

**TITLE 16 - CONSERVATION**

**CHAPTER 1 - NATIONAL PARKS, MILITARY PARKS, MONUMENTS, AND SEASHORES**  
**SUBCHAPTER XXVIII - CUMBERLAND GAP NATIONAL HISTORICAL PARK**

**§ 268a. Acquisition of Fern Lake watershed**

**(a) Short title**

This section may be cited as the “Fern Lake Conservation and Recreation Act”.

**(b) Findings and purposes**

**(1) Findings**

The Congress finds the following:

**(A)** Fern Lake and its surrounding watershed in Bell County, Kentucky, and Claiborne County, Tennessee, is<sup>1</sup> within the potential boundaries of Cumberland Gap National Historical Park as originally authorized by the Act of June 11, 1940 (54 Stat. 262; 16 U.S.C. 261 et seq.).

**(B)** The acquisition of Fern Lake and its surrounding watershed and its inclusion in Cumberland Gap National Historical Park would protect the vista from Pinnacle Overlook, which is one of the park’s most valuable scenic resources and most popular attractions, and enhance recreational opportunities at the park.

**(C)** Fern Lake is the water supply source for the city of Middlesboro, Kentucky, and environs.

**(D)** The 4,500-acre Fern Lake watershed is privately owned, and the 150-acre lake and part of the watershed are currently for sale, but the Secretary of the Interior is precluded by the first section of the Act of June 11, 1940 (16 U.S.C. 261), from using appropriated funds to acquire the lands.

**(2) Purposes**

The purposes of the section are—

**(A)** to authorize the Secretary of the Interior to use appropriated funds if necessary, in addition to other acquisition methods, to acquire from willing sellers Fern Lake and its surrounding watershed, in order to protect scenic and natural resources and enhance recreational opportunities at Cumberland Gap National Historical Park; and

**(B)** to allow the continued supply of water from Fern Lake to the city of Middlesboro, Kentucky, and environs.

**(c) Land acquisition and conveyance authority, Fern Lake, Cumberland Gap National Historical Park**

**(1) Definitions**

In this section:

**(A) Fern Lake**

The term “Fern Lake” means Fern Lake located in Bell County, Kentucky, and Claiborne County, Tennessee.

**(B) Land**

The term “land” means land, water, interests in land, and any improvements on the land.

**(C) Park**

The term “park” means Cumberland Gap National Historical Park, as authorized and established by the Act of June 11, 1940 (54 Stat. 262; 16 U.S.C. 261 et seq.).

**(D) Secretary**

The term “Secretary” means the Secretary of the Interior, acting through the Director of the National Park Service.

**(2) Acquisition authorized**

The Secretary may acquire for addition to the park lands consisting of approximately 4,500 acres and containing Fern Lake and its surrounding watershed, as generally depicted on the map entitled “Cumberland Gap National Historical Park, Fern Lake Watershed”, numbered 380/80,004, and dated May 2001. The map shall be on file in the appropriate offices of the National Park Service.

**(3) Boundary adjustment and administration**

Subject to paragraph (4), the Secretary shall revise the boundaries of the park to include the land acquired under paragraph (2). The Secretary shall administer the acquired lands as part of the park in accordance with the laws and regulations applicable to the park.

**(4) Conveyance of Fern Lake**

**(A) Conveyance required**

If the Secretary acquires Fern Lake, the Secretary shall convey, notwithstanding any other law and without consideration, to the city of Middlesboro, Kentucky, all right, title, and interest of the United States in and to Fern Lake, up to the normal operating elevation of 1,200.4 feet above sea level, along with the dam and all appurtenances associated with the withdrawal and delivery of water from Fern Lake.

**(B) Terms of conveyance**

In executing the conveyance under subparagraph (4)(A), the Secretary may retain an easement for scenic and recreational purposes.

**(C) Reversionary interest**

In the event Fern Lake is no longer used as a source of municipal water supply for the city of Middlesboro, Kentucky, and its environs, ownership of Fern Lake shall revert to the United States and it shall be managed by the Secretary as part of the park.

**(5) Consultation requirements**

In order to better manage lands acquired under this section in a manner that will facilitate the provision of water for municipal needs, as well as the establishment and promotion of new recreational opportunities at the park, the Secretary shall consult with—

- (A) appropriate officials in the States of Kentucky, Tennessee, and Virginia, and political subdivisions of these States;
- (B) organizations involved in promoting tourism in these States; and
- (C) other interested parties.

**Footnotes**

<sup>1</sup> So in original. Probably should be “are”.

(Pub. L. 108–199, div. H, § 150, Jan. 23, 2004, 118 Stat. 446.)

**References in Text**

This section and the section, referred to in subsecs. (a) and (b)(2), were in the original “This Act” and “the Act”, which were translated as meaning section 150 of Pub. L. 108–199, div. H, Jan. 23, 2004, 118 Stat. 446, to reflect the probable intent of Congress.

The act of June 11, 1940, referred to in subsecs. (b)(1)(A) and (c)(1)(C), is act June 11, 1940, ch. 304, 54 Stat. 262, as amended, which is classified generally to this subchapter. For complete classification of this Act to the Code, see Tables.

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*NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscpri.html>).*

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## **Codification**

Section was enacted as the Fern Lake Conservation and Recreation Act, and also as part of the Miscellaneous Appropriations and Offsets Act, 2004, and Consolidated Appropriations Act, 2004, and not as part of act June 11, 1940, ch. 304, 54 Stat. 262, which comprises this subchapter.