

109TH CONGRESS
1ST SESSION

H. R. 3158

To designate the Cherokee Overhill Territory in Polk, McMinn, Monroe,
and Meigs Counties in Tennessee as a National Heritage Area.

IN THE HOUSE OF REPRESENTATIVES

JUNE 30, 2005

Mr. DUNCAN (for himself and Mr. WAMP) introduced the following bill; which
was referred to the Committee on Resources

A BILL

To designate the Cherokee Overhill Territory in Polk,
McMinn, Monroe, and Meigs Counties in Tennessee as
a National Heritage Area.

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

3 **SECTION 1. DEFINITIONS.**

4 For the purposes of this Act, the following definitions
5 shall apply:

6 (1) HERITAGE AREA.—The term “Heritage
7 Area” means the Cherokee Overhill Territory Na-
8 tional Heritage Area established in section 3(a).

1 (2) MANAGEMENT ENTITY.—The term “man-
2 agement entity” means the Tennessee Overhill Her-
3 itage Association, or its successor entity.

4 (3) SECRETARY.—The term “Secretary” means
5 the Secretary of the Interior.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) The National Park Service has defined a
9 National Heritage Area as “a place designated by
10 the United States Congress where natural, cultural,
11 historic, and recreational resources combine to form
12 a cohesive, nationally distinctive landscape arising
13 from patterns of human activity shaped by geog-
14 raphy.”.

15 (2) As of the date of the enactment of this Act,
16 24 National Heritage Areas have been designated by
17 Congress to commemorate, conserve, and promote
18 such irreplaceable cultural landscapes.

19 (3) National Heritage Area designations en-
20 courages residents, government agencies, nonprofit
21 groups, and private partners to collaboratively plan
22 and implement programs and projects that recog-
23 nize, preserve, and celebrate many of America’s de-
24 fining landscapes without compromising traditional
25 local control over and use of such landscapes.

1 (4) National Heritage Area designations include
2 limited technical assistance and financial assistance
3 from the National Park Service, primarily through
4 planning and interpretive assistance and expertise
5 and by connecting the management entity of the Na-
6 tional Heritage Area with other Federal agencies.

7 (5) Federal financial assistance provides valu-
8 able seed money that covers basic expenses, such as
9 staffing, and leverages other money from State,
10 local, and private sources by means of dollar-for-dol-
11 lar match requirements.

12 (6) Polk, McMinn, Monroe, and Meigs Counties
13 (which collectively comprise an area known as the
14 “Cherokee Overhill Territory”) qualify as a distine-
15 tive landscape that is rich in cultural, natural, and
16 historic sites and resources that reflect the State
17 and Nation’s Native American peoples and heritage,
18 early frontier settlement by the British, and the In-
19 dustrial Revolution in the Southern Mountains.

20 (7) The Overhill region’s fascinating heritage is
21 revealed by unique sites and resources, including—

22 (A) Fort Loudoun, built in 1756 as one of
23 the earliest British fortifications on the western
24 frontier, which played a significant role in help-
25 ing Great Britain secure the trans-Appalachian

1 region from France during the Seven Years
2 War before surrendering to Cherokee attack in
3 1760;

4 (B) Fort Armistead, founded in 1832 to
5 stop intrusion by gold prospectors on Cherokee
6 land and finally serving as a camp for more
7 than 3,000 Cherokee deportees on the Trail of
8 Tears;

9 (C) the Unicoi Turnpike, a National Mil-
10 lennium Flagship Trail that was used as an ar-
11 tery of trade before written history, was later
12 improved to become the first direct wagon road
13 connection across the Southern Appalachians in
14 1813, and served as the first leg of the journey
15 for deported Cherokees on the Trail of Tears in
16 1838;

17 (D) Sequoyah Birthplace Museum, the
18 only tribally owned museum in Tennessee and
19 the site of the birthplace of Sequoyah, creator
20 of the Cherokee Syllabary;

21 (E) the Old Line Railroad, an historic rail-
22 road built in 1890 to serve the copper mines in
23 Polk County, with historic structures on the
24 line that include the Hiwassee Loop, the third
25 longest rail loop in the world;

1 (F) Blythe Ferry, the site of a major en-
2 campment on the Trail of Tears, where over
3 9,000 Cherokee people camped before crossing
4 the Tennessee River on the way to Oklahoma;

5 (G) the restored Burra Burra copper mine,
6 a State-owned historic industrial site and mu-
7 seum;

8 (H) the Ocoee Powerhouses and Flume
9 line;

10 (I) the awe inspiring natural resources
11 that include the Tellico, Hiwassee, Ocoee,
12 Conasauga, and Tennessee Rivers, several
13 lakes, the spectacular Cherohala Skyway, the
14 Ocoee Scenic Byway (providing fishing, white-
15 water rafting, kayaking, birding, nature photog-
16 raphy, boating, hiking, and more);

17 (J) and numerous historic downtowns.

18 (8) The designation of the Cherokee Overhill
19 Territory as a National Heritage Area would enable
20 local governments and nonprofits to access Federal
21 and other funding to maintain, develop, interpret,
22 and promote the distinct qualities that integrate the
23 area and make it special.

1 **SEC. 4. COMPACT.**

2 To carry out the purposes of this Act, the Secretary
3 shall enter into a compact with the management entity.
4 The compact shall include information relating to the ob-
5 jectives and management of the area, including a discus-
6 sion of the goals and objectives of the Heritage Area, in-
7 cluding an explanation of the proposed approach to con-
8 servation and interpretation and a general outline of the
9 protection measures committed to by the Secretary and
10 management entity.

11 **SEC. 5. AUTHORITIES AND DUTIES OF MANAGEMENT ENTI-**
12 **TY.**

13 (a) **AUTHORITIES OF THE MANAGEMENT ENTITY.**—
14 The management entity may use funds made available
15 under this Act for purposes of preparing, updating, and
16 implementing the management plan developed under sub-
17 section (b). Such purposes may include—

18 (1) making grants to, and entering into cooper-
19 ative agreements with, States and their political sub-
20 divisions, private organizations, or any other person;

21 (2) hiring and compensating staff; and

22 (3) undertaking initiatives that advance the
23 purposes of the Heritage Area.

24 (b) **MANAGEMENT PLAN.**—The management entity
25 shall develop a management plan for the Heritage Area
26 that—

1 (1) presents comprehensive strategies and rec-
2 ommendations for conservation, funding, manage-
3 ment, and development of the Heritage Area;

4 (2) takes into consideration existing State,
5 county, and local plans and involves residents, public
6 agencies, and private organizations working in the
7 Heritage Area;

8 (3) includes a description of actions that units
9 of government and private organizations have agreed
10 to take to protect the resources of the Heritage
11 Area;

12 (4) specifies the existing and potential sources
13 of funding to protect, manage, and develop the Her-
14 itage Area;

15 (5) includes an inventory of the resources con-
16 tained in the Heritage Area, including a list of any
17 property in the Heritage Area that is related to the
18 themes of the Heritage Area and that should be pre-
19 served, restored, managed, developed, or maintained
20 because of its natural, cultural, historic, recreational,
21 or scenic significance;

22 (6) describes a program for implementation of
23 the management plan by the management entity, in-
24 cluding plans for restoration and construction, and
25 specific commitments for that implementation that

1 have been made by the management entity and any
2 other persons for the first 5 years of implementa-
3 tion;

4 (7) lists any revisions to the boundaries of the
5 Heritage Area proposed by the management entity
6 and requested by the affected local government; and

7 (8) includes an interpretation plan for the Her-
8 itage Area.

9 (c) DEADLINE; TERMINATION OF FUNDING.—

10 (1) DEADLINE.—The management entity shall
11 submit the management plan to the Secretary within
12 2 years after the funds are made available for this
13 Act.

14 (2) TERMINATION OF FUNDING.—If a manage-
15 ment plan is not submitted to the Secretary in ac-
16 cordance with this subsection, the management enti-
17 ty shall not qualify for Federal assistance under this
18 Act.

19 (d) DUTIES OF MANAGEMENT ENTITY.—The man-
20 agement entity shall—

21 (1) give priority to implementing actions set
22 forth in the compact and management plan;

23 (2) assist units of government, regional plan-
24 ning organizations, and nonprofit organizations in—

1 (A) establishing and maintaining interpre-
2 tive exhibits in the Heritage Area;

3 (B) developing recreational resources in
4 the Heritage Area;

5 (C) increasing public awareness of and ap-
6 preciation for the natural, historical, and archi-
7 tectural resources and sites in the Heritage
8 Area;

9 (D) the restoration of any historic building
10 relating to the themes of the Heritage Area;

11 (E) ensuring that clear signs identifying
12 access points and sites of interest are put in
13 place throughout the Heritage Area; and

14 (F) carrying out other actions that the
15 management entity determines to be advisable
16 to fulfill the purposes of this Act;

17 (3) encourage by appropriate means economic
18 viability in the Heritage Area consistent with the
19 goals of the management plan;

20 (4) consider the interests of diverse govern-
21 mental, business, and nonprofit groups within the
22 Heritage Area; and

23 (5) for any year in which Federal funds have
24 been provided to implement the management plan
25 under subsection (b)—

1 (A) conduct public meetings at least annu-
2 ally regarding the implementation of the man-
3 agement plan;

4 (B) submit an annual report to the Sec-
5 retary setting forth accomplishments, expenses
6 and income, and each person to which any
7 grant was made by the management entity in
8 the year for which the report is made; and

9 (C) require, for all agreements entered into
10 by the management entity authorizing expendi-
11 ture of Federal funds by any other person, that
12 the person making the expenditure make avail-
13 able to the management entity for audit all
14 records pertaining to the expenditure of such
15 funds.

16 (e) PROHIBITION ON THE ACQUISITION OF REAL
17 PROPERTY.—The management entity may not use Fed-
18 eral funds received under this Act to acquire real property
19 or an interest in real property.

20 **SEC. 6. DUTIES AND AUTHORITIES OF THE SECRETARY.**

21 (a) TECHNICAL AND FINANCIAL ASSISTANCE.—

22 (1) IN GENERAL.—

23 (A) OVERALL ASSISTANCE.—The Secretary
24 may, upon the request of the management enti-
25 ty, and subject to the availability of appropria-

1 tions, provide technical and financial assistance
2 to the management entity to carry out its du-
3 ties under this Act, including updating and im-
4 plementing a management plan that is sub-
5 mitted under section 5(b) and approved by the
6 Secretary and, prior to such approval, providing
7 assistance for initiatives.

8 (B) OTHER ASSISTANCE.—If the Secretary
9 has the resources available to provide technical
10 assistance to the management entity to carry
11 out its duties under this Act (including updat-
12 ing and implementing a management plan that
13 is submitted under section 5(b) and approved
14 by the Secretary and, prior to such approval,
15 providing assistance for initiatives), upon the
16 request of the management entity the Secretary
17 shall provide such assistance on a reimbursable
18 basis. This subparagraph does not preclude the
19 Secretary from providing nonreimbursable as-
20 sistance under subparagraph (A).

21 (2) PRIORITY.—In assisting the management
22 entity, the Secretary shall give priority to actions
23 that assist in the—

24 (A) implementation of the management
25 plan;

1 (B) provision of educational assistance and
2 advice regarding land and water management
3 techniques to conserve the significant natural
4 resources of the region;

5 (C) development and application of tech-
6 niques promoting the preservation of cultural
7 and historic properties;

8 (D) preservation, restoration, and reuse of
9 publicly and privately owned historic buildings;

10 (E) design and fabrication of a wide range
11 of interpretive materials based on the manage-
12 ment plan, including guide brochures, visitor
13 displays, audio-visual and interactive exhibits,
14 and educational curriculum materials for public
15 education; and

16 (F) implementation of initiatives prior to
17 approval of the management plan.

18 (3) DOCUMENTATION OF STRUCTURES.—The
19 Secretary, acting through the Historic American
20 Building Survey and the Historic American Engi-
21 neering Record, shall conduct studies necessary to
22 document the industrial, engineering, building, and
23 architectural history of the Heritage Area.

24 (b) APPROVAL AND DISAPPROVAL OF MANAGEMENT
25 PLANS.—The Secretary, in consultation with the Governor

1 of Tennessee shall approve or disapprove a management
2 plan submitted under this Act not later than 90 days after
3 receiving such plan. In approving the plan, the Secretary
4 shall take into consideration the following criteria:

5 (1) The extent to which the management plan
6 adequately preserves and protects the natural, cul-
7 tural, and historical resources of the Heritage Area.

8 (2) The level of public participation in the de-
9 velopment of the management plan.

10 (3) The extent to which the board of directors
11 of the management entity is representative of the
12 local government and a wide range of interested or-
13 ganizations and citizens.

14 (c) ACTION FOLLOWING DISAPPROVAL.—If the Sec-
15 retary disapproves a management plan, the Secretary shall
16 advise the management entity in writing of the reasons
17 for the disapproval and shall make recommendations for
18 revisions in the management plan. The Secretary shall ap-
19 prove or disapprove a proposed revision within 90 days
20 after the date it is submitted.

21 (d) APPROVING CHANGES.—The Secretary shall re-
22 view and approve amendments to the management plan
23 under section 5(b) that make substantial changes. Funds
24 appropriated under this Act may not be expended to im-

1 plement such changes until the Secretary approves the
2 amendments.

3 (e) EFFECT OF INACTION.—If the Secretary does not
4 approve or disapprove a management plan, revision, or
5 change within 90 days after it is submitted to the Sec-
6 retary, then such management plan, revision, or change
7 shall be deemed to have been approved by the Secretary.

8 **SEC. 7. DUTIES OF OTHER FEDERAL ENTITIES.**

9 Any Federal entity conducting or supporting activi-
10 ties directly affecting the Heritage Area shall—

11 (1) consult with the Secretary and the manage-
12 ment entity with respect to such activities;

13 (2) cooperate with the Secretary and the man-
14 agement entity in carrying out their duties under
15 this Act and, to the maximum extent practicable, co-
16 ordinate such activities with the carrying out of such
17 duties; and

18 (3) to the maximum extent practicable, conduct
19 or support such activities in a manner that the man-
20 agement entity determines shall not have an adverse
21 effect on the Heritage Area.

22 **SEC. 8. SUNSET.**

23 The Secretary may not make any grant or provide
24 any assistance under this Act after the expiration of the

1 15-year period beginning on the date that funds are first
2 made available for this Act.

3 **SEC. 9. REQUIREMENTS FOR INCLUSION OF PRIVATE**
4 **PROPERTY.**

5 (a) NOTIFICATION AND CONSENT OF PROPERTY
6 OWNERS REQUIRED.—No privately owned property shall
7 be preserved, conserved, or promoted by the management
8 plan for the Heritage Area until the owner of that private
9 property has been notified in writing by the management
10 entity and has given written consent for such preservation,
11 conservation, or promotion to the management entity.

12 (b) LANDOWNER WITHDRAW.—Any owner of private
13 property included within the boundary of the Heritage
14 Area shall have their property immediately removed from
15 the boundary by submitting a written request to the man-
16 agement entity.

17 **SEC. 10. PRIVATE PROPERTY PROTECTION.**

18 (a) ACCESS TO PRIVATE PROPERTY.—Nothing in
19 this Act shall be construed to—

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

23 (2) modify any provision of Federal, State, or
24 local law with regard to public access to or use of
25 private property.

1 (b) LIABILITY.—Designation of the Heritage Area
2 shall not be considered to create any liability, or to have
3 any effect on any liability under any other law, of any pri-
4 vate property owner with respect to any persons injured
5 on such private property.

6 (c) RECOGNITION OF AUTHORITY TO CONTROL LAND
7 USE.—Nothing in this Act shall be construed to modify
8 the authority of Federal, State, or local governments to
9 regulate land use.

10 (d) PARTICIPATION OF PRIVATE PROPERTY OWNERS
11 IN HERITAGE AREA.—Nothing in this Act shall be con-
12 strued to require the owner of any private property located
13 within the boundaries of the Heritage Area to participate
14 in or be associated with the Heritage Area.

15 (e) EFFECT OF ESTABLISHMENT.—The boundaries
16 designated for the Heritage Area represent the area within
17 which Federal funds appropriated for the purpose of this
18 Act may be expended. The establishment of the Heritage
19 Area and its boundaries shall not be construed to provide
20 any nonexisting regulatory authority on land use within
21 the Heritage Area or its viewshed by the Secretary, the
22 National Park Service, or the management entity.

23 **SEC. 11. USE OF FEDERAL FUNDS FROM OTHER SOURCES.**

24 Nothing in this Act shall preclude the management
25 entity from using Federal funds available under Acts other

1 than this Act for the purposes for which those funds were
2 authorized.

3 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

4 (a) IN GENERAL.—There are authorized to be appro-
5 priated to carry out this Act—

6 (1) not more than \$1,000,000 for any fiscal
7 year; and

8 (2) not more than a total of \$10,000,000.

9 (b) 50 PERCENT MATCH.—Financial assistance pro-
10 vided under this Act may not be used to pay more than
11 50 percent of the total cost of any activity carried out with
12 that assistance.

13 **SEC. 13. CONDITIONS ON AUTHORIZATION.**

14 This Act shall have no force or effect on and after
15 the date (after the date of the enactment of this Act) on
16 which a Federal law, rule, or regulation is enacted that—

17 (1) restricts land use within the boundaries of
18 the Heritage Areas; or

19 (2) authorizes any taking of private property
20 within the boundaries of the Heritage Area.

○