

Subcommittee on Water, Power and Oceans

John Fleming, Chairman

Hearing Memorandum

June 21, 2016

To: All Subcommittee on Water, Power and Oceans Members

From: Majority Committee Staff
Subcommittee on Water, Power and Oceans (x58331)

Hearing: Legislative hearing on H.R. 5032 (Rep. David Brat), To allow certain property in the town of Louisa, Virginia to be used for purposes related to compliance with water quality standards, and for other purposes.
June 23, 2016 at 10:30 a.m. in 1334 Longworth HOB

Bill Summary:

H.R. 5032 removes a use restriction on a piece of land in the town of Louisa, Virginia so that it may be repurposed for non-recreational purposes in order to help the town comply with federal water quality standards and provide its residents with a safe supply of drinking water.

This hearing will also include consideration of three other legislative proposals.

Invited Witnesses: (in alphabetical order)

Mr. Thomas L. Filer

Town Manager

Town of Louisa, Virginia

Louisa, Virginia

Ms. Dionne E. Thompson

Deputy Commissioner for External and Intergovernmental Affairs

Department of the Interior

Washington, DC

Background:

In 2004, the Town of Louisa, Virginia (Town) received a \$75,000 Land and Water Conservation Fund (LWCF) state assistance grant to develop the Louisa Community Park.¹ The Town purchases its drinking water from the Louisa County Water Authority and redistributes that water to approximately 766 customers. Since 2009, the Town has experienced compliance

¹ LWCF#51-00389

issues with the Environmental Protection Agency's (EPA) disinfection by-products rule. Specifically, the Town has received eleven "Notices of Violation" for exceeding the Primary Maximum Contaminant Level for Total Trihalomethanes (TTHM) and eleven "Notices of Violation" for exceeding the Primary Maximum Contaminant Level for Haloacetic Acids (HAA5).²

Some people who drink such contaminated water over many years could experience liver, kidney or central nervous system problems and an increased risk of cancer.³ After the EPA raised its standards in 2014, the Town entered into a "Consent Order" in 2015 to take corrective actions to bring its water back into compliance.⁴ Failure to comply could result in civil penalties.

The Town has spent over one million dollars on engineering studies and recommendations to find a solution for reducing the concentrations of these contaminants.⁵ Acting on a recommendation, the town decided to reactivate two wells and one spring that had not been used in over 25 years in order to dilute the contaminants out of its drinking water. During that process it was discovered that the wells and the spring were contaminated and unsuitable for this purpose. The Town began searching for other sources of suitable groundwater, which was eventually found under the Louisa Community Park.⁶ The Town wishes to repurpose a two percent portion of the Town Park, which was partially funded with State Assistance Grants under the LWCF, so that it can convert the test well into a production well. Bringing this well online will help bring the Town's drinking water back into compliance with EPA drinking water regulations. Well development will also allow for the possibility of park restroom development.⁷

The Town is required to maintain the portion of land purchased with LWCF grant money for public recreation purposes. Specifically, the agreement stipulates that "No property acquired or developed with assistance under this section shall, without the approval of the Secretary, be converted to other than public outdoor recreation use."⁸ The Department of the Interior has indicated that the Town must find suitable lands to exchange for the well site, or be provided with an exemption by the Department or Congress. According to a witness who will testify on H.R. 5032, the Town does not wish to pursue a land exchange because one of the contiguous properties is located outside of the Town's limits and it would be cost prohibitive.

As a result, the State of Virginia's Department of Conservation and Recreation requested an exception in December 2015 from the National Park Service (NPS), further stating that "to

² Letter from The Virginia Department of Conservation and Recreation to Mr. Jack Howard of the National Park Service dated December 7, 2015, p. 1

³ Id.

⁴ Id., p. 2

⁵ Id.

⁶ Id.

⁷ Id, p. 3

⁸ Section 200305(f)(3) of title 54

require replacement property for such an insignificant impact that does not cause or contribute to any adverse consequence to the human environment or displace or disrupt any recreation would create unnecessary delays and burden to the Town of Louisa in its quest to provide safe and healthy drinking water for its citizens”.⁹

Although the Town contends that an exception can be granted by the NPS, the federal agency has indicated that it does not have the legal authority to do so.¹⁰ To that end, Congressman Dave Brat (VA-7) introduced H.R. 5032, which exempts the Town from the LWCF land conversion restrictions so that it can move forward in developing the well. Doing so will help bring the Town back into compliance with the EPA’s water quality standards and provide its residents with a safe and reliable supply of drinking water.

Similar bills allowing for re-purposes have passed the House of Representatives in recent Congresses. In the 113th Congress, the House passed H.R. 4527 (Rep. Michaud, D-ME), which allowed the City of Tremont, Maine to re-purpose former school land for other community purposes.¹¹ In addition, the House passed H.R. 5162 (Rep. Goodlatte, R-VA), which allowed a three acre parcel of land to be re-purposed so that it can be used for a childcare center.¹²

Major Provisions of H.R. 5032:

Section 1 exempts the Louisa Community Park from Land and Water Conservation Fund land conversion restrictions so in order for the Town to comply with EPA water quality standards.

Cost:

The Congressional Budget Office has not completed a cost estimate of this bill at this time.

Administration Position:

Unknown.

Effect on Current Law (Ramseyer):

Not applicable

⁹ Letter from The Virginia Department of Conservation and Recreation to Mr. Jack Howard of the National Park Service dated December 7, 2015, p. 3

¹⁰ Email from Mr. Jack Howard, National Park Service to Ms. Synthia Waymack, Virginia Department of Conservation and Recreation, March 24, 2016

¹¹ H.R. 4527, 113th Congress: <https://www.congress.gov/bill/113th-congress/house-bill/4527>

¹² H.R. 5162, 113th Congress: <https://www.congress.gov/bill/113th-congress/house-bill/5162>