had found sanctuary with other tribes. Only 480 were left to surrender, and they had traveled almost 1,700 miles, only to be stopped 30 miles short of sanctuary. In the end, it was the loss of fighting men, as well as the emotional blow at Big Hole, that broke the Nez Perce power to resist.

The following words express the harrowing desperation of the people in the statement of Chief Joseph to Colonel Miles:

Tell General Howard I know his heart. What he told me before I have in my heart. I am tired of fighting. Our chiefs are killed. Looking Glass is dead. Too-hut-hut-sote is dead. The old men are all dead.

It is the young men who say yes or no. He who led the young men is dead. It is cold and we have no blankets. The little children are freezing to death. My people, some of them, have run away to the hills, and have no blankets, no food; no one knows where they are perhaps freezing to death. I want to have time to look for my children and see how many of them I can find. Maybe I shall find them among the dead. Hear, my chiefs. I am tired; my heart is sick and sad. From where the sun now stands I will fight no more forever.

Mr. President, I look forward to the day this bill passes and completes the recognition my colleagues have given to this important amendment. I would also like to recognize Gov. Stan Stephens of Montana for his generous cooperation in donating the Bear's Paw Battlefield Park from the State of Montana to the National Park Service to complete this well deserved project. His hard work and foresight have aided in the completion of this amendment and I salute him for his efforts.

Mr. President, I yield the floor.

Mr. BAUCUS. Mr. President, I rise in support of the bill offered by my colleague from Idaho.

For nearly a century, the citizens of the State of Montana have been proud of the fact that one of America's most important and significant battlefields is in our State.

We hope that this bill to make the Bear Paw battlefield and other significant sites, a part of the Nez Perce National Historical Parks of the National Parks Service, will provide the maintenance and protection this site deserves.

The Nez Perce war of 1877 began on June 17 with the White Bird Battle in

Idaho and ended on October 5, 1877, in the Bear Paw Mountains in Montana. In that final battle, which lasted for 6 days, Chief Joseph and his band suffered heavy losses, including his own brother Ollikot.

Only 40 miles from the Canadian border, with winter approaching, the Nez Perce were cut off from further retreat by Gen. Nelson A. Miles who was later joined by Gen. O.O. Howard, who had been pursuing Joseph and his band for the previous 4 months. At the time of his surrender, Chief Joseph was leading 86 men, 184 women, and 147 children.

The Nez Perce had won the sympathy of non-Indian citizens throughout the United States as the details of their attempted retreat to Canada were reported in local news stories.

Outnumbered and outgunned, the Nez Perce evaded capture. Their sleeping village was attacked in the early morning hours of August 9 along the Big Hole Creek in Montana and they suffered their first serious fatalities.

Between 60 and 90 of their people, including many women and children and 12 of their best warriors were killed. Yet, they continued on, eluding the growing number of soldiers in pursuit which eventually totaled more than 2,000.

The Nez Perce again lost their pursuers when they deloured through the Yellowstone National Park in Wyoming and then headed north for Canada.

Unable to catch up with the Nez Perce, General Howard sent word to General Miles who was stationed in Fort Keogh near the present day Miles City, MT, to head northwestward and head off the Nez Perce.

Then, just 40 miles from the Canadian border, the Nez Perce stopped to rest and in the cold of the Bear Paw Mountains made their final camp. General Miles attacked their camp on September 30 and the battle produced heavy casualties for both the Nez Perce and General Miles' troops. In the face of Nez Perce resistance, General Miles set up a siege line around the camp.

The soldiers and Nez Perce dug shallow rifle pits and exchanged fire. The Nez Perce surveyed their dead and wounded. Several escaped through the lines and made it safely to Canada, but most stayed at Big Paw. Snow began to fall and an early winter cold threatened the lives of those who had survived.

Finally, after 6 days of fighting, Chief Joseph signaled his desire to stop the fighting and made his surrender speech to General Miles and General Howard who had arrived:

Tell General Howard I know his heart. What he told me before. I have it in my heart. I am tired of fighting. Our chiefs are killed. Looking Glass is dead. Too-hoot-hoot-sote is dead. The old men are all dead. It is the young men who say, yes or no. He who led the young men (Ollikot) is dead. It is cold, and we have no blankets. The little

children are freezing to death. My people, some of them, have run away to the hills, and have no blankets, no food. No one knows where they are—perhaps freezing to death. I want to have time to look for my children, and see how many of them I can find. Maybe I shall find them among the dead. Hear me, my chiefs! I am tired. My heart is sick and sad. From where the sun now stands I will fight no more forever.

Mr. President, it is an honor for me to offer my support for this legislation to recognize the Nez Perce people, the history of the Nez Perce War of 1877.

Mr. ADAMS. Mr. President, I rise in support of the legislation introduced this morning amending the Nez Perce National Historical Park in the State of Idaho, and want to express my appreciation to the Senator from Idaho, Mr. McCURE, and the Senator from Montana, Mr. BAUCUS, for their work in drafting this amendment to the statute that created the Nez Perce National Historical Park. I request that I be added as an original cosponsor of this bill. The story of Chief Joseph of the Nez Perce, and his courageous lifelong efforts on behalf of his people is one of the truly inspiring chapters in the history of the great Northwest. Every school child, growing up in the Northwest, learned the saga of Chief Joseph at an early age. The existing sites contained within the Nez Perce National Historical Park in Idaho are a unique, national asset, telling important parts of the story of Chief Joseph and the Nez Perce.

However, I fully agree with the Senator from Idaho, when he states that there are other important chapters to that story that deserve to be included in this park. Some of the final chapters in the life of Chief Joseph were lived and written in my State, and I am honored to join as an original cosponsor of this effort.

In 1885, Chief Joseph and the 267 other survivors of the difficult years in exile in Oklahoma were allowed to return to the Northwest, with Joseph and his band eventually being housed on the Colville Reservation in eastern Washington. For the remaining years of his life, Chief Joseph continued to seek the return of his people to their beloved Wallowa Valley in Oregon. In 1897 he traveled to Washington, DC seeking protection from the miners who were encroaching on the land set aside for his people on the Colville Reservation. After securing the assistance of General Miles for his effort to return to the Wallowa Valley, Chief Joseph accompanied General Howard and Miles to participate in the dedication of the tomb of Ulysses S. Grant, the President whose change of policy had led to his being ousted from the Wallowa. As a guest of Buffalo Bill Cody, Chief Joseph stayed at Astor House, and returned to Nespelem after securing a promise from the Bureau of Indian Affairs to investigate his case.

In 1899, Chief Joseph visited the Wallowa for the first time since the war, and was told that settlers in the valley would oppose his resettlement

in his ancestral lands. Shortly thereafter, the chief began communicating with Prof. Edmond S. Meany of the University of Washington, beginning a friendship that culminated in an invitation to the school where he attended a football game, and addressed the student body where he stated, in part:

In my declining years, I long to return to my old home in Wallowa Valley, where most of my relatives and friends are sleeping their last sleep. I have repeatedly petitioned the Great Father in Washington to transfer myself and small band to our old home, that we may die in the country, having so many tender memories. I have made frequent visits to Washington and have met many persons high in official life. They have all promised to render their assistance, but it has been wait, wait, wait. On my last visit to the Capital City, I had the honor and pleasure of meeting President Roosevelt who treated me with much kind consideration. He assured me that a committee would be sent out to investigate my condition and surroundings. This committee was to be at my home last July but they have not yet come. This is but one instance of the duplicity shown me by the Government. I hope you will all help me and render me what assistance you can in securing long delayed justice. To return to Wallowa Valley, is a wish I cherish very dearly. That is all.

In the spring of 1904, Chief Joseph returned once again to the East, attending the commencement exercises at the Carlisle Indian Industrial School, where he noted the presence of several Nez Perce students. He spoke with fondness of his dinner companion, General Howard, saying "Friends, I meet here my friend, General Howard, I used to be anxious to meet him. I wanted to kill him in war. Today I am glad to meet him, and to be friends with General Howard. We are both old men, still we live and I am glad. Chief Joseph traveled on to the St. Louis Exposition, and returned to Nespelem in time for the annual July Fourth celebrations over which he presided each year.

On September 21, 1904, Chief Joseph died at Nespelem, ending a life that is best remembered for the months of war and retreat that had occurred in 1877. The years of exile in Indian country, the visits east to plead with Presidents and statesmen, and the eventual return to the Northwest, an exile still from his homelands in the Wallowa Valley are less well known to students and scholars. Yet, those later years in the long saga of Chief Joseph of the Nez Perce displayed a side of the man that deserves to be studied and understood.

The official account of the death of Chief Joseph appears in the annual report of the Commissioner of Indian Affairs, provided by Capt. John McA. Webster:

I sincerely regret to report that Joseph, chief of the Nez Perce, is dead at Nespelem, on the Colville Reservation. His death, resulting from heart failure, occurred at 5:45 p.m., September 21, and he was buried at noon on the following day. Most of his people were absent from Nespelem at the time on their annual pilgrimage to the hop fields around North Yakima. . . . Chief

Joseph has been ailing for some time past. Some six weeks ago he drove 75 miles over very rough roads to pay his respects to me here. At the time he looked thin, broken in spirit, and complained of always feeling tired.

In a simple graveyard in Nespelem, WA, he is buried beneath a monument that was paid for by Edmond Meany and the Washington State Historical Society. The monument reads, "Chief Joseph, Hlin-mah-too-yah-lat-kekt (Thunder rolling in the mountains); he led his people in the Nez Perce war of 1877." For those many citizens who will follow the Nez Perce Historical Trail, searching for a greater understanding of the tragedy that led to war, exile, and a place in our history books for the Nez Perce Tribe of Idaho, the trail will end in this little graveyard. This site, and all the other locations contemplated in this legislation, will add the missing chapters to the saga of Chief Joseph, and I urge my colleagues to join us in passing this legislation as soon as possible.

By Mr. McCURE (for himself and Mr. SYMMS):

S. 2805. A bill to amend the Federal Power Act; to the Committee on Energy and Natural Resources.

FEDERAL POWER ACT AMENDMENTS

Mr. McCURE. Mr. President, on May 21, 1990, the Supreme Court rendered a unanimous opinion in the case of California versus Federal Energy Regulatory Commission, commonly referred to as the Rock Creek case. In its opinion, the Court declined to overrule its decision in *First Iowa Hydroelectric Cooperative v. FPC* (328 U.S. 152).

In part the Court held that:

Were this a case of first impression, petitioners argument based on the statute's language could be said to present a close question. As petitioner argues, California's minimum stream flow requirement might plausibly be thought to "relate to the control, appropriation, use, or distribution of water used . . . for . . . other uses," namely the generation of power or the protection of fish. This interpretation would accord with the "presumption against finding preemption of state law in areas traditionally regulated by the States" . . . Just as courts may not find state measures preempted in the absence of clear evidence that Congress so intended, so they must give full effect to evidence that Congress considered and sought to preserve the State's coordinate regulatory role in our federal scheme.

While I would have hoped that the Court would have then reexamined the basis for its holdings in *First Iowa*, *Pelton Dam*, and the other progeny of its narrow reading of sections 2 and 27 of the Federal Power Act that was not the case. The Court was satisfied to say simply that even though it might have decided differently had this been a matter of first impression, it would not overturn "long-standing and well-entrenched decisions . . . for here, unlike in the context of constitutional interpretation, the legislative power is implicated, and Congress remains free to alter what we have done." This leg-

A BILL

To amend the Act of May 15, 1965, authorizing the Secretary of the Interior to designate the Nez Perce National Historical Park in the State of Idaho, 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. Section 1 of the Act entitled "An Act to authorize the Secretary of the Interior to designate the Nez Perce National Historical Park in the State of Idaho, and for other purposes", approved May 15, 1965, (79 Stat. 110) as amended (hereinafter referred to as "the Act") is amended by inserting after "the Nez Perce Country of Idaho" the words "and in the States of Oregon, Washington, Montana, Wyoming, and Oklahoma".

SEC. 2. Section 2 of the Act is amended by adding at the end the following new sentence: "Sites to be so designated shall include the following sites as described in the 19489 National Park Service draft "Nez Perce National Historical Park Additions Study": Tolo Lake, Idaho; Looking Glass' 1877 Campsite, Idaho; Buffalo Eddy, Washington and Idaho; Traditional Crossing Near Doug Bar, Oregon and Idaho; Camas Meadows Battle Sites, Idaho; Joseph Canyon Viewpoint, Oregon; Old Chief Joseph's Gravesite and Cemetery, Oregon; Traditional Campsite at the Fork of the Lostine and Wallowa Rivers, Oregon; Burial Site of Chief Joseph the Younger, Washington; Nez Perce Campsites, Washington, Big Hole National Battlefield, Montana; Bear's Paw Battleground, Montana; and Canyon Creek, Montana".

EXHIBIT NO. 3
DATE 2-11-91
BILL NO. SJR 13

SEC. 3. (a) Section 3 of the Act is amended by replacing the colon in the first sentence with a period and striking the remainder of the sentence and by adding the following new sentence at the end thereof: "Lands and interests therein owned by a State or local political subdivision may be acquired only by donation or exchange and private lands or interests therein may be purchased only on a willing seller basis".

(b) Section 4(a) of the Act is amended by striking the third sentence.

(c) Section 6(a) of the Act is amended by striking the words "State of Idaho, its" and inserting in lieu thereof the words "States of Idaho, Oregon, Washington, Montana, Wyoming or Oklahoma, their".

SEC. 4. Section 7 of the Act is amended by striking the number "\$630,000" and inserting "\$2,130,000" in lieu thereof, and by striking the number "\$4,100,000" and inserting the number "\$9,300,000" in lieu thereof.

Ex. 3
2-11-91
SJR 13

101ST CONGRESS
2D SESSION

S. 2804

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 18, 1990

Referred to the Committee on Interior and Insular Affairs

AN ACT

To amend the Act of May 15, 1965, authorizing the Secretary of the Interior to designate the Nez Perce National Historical Park in the State of Idaho, and for other purposes.

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

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7 amended (hereinafter referred to as "the Act") is amended by
8 inserting after "the Nez Perce Country of Idaho" the words
9 "and in the States of Oregon, Washington, Montana, Wyo-
10 ming, and Oklahoma".

SJR 13
February 8, 1991

Testimony presented by K.L. Cool, Dept. of Fish, Wildlife & Parks
to Senate Education & Cultural Resources Committee

The department supports Senate Joint Resolution 13.

Chief Joseph and the Nez Perce Indians represent an important historic and cultural influence on Montana and on the nation. The resources at the Bear Paw Battlefield, the Big Hole Battlefield and at the Canyon Creek site should be protected commensurate with the importance they played in our nation's history.

The National Park Service is the best entity to preserve, protect and interpret these sites for the good of the sites, Montana and all Americans.

In supporting SJR 13, I commit our agency to cooperate fully with Congress and the National Park Service to designate and operate these three areas as National Historic Sites.

Thank you.

EXHIBIT NO. 4
DATE 2-11-91
SJR13

OFFICE OF PUBLIC INSTRUCTION
State cost of transportation funding options
Based on FY89 transportation data

	FY92	FY93
CURRENT LAW:	\$10,883,120	\$10,893,558
1) 50% STATE, 50% COUNTY WITH COUNTY GTB 100% SPECIAL ED. TRSP.	\$11,351,868	\$11,368,126
BIENNIUM		\$943,316 =====
2) 60% STATE, 40% COUNTY 100% SPECIAL ED. TRSP.	\$11,475,764	\$11,494,240
BIENNIUM		\$1,193,326 =====
3) 50% STATE, 50% COUNTY INCREASE ON-SCHEDULE RATES		
Rate % -----		
\$0.80 0.00% BIENNIUM	\$9,782,034	\$9,795,780 (\$2,198,864) =====
\$0.85 6.25% BIENNIUM	\$10,385,414	\$10,400,132 (\$991,132) =====
\$0.87 9.75% BIENNIUM	\$10,586,540	\$10,601,582 (\$588,586) =====
\$0.88 10.00% BIENNIUM	\$10,747,442	\$10,762,742 (\$266,494) =====
\$0.90 12.50% BIENNIUM	\$10,988,794	\$11,004,483 \$216,599 =====

Ex 4
Ex-5582
2/11/91

SENATE EDUCATION

EXHIBIT NO. 5

DATE 2-11-91

BILL NO. 5B 82