

THE AMERICAN HERITAGE RIVERS INITIATIVE

HEARING

BEFORE THE

COMMITTEE ON RESOURCES HOUSE OF REPRESENTATIVES

ONE HUNDRED FIFTH CONGRESS

FIRST SESSION

ON

H.R. 1842, TO TERMINATE FURTHER DEVELOPMENT AND
IMPLEMENTATION OF THE AMERICAN HERITAGE RIV-
ERS INITIATIVE

SEPTEMBER 24, 1997, WASHINGTON, DC

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HEARING ON H.R. 1842, TO TERMINATE FURTHER DEVELOPMENT AND IMPLEMENTATION OF THE AMERICAN HERITAGE RIVERS INITIATIVE

WEDNESDAY, SEPTEMBER 24, 1997

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC.

The Committee met, pursuant to notice, at 12 p.m., in room 1324, Longworth House Office Building, Hon. Helen Chenoweth presiding.

STATEMENT OF THE HONORABLE HELEN CHENOWETH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF IDAHO

Mrs. CHENOWETH. [presiding] The Committee on Resources will come to order.

The Committee is meeting today to hear testimony on my legislation, H.R. 1842, which is a bill to stop the American Heritage Rivers Initiative.

I would like to welcome our witnesses, many of whom have traveled thousands of miles to get here, and two of my constituents from Idaho, Lois Van Hoover, representing the Idaho Multiple Land Use Coalition, and Bill DeVeney, representing the Idaho Farm Bureau Federation. We also have a number of Members of Congress today, and I welcome you all.

I'm honored to be here in the chair today, and I greatly appreciate Chairman Don Young's allowing me to conduct this hearing. I've been looking forward to it, but it seems to me that something is wrong with the picture that we're going to be seeing today—wrong procedurally. We are doing things exactly backward.

Generally, and if things are in correct constitutional order, it is the legislative branch of government that creates the programs and the executive branch that carries them out. Here, though, with the American Heritage Rivers Initiative, there's been a complete and literal flip-flop between the roles and duties of the Congress and the Clinton Administration. Instead of Congress making the proposal and the administration commenting on it, it is the Clinton White House dreaming up the initiative, and we, the Congress, are the ones commenting. We are actually in the position of taking testimony, not on the creation of a new program, but on how to stop one.

This initiative clearly violates the doctrine of separation of powers as intended by our Founding Fathers. And as James Madison

wrote in Federalist No. 47, “The accumulation of all powers, legislative, executive, and judiciary in the same hands, whether of one, a few or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny.”

My colleagues, this American Heritage Rivers Initiative is being thrust upon the American people in the exact manner James Madison warned us against.

I introduced H.R. 1842 on June 10, shortly after President Clinton’s American Heritage River Initiative was first published in the Federal Register. This legislation, which is co-sponsored by 38 Members, would prohibit Federal agencies from spending any funds on this unauthorized, unappropriated, and intrusive program.

On Sept. 11, and with no consultation with the leadership of Congress, President Clinton issued Executive Order 13061 directing 12 Federal agencies to implement this program. Many Americans are disturbed by this arbitrary use, and many would say “abuse” of Presidential authority.

I, along with millions of other Americans, was shocked and appalled that President Clinton would use so Draconian a process to rob people of their constitutional rights and patently ignore the legislative branch of government. However, I should not be surprised by this display of power. After all, this is the same administration which locked up 1.7 million acres in Utah without even consulting Utah’s Governor and their congressional delegation, not to mention other State and local officials.

It’s also the same administration that proposed a \$64 million buyout of a mining property in Montana to a Canadian company without consulting the Montana Governor and its congressional delegation, or the U.S. Congress. This program is illegal, has not met public requirements, misappropriates funds Congress mandated for other purposes, and usurps individual water rights, private property rights, and the sovereignty of all 50 States. It defies the imagination how President Clinton could ram this initiative down our throats, despite massive resistance outside the Washington, DC beltway.

In addition to the violation of water and property rights, what I find very, very troubling is how an agency like CEQ, with a budget of only \$2.4 million, can run a program like the American Heritage Rivers Initiative, which costs by very conservative efforts \$4 million to \$7 million every year so far. Where is the money coming from? And who appropriated it? Who authorized it to be spent like this?

No place in U.S. Statutes can you find the phrase, “American Heritage Rivers Initiative,” and no place can you find the position of a “river navigator” or the term “river community.” And this leads me to wonder whether the Anti-Deficiency Act of 1982, which prohibits and proscribes criminal sanctions for the expenditure of Federal funds for unauthorized purposes, is implicated.

And certainly one is left to wonder if this meets the requirements of 31 U.S.C. 1301(a), which states, “Appropriations shall be applied only to the objects for which the appropriations were made.”

Beyond the constitutional and legal questions raised by the executive order, there are some fundamental questions that I share

with many of my colleagues. If this program is 100 percent honorary, voluntary, and non-regulatory, then why is it being done by the Federal Government and with no less than 12 agencies?

If it is 100 percent voluntary, why does the program not explicitly require that the Federal agencies get written permission from private land owners before their land is included within an American Heritage Rivers designation?

And why did the Council on Environmental Quality totally ignore the request of 55 Members of the House, who requested that the public comment period on this initiative be extended beyond August 20?

I look forward to hearing Ms. McGinty's response to these and other questions, and I also look forward to hearing from other witnesses today.

Mr. Chairman, I—the Chair now recognizes the Ranking Member, Mr. Pallone, for an opening statement.

STATEMENT OF THE HONORABLE FRANK PALLONE, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. PALLONE. Well, thank you for the title, Madam Chairman.

Let me first, if I could, request unanimous consent to include in the record four documents. One is a statement from Lieutenant Governor Bob Kustra, of Illinois, who was an invited witness but couldn't make it; second, testimony from Mayor Larry Chavis—I guess—of Richmond, Virginia; third, statements from Representative Furse and Representative Gejdenson, and, finally, a letter from, well—American Rivers—I'm not sure exactly what that refers to, but American Rivers. I would ask unanimous consent to include those.

Mrs. CHENOWETH. Without objection, so ordered.

[The prepared statement of Governor Kustra follows:]

STATEMENT OF HON. BOB KUSTRA, LIEUTENANT GOVERNOR, ILLINOIS

Mr. Chairman. Distinguished members of the committee. I want to thank you for the opportunity to address what I believe is a very important issue not only for my state of Illinois but for the country in our efforts to improve our rivers and streams.

Just as our rivers and watersheds cross many governmental boundaries, our efforts to revitalize these resources must be a partnership of local, state and Federal efforts. The American Heritage Rivers Initiative proposed by President Clinton in his State of the Union Address, and detailed 2 weeks ago, provides us with a great opportunity for us to navigate through what some have seen as a river of bureaucratic red tape in getting the help and assistance we need for river improvement at the state and local levels.

We are currently in the process of preparing our nomination of the Illinois River Watershed for such designation.

The strength of this new initiative is that it will help us better coordinate Federal services and assistance. The Illinois River watershed is a vast 25,000 square mile area encompassing 55 of our 102 counties. Approximately 80 percent of the river's watershed is within our state's jurisdiction, which is an asset; however, Federal agency programs in the watershed area also have a strong impact on the ecosystem, from navigation to soil conservation, from Chicago to St. Louis.

The improved service delivery, technical assistance, coordination of Federal involvement, and work toward our local communities' objectives will be key benefits this initiative can provide our Illinois River Watershed should we receive this designation.

Simply put, we see this initiative as providing coordination for a revitalization effort that will benefit not only our state but the entire nation as well.

This initiative embodies what many have said is a fundamental role of our Federal Government—to complement local and state initiatives. We support this program for the following reasons:

1. The American Heritage Rivers initiative is *voluntary*—we initiate whether to participate or not. We realize the importance of the Federal Government in joining our state and local partnership in progress. No one has forced our hand in this matter, and should we receive this designation we may exit the program at any time.

2. It is locally driven—our communities throughout the 55 counties of the Illinois River Basin are currently at work with their efforts to improve the watershed. Those that live, work and play along the river know what’s best for this vital resource. They will not give up their right to dictate the future of a river that has shaped the history of their communities. There will be no takeover under this Initiative.

No one, however, can underestimate the technological and informational resources that the Federal Government can provide to our local efforts. This initiative enables us to look to the Federal Government as a clearinghouse of knowledge and expertise in river improvement and revitalization. For towns like Havana, population 7,000, and larger cities like Chicago, this is an enormous opportunity to put the Federal Government to work for them, not the other way around.

3. There are no new regulations or rules dictated by the Federal Government. Contrary to what some critics of this proposal say, we find nothing in the materials that recommends further restricting what our local communities can or cannot do with their efforts along the river.

4. There is also a great opportunity under this initiative to learn what the Federal Government is doing right and what it is doing wrong as it relates to our rivers and streams. Through this initiative, the Federal Government will be listening to state and local communities that have lived with Federal Government involvement in the past. This dialog and interaction at the local level will enable the Federal Government to study and improve how it provides assistance to communities throughout the nation.

Unfortunately, not all view this initiative in a positive light. It has been described as a program “unleashing United Nations troops patrolling the Illinois River’s curving path.” The program has been portrayed as a “new Federal land-use scheme,” that the Federal Government “will control all land use and will police this initiative by aerial photography and satellite surveillance.”

We have seen nor heard anything from the Federal Government that would indicate they are interested in pushing us around in Illinois. What they are interested in doing is maintaining the quality of one of this Nation’s most important rivers. Furthermore, there is nothing in our plans for the Illinois River that could be described as a take-over, or that is in any way going to take land away from anyone.

While some may see controversy, we see opportunity in the American Heritage Rivers Initiative. We feel the Federal Government is needed here to be a partner, not a manager or boss.

To understand why I believe this initiative is important to my state, one must understand the integral part the Illinois River and its watershed have played in our state, regional, and indeed national histories.

The Illinois River flows diagonally across the State of Illinois, beginning southeast of Chicago and joining the Mississippi near St. Louis. Eighty percent of the lands that drain into the Illinois River are in the State of Illinois. Because of the ways we have used the river and the land, the river has experienced both decline and recovery.

In fact, the National Research Council, which is associated with the National Academy of Science and the National Academy of Engineering, named the Illinois River as one of three river-floodplain ecosystems in the United States that are priorities for restoration.

Throughout the history of our nation’s expansion westward, the Illinois River and its tributaries have served as a major transportation highway for goods and products.

- More than 50 percent of the commercial traffic on the Mississippi River above St. Louis comes from the Illinois waterway;
- More than 60 million tons of commodities are shipped on the Illinois River annually;
- Approximately one half of the 1.4 billion bushels of corn produced in Illinois travel the Illinois waterway; and

- Ninety percent of our state's population live and work within the Illinois River basin.

The Illinois River was once unparalleled in this country as a natural resource. But since the turn of the century, as the state's population and economic base grew, the Illinois River has experienced profound changes.

By the 1950's, virtually all aquatic vegetation had vanished from the Illinois River and its backwater lakes due to water pollution and modified water levels. As a result fish, mammals, waterfowl, clams, and other related life forms declined drastically. Without the vegetation, sediment was no longer anchored to the bottom of the riverbed and lakes, but rather was stirred up in the water by wind and boat movement.

To this point in the state's history, agricultural productivity soared, as did population growth and urban growth. The increasing movement of soil from the land, due to channelized streams, eroding streams, and land conversion greatly increased the amount of sediment reaching the Illinois River.

Since this time, agricultural practices have been modified to keep more of the productive soil in place. Industries and municipalities have markedly improved sewage and wastewater treatment methods under the Clean Water Act.

As of 1995, more than three-fourths of the state's farmland is at "T," the tolerable rate of soil loss where soil building processes replace the amount of soil lost. In the Upper and Lower Illinois River Basins, more than 4.2 million acres of cropland are in conservation tillage systems.

The Illinois River and its backwater areas occupy about one-third of the floodplain, of which 47,000 acres are in state and Federal ownership and 34,000 are owned by private sporting clubs. Forests along the Middle and Lower Illinois River are among the largest remnant forest ecosystems in the state north of the Shawnee National Forest. Today more than 20 communities rely on the waters of the Illinois and its tributaries for their drinking water, and sportfish and waterfowl populations are growing.

Citizen action in the Illinois River watershed also is widespread and diverse in communities like Meredosia with a population of just under 1,200 and in the Chicago suburbs 100 times the size of Meredosia.

The Chicago River, for example, is enjoying unprecedented attention for restoration and economic development. More than two hundred miles south, citizens in Meredosia have created a River Museum and annual Riverfest celebrating the river's past abundant fish, fowl and mussel populations that supported substantial harvests. In the early 1900's there were 15 factories along the Illinois River manufacturing buttons from mussel shells. In partnership with the U.S. Fish and Wildlife Service, the area's backwater lake is being restored through active management, providing habitat for migrating waterfowl. Walking paths and economic development are results that celebrate the river's past as well as Meredosia's future.

Despite the seemingly remarkable recovery, the future of the watershed and the river corridor are truly imperiled.

Each year more than 14 million tons of sediment are transported through the watershed. More than half of this sediment load is deposited in the Illinois River Valley, and the balance is carried to the Mississippi River.

Most backwater lakes have lost more than 70 percent of their storage capacity, destroying wildlife and recreational areas. In northeastern Illinois, during a recent 20-year span, land conversion for residential purposes grew by nearly 50 percent while population increased by less than 5 percent. Erosion control is needed on 4.1 million acres of cropland in the Upper and Lower Illinois River Basins.

Stormwater management is a vexing problem throughout the watershed. Sudden flooding, from both large and small storm events, occurs due to past alterations to speed water from the land. Swiftly moving waters take more sediment, carving away at stream banks.

The sediment, coupled with unseasonal flooding, yield a river system less capable of "managing" its sediment through a natural pattern of deposition, drying and compaction. Operation and maintenance of the navigation system is increasingly difficult, due to accumulation of sediment in the channel and rapidly fluctuating water levels.

The diversity of interests and stake holders throughout the watershed is evident in reviewing the history of the region. When issues and interests overlap and compete, disagreements often arise about which management approaches to take.

Yet, despite this diversity, there is strong agreement that the future condition of the watershed of the Illinois River and its tributaries will greatly influence the region's capacity for navigation, recreation, economic prosperity, and ecological balance.

We recognize that for our state, region and nation, if this important highway cannot be traveled, if this great recreational outlet cannot be utilized, and if this natural resource cannot be preserved, then our health is indeed in jeopardy.

Over the past 2 years, we have brought competing interest to the table to discuss ways to protect and restore the river, and we produced comprehensive management plan guided by principles rooted in fairness and emphasizing a volunteer approach.

In January as we unveiled this Integrated Management Plan for the Illinois River Watershed, I said, "There are no quick fixes or easy outs. It's time to roll up our sleeves and get to work, putting aside political and professional differences. We face a long-term commitment to seeing that this vital economic, ecological and aesthetic resource is improved for future generations."

We have begun putting the recommendations of our plan in place. We know that this is a partnership of state and local entities, working with our private sector.

Carrying out these recommendations will go a long way toward saving the Illinois River for future generations. In the future, we must monitor our progress and evaluate our efforts, and we certainly must never forget just how important and fragile this river is.

I see the steps we have taken at the state and local level as providing the basis for a unique partnership with our Federal Government through the American Heritage Rivers Initiative.

Some 87 years ago, President Theodore Roosevelt viewed the Illinois River and its valley from the scenic bluffs of Peoria's Grand View Dive. He said, "I have traveled all over the world, and this is the world's most beautiful drive."

It is our hope that the American Heritage Rivers Initiative and our state and local efforts already underway will once again enable passers-by to remark on the beauty of this great natural resource.

We have everything to gain by acting now to save this vital natural resource and everything to lose if action is not taken.

Again, I want to thank this Committee for the opportunity to address its members today and I look forward to answering your questions.

[The prepared statement of Mr. Chavis follows:]

STATEMENT OF HON. LARRY CHAVIS, MAYOR OF THE CITY OF RICHMOND

Good morning ladies gentlemen, Chairman Young, Congressman Miller, members of the Resources Committee and all others who have taken the time to be with us here today.

Thank you for allowing us to address you today—for the opportunity to tell you—from a grass-roots and urban perspective—just what the American Heritage Rivers Initiative has already done for localizes up and down Virginia's historic James River. Positive changes are happening on our river: changes brought about well in advance of any possible designation for the James as an American Heritage River.

Vice-Mayor Baskerville and I are here today as representatives of the James River Heritage Partnership.

We are a dedicated group of well over 150 individuals, representing

- 20 counties, 9 cities, 2 towns, 2 Native American Tribes,
- 8 regional planning district commissions,
- dozens of non-profit agencies dedicated to outdoor recreation and natural resource protection, historic preservation and cultural awareness
- dozens of riparian corporations, and most importantly
- the hundreds and hundreds of private citizens in the communities along the James who are supportive of our efforts.

The mere fact that we have all come together to achieve a common goal is unprecedented in the history of Virginia. Given the state's unique political structure—which often separates rather than unifies localities—working together—as we are now—is the exception and not necessarily the rule. From this perspective, the American Heritage Rivers Initiative has already worked wonders for us.

On Friday of last week, the city of Richmond welcomed Senator Charles Robb and the U.S. Secretary of Transportation Rodney Slater to the banks of the James River. This was a golden opportunity for members of the Partnership to show our guests the exciting, innovative programs happening along the James. The American Heritage Rivers Initiative affords riverfront cities like Richmond a chance to rediscover the vital roots of their downtowns, to once again nurture and enjoy riparian land that for years has either been isolated or underutilized.

Along the James River, we have

- Extensive and ongoing waterfront development activities at Hampton Roads and Lynchburg,

- Cooperative initiatives among all 19 soil and watershed conservation districts in the James River watershed to develop *The Chesapeake Bay Tributaries Strategy*.
- Habitat restoration programs aimed at restoring and protecting the summer nesting grounds of the bald eagle, and year-round populations of striped bass, shad and river herring

None of these initiatives are being developed, I might add at to expense or exclusion of our corporate neighbors along the James, many of whom contribute significantly to river stewardship programs in addition to the important contributions they make to our regional economies.

The members of the James River Heritage Partnership are working together to develop active programs that highlight the economic, cultural and natural resources of this important river, which represents the common wealth of our many diverse heritages—whether European, African, or Native American

We are working *together* to

Gain designation for the *entire* James River, from its headwaters at Irongate in Botetourt County to where the River flows into Chesapeake Bay at Hampton Roads, 450 miles of some of the most scenic lands in the entire country

We are working *together* to

Be among to first ten rivers to be rightly called an American Heritage River

We are working together because the river will continue to impact us all.

Since President Clinton announced this initiative during his 1997 State of the Union message the program has had its detractors. It is to the opponents of the President's Initiative—some of whom we respectfully address this morning—that I submit the following points for consideration:

First and foremost, The American Heritage Rivers Initiative *does not* seek to

- jeopardize the rights of riparian property owners whether they are large corporate citizens so vital to the regional economy of western, central and/or Tidewater, Virginia or to the small farmers or other private individuals who own land adjacent to the river

The Initiative *does not* seek to

- Advocate for the imposition of any new federal mandates or regulations that would in any way hamper the rights of riparian localities to make their own land use decisions.

For these reasons and so many others that time does not allow me to expound on, the American Heritage Rivers Initiative represents the potential for positive working relationships between federal agencies and local communities dedicated to being good stewards of their rivers. We sincerely hope that what you have heard today will enable you to make the right decision and allow for the American Heritage Rivers Initiative to go forward.

We thank you very much for the chance to give voice to our support of the President's Initiative. The City of Richmond anticipates great and lasting benefits to all Virginians should the James achieve the status of an American Heritage River. A status I might add that it greatly deserves.

[The prepared statement of Ms. Furse follows:]

STATEMENT OF HON. ELIZABETH FURSE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OREGON

I appreciate the opportunity to express any strong support for the American Heritage Rivers Initiative.

President Clinton announced this initiative as a way to assist local communities in realizing the goals of revitalization they have for their own rivers. By providing a supportive Federal-local partnership, this voluntary initiative will essentially help local people help themselves. The initiative involves no regulations, no Federal mandates, and no unwilling participants. Instead it helps communities tap into the myriad of resources available to restore and protect the environmental, cultural, recreational, and historic values of their favorite waterway.

Not only do I support the American Heritage Rivers Initiative in general, I specifically am supporting the nomination of the Willamette River, which flows through the heart of Portland, as one of the ten selected American Heritage rivers.

Oregonians remember the days when the Willamette was one of the most polluted rivers in the country. The waters of this river were so choked with pollution that when live fish were put in a basket and lowered into the river to check the water quality, it took only a minute and a half for the fish to die. Oregonians remember the phrase they used as youngsters to describe swimming in the river—the “Willamette River stroke”—a phrase which refers to the fact that they would have to clear a path through the floating sewage debris in the water before they could swim.

But those days of neglect are gone and now the Willamette is the focus of a mayor campaign of restoration and protection. This effort has widespread local support and has been endorsed by Oregon Governor John Kitzhaber, Oregon state agencies, the city of Portland, Portland Audubon Society, the Student Watershed Research Project at the Saturday Academy, the Willamette Riverkeepers and countless other organizations and citizens.

These Oregonians hope to capitalize on the assistance that would be provided through the American Heritage Rivers Initiative to turn their dream for the Willamette River into a reality.

I support these efforts to restore the Willamette and I support the American Heritage Rivers Initiative, which will help foster this and other local efforts to revive and celebrate the rich river heritage of this country.

[The information referred follows:]



Re: September 24 Hearing on H.R. 1842 / American Heritage Rivers

Dear Resources Committee Member:

Tomorrow, the Resources Committee will hold a hearing on H.R. 1842, legislation introduced by Representative Helen Chenoweth (R-ID) to "terminate" the President's American Heritage Rivers Initiative. American Rivers urges you to oppose Rep. Chenoweth's legislation.

Last week, a resounding bi-partisan majority of the Senate rejected a rider to the Interior Appropriations bill that would have effectively killed this important Initiative. By a vote of 57-42, the Senate approved a motion offered jointly by Senator Dodd (D-CT) and Senator D'Amato (R-NY) to table Senator Hutchinson's (R-AR) amendment (voting list enclosed).

Despite charges by some of its critics, the American Heritage Rivers Initiative does not represent a federal takeover over of local land use decisions. The Initiative does not infringe upon private property rights. And, despite the lurid charges of some, it is not part of a United Nations scheme to control America's rivers.

The American Heritage Rivers Initiative will make the federal government a better partner for communities across the nation as they protect and revitalize their hometown rivers. At its heart, the Initiative is about community revitalization and providing more efficient and effective federal programs and services to assist community-led conservation initiatives.

Numerous communities throughout the nation are eager to participate in this new Initiative. In late June, the U.S. Conference of Mayors adopted unanimously a resolution supporting the Initiative. And, on July 14, two letters signed by 220 of the nation's leading river, fisheries, business and historic preservation groups were delivered to each Representative (enclosed).

If you have any questions concerning this important Initiative, and how it can assist communities in your District, please do not hesitate to communicate with me or Tom Cassidy, American Rivers' General Counsel.

Sincerely,

Rebecca R. Wodder.
President

enclosures

Mr. PALLONE. Thank you. And Madam Chairman, let me say that I am opposed to your legislation, and I am very much supportive of the American Heritage Rivers Initiative. I have to say very emphatically that my constituents, and not only in my district, but throughout the State of New Jersey, are very excited about this initiative and, frankly, I think, would be just as shocked to think that there is opposition to it as I think you are shocked to think that it would proceed.

So, I guess it sort of indicates that there is a big discrepancy, you know, maybe in different parts of the country or in different ideologies. But I do want to stress that this is something that a lot of people are excited about and are very much in favor of, not only in my district and in New Jersey but, I think, throughout the country.

And I think the reason for that is very simple. Our country has been built around our Nation's rivers. From the very beginning rivers served as an essential means of transportation, as a conduit for trade and commerce, and as a source of unlimited recreational opportunities.

The goal of the American Heritage Rivers Initiative, as announced by the President in the State of the Union address and as outlined in two separate Federal Register notices and an executive order that you mentioned that was signed by the President earlier this month, is to support communities in their efforts to restore and revitalize the economic, historic, cultural, recreational, and environmental values of their rivers. It's really not something, I think, that you can argue about in terms of the purpose of the initiative.

And, again, I would stress, this is a non-regulatory program. The American Heritage Rivers Initiative imposes no new Federal regulations. It's also a domestic initiative. The American Heritage Rivers Initiative does not give foreign governments or international organizations any role or authority over these rivers.

But really, most importantly, and I know that the Chairman mentioned it, but I have to stress again that this is a purely voluntary program. Local communities must nominate their own river for designation as an American Heritage river and must define their own plans for the river. In order to receive a designation, the nomination must have broad-based support from the local community, and it's my understanding that if the river nomination does not have the support of the Member of Congress from that district, it will more than likely be denied a designation as an American Heritage river.

If there's a river community in any Member's district that does not want to participate in this initiative for any reason, the community does not have to participate. I'm certain that those communities which are looking to have rivers designated would welcome the reduction in competition. I have to say that, actually, when I told some of my constituents that there were a lot of Members in Congress who were opposed to this, in some ways they were happy because they figured, well, maybe that means there's less competition; there won't be as many candidates.

The bottom line on the American Heritage Rivers Initiative is that it is really a prime example of good government at work. The

initiative is going to reduce overlapping efforts among Federal agencies, cut bureaucracy and red tape, and spur economic development in local communities.

And I think that—I know that the Chairman mentioned the Council on Environmental Quality. That is really what I think the job of that council is. I mean, the whole purpose of the council and what I have seen them do, not only in this case, but in many others, is to simply try to reduce red tape, to cut bureaucracy, to basically bring together Federal agencies—I know the Chairman mentioned 12. In a way, that makes it more likely that a project moves forward in a collective way without having to go through a lot of hurdles.

And I've seen the Council on Environmental Quality most recently work very effectively in this way with an effort to put an end to the dumping of toxic dredge materials off the coast of my district in New Jersey. On September 1, we actually announced the end of the dumping of toxic dredge material. Kathy McGinty was there in New Jersey to announce it, and if it wasn't for the Council on Environmental Quality and their work in trying to basically sift through all of these different Federal agencies and come to a conclusion and get everybody collectively to come to a consensus, we would still have that dumping of toxic dredge material.

So, I think the purpose of the CEQ is pretty clear. I don't think it's to create more bureaucracy or to get around Congress. I think it's just the opposite. It's to try to bring Federal agencies together to establish a consensus, and I think this American Heritage Rivers Initiative is just another example of that.

None of these things are going to proceed without consensus, and I am certain that any Member of Congress could veto the proposal in their district and it wouldn't even get to the CEQ unless there was broad bipartisan support for the river being designated.

I would yield back, Madam Chairwoman.

Mrs. CHENOWETH. Thank you, Mr. Pallone. And without objection, I will also enter into the record the opening statement of Mr. Ken Calvert, my colleague from California.

[The prepared statement of Mr. Calvert follows:]

STATEMENT OF HON. KEN CALVERT, A REPRESENTATIVE IN CONGRESS FROM THE
STATE OF CALIFORNIA

Remarks on the American Heritage Rivers Initiative

I thank the Gentlelady from Idaho for bringing this issue before us today. The current Administration has consistently been waging a war on the West, treading on private property rights and the western way of life. Unfortunately, the Administration has once again gone too far with the American Heritage Rivers Initiative. I am shocked that the Administration blatantly tried to skirt around the democratic process by enacting the American Heritage Rivers Initiative without receiving Congressional approval. And carried this injustice one step further by shortening the required public comment period.

I cosigned the letter to the Council on Environmental Quality Chairwoman Katy McGinty advising her to extend the comment period, and I am proud to be a cosponsor of H.R. 1842, which would not only put a stop to further implementation of this initiative, but also cease all funding. The War on the West has gone on for too long, and its time we put a stop to it. Thank you, Mr. Chairman.

Mrs. CHENOWETH. Are there any other opening statements?

With that I'd like to just proceed, then, to the Members that we have in front of us. I'm very pleased that you're here; that dem-

onstrates a lot of good interest, and I look forward to your testimonies.

Mr. RADANOVICH. Madam Chair? Helen?

Mrs. CHENOWETH. Yes. Yes, Mr. Radanovich.

Mr. RADANOVICH. I'd be curious to know, as we're discussing this issue with various witnesses, whether or not, especially Members, whether or not they have an interest for rivers in their own districts to be designated as opposed to rivers outside their district; if you would, please.

Mrs. CHENOWETH. Would you please repeat that? I'm sorry, Mr. Radanovich.

Mr. RADANOVICH. I just want to make sure that any Member that is on record for supporting or opposing Heritage Rivers indicates that they have a special desire for rivers in their own districts or rivers in other Members' districts.

Mrs. CHENOWETH. Thank you. We will, if there is no objection from the Congressman who will be testifying, we would like for you to indicate whether you are supporting rivers in your own district or the issue in general.

So, I would like to recognize the Honorable Nancy Johnson, first, for her testimony.

STATEMENT OF THE HONORABLE NANCY JOHNSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CONNECTICUT

Ms. JOHNSON. Thank you very much, and thank you, Madam Chairman for this opportunity. I appreciate your holding this hearing.

I am a strong proponent of the designation of the Connecticut River Basin as a national heritage river. It is the largest river basin in New England. It covers four States, and so on and so forth.

But my testimony today is in support of the American Heritage Rivers Initiative. I respect the comments you made about how this was developed and the lack of communication, and I regret that. But I want to address myself to why I think this innovative approach is really—why it has been so embraced in New England and why there is so much enthusiasm for it among the local communities that I represent, all kinds of groups of people that I represent, because they really see it as an opportunity to better preserve the historic, cultural, economic, and environmental value of the rivers.

For the first time the small towns are seeing the values of the rivers, and so they're beginning to think that this could contribute to their economy. So there are a lot of ideas out there; there's going to be a lot of development. We need to make—I mean, I want to make sure that the development is harmonious with environmental preservation goals as well as economic revitalization goals, and so do the towns. So, we are a densely populated part of the country. We have small towns, and so along the river there are many towns.

You know, on some of the western rivers there are not so many towns along the river. There are lots of towns along our river, and so cooperation and coordination is extremely important, but it's also hard. Small towns cannot afford the kind of sophisticated per-

sonnel that can find, literally, the resources that we have already appropriated because they're in—what—six or eight different Federal agencies. So, we have resources out there. We have technical assistance out there, but a little town with no expertise has a very hard time finding these programs, integrating them, coordinating with the town next to it.

And, truly, the opportunity here for a whole river basin to be able to have one person in the bureaucracy who knows that river and knows their problems and knows what people upstream are doing and what people downstream are doing is really just an—would be an extraordinary help to us; the problems inter-agency, the problems with a single agency.

We have had a tremendous success rehabilitating the river front in Hartford, and the river front in Hartford on both banks now has parks, recreational facilities, and amphitheaters at Riverfront Plaza. It's become a real economic driver for the city. The area now attracts major sporting events like professional water skiing competitions, but also was the site of the champion bass fishing tournament. Now who would associate that with Hartford, Connecticut? Nobody in their right mind, a few years ago.

So, we have dealt with the river in a way that's good for the river and good for the economy of this urban area. But the Hartford river front project could never have gone forward if they hadn't been able to get money from other places to get the sophisticated personnel. It took them 18 months to get the permit to just do a walkway across the river for pedestrians.

So we really do need to be able to cut through the red tape. We really do need to be able to do inter-agency cooperation. Little towns need somebody out there who knows the whole river and what's being done and can provide them with that kind of help.

Let me just conclude, because I don't want to take too much of your time, but I spent 10 years working with this Committee to get the Farmington River designated as a wild and scenic river under the National Wild and Scenic Rivers program. And it took a long time, because in my part of the Nation local government is very, very strong, and people are very jealous of local power. And they were afraid that if you studied the river and you designated the river, you would control the river.

So, our designation legislation required a Committee—this was when Reagan was president his first term—and we had representatives from every town on the Committee. The Department of Interior used to look at me and say, "We don't do it this way. We don't do it this way." I said, "You don't understand. We have to do it this way, because that's the way we govern in New England."

Anyway, out of it we came up with a designation bill, then, that has set the model for New England, so now we have more rivers designated, but it is completely different than the old designation law because it retains the power to control development and property rights and all those issues along the river. And those towns committed themselves to a river preservation plan that the Department of Interior said would meet the wild and scenic river criteria, but it protected the local communities from that fear that the Federal Government would do to them that which they did not want done to them.

But it also gave the Federal Government support and gave the towns the support and the technical assistance and, in fact, the money to study the river in its initial phase that we needed in order to get a healthy river management plan and economic development plan in place. So, we have a unique local-Federal partnership under the wild and scenic rivers program through working with a part of the country that is absolutely committed to local control. So they see this as no new resources, no new authority, no new mandates, but an opportunity to have somebody help them break through the bureaucracy and the inter-agency barriers to developing and preserving our river.

So, it's that part of it that I support. We're excited about it. We think we're the best application, and, as I say to the administration, you don't ever want to have a rivers program that's only western or only southern. And for a long time wild and scenic didn't have any designations in New England, so I hope, at least, the designations under this program will represent benefits across the Nation.

Thank you.

[The prepared statement of Ms. Johnson follows:]

STATEMENT OF HON. NANCY L. JOHNSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CONNECTICUT

Good morning, Mr. Chairman and members of the Committee. I appreciate the opportunity to appear before you as a committed supporter of the American Heritage Rivers Initiative.

Ever since President Clinton announced his intention to create this program, I have been among its leading supporters because this innovative approach is just what my local communities need to restore and revitalize their rivers and waterfronts. I recognized the promise this initiative holds for the historic, cultural, economic and environmental value of rivers such as the Connecticut River in my home state, simply by enabling local communities to gain better access to scattered Federal resources to achieve community defined goals.

The American Heritage Rivers Initiative is about making the Federal Government a better partner with local communities in river conservation and revitalization efforts. The program will assist river communities to gain timely and coordinated access to existing programs and resources. The objective here is to provide better delivery of Federal services in such a way that is not only approved by local residents, but is designed by local residents. It is entirely a "bottom up" program. For my fellow Republicans, this should represent a welcomed departure from more traditional conservation programs in that it moves away from the usual Federal command and control approach toward empowering local communities and supporting local initiatives.

Many of the supporters of H.R. 1842 cite their fear of an impending Federal land grab and the loss of private property rights as justification for blocking this program. But that will not happen under this initiative. This is an entirely voluntary program. Even the published notice in the Federal Register stated that "The initiative will create no new regulatory requirements for individuals, or state or local governments." The President reiterated this just 2 weeks ago in a September 11 press conference in which he said, "Every step of the way, the initiative will be driven by the needs and desires of the communities that choose to participate. There will be no Federal mandates, no regulations, no restrictions on property holder's rights."

I believe the opposition to this program is based on a misunderstanding of its structure and differing regional needs. This program rests on the principle of local control and seeks to break through the bureaucratic barriers that currently block local access to existing Federal resources. Those barriers are real and paralyzing to small towns without sophisticated personnel and are particularly daunting to groups of small towns that want to coordinate development projects. Because we are an old and densely populated part of the nation, our river towns value this support to make cooperation easier and reduce bureaucratic and interagency barriers to need resources. The goal of this program is to improve the efficiency of government pro-

grams and promote economic growth in river towns. Those I represent welcome this new opportunity.

This initiative is as much about the future as it is about our past. I point to the Connecticut River and the new Riverfront in Hartford, Connecticut. On both banks of the river, parks, recreational facilities, amphitheaters and a riverfront plaza have been completed or are under development. This is providing a tremendous economic boon for the city. The area now attracts major sporting events like professional water ski competitions and championship bass fishing tournaments. When Bud Light sponsored a triathlon in 1992, it brought in more than 1100 athletes from more than 30 states with an estimated local economic benefit of \$4 million. The American Fisheries Society will bring its national convention to Hartford in 1998 with an expected economic benefit of \$2 million.

The Riverfront was recognized by the prestigious American Rivers organization as being one of America's most improved urban rivers due to its phenomenal economic revitalization. And yet when you talk with those who were responsible for this change they can tell you how much red tape they had to deal with to move ahead with restoration or revitalization efforts. As successful as the Riverfront has been, it too had to contend with lengthy bureaucratic delays even though it was in constant consultation with the relevant agencies. It took the 18 months to receive approval from the Army Corps of Engineers to build a simple walk bridge. The Riverfront on the Connecticut River and other waterways like it would enjoy even greater success with the assistance that comes from receiving the designation of being an American Heritage River.

For the sake of the local communities that surround our great rivers, I urge the members of this Committee to support this voluntary approach to the preservation of river areas of historic and environmental value, to the expansion of cultural richness and to the economic revitalization of our great river basins as they run through old cities and pre-revolutionary towns alike.

I thank the members of the Committee and hope that my testimony will cause you to reevaluate this sensible conservation program.

Mrs. CHENOWETH. Thank you, Nancy Johnson. I appreciate your comments.

The Chair now recognizes Mr. Herger.

STATEMENT OF THE HONORABLE WALLY HERGER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. HERGER. Thank you, Madam Chair, and members of the Committee, for this opportunity to express my strong support for your legislation and to share my strong concerns regarding the American Heritage Rivers Initiative.

And let me state at this time, on behalf of an overwhelming number of constituents who have contacted me over the last several months, our northern California district stands very strongly in opposition to any rivers being declared so under this Act within our northern California district.

This initiative sets a terrible precedent for overriding local involvement in land use, planning, and zoning issues, and totally disregards authority of established community governments. It also poses a serious threat to the rights of private property owners across the Nation. Seventy percent of the total land base in the United States is owned by private individuals. By implementing a program that requires increased Federal intervention in private property use and enjoyment, this initiative sets up a situation ripe with the potential for abuse.

Traditionally, the Federal Government has allowed private property owners free use and maintenance of their land, so long as it does not interfere with the use and enjoyment of surrounding property owners. This initiative, however, bypasses established procedures and interjects the Federal Government into the planning and

zoning processes historically undertaken at local levels as a function of properly elected local government.

Planning and zoning activities have developed along a finely balanced set of practices and principles that ensures each individual in the community first, has the right to be heard and, second, that he or she has the right to reasonably use his or her property. By allowing this Federal intervention, the Clinton Administration interjects the Federal Government in the local decision process and forces private land owners to subjugate their own land use interest to that of the Federal Government.

How is this accomplished? To begin with, the Executive Order fails to define how much land and how many jurisdictions will make up the land base of the nominated rivers. Furthermore, the person in charge of administering the designated river, called a river navigator, would be appointed solely by the President. By disregarding existing political boundaries and by appointing another Federal agent, whose job is held only at the behest of the President, residents of the river community are left with no political recourse to address damages suffered as a result of the river designation.

Through tradition and well-established legal practices, the Supreme Court has granted States and communities the authority to institute local planning and zoning commissions. Under this valid authority, these commissions follow a well-defined process to develop a master plan for their communities. This master plan is shared with the public. Proper notice is given. Comments are submitted and hearings are held. Then the master plan is voted on and officially adopted.

Unless this process is followed, and members of the public are given the opportunity to participate, comment, and vote, the courts have held time and time again that any regulatory zoning ordinance pursuant to the master plan is considered invalid.

The American Heritage Rivers Initiative, on the other hand, completely disregards this process and unilaterally throws out more than 100 years of land use, planning, and zoning laws. In addition, once an area is designated, there is no mechanism in place to allow the community to undesignate itself. Without this power in place, the President's designation of a river as an American Heritage River becomes permanent.

In effect, this initiative therefore imposes an Escalante monument on the different rivers every year. And with 70 percent of this Nation owned by private individuals, it will do so in many areas where no Federal interests currently exists. According to administration officials, however, we have nothing to fear, quote: "This is a voluntary program," close quote. They say that only serves to, quote, "facilitate cooperation between communities and the Federal Government," close quote.

We are all in favor of the benefits of facilitated cooperation; however, there is a cost involved that I do not believe the American public is willing to pay. I do not understand how adding another agency to the Federal bureaucracy makes anything easier for local communities. Why, in an age where we talk about re-inventing government do we turn around and create more of the same? What communities really need are for current Federal agencies to live up

to their existing duties and are more accountable to their stewardship.

Madam Chair, and members, over the last couple of months I have continually heard from the citizens of my rural northern California district regarding this issue. American Heritage Rivers had become one of the hottest topics in my area. I am here to relay my constituents' overwhelming sentiment opposing this initiative, and urge this Committee and this Congress on their behalf to make sure that not a penny is spent on its implementation.

Again, I thank you for this opportunity to testify at your hearing. [The prepared statement of Mr. Herger follows.]

STATEMENT OF HON. WALLY HERGER, A REPRESENTATIVE IN CONGRESS FROM THE
STATE OF CALIFORNIA

Thank you Mr. Chairman and Members of the committee for this opportunity to share my concerns regarding the American Heritage Rivers Initiative.

This initiative sets a terrible precedent for overriding local involvement in land use, planning, and zoning issues, and totally disregards authority of established community governments. It also poses a serious threat to the rights of private property owners across the nation. Seventy percent of the total land base in the United States is owned by private individuals. By implementing a program that requires increased Federal intervention in private property use and enjoyment, this initiative sets up a situation ripe with the potential for abuse. Traditionally, the Federal Government has allowed private property owners free use and maintenance of their land so long as their activities do not interfere with the use and enjoyment of surrounding property owners.

This initiative, however, bypasses established procedures and interjects the Federal Government into the planning and zoning processes historically undertaken at local levels as a function of properly elected local government. Planning and zoning activities have developed along a finely balanced set of practices and principles that ensure each individual in the community first, has the right to be heard, and second, that he or she has the right to reasonably use his or her property. By allowing Federal intervention, the administration interjects the Federal Government in the local decision process and forces private landowners to subjugate their own land use interests to that of the Federal Government. How is this accomplished?

To begin with, the executive order fails to define how much land and how many jurisdictions will make up the land base of the nominated rivers. Furthermore, the person in charge of administering the designated river, called a river navigator, will be appointed solely by the President. By disregarding existing political boundaries, and by appointing another Federal agent whose job is held only at the behest of the President, residents of the river community are left with no political recourse to address damages suffered as a result of the river designation.

Through tradition and well-established legal principles, the supreme court has granted states and communities the authority to institute local planning and zoning commissions. Under this valid authority these commissions follow a well-defined process to develop a master development plan for their communities. This master plan is shared with the public—proper notice is given, comments are submitted and hearings are held,—then the master plan is voted on and officially adopted. Unless this process is followed, and members of the public are given the opportunity to participate, comment and vote, the courts have held time and time again that any regulatory zoning ordinance instituted pursuant to the master plan is considered invalid.

The American Heritage Rivers Initiative, on the other hand, completely disregards this process and unilaterally throws out more than 100 years of land use, planning and zoning laws. In addition, once an area is designated, there is no mechanism in place to allow the community to undesignate itself. Without this power in place, the President's designation of a river as an American Heritage River becomes permanent. In effect, this initiative therefore imposes an Escalante Monument on ten different rivers every year, and with 70 percent of this nation owned by private individuals it will do so in many areas where no Federal interest exists.

According to administration officials, however, we have nothing to fear. "This is a voluntary Program," they say, that only serves to "facilitate cooperation between communities and the Federal Government." We are all in favor of the benefits of facilitated cooperation, however, there is a cost involved that I do not believe the American public is willing to pay. I do not understand how adding another agency

to the Federal bureaucracy makes anything easier for local communities. Why, in an age where we talk about reinventing government, do we turn around and create more of the same?

What communities really need are Federal agencies that live up to their existing duties and are more accountable for their stewardships.

Mr. Chairman, and Members, over the last couple months I have continually heard from the people of my rural Northern California district regarding this issue. American Heritage Rivers has become one of the hottest issues in my district. I am here to relay my constituents' overwhelming sentiment opposing this initiative and urge this Committee and this Congress, on their behalf, to make sure that not a penny is spent on its implementation.

Again thank you for this opportunity to testify at this hearing.

Mrs. CHENOWETH. Thank you, Mr. Herger. I appreciate your testimony.

The Chair now recognizes the Honorable Cliff Stearns.

STATEMENT OF THE HONORABLE CLIFF STEARNS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. STEARNS. Good morning, Madam Chairwoman, and let me just say I'm delighted to be here and have the opportunity to speak. As you know, and perhaps members of the staff know, that I am a co-sponsor of your bill to terminate the American Heritage Rivers Initiative.

My colleague from Connecticut mentioned the good that this bill—that the intention of the American Heritage Rivers has with it. Let me point out that all of us—all of us—want to care about our national rivers and waterways, but the administration's plan does it without the participation of Members of Congress and the State legislatures.

I pose this question for the Members of Congress: Would you like to have this country run by notices in the Federal Register? Wouldn't you like to have an opportunity for debate on the House floor and the Senate, and then we advise the President? Well, what the President did is notify the people that he was going to establish this program in the Federal Register. And as you'll recall, this proposal was only allowed a 3-week public comment instead of the required 3 months. But there was a lot of objection; a lot of people didn't understand, so it was extended from June 9, 1997 until August 20, 1997.

Clearly, many people in my State, in my congressional district in Florida, were very concerned. There was some talk about designating the St. John's River, which is in the State of Florida, and it is a beautiful river. But the question became, What about private property owners, people who are close and contiguous to the river? Who would decide if their property was going to be impacted? How would they have a say-so?

And, you know, when you looked at the recent Federal Register notice, there was one page offered of vague and nebulous language about water rights, land use, planning, and water quality standards. But it did not address the fundamental issue of how a private land owner can be excluded from a designation. You own the property, you don't want to be a part of it, you don't want to abide by this, quote, "river navigator."

So the real question is, Are private property owners going to be impacted? And why won't the administration bring it through Congress and let us have a bill and debate it, instead of notifying all

the people of this fine land that their going to do X-Y-Z in the Federal Register?

Now as you know, the Senate had a vote yesterday—last week—concerning this, by Senator Tim Hutchinson, and he simply said, “Let’s require that all private land owners that abut the affected rivers be notified of this proposed designation.” There was great debate on this; it did not pass.

But I think it’s incumbent upon us, who have been elected by the people, who represent the people, to say to ourselves, “Let’s not let the Federal Register decide what we’re going to do in this country. Don’t let a water management within a State decide and apply for permanent Federal regulation and designation without the State representative, the State senator, the Governor, the Congressman, and the Senator having some say-so and debate it openly. If the administration wants to push this, come to Congress, ask for funding. Don’t strip out funding from 13 different Federal agencies and use that money under clandestine operations to push the American Heritage Rivers program.”

Because they continually say, “Well, it’s not going to cost any money. It’s all voluntary.” But they’re taking money from all these different appropriations, and that’s how they’re doing it. So let’s ask the administration to come back to Congress and propose their bill, and let’s talk about it. The administration’s claim continually to say that this is voluntary, and this is something that can be debated on a local level sort of sidesteps the issue that Congress should be involved, and the Governors, as well as the State senators and State representatives.

So, obviously, Madam Chairman, I support H.R. 1842, and I think this is an attempt by the administration to sidestep Congress, just like they tried to do with Fast Track and some of these other agreements where there’s not the participation. And, so, I hope your bill passes. I hope many of the people on my side will realize that they have a fiduciary responsibility to speak out and try and let Congress take an act and implement this before the administration does it without our vote. Thank you.

Mrs. CHENOWETH. Thank you, Mr. Stearns. It was good to hear your testimony.

And the Chair now recognizes The Honorable Robert Scott. Mr. Scott.

STATEMENT OF THE HONORABLE ROBERT SCOTT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA

Mr. SCOTT. Thank you Madam Chairman, members of the Committee. I appreciate the opportunity to appear before you today to speak about the importance of preserving the American Heritage Rivers Initiative set forth by the President in an Executive Order issued earlier this month.

The preservation of the American Heritage Rivers Initiative is important, because just the designation of a river as an American Heritage River alone will serve as a catalyst to increase tourism, economic development, environmental protection, and preserve our heritage with virtually no additional resources, other than what’s already been appropriated.

This initiative builds on existing community efforts, both public and private, and provides coordination with Federal agencies to further enhance efforts for economic revitalization, environmental protection, and historic and cultural preservation.

I'm sure that there are several excellent candidates for designation as American Heritage rivers, and one is the James River in Virginia. And in response to the gentleman from California's inquiry, that's in my district and one that we're very excited about. The communities surrounding the James River, including many of those in my district, are excited about this opportunity and are aggressively seeking designation as one of the first rivers in the Nation to be designated an American Heritage river, and fittingly so.

The James River is America's first river. The first forts and farms and churches and villages, even the first hospital in the English-speaking colonies, were all built along its shores. From the first settlers at Jamestown, to the battlefields of the Revolutionary and Civil Wars, to the dry docks of the Newport News shipyard and other shipyards along the James River, the James has played an important role in the development of this country.

The James River watershed, covering approximately 25 percent of the State, has provided significant opportunities for river-related industries along its 340-mile course for centuries for its surrounding communities, including tourism, national defense, shipbuilding, commercial fishing, agriculture, and more recently, Virginia's growing industry, the wine industry. It is home for the world's largest natural harbor in Hampton Roads, a harbor which easily accommodates America's biggest ships, the 90,000-ton aircraft carriers.

Communities surrounding the James have made a tremendous headway in restoring its grandeur. They have spent hundreds of millions of dollars on projects to improve the water quality in an effort to preserve the James and to promote a healthier Chesapeake Bay. Efforts include the Virginia History Initiative, a public-private partnership to develop the historical resources and tourism in Virginia, and the James River Days, held since 1995 for white-water races and clean-up days and historical re-enactments. So communities of Virginia are committed to preserving the James.

While there are numerous initiatives on the State and local level to enhance the James, at present there is no collective plan of action with regard to river-related activities. The American Heritage River designation will serve as a catalyst to transform the current piecemeal approach of individual local programs into a program with a broader agenda, whose purpose is to assist in the historic preservation, the environmental protection, and economic revitalization along the entire James.

The 30 localities along the length of the river, along with their respective planning district commissions, are actively involved in the planning and consideration of efforts to gain designation for the James as an American Heritage river. The effort is currently being led by the James River Heritage Partnership, a coalition of governmental, civic, and business leaders from 20 counties, nine cities, two towns, and two Indian tribes.

I would, therefore, urge your skepticism of any efforts which would stand in the way of the effort to combine Federal, State, and

local resources in the pursuit of a comprehensive approach in restoring America's rivers for current and future generations. Far from being a Federal take-over, this Executive Order sets forth coordination of existing Federal resources with those communities who voluntarily wish to apply to participate in the program.

For those States or communities which have concerns about the program because of perceived interference from the Federal Government, I would offer this simple advice: Don't apply. I implore you not to prevent other communities from taking advantage of what others would want to pass up.

America's first river, the James River, wants to and deserves to be designated as the first American Heritage river. Thank you very much.

Mrs. CHENOWETH. Thank you, Mr. Scott.

And the Chair now recognizes Doc Hastings, from Washington. Mr. Hastings.

STATEMENT OF THE HONORABLE DOC HASTINGS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON

Mr. HASTINGS. Thank you, Madam Chairman, for allowing me to testify before your Committee this morning in support of H.R. 1842 and to tell you of my opposition to the American Heritage Rivers Initiative. I would like to express my strong support for the measure before you which would stop, I believe, all further development and implementation of the President's American Heritage Rivers Initiative.

Let me emphasize this point, that this is simply not a new regulation; rather, it is an entirely new program that should be authorized, or at the very least debated, by this Congress. This is not only a new way of delivering Federal services, but it also provides for a new Federal service. Let me emphasize that point: It's not a new way to deliver Federal services, but it is, indeed, in my mind, a new Federal service. And if this program is truly a better way to deliver Federal services, why don't we just authorize this new delivery system government-wide?

How will this program help or hurt local residents and private property owners? How will this new program affect the funding of different agencies that are involved? These are questions that are normally answered during the thorough debate that Congress engages in when new programs are laid before us. However, this administration is attempting to circumvent the constitutional role of Congress—oversight and approval of new programs—and in my mind, to prevent an open and fair discussion regarding the American Heritage Rivers Initiative.

In addition, this administration does not have a stellar record when it comes to protecting private property rights and ensuring local decisionmaking authority in important regional actions. For example, in central Washington, which is part of my legislative or congressional district, we have seen this administration attempt to control regional land use on a massive scale through the Columbia Basin Ecosystem management project. That proposal would, through new regulations, control over 70 million acres in the Northwest.

Last year, the administration attempted to regulate eastern Washington by designating the entire region a sole-source aquifer. Well, since the sole-source aquifer designation hasn't taken hold and the ecosystem management project appears to have slowed down—and I might say mainly through the actions of the Congress in the funding area—this administration has found a new way to impose their bureaucratic regulations in the West—the American Heritage Rivers Initiative.

All new proposals of this scope should be debated by Congress, period. Without a fair and open debate, how can we know what the true intent is of the program? The simple answer is, is that we can't, and that is precisely the reason why I urge this Committee to favorably approve H.R. 1842. We must stop this new initiative before the administration finally succeeds in thwarting the will of Congress and the U.S. citizens, and usurping control of our land by passing countless new regulations.

And Madam Chairman, I would like to submit for the record two articles, an editorial from the Tri-City Herald in my district, and a newspaper article from the Seattle Times talking about the problems that the tri-city area is having with the land transfer problem.

[The information referred to may be found at end of hearing.]

Mr. HASTINGS. And I bring it to your attention for this reason. In the last Congress we passed legislation to allow along the Columbia River, which is one of the great rivers in the country, transfer of Federal property—specific Corps of Engineers property—to the local entities, and there are five local entities that are involved in this.

This article of August 17 and the editorial of August 17, point out the difficulties that these local communities are having in getting the Corps of Engineers simply to sit down and transfer the land. Now I bring this to your attention because, undoubtedly, somebody is going to come up here in favor of this initiative and say, "This is precisely what the American Heritage Rivers Initiative is supposed to resolve."

Well, I would conclude this: Why is it that we have to have another government nanny, if you will, to oversee what government is supposed to do for people in the first place? So, if somebody were to come up here and say that this is precisely what this new initiative is all about, to take care of all of the problems in the tri-city area on the Columbia River, I hope one of you will ask the question of why we have to have this government nanny to oversee what government is supposed to do for people in that area.

So with that, Madam Chairman, I want to thank you for this hearing, and thank you for the opportunity to allow me to testify this morning.

[The prepared statement of Mr. Hastings follows:]

STATEMENT OF HON. DOC HASTINGS, A REPRESENTATIVE IN CONGRESS FROM THE
STATE OF WASHINGTON

Mr. Chairman: Thank you for allowing me to testify before your Committee this morning in support of H.R. 1842. I know you have several more witnesses and I'll keep this as short as possible.

Mr. Chairman, as you know, H.R. 1842 would stop all further development and implementation of the President's new program, the "American Heritage Rivers Ini-

tiative.” And let me emphasize that point. This is a new way of delivering Federal services but it also provides a new Federal service. And if this program is a better way to deliver Federal services, why don’t we authorize this new delivery system government wide?

How will this new program help or hinder the local residents and private property owners? How will this new program affect the funding of the different agencies involved?

These are questions that are normally answered during the thorough debate that Congress engages in when new programs are laid before us. However, the Administration is attempting to circumvent the Constitutional role of Congress—oversight and approval of new Federal programs—and prevent an open and fair discussion regarding the American Heritage Rivers Initiative.

Furthermore, the Administration does not have a stellar record when it comes to protecting private property rights and ensuring local decision-making authority in important regional actions. In Central Washington alone, we have seen this Administration attempt to control regional land use on a massive scale through the Interior Columbia Basin Ecosystem Management Project. This proposal would, through regulation, control over 70 million acres in the Northwest. Last year, the Administration attempted to regulate Eastern Washington by designating the entire region a “sole source aquifer.”

Since the Sole-Source Aquifer didn’t work, and the Ecosystem Management Project appears doomed, the Administration has found a new way to impose their bureaucratic regulations in the West—the American Heritage Rivers Initiative. All new proposals of this scope should be debated by Congress, period. Without a fair and open debate, how can we know the true intent of the program? The simple answer is, we can’t. And that is precisely the reason I would urge you to approve H.R. 1842. We must stop this new initiative before the Administration finally succeeds in thwarting the will of the citizens and usurping control of our land by passing countless new regulations.

Thank you Mr. Chairman, for having this hearing and allowing me to testify.

Mrs. CHENOWETH. Thank you, Mr. Hastings, and without objections, we will accept into the record the documents that you suggested.

I would love to hear from Mr. Reyes, but it looks like we’re just going to be able to run and make the vote. We have three votes coming up, and Mr. Reyes, I think it will take about a half-hour; there are three procedural votes. We will recess temporarily, and then be back in 30 minutes; we look forward to hearing from you then.

[Recess.]

Mrs. CHENOWETH. The Committee will come to order. The Chair now recognizes The Honorable Jo Ann Emerson, from the State of Missouri. Ms. Emerson.

STATEMENT OF THE HONORABLE JO ANN EMERSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSOURI

Mrs. EMERSON. Madam Chairman, and members of the Committee, I want to first thank you for holding this hearing on an important subject that is of great interest to many, many of my constituents in southern Missouri, and for allowing me to testify.

As you certainly know, there is great concern among the public about exactly what this initiative entails and many yet unanswered questions about exactly what is being proposed.

I’ll get right to the point, because I know you have other witnesses that you would like to hear. In my opinion, the Executive Order signed by the President on September 11 of this year, while well-intentioned, I’m sure, has the potential to seriously erode one of our most fundamental rights—the right of property ownership.

While the broad goals as outlined by the President and the Council on Environmental Quality to “help communities protect their

river resources in a way that integrates natural resource protection, economic development, and the preservation of historic and cultural values” are laudable and things we all support, there are still many questions to be raised about exactly what is being proposed.

The problem, as I see it, is that we have an Executive Order that, originating from the executive branch, has not gone through the committee process and has lacked any congressional review. Had it not been for the strong interest of this Committee and other Members, including myself, to request that the ridiculously abbreviated comment period be extended, I have no doubt that this proposal would have moved forward quietly within the walls of the White House with few, if any, Members of Congress aware of it. So I applaud you for being out in front and really paying very close attention.

Second, this proposal is far-reaching and broad in its mandate. It’s my understanding, from what I have read, that funding for this initiative would come from nine Cabinet departments, and, in addition to that, there is proposed funding from a number of agencies, including the EPA, the NEA, the NEH, and the Advisory Council of Historic Preservation. I think that in these times of making our government smaller and more efficient, I can hardly see how a proposal that includes nine Cabinets and numerous other agencies is in step with our efforts to streamline government.

In addition, it is my contention that, from the outset, this proposal has been controlled by environmental groups that have tried on many occasions to stop economic development, navigation, flood control, and any other activities on our Nation’s inland water system that may be contrary to their agenda.

I know that most of the meetings held by the CEQ were dominated by the input of what I call preservationist-type environmental groups, and while I was not invited to participate in one of these meetings, a very close friend of mine, but who is an extreme environmental activist, I might say, did attend and warned that this could, in fact, be a black hole.

I know that none of my constituents were invited to attend, as well, and while I applaud being able to have public hearings—people notified through the Federal Register via Heritage Rivers web site—most of the people in my district don’t have computers, and I dare say that they wouldn’t know to look in the Federal Register, as I’m sure few people in the country would know to do.

Madam Chairperson, the entire eastern boundary of my congressional district borders the Mississippi River, and the Missouri River runs through the middle of the Show-Me State just to our north. Both of these rivers have proved vital for our State, our region, and our country’s commerce and productivity. Citizens of Missouri have fought many, many battles over the years, most recently the Midwest floods of 1993 and 1995.

We have battled many, many proposals to let our network of levees and flood control structures give way to ill-conceived ideas of allowing our rivers to run their natural course along their original flood plains. So, quite naturally, you can understand why we’re a little leery, to say the least, of proposals that claim to, quote, “en-

hance,” end-quote, our rivers. Enhancing can take on a variety of meanings, depending on who is leading the enhancement.

I’ve heard from literally hundreds of constituents throughout southern Missouri who are adamantly opposed to the creation of this new bureaucracy. I’m also very pleased, Madam Chairman, that you have introduced legislation to prohibit any Federal funding to be used to implement the American Heritage Rivers Initiative, and the hundreds of constituents who have contacted me have asked me to support your legislation, which I have proudly done.

It’s also my understanding that Senator Hutchinson offered an amendment to the Interior Appropriations during floor consideration in the Senate that called for land owner consultation and input, a clear definition of a river community, and to make the initiative subject to the existing provisions of the Clean Water and Safe Drinking Water Acts. Unfortunately, it failed by a few votes, and I must say that I thought that the Senator’s amendment was certainly very responsible, and I’m very sad that it did, in fact, fail.

In closing, I’d like to state for the record that most citizens in my congressional district are not necessarily opposed to most of the concepts in this initiative. Everyone wants to revitalize communities, bring in economic development, and make our cities and towns more productive places in which to live and work. But, as you may know, Missouri is the Show-Me State, and we feel like we have yet to know and to be shown exactly how this plan is supposed to work. Until my constituents have a clear understanding of how this may or may not directly impact them, they’re going to remain naturally skeptical and largely opposed to this initiative.

So I thank you again, Madam Chairman, for allowing me to testify on this important issue, and I stand ready to help in any way and would be glad to answer any questions you might have.

[The prepared statement of Mrs. Emerson follows:]

STATEMENT OF HON. JO ANN EMERSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSOURI

Mr. Chairman and Members of the Committee:

I want to first thank you for holding this hearing on an important subject that is of great interest to many, many of my constituents in Southern Missouri and for allowing me to testify. As you certainly know, there is great concern among the public about exactly what this initiative entails and many yet unanswered questions about exactly what is being proposed.

I’ll get right to the point because I know you have other witnesses that you would like to hear. In my opinion, the Executive Order signed by the President on September 11th of this year, while well-intentioned—I’m sure—has the potential to seriously erode one of our most fundamental rights—the right of property ownership. While the broad goals as outlined by the President and the Council on Environmental Quality to “help communities protect their river resources in a way that integrates natural resource protection, economic development and the preservation of historic and cultural values” are laudable and things we all support, there are still many questions to be raised about exactly what is being proposed.

The problem, as I see it, is that we have an Executive Order that, originating from the Executive branch, has not gone through the committee process and has lacked any congressional review. Had it not been for the strong interest of this Committee and other Members, myself included, to request that the ridiculously abbreviated comment period be extended, I have no doubt that this proposal would have moved forward quietly within the walls of the White House with very few, if any, Members of Congress aware of it.

Second, this proposal is far-reaching and broad in its mandate. It is my understanding that funding for this initiative would come from 8 Cabinet departments including the Departments of Defense, Justice, Transportation, Agriculture, Com-

merce, Housing and Urban Development, Interior and Energy. In addition, there is proposed funding from a number of agencies as well: EPA, NEA, NEH and the Advisory Council of Historic Preservation. In these times of making our government smaller and more efficient, I can hardly see how a proposal that includes 8 cabinets and numerous other agencies is in step with our efforts to streamline government.

In addition, it is my contention that from the outset, this proposal has been controlled by environmental groups that have tried on many occasions to stop economic development, navigation, flood control, and any other activities on our nation's inland waterway system that may be contrary to their agenda. I know that most of the meetings held by the CEQ were dominated by the input of what I call preservationist-type environmental groups.

Mr. Chairman, the entire eastern boundary of my congressional district borders the Mississippi River, and the Missouri River runs through the middle of the Show-Me state just to our north. Both of these rivers have proved vital for our state, our region, and our country's commerce and productivity. The citizens of Missouri have fought many battles over the past few years due to the Midwest floods of 1993 and 1995. We have battled proposals to let our network of levees and flood control structures give way to ill-conceived ideas of allowing our rivers to run their natural course along their original flood plains. So quite naturally, we are a little leery, to say the least, of proposals that claim to "enhance" our rivers. Enhancing can take on a variety of meanings depending on who is leading the enhancement.

I have heard from literally hundreds of constituents throughout Southern Missouri who are adamantly opposed to the creation of this new bureaucracy. Mr. Chairman, our colleague and a valued member of your Committee, Mrs. Chenoweth, has introduced legislation, H.R. 1842, to prohibit any Federal funding to be used to implement the American Heritage Rivers Initiative. Congress should act upon this bill soon and without delay. It is my understanding that Senator Hutchinson offered an amendment to the Interior Appropriations bill during floor consideration that called for landowner consultation and input, a clear definition of a river community, and to make the initiative subject to the existing provisions of the Clean Water and Safe Drinking Water Acts. Unfortunately, it failed by just a few votes.

In closing, I would like to state for the record that most citizens in my congressional district are not necessarily opposed to most of the concepts in this initiative. Everybody wants to revitalize communities, bring in economic development, and make our cities and towns more productive places to live and work. But as you may know, Missouri is the Show-Me state and we feel like we have yet to be shown exactly how this plan is supposed to work. Until my constituents have a clear understanding of how this may or may not directly impact them, they will remain naturally skeptical and largely opposed to this initiative. Thank you, again, Mr. Chairman, for allowing me to testify on this important issue and I stand ready to help in any way that I can.

Mrs. CHENOWETH. Thank you, Mrs. Emerson. I appreciate your testimony, and we will certainly stay in touch.

Mrs. EMERSON. Thank you.

Mrs. CHENOWETH. Thank you.

The Chair recognizes The Honorable Mr. Kanjorski. Thank you for being here.

Mr. KANJORSKI. Thank you very much, Mrs. Chairman.

Mrs. CHENOWETH. Please proceed.

STATEMENT OF THE HONORABLE PAUL KANJORSKI, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. KANJORSKI. Madam Chairman, I appreciate the hearings today, and I look at this as an opportunity to really analyze what the American Heritage Rivers Initiative is all about.

First, if I may say, to be facetious, I had suggested that maybe we do an amendment to the President's order and disqualify everyone west of the Mississippi River and south of the Mason-Dixon line, with the exception of the James River of Virginia.

I understand the fierce individuality of the West and the South, and I think since we're all one Union we have to take that into con-

sideration. But the effort and the openness expressed by the administration in putting together the American Heritage Rivers Initiative, I think, is to be responded to in a remarkable way and not in a conflicting way.

I look at this whole approach as intelligently, for the first time, analyzing what should be done with our waterways. And let me say that I come to it as a resident of one of the major old rivers of Pennsylvania, the Susquehanna River. It has suffered through both feast and famine, if you will. It provided the mechanism for travel that sparked the coal and the wood of the Industrial Revolution of America. And it has been badly misused and abused to the point now that it is, in my area of Wyoming Valley in northeastern Pennsylvania, the major industrial polluter of the Chesapeake Bay because of the old mine operations and the leakage therefrom of acid mine water and the various spoilings that occurred as a result of bad mining practices of 150 and 100 years ago.

I look at the opportunity of the Heritage Rivers to rekindle and refocus the spirit of local communities and local people to solve a problem that has been long there and ignored. Now, I look back at Europe and I compare it to America, and I say, "That's why the challenge."—that I would like to congratulate the administration about.

We have a window of opportunity here. It's a very short period of time, perhaps a decade or two, and after that, the land masses along our rivers will be exposed to private ownership to the extent that any attempt to use some natural methods and methodologies of cleaning the water, such as re-manufacture of wetlands, will be lost.

All a Member of Congress has to do to understand this is travel through Europe, and particularly the great Rhine River of Germany. There is absolutely no way that the river can be reconstituted into clean water in any other way but a manual and very expensive cleaning process, simply because, through density and population expansion, there are no lands along the river available any longer to natural uses for water cleanliness.

So I urge that we support what it's doing, and I think as Mr. Scott said, those Members of Congress, those States and those communities that either fear black helicopters or fear some conspiratorial intention of the U.S. Government, let them wait for the second or the third round. There's nothing wrong with that.

Those of us in the industrial Northeast and Midwest, that understand that we have a limited time of opportunity to solve the problems along our rivers or forever lose their benefits, should be given the opportunity to act now.

The major compliment, I think, toward the entire endeavor is, it isn't re-instilling government; it isn't a new program. It's reinventing government in its finest way. There isn't a Member of this Congress that can't appreciate the fact that regardless of all of the projects and all of the programs that we fund and put into place, sometimes we suffer from Catch-22 results. They just don't get done, or they don't get done properly.

This whole concept of a navigator is not something to be feared. It's something to be taken into consideration in terms of, "It's government at its best." It's going to use the programs and the projects

that are out there, but they're going to be used in a more efficient and a more effective way and a more focused way. I only wish that we could take this example, study it for several years, and perhaps apply the navigator approach to economic development.

You know, I sit on the Banking Committee, and I've been heavily involved in economic development programs in this country for the last 13 years. And the one thing I can tell you that is lacking in all of these programs is the inability to have the money focused and placed and targeted in those areas that most need it, and the reason being is those areas usually lack the grantsmanship and the talent and the focused ability to know what programs are out there, how they can be used, and how they can be utilized for economic development. And the same thing is very true about the natural resources of this country.

In Pennsylvania, so unlike other States in the Union, we have 2,400 municipalities in Pennsylvania. Along the Susquehanna River, there's got to be, in Pennsylvania alone, more than 700 municipalities and probably 18 counties.

There's absolutely no way in the world that they can come together and have an impact on that river unless they are coordinated and focused by the intentions of the Federal Government, the State government—and then, with all the tools possible—and then the navigator. It is a hope for us that this will be an opportunity to re-focus people and to take us out of the political structure of the 19th Century and, indeed, lead us to the 21st Century so that we can be competitive.

And if we can take a natural resource, such as a river, and accomplish that end, we will accomplish two things. We will have saved our natural resources, the beauty of our river, and the healthfulness of our river, but also it will be a great tool for economic development, and it will be a great tool for reinventing government, even at the local level, which, quite frankly, contrary to most of my colleagues in Congress, I sort of fear the concept of devolution.

We devolve power to where? To the States? To local government?—that at this point in Pennsylvania, 95 percent of our municipal governments have a population of less than 3,500 people and no professionalism at all at the local level. At the State level, where they refuse to take the responsibility of the administration of programs and projects that are presently in existence in the Federal Government, and lose the wherewithall and the support of the moneys that are available?

All anyone has to do to understand and appreciate the benefits of the American Heritage Rivers concept is to come to Pennsylvania, and you don't have to come to my district in Pennsylvania. You can go to any river in any district in Pennsylvania, and you'll fast appreciate that this concept of reinventing government, that this administration is instilling through this program, will provide an efficient and effective way to use existing programs that really accomplish an end and will have objectives that can be tested.

I urge this Committee to put aside partisanship, put aside ideology, put aside philosophies that may be held because of the particular regions or areas of the countries or propensities we have when we come. And if you in the West, if those in the South, that

cannot see the benefit of this program, let them stand aside. Let us show the way in the Northeast, as we did for independence and liberty in this country, once again, that we have a window of opportunity to save our resources. Let us do it, and do not pass the pending legislation to inhibit that program.

Thank you very much.

Mrs. CHENOWETH. Thank you, Mr. Kanjorski. I really appreciated your comments. By the way, how would you like some wolves in Pennsylvania?

Mr. KANJORSKI. Some—

Mrs. CHENOWETH. Wolves.

Mr. KANJORSKI. Wolves?

Mrs. CHENOWETH. Or grizzly bears.

Mr. KANJORSKI. I think, Madam Chairman, that we have some wolves in Pennsylvania, but they have two legs.

[Laughter.]

Mrs. CHENOWETH. By the way, I really did appreciate your comments. I'm not sure how black helicopters fall into the logic of this whole thing, but I guess that remains to be seen.

Mr. KANJORSKI. I hope the Chairman will appreciate that's all facetious, Madam Chairman.

Mrs. CHENOWETH. Thank you very much, sir.

[The prepared statement of Mr. Kanjorski follows:]

Mrs. CHENOWETH. I do want to let you know that we do have another vote. This is a day when it seems we're being called on a lot of votes. We just have one up, and it's on agreeing to the legislative branch appropriations conference report. So, we will temporarily adjourn the Committee, and be back in just a little bit, probably about 15 minutes.

I appreciate your patience. We may have this pattern evolve for the rest of the afternoon, but we will continue. Thank you very much.

[Recess.]

Mrs. CHENOWETH. The meeting will come to order. I'll now introduce our next panel, which consists of Ms. Katie McGinty, Chair of the Council on Environmental Quality.

But before we continue, I would like to explain that I intend to place all witnesses under oath, and this is a formality of the Committee that is meant to assure open and honest discussions and should not affect the witness or the testimony given. I believe that all of the witnesses were informed of this before appearing here today, and they have each been provided a copy of the Committee Rules.

Ms. McGinty, if you would stand, please.

[Witness sworn.]

Mrs. CHENOWETH. Ms. McGinty, would you please proceed with your testimony?

STATEMENT OF KATHLEEN McGINTY, CHAIR, COUNCIL ON ENVIRONMENTAL QUALITY, EXECUTIVE OFFICE OF THE PRESIDENT, WASHINGTON, DC

Ms. MCGINTY. Thank you, Congressman.

Madam Chairman, and members of the Committee, thank you for the opportunity to testify today on the important American Her-

itage Rivers Initiative, and concomitantly, to express the administration's strong and unequivocal opposition to H.R. 1842, that kills the initiative, and in our mind deprives communities of the important support that they would otherwise be entitled to.

Madam Chairman, the American Heritage Rivers Initiative represents a historic opportunity for all of us to support our citizens' efforts to revitalize their communities. American Heritage Rivers focuses on the powerful link between healthy rivers and healthy communities. As prescribed by the National Environmental Policy Act, the initiative is built on the fact that environmental, cultural, historical, and economic goals are inextricably linked, and that citizens' voices must be heard and must be the drivers in Federal action.

Why, rivers? Because, Madam Chair, as Mayor Richard Reardon said of Los Angeles River, "Rivers often represent the heart of our city's spirit or our community's spirit. Rivers, with their beauty, their history, their lore, their central economic force, provide a centerpiece and organizing principle around which disparate elements of a community can and do come together to work toward the economic, cultural, and environmental revitalization of their place, their home."

Madam, I've had the privilege and opportunity to see this happen in every part of our country. My own home town is Philadelphia, and I will tell you 20 years ago the Delaware River, the waterfront there, was not a place that you particularly wanted to be—crime and drugs, trash and decay.

But as our Nation's bicentennial approached, that river, the Delaware, captured our imaginations. It had a story to tell, we realized: Penn's landing, George Washington's crossing. It was part of what made our country, our city, great indeed. Philadelphians, then, were determined to take that waterfront back, push the pushers out, and restore the historic buildings. Revitalizing that waterfront then compelled action to take back Front Street and then Second Street and Third, until now, the entire downtown area is thriving and is very much alive.

Chattanooga, Tennessee: In 1969, Chattanooga was voted America's dirtiest city. Today, Chattanooga is hailed as a miracle city and one of America's most livable. And where did that whole renaissance start? Well, it started with one high school student who said, "The Tennessee River is a special and valuable resource. Why don't we celebrate it by putting a first-of-its-kind fresh water aquarium on its banks?" They did, and now that aquarium and, indeed, the entire city is world-renowned.

St. Paul, Minnesota: I visited there recently with Mayor Norm Coleman and some 20 other mayors from the upper Mississippi region. They gathered because of their tremendous enthusiasm about this program. Mayor Coleman has taken to calling renaming St. Paul, "St. Paul on the Mississippi," and he will tell you in no uncertain terms that re-connecting the city with this wonderful river and this wonderful resource was recently the single most important factor in his effort to convince a major software manufacturer to locate back in the city, bringing jobs back to that city. The river, restored, makes that city an attractive, exciting, unique, and extremely compelling place to be.

Members of the Committee, this spirit is alive all over our country. We are blessed because it gives us the opportunity to grow and thrive together. We should be celebrating this spirit. You've heard from Members of Congress today who are spearheading efforts around the country, and you will hear from citizens from Texas, from Montana, from North Carolina, from Pennsylvania. We should celebrate their spirit, as the American Heritage Rivers program does. It would be a tragedy, indeed, if H.R. 1842 were enacted, and this Committee were to vote to crush the work of those citizens.

Madam Chairman, I would like to offer some declarative statements about this program, because it's helpful to clarify, I think, in simple terms what this is and what it is not. What it is, it is 100 percent voluntary. Communities don't have to participate, and after participating, at any time, a community can opt out. It is 100 percent locally driven. This is purely a bottoms-up process. Whether to participate and the plan for participation are completely under the control and in the hands of local citizens.

It's 100 percent non-regulatory. There are absolutely no new regulatory requirements or restrictions of any kind that will be imposed on an individual or State or local government through this initiative. It is 100 percent in compliance with, and, indeed, it is compelled by the National Environmental Policy Act which charges us with stopping these false choices between the economy and the environment and, instead, integrating all of those considerations in every action we undertake.

And, finally, it is 100 percent directed by the President's and Vice President's effort to reinvent government. This initiative is a directive to Federal agencies to serve citizens better than they have, to do more with less, to cut red tape and bureaucracy so citizens can access resources that they have paid for in an efficient and effective way. The Federal agencies are eager to serve citizens in this manner, and to us in the administration it is incomprehensible that we would want to tell them that they should not do so.

What this program is not: It is not an attempt by Federal agencies to take on new authorities or responsibilities; rather, it is an effort to execute current authorities, as agencies should, in a coherent and coordinated way. It is not an attempt to take anyone's private property. Private property rights will in no way be adversely affected in this effort. And to dispel any notion to the contrary, in conversations with various Members of Congress, the final program incorporates language on this matter penned by President Ronald Reagan.

Finally, the American Heritage Rivers Initiative is not a program of the United Nations, and no foreign governments will be involved in this in any way.

Madam Chairman, this is a positive initiative. It is based on principles that this Committee has espoused. It is locally driven; it cuts bureaucracy and red tape; it brings economic and social concerns into the environmental picture. Purely and simply, it is government at the service of citizens.

It is, indeed, incomprehensible to us in the administration why we would want to crush this effort and with it the work of thousands of citizens across this country. That's what H.R. 1842 would

do, and that why, respectfully, Madam Chairman, the administration does strongly oppose the legislation.

Thank you very much.

[The prepared statement of Ms. McGinty may be found at end of hearing.]

Mrs. CHENOWETH. Thank you, Ms. McGinty.

The Chair now recognizes my colleague, Mr. Reyes. I'm glad you could join us.

And Ms. McGinty, if you don't mind, I would like to call on the Congressman to give his statement now. Thank you.

**STATEMENT OF THE HONORABLE SILVESTRE REYES, A
REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS**

Mr. REYES. Thank you, Madam Chairman. It's been kind of an interesting day here on the Hill. I appreciate this opportunity.

Madam Chairman, and members of the Committee, I am here today to oppose H.R. 1842, which would terminate the American Heritage Rivers Initiative announced by President Clinton in his State of the Union speech earlier this year.

Madam Chairman, I'll get right to the point. Communities that don't want to participate should not. People who do not want to support this initiative should not. But Members of Congress who would prevent communities like El Paso in the 16th district, which I represent, from participating, should not, as well.

Maybe the rivers in your district are as clean as they need to be. Maybe everyone in your district has running water. Maybe the cities in your district have all the tourists they want, and maybe your economy is thriving and the unemployment is low. Maybe you don't need anyone to coordinate efforts to make the best use of existing Federal programs. That's nice for those that can afford that, but it doesn't help my district or the Texas border region, which spans more than 1,250 miles and is marked the entire length by the Rio Grande River.

According to a report issued this year by the Texas Water Development Board and the Texas Natural Resource Conservation Commission, the Texas border region needs about \$2.5 billion—that's \$2.5 billion—for improvements to water and waste water systems. More than 47,000 people in this region have no water service at all. Four counties in this region need 80 percent of the necessary improvements. One of those is El Paso, the most populous county in the Texas border region and the county which I represent.

I am a very strong supporter of the American Heritage Rivers Initiative for the following reasons. No. 1, it is voluntary and locally driven. No. 2, it creates no new regulatory requirements, and No. 3, it uses existing Federal resources to assist communities like ours.

I am satisfied that the concerns of the opponents of this initiative have been addressed, and that I am working very closely with my colleagues in Texas to submit a proposal to designate the Rio Grande River as one of the first 10 rivers to be designated through this initiative. Working through the Council of Governments, we have developed a statement of principles and a memorandum of agreement for this proposal for the communities who choose—again, I say who choose—to participate.

We believe this designation will accomplish three basic things. One, it is using existing Federal resources, which will help each community to estimate its water resources and its needs for the next 50 years by providing technical assistance. No. 2, it is using existing Federal resources which will help each community in their efforts to seek Federal support for local projects that preserve the region's history, culture, and recreational resources. And, finally, No. 3, using existing Federal resources, it will help each community create and enhance its potential for increased tourism.

Finally, I want to point out that earlier this year the Texas legislature passed a major overhaul of our State's water law. Communities and regions need help as they work together to meet the water needs for our future. Under the law signed by Governor Bush, the Rio Grande River was cited as a special case, and State agencies were instructed to seek Federal assistance to help communities along the Rio Grande River. To quote Winston Churchill, I will leave you with this one thought: "Give us the tools and we can finish the job."

Madam Chairman, El Paso needs the tools that the American Heritage Rivers Initiative has to offer. I urge you and this Committee to allow us to have these tools, and, therefore, I strongly oppose H.R. 1842, and I appreciate this opportunity to testify before your committee. Thank you.

[The prepared statement of Mr. Reyes follows:]

Mrs. CHENOWETH. Thank you, Mr. Reyes. I know that your time has been fragmented, and I very much appreciate your being here and appreciate your testimony.

Mr. REYES. Thank you.

Mrs. CHENOWETH. I wanted to ask you, how many miles of the River does your district cover?

Mr. REYES. Our district?

Mrs. CHENOWETH. Yes.

Mr. REYES. Our district probably encompasses about—I'm going to guess—about 80 miles; I think it's 84, but it's about 80 miles. One of the—just to elaborate a little on your question—one of the important aspects of this initiative that I think it will provide for El Paso, and really, the El Paso–Juarez region, is it will allow us to utilize existing resources to clean up our water and our watershed area along the Rio Grande River.

This is an opportunity that I think is unique, because since we share an international boundary—a city of 700,000 on our side of the border with a city of 2 million people—it will provide us an opportunity to work together to make the best possible usage of something that, historically, has been used to designate our differences. It brings together our region and our community to utilize it to the best of both of our abilities, both on the Mexican side and the United States side.

I have had an opportunity to discuss it with leaders on the Mexican side of the river, and they're excited about an opportunity that finally would give us an initiative where we could clean up the water, would promote tourism, and finally participate in the long-range process that impacts not just El Paso–Juarez, but also all of the communities that the river serves until it empties into the Gulf of Mexico.

So, 1,250 miles ultimately would be affected by just our initiative in the El Paso–Juarez region.

Mrs. CHENOWETH. I just wondered—I was just handed by Congressman Bonilla his news release stating that he was in support of my bill, and he represents 800 miles of the river. And so, there are certainly a lot of different opinions coming out of Texas.

Mr. REYES. Well—and you know, just to clear up that, because I have had a number of conversations with our colleague, Congressman Bonilla. The Laredo area supports the initiative. They're facing essentially the same situation the El Paso–Juarez region faces, because they've got Laredo on one side of the international boundary and Nuevo Laredo on the Mexican side. They're very excited about this opportunity to get this designation to be able to consolidate efforts, not just federally on our side, but internationally with Mexico for the benefit of that whole region.

So, there is, I guess—everybody knows this is not an issue that's unanimously agreed to or opposed. It depends on what the local perspective and what the local possibilities may be. So, with all due respect to my colleague, Congressman Bonilla, there are areas within his district that are in support of this initiative.

Mrs. CHENOWETH. Thank you.

Mr. Cannon.

Mr. CANNON. Thank you. I did have just one quick question for the Congressman. If the Rio Grande was designated, or part of it was designated as an American Heritage river, how many congressional districts would touch on to the area that would be designated that way?

Mr. REYES. In Texas, there would be five. It would be Congressman Ortiz, Congressman Hinojosa, Congressman Rodriguez, Congressman Bonilla, and myself, in Texas.

Mrs. CHENOWETH. Again, Mr. Reyes, thank you very much for your testimony and for being here with us.

Mr. REYES. Thank you, Madam Chairman.

Mrs. CHENOWETH. The Chair will now recognize the members for questions with Mrs. McGinty, and the Chair first recognizes Mr. Cannon.

Mr. CANNON. Thank you, Madam Chair. I appreciate that.

The last time you were here, Ms. McGinty, we talked about politics and the political implications of this kind of program. You are aware, I believe, that my concern is that having a river navigator who is tied to the administration—this, or whatever following administration we have—would have the ability to pressure or punish or reward certain areas of the country or certain congressional districts, depending upon whether you're looking at it as a Presidential election or a congressional election.

Since we had that discussion, have you had a chance to think about the potential implications of the use of this program? What we're doing here is we're creating a system, as you say, to cut red tape. That means focusing resources out of a broad program run by people who respond to Congress into a narrow process, which may well have significant political clout behind it. Have you considered the implications of that? And how would you expect to avoid having that happen?

Ms. MCGINTY. Well, the point very definitely is to have those agencies working at the behest of local citizens, that citizens would be in the driver's seat. Since our earlier hearing here, we have also worked on the concept of the river navigator and have added in the final program a provision which states that the local community will put together the job description, if you will, for the river navigator. That person's role and responsibility will be, again, driven by the local community. So we have added that.

Mr. CANNON. Pardon me, but every community is going to want the maximum number of dollars, and, therefore, the description is going to be exactly what an administration—this or a Republican or any other administration—would want. And to the degree that a President has the ability to look over the country and strategically plan how to affect districts, if he's willing to ally the power of his office with the particular river navigator, the navigator is going to be doing what the city wants. That's why it would be an effective tool.

Ms. MCGINTY. Well, I'd also, though, remind us that a community, any community, is not going to be a part of this program at all in order for that scenario to eventuate, unless they have elected to become a part of this program. So that, for example, if you have in mind that this is a political tool and places will be chosen around the country for political favor, that is, I think, pretty well precluded by the notion that it's not top down. Communities participate bottom up.

Mr. CANNON. But many communities will want to participate in a program where they can cut the red tape—

Ms. MCGINTY. Yes.

Mr. CANNON. [continuing] and shake money out of current programs. So you're going to have—even though, I think, that if you listen to the testimony and who's interested, we have a very different problem on the Rio Grande River, as Mr. Reyes just talked about, from what we have in most of the rest of the West. We have a very different problem in the Northeast, where mining has been terrifically destructive, where we have brown sites. So we have very different problems around the country.

Nevertheless, virtually every city is going to want to be able to shake some of that cash loose, and in the end I don't see—I don't think you're being responsive to the question. How is it that you're going to create a context for the river navigator to operate that doesn't allow him to also reward or punish people or regions politically.

And let's take, for example, over the next three years or so, before the next Presidential election, I suspect that you're going to go through two or three iterations of awarding these initiatives. That would mean 10 in 1998, 10 in 1999, and probably 10 in the year 2000.

Ms. MCGINTY. Unless this program kills us first.

Mr. CANNON. Pardon me? Well, that's what we hope—that's what some of us hope, of course—with some reason, I think.

[Laughter.]

Mr. CANNON. But Mr. Reyes has just testified that five districts, five congressional districts, would be affected in Texas alone.

Ms. MCGINTY. Yes.

Mr. CANNON. My guess is you're going to average three districts. If you have 30 rivers or systems named as an American Heritage Rivers under the initiative, that would be in the ballpark of 90 or 100 congressional seats. That is a terrific amount of narrow particular contact. Every President, as I said before, Republican or Democrat, has tried to boost the economy appropriately to enhance his likelihood of getting re-elected. That is such a tempting temptation, and I think that this administration has shown that it is willing to submit to those temptations in the past.

How on earth could we look at this program and say that we can protect that from happening?

Ms. MCGINTY. Well, I just can, I guess, itemize the things we've tried to do to insulate this from politics. One, again, is that it is bottom-up; it's not top-down. That's one.

Two, what the river navigator him or herself will be able to do will be described and prescribed by the local community.

Three, we have also added the notion of a blue ribbon FACA panel will be brought together to help in the selection of these things. So it won't just be the administration making this—

Mr. CANNON. Will that panel have oversight or just be part of the selection process?

Ms. MCGINTY. We will have out for comment what the role of the FACA should be. Certainly, it will have a major role in the selection.

Mr. CANNON. OK. Could I ask unanimous consent for another couple of minutes, please?

Mrs. CHENOWETH. Yes.

Mr. CANNON. So what you're saying is what you said before, but I don't think it responds to what I believe is the fact. Every city, every community, every river basin community is going to want money.

Ms. MCGINTY. Sure.

Mr. CANNON. And, therefore, they are not the people to control how the goodies are passed out by a river navigator who can easily have highest-level access in this administration or any other administration. Where is the safeguard that will keep the integrity of the programs that are going to be rated for these narrow communities which will want the money? They will want the rating to have because they get a disproportionate particular benefit.

Ms. MCGINTY. Well, let me respond in this way, because I think it relates to questions that have also been asked previously by this Committee, and that is, that to the extent you're envisioning a scenario where programs can be channeled toward a certain community as opposed to another one, there is nothing in this initiative that can touch the criteria that are written in law and regulation for every program that's authorized and appropriated by this Committee or others in the Congress.

Mr. CANNON. Pardon me, Ms. McGinty, because my time is limited, but what you're doing, what you have said, your stated objective is to cut red tape?

Ms. MCGINTY. Yes.

Mr. CANNON. Now the red tape is the process that protects the integrity of how we dish out money in America. What you're suggesting is that we're going to cut the red tape on the one hand, but

it won't be cut in such a way as to give a disproportionate benefit that has a political ring to it, and I don't understand. Those are inconsistent positions. In other words, you want to do with this bill what seems to me to open the Pandora's box of political favoritism—a wharf goes here, not there; this is a Democrat or that's a Republican; he gets the benefit; the district doesn't. It seems to me that you're creating my case for me by the way you're answering the question.

Ms. MCGINTY. Well, I mean, I would assume that there is plenty of red tape that can be cut before we get to the essentials of a program. Indeed, I think this Congress has stated many times that there is at least a little bit of inefficiency out there that maybe we could work on eliminating, and we're trying to do that.

Mr. CANNON. And, frankly, the inefficiency is significant, but it doesn't go to what I think may create a much greater inefficiency by cutting out the safeguards. And what I haven't heard yet—and of course we've talked about this before, but I have not yet heard—anything, any part of the program, any context that will protect this program from the whims or desires of a powerful President in an election year, and that concerns me greatly. There are many other concerns that I have; we don't have time to go into those.

But how could I support a program that is tailor-made to slit the purse and drop money where it will have the most political impact? I think that's improper, and that's why I oppose your program and support this bill.

Ms. MCGINTY. The last thing I'd just say is the oversight role of this Committee, and every other committee on Capitol Hill, will certainly be there and retained, in order to oversee how the various programs are being—

Mr. CANNON. That oversight would be dramatically different if the Congress was controlled by the same party as the administration. This Democratic administration or a Republican administration—the intensity of the desire to oversee is not there, and this is not a little thing; this is a huge political impact.

And I apologize, Madam Chairman, for going overtime here. Thank you.

Mrs. CHENOWETH. Thank you very much.

The Chair recognizes Mr. Radanovich.

Mr. RADANOVICH. Thank you, Madam Chair.

And welcome, Ms. McGinty, to the panel. I am also vice chairman of the Western Caucus, and would like to extend an invitation to you to visit with our Western Caucus at some time in the future—

Ms. MCGINTY. Thank you.

Mr. RADANOVICH. [continuing] if you'd like.

Ms. MCGINTY. Yes. Thank you.

Mr. RADANOVICH. Previously to coming to Washington, I was a Mariposa County supervisor in California, a small county of about 15,000 people. Mariposa has about 1,500 people in it. And through my work on the planning commission and also the county board of supervisors, we were able to bring into the county general plan a small creek called Mariposa Creek, which drains into the San Joaquin River, which eventually drains into San Francisco Bay, and

did it without Federal participation. I have to tell you that I object strongly to this initiative.

And I wanted to bring that up along with the other examples that you had brought up that were originated without Federal participation. And I'm afraid that something like this initiative is a bit like what happened in the crime bill a few years ago with midnight basketball, that was brought up in one community in an urban area; it was a great idea for a school district somewhere to open up the gyms to people all night. It ended up being an idea that somebody got a hold of, made a Federal program out of it, and we realized that a one-size-fits-all-type approach to some of this stuff was just foolish.

And I have to admit that I feel the same way about this initiative. I would rather, if the administration is concerned about the rivers in this country, that they would realize that you actually get better environmental protection by encouraging private property incentives and local control, and not through Federal programs.

And, you know, most of the people that testified in favor of the Heritage Rivers—in fact, I've got the list of those States, the people that testified for it, and how much Federal ownership is involved in their States. I come from California; 44 million acres are owned by the Federal Government, which is—California is a big State, but that totals 48 percent of our land mass. And we had a gentleman from Pennsylvania testifying about the fact that maybe some people in the West are fearful of black helicopters and all these other things, but Pennsylvania is less than 5 percent owned by the Federal Government; New York is .5 percent; Virginia is a little bit more, somewhere between 5 and 20 percent. Connecticut—my friend Nancy Johnson was testifying for it—less than 1 percent of Connecticut is in Federal ownership. Texas—my good friend from Texas comes from a State where about 5 percent or less is owned by the Federal Government.

And my advice to any of them is that, if you want to take care of an issue, the last person you want involved in it is the Federal Government, and it's almost a smack in the face to your citizens to not understand why you can't come up with these solutions on your own, as evidenced by your examples that you pointed out prior to going into the development of the Heritage Rivers.

So what I would like to see, in my view, the administration do is encourage—for example, in California there was an air quality issue for the San Joaquin Basin. As you know, it's ringed by the coast range and the Sierra Nevadas. In order to address the problem, the counties got together and formed a joint powers agreement to deal with the problem. So this was intrastate, which may be a little bit different than the gentleman from the Rio Grande, who has an international border to deal with, but it was an issue where the counties took care of their own problems through a joint powers agreement. I would venture to guess that would be probably the same solution for Nancy Johnson in Connecticut, and most of the other people that are in there.

And rather than developing a new program like this, and having a river navigator and some of these things, you're more better off, I think, encouraging communities to begin to realize what are the assets in their own communities—these rivers and these things.

I come from a State, again, that's 48 percent federally owned. The tiny river that I—or the tiny creek that I had a hand in helping out is connected by about 3 hours' drive to the San Francisco Bay. People that are in and around the San Francisco Bay are not necessarily conducive, nor are they very well-informed as to what's best for the riparian nature in my own area. Those rivers in between, too, also drain through the San Joaquin Valley, which is some of the richest farm ground in the United States, which, by current Federal policy, is going to lead to the urbanization of that valley and the degradation of that environment, simply because we have got a community that is not close to the resource, and which I feel is the future of environmentalism, and that's why its nexus should be around local control and private property rights, because those people that are so closely attached to the environment know how to take care of the environment better than those that are far away.

Conversely, those people that are farther away from the environment and live in urban areas are less subject to flighty ideas of nature and environmental protection, promoted by people that are really out of touch with good environmental protection. And so to develop another Federal program, rather than encouraging what's going on in the first place, I think is counterproductive. And that's why I object to—actually in support of Ms. Chenoweth's bill, but also object strongly to—I think it's a novel approach on the part of the administration to deal with a serious issue. And I think if you want to be really serious, you need to begin to deal with ways to encourage people to do what they're doing already.

Ms. MCGINTY. Madam Chair, if I might respond? I see the light's on.

Mrs. CHENOWETH. Yes.

Ms. MCGINTY. Thank you.

There's much in what you said, which is what we are at least endeavoring to do here, and I would very much welcome the opportunity to visit with you to discuss it in more detail, but let me just hit on a couple of the points that I think you so well-articulated.

The effort here is to have local people connected with their environment, their economic resources, identify what they consider to be their challenging, and to plan the vision for their own future. But the only point is that, in response to that, shouldn't those communities have access to the resources that they are paying for, whether it is, as you suggest: Can they get information on what are their economic assets? Are there data bases that can help them to analyze that? What about the qualities of their river and the watershed area?

The fact is that there are technical resources, financial resources, that are deposited in these various Federal agencies, but it is hard for local communities, struggling with their own issues and problems, to be able to go to the myriad of agencies and demand those resources.

Mr. RADANOVICH. If I can respond just briefly and have a little more time, Madam Chair—I wouldn't—let me comment on that, and that is to say that it is not the issue of access to information; it is the inspiring of local citizens to see that happen with their

own local communities. You can't develop a Federal program that accomplishes that.

Ms. MCGINTY. Agreed, but this program will not take that to a community. Again, it's a community inspired to come together that comes to us and submits an application. This is locally driven. And, in fact, since the President announced this initiative, many communities have become inspired to pull together themselves and to say, hey, we're proud of our place; we can compete for this. And they are coming bottoms-up to us; we're not going top-down to them. It is their initiative.

Mr. RADANOVICH. Well, all I can say is that I don't want the people of the Bay Area coming to my small community in Mariposa telling me how to run a river.

Ms. MCGINTY. And under this program, they will not be able to. They will not be able to submit an application under this program.

Mrs. CHENOWETH. Thank you. Thank you very much.

The Chair now recognizes Mr. Farr.

Mr. FARR. Thank you very much. I'm very interested in this issue, and I think I'm very surprised at what I'm hearing in this hearing today, statements that people have made, including some of my colleagues from California. I, like you, served in county government and went on to serve in the legislature and chaired the local government committee, which had jurisdiction over 6,000 governments in California, and formed the Tourism Caucus in the California legislature. And when I've been back here, I've formed the National Scenic Byways and All American Roads Caucus, which is made up of Republicans and Democrats from around the country.

And I just notice, looking down the list, that all the people that oppose this legislation, none of them have a Scenic Byway or All American Road in their district. So I guess you have—like Winston Churchill said: the greatest thing to fear is fear itself—by people who haven't realized what benefits can be derived.

And let me understand this. This is a bottoms-up process. It doesn't exist without people coming and petitioning and wanting a Heritage River, isn't that correct?

Ms. MCGINTY. Yes, it is correct.

Mr. FARR. And if you come to the government right now and try to petition for anything, you have all different departments you have to go to, and what you're trying to do is consolidate in one stop? I mean, it's interesting that the same people who support fast track oppose this kind of position of trying to have fast track in the government bureaucracy, so that you can get a decision.

So what you're trying to do is two-part. One is initiate from the bottoms-up an application for a Heritage River, and if that application is approved, then consolidate the decisionmaking process so that they can get answers to questions quickly without having to say that you've got to go to 13 different doors and different departments to get a response; is that correct? That's all it really does?

Ms. MCGINTY. That's pretty much it, yes, sir.

Mr. FARR. Well, then, where is all this fear? I mean, everybody I know is trying to get more help to try to promote our outdoors. I mean, the last time I checked, tourism in America, I never found a tourist that went out to look at oil wells and real estate signs.

Mega-Trend says that the biggest economy in this country in the outdoors is watchable wildlife, and that more people are looking at wildlife than all the national professional sports in this country. I mean, it's a big, big economy.

Mr. Radanovich, who opposes this Federal idea, comes out and lobbies for Federal water supports for his crops, lobbies for Federal money to promote wine sales overseas, lobbies for cotton subsidies, lobbies for help for the famous Federal Yosemite National Park in his district, lobbies for moneys for the road to get to Yosemite, and has I think stated very well that he was able on a county board of supervisors to protect the riparian corridor of a creek. And, therefore, you don't need the Federal Government to protect creeks—

Mrs. CHENOWETH. I'd remind the gentleman from California that the issue is American Heritage Rivers—

Mr. FARR. And I'm getting to that. This is exactly—you've made my point, that this is not called the American Heritage Creek; it's called the American Heritage River because the river runs through it. It runs through a lot of stuff, sometimes even more than one State. So you need a Federal role in order to protect the river.

And I guess what I'm worried about is that the legislation suggests that we've got to go out and fear something that the community has to start in the first place. I thought we were the ones that supported local government and local control. Why are we trying to tell our communities that they can't come to Washington and ask for help with trying to do something that's a lineal in effect.

Ms. MCGINTY. Yes, and I do want to just underscore that this is completely at the initiative of communities. I have to echo what Congressman Scott said before me, which is if a community does not want to participate, they simply should not apply. There is enough interest in this program that there will be plenty of communities who do need the resources, as Congressman Reyes has said, to be able to revitalize their economy and bring life back into their communities.

Mr. FARR. Well, I am very—we are very involved in the National Scenic Byway and All American Roads, and it's gotten so much popularity because of the fact that if you protect the right, the scenic viewshed of these highways, and you keep them rural and you keep them in their natural state, people can see the great America experience, and then Congress Members from those districts lobby like mad in ISTEA to protect it, in a caucus we've formed to do it. Because why? It's jobs; it's not just pretty scenery. It's more employment; it's more visitation; it's more opportunity. And I would just hope that people who think that there's some kind of—that this is a siege of local control, this is a threat of local control, are just upside-down in that attitude. You know, they're the same people that will come here—I see there's a lot of city and county folks that come here; they come here and lobby for all kinds of Federal help, for community block grants, for highway money, for housing money, for all kinds of stuff, and the Farm Bureau's included. I sit on the Agriculture Committee; I watch it all. And then they turn around and think that this is going to be some kind of threat.

I can guarantee you, I represent the central coast of California. We get no Federal subsidies in agriculture, and we do a better job

of agriculture than anybody. We also have the California coast of Big Sur and Monterey and Carmel, and these towns are towns that would support this in a quick minute, because it's going to be more jobs and more opportunity and better for the local economy. I think the President's doing a great job, and I'm really proud of the work you're doing for the President.

Thank you, Madam Chairman.

Mrs. CHENOWETH. I want to thank the gentleman from California. I do want to remind the gentleman from California, with regard to the fast track comment, the President is in favor of fast track and the President is in favor of the American Heritage Rivers, and I won't yield—

Mr. FARR. And there is fast track in this bill.

Mrs. CHENOWETH. Excuse me. And, also, I wanted to let you know that Congress did create a Pennsylvania oil field heritage area, so apparently the politicians believe that people still go look at oil fields.

Mr. RADANOVICH. Well, if the Chair would yield, too—if you don't mind, the only statement that I want to make is it's not an issue of fear; it's an issue of how—what is the best way to take care our environment? And a program coming from Washington, in my view, does not encourage what I think the future of environmentalism is, and that is local control and private property incentive.

Mr. FARR. And that's why we created national flood plain insurance, because local control could not deal with flooding rivers.

Mr. RADANOVICH. This is with regard to rivers, and I'd let my statement stand.

Mrs. CHENOWETH. Thank you very much. These are the times that try men's souls with regards to votes on procedure about every 15 minutes, and I know your souls are being tried; the soles of my feet are being tried. I wore the wrong shoes today.

But, anyway, I am very sorry; we are called for another vote. This vote is on a motion to adjourn, and as far as I know, unlike last time, it will only be one vote, and as such, we'll probably be back in 15 minutes, and we will then resume with questions from Mr. Schaefer. Thank you.

[Recess.]

Mrs. CHENOWETH. The Committee will resume with questioning from Mr. Bob Schaefer from Colorado.

Mr. SCHAFFER. Thank you, Madam Chairman. Ms. McGinty, welcome to the Committee.

Ms. MCGINTY. Thank you.

Mr. SCHAFFER. I wanted to just say I was encouraged actually by the comment you made, I believe it was, to Mr. Cannon about the—or maybe it was Mr. Radanovich; I don't recall at the moment—about accountability with respect to the Congress—

Ms. MCGINTY. Yes.

Mr. SCHAFFER. [continuing] and our involvement in the Heritage Rivers Initiative, and so on; that our role as overseers or the oversight capacity this Committee has does, in fact, give us a certain amount of leverage. And so I would like you to expound on that a little bit more, if you would, about how you envision that taking place at some other point in time, if maybe a year from now we find some irregularities to which we might object, and how you

would envision our interaction taking place in a way that would result in meaningful progress.

Ms. MCGINTY. Yes. Well, just as an example, there may be a community that, as part of their plan, for example, would like help in accessing brown fields grants. That would be one part of their plan. They've got an abandoned industrial site on a riverfront; they would like grant money to help revitalize that. They go to the river navigator and they say, "This is something we're interested in. How can you help us to pursue that objective?" And the river navigator's job would be to facilitate their work with the Environmental Protection Agency to secure a brown fields grant.

Now this Committee or the appropriate committee on Capitol Hill that has oversight on EPA's budget, and the brown fields program in particular, would retain that oversight if the Committee felt that that particular community was not the proper recipient of a brown field grant. And that all is intact.

Mr. SCHAFFER. We're actually moving in a little bit different direction. I mean specifically with respect to the Council on Environmental Quality—

Ms. MCGINTY. Yes.

Mr. SCHAFFER. [continuing] and the implementation of this Act. Because what this question and this bill is all about is just the cash, frankly, at this point and whether the Congress has any recognizable role, at least on the administration's viewpoint, in the dollars associated with implementing the plan.

Let me just direct my comments that way. How much is the program going to cost?

Ms. MCGINTY. Well, there are no new or additional funds that are involved in this program at all because the program is only about coordinating programs that are otherwise authorized and appropriated by Congress.

Mr. SCHAFFER. We're talking about 10 new, potentially 10 employees, new employees a year? I don't know what all other additional costs that are associated with just the organization, and so on, but there must be some sense of what the expenditures involving this initiative amount to. Can you tell us what that might be?

Ms. MCGINTY. Well, the staff that have been involved in this initiative to date, and the ones that will continue to be involved, are already Federal employees charged with programs and responsibilities that bear on river revitalization. That's what they do. They are now doing it in a coordinated fashion. That's the difference.

Mr. SCHAFFER. So the program is free to the American taxpayers; is that what I'm hearing?

Ms. MCGINTY. No, it is not free, because there are endless numbers of programs authorized and appropriated by the Congress that exist and that will be coordinated through this initiative.

Mr. SCHAFFER. For 10 river coordinators or 10 navigators, as they are called, which will be—they may be employed in some other agency or department presently. When you bring these resources through the coordination of the Heritage River Initiative, do you have any estimate on what the cost of the initiative would be, of that consolidation would be? How much money are we—

Ms. MCGINTY. No, I understand. We do not expect there would be any additive cost, because the persons involved in this initiative

are already Federal employees charged with these responsibilities. We will be asking those employees to do more, but that's part of the reinventing government initiative; it's do more with less, and we've had success in asking employees to do more with less.

Mr. SCHAFFER. Mrs. Johnson from Connecticut, when she spoke earlier, mentioned that one of the projects in Hartford, Connecticut was held up for a considerable amount of time because it took 18 months to get Federal permit.

Ms. MCGINTY. Yes.

Mr. SCHAFFER. When it comes to asking Federal employees to do more, wouldn't one example be speeding up the time it takes to get a permit from the Federal Government were they are currently and without the need for a new program?

Ms. MCGINTY. Absolutely, and that's why this isn't a new program; it is expediting, making more efficient, the programs that are out there and existing.

Mr. SCHAFFER. If in a year from now this Committee may have questions about the budgeting, the funding, associated with the initiative, how would you propose that the Congress deal with the costs associated with the initiative?

Ms. MCGINTY. Well, I am certainly, and will be, responsive to the Committee at any time. And in addition, again, each of the agencies that will be participating are certainly obliged to be, and will be, responsive to members of the Committee and to the Congress in general.

Mr. SCHAFFER. I appreciate the commitment for responsiveness. Back on June 4, this Committee sent a letter to you asking for a comprehensive review of all budgetary reprogramming required in fiscal year 1998 be provided to the Committee. As of today, we have not received any kind of response. Are you aware of any response that you have given us with respect to that letter?

Ms. MCGINTY. The response given at the hearing—and I'll reiterate it here today—is that there will be no need for reprogramming. We have not reprogrammed in 1997. We will not request any reprogramming in 1998, but we will submit that to you formally in writing as well.

Mr. SCHAFFER. Have you submitted anything to us so far?

Ms. MCGINTY. Not in writing, no.

Mr. SCHAFFER. On July 3, this Committee requested to provide detailed accounting of all travel costs, per diem, and meeting costs for the Federal agency personnel involved in the American River—Heritage River stakeholders' meetings that have already been held throughout the United States during April and May. We have not received any response to that inquiry. Are you aware of any response that you might have made that we may not have received?

Ms. MCGINTY. I'm sorry, I'm not aware of the inquiry, but I certainly will look into it.

Mr. SCHAFFER. Do you think it's possible that there were travel costs, per diem, and other meeting costs associated with those stakeholder meetings?

Ms. MCGINTY. I would assume so, yes. I mean, we were immediately responsive to any invitation from any person in any part of the country to come and hear concerns and/or to provide further information for those who want to participate in the program.

Mr. SCHAFFER. Back on July 31 of this year, this Committee requested that you provide detailed answers to questions for the record on the Committee with respect to the American Heritage Rivers Program, and that, the meeting that we had on July 15, and those questions were directed at the Council on Environmental Quality, the Department of the Interior, and the Department of Agriculture. Your agency was requested to coordinate the responses to those questions. As of today, we have not received any response from the Council on Environmental Quality. Do you know if that's—

Ms. MCGINTY. Yes, that's what I was originally referring to. We responded orally. We will respond in writing very soon.

Mr. SCHAFFER. What has occurred in the interim between those previous meetings and today, unfortunately, is that the administration has gone ahead with an Executive Order and that rules have been suggested in The Federal Register—all outside of the acknowledgment of these three written inquiries on behalf of a congressional committee. So I really go back to my original question on accountability and oversight. When you reassure this Committee that there will be an opportunity for exchange and that this kind of exchange is the way that we exercise accountability on behalf of the American taxpayers, I'd just merely point out that it is—that my confidence that that will occur is eroded somewhat because of the several efforts that this Committee has made just to get simple and basic information that we have not received; the cooperation and coordination has not occurred on a Committee basis, and the administration has gone forward anyway with an Executive Order and with rules in the Federal record, and has essentially ignored the House of Representatives and the Resources Committee.

Ms. MCGINTY. Well, I would say, sir, with all due respect, we, ourselves, visited on this issue, and you raised several issues—all of which were addressed in coordination with your office immediately by my office, and they are reflected in the final program. Whether it was your questions concerning water rights or your questions concerning local land use decisions—all of those we immediately responded to. The program details that are in the final program here are very responsive to issues that were raised by Members of Congress.

In addition to what I had referred to before, Congressman Skeen had raised a question about property rights, and in coordination with him, the program now has language penned by President Reagan that he agreed to and that is now here. So when it comes to the substantive programmatic details, we have been very responsive, and the program reflects the very valuable input of this Committee and other committees.

Mr. SCHAFFER. Well, I'm more than willing to acknowledge and commend you for the communications you've had with individual members of the Committee. I don't want to detract from that because I believe that to be also important. But with respect to accountability and oversight, you specifically mentioned this Committee, and this is the Committee that deals with resource-related topics. My status as a Member of Congress is not—is nowhere near the status of a sitting committee with a chairman and members

that are appointed and formally appointed, and so on. That is the context with which I think you raised your assurances of accountability and the questions that I asked regarding the specific inquiries, written inquiries, that were made through this Committee that were ignored.

So why is it, do you believe, the American public should place any confidence in this oversight and accountability relationship that the Congress has with the administration, when the three documented examples of requests for information have gone unanswered, and in the meantime the administration moves far ahead anyway with Executive Orders and rulemaking within the Federal Register?

Ms. MCGINTY. Well, I would say, sir, that today's proceedings are strong evidence of the vigorous oversight role and the tenacity of this Committee to be very much involved in this program, and to make sure that oversight is being conducted.

Mr. SCHAFFER. Lacking other members, Madam Chairman, may I ask unanimous consent for a little more time?

Mrs. CHENOWETH. Absolutely.

Mr. SCHAFFER. Let me ask about the 90-day comment period. The comment period ran from May 19 to August 20, as I recall. There was a request from—I don't know; it seems 20—from 55 Members of Congress to extend that comment period further. That request was rejected, and I'd like to ask you why that request was not honored.

Ms. MCGINTY. Yes, there were equal requests not to extend the comment period, both from the House and the Senate, many Members saying that their communities were anxiously awaiting this program, wanting to participate and asking us, in light of the fact that we had had more outreach and communication and public comment on this initiative than almost any initiative that one can think of, that it was time to move on and not to delay and frustrate communities who were waiting to participate.

Mr. SCHAFFER. Well, notwithstanding the opinions or the differences of opinions by Members of Congress, the decision was made, nonetheless, to not extend—

Ms. MCGINTY. Yes, with this—

Mr. SCHAFFER. [continuing] the comment period, and that's the decision that I'd like you to defend.

Ms. MCGINTY. And that's what I am trying to do. There were two requests to extend the comment period. We responded positively to the first request, and we did extend the comment period for more than 60 days. When the second request came, at that point after we had had more than 90 days of public comment, when the second request came, there were equal requests saying, "Please don't frustrate the citizens in my community any longer. They have been waiting since the President's State-of-the-Union Address in January of the year. It's time for the delay to stop and let's move on."

And we thought that the proper balance was, having respected those who wanted delay in the first instance, that respect was due to those who were vigorously opposed to further delay in the second instance, and that was a fair way to move forward.

Mr. SCHAFFER. So in the second instance, the requests for additional extension of the—or extension of the comment period were,

in your opinion, just not as persuasive as those to close the comment period at the 90 days? Is that accurate?

Ms. MCGINTY. Especially given the fact that we had 90 days of comments; we had visits with more than 100 Members of Congress; we traveled to every region in this country where there were public hearings. I personally had traveled to every place I was invited to come and hear from communities who are interested in this. The outreach on this is extensive, which is why I answered your earlier question about whether or not there were expenditures in travel on this program: There certainly have been, because we have been enormously responsive to those who have wanted to comment and to be heard on the program.

Mr. SCHAFFER. During the comment period, the report that you published suggested there were approximately 1,700 comments received, and throughout the course of the appendix of that as well—I think it's appendix 2—it gives a summary of what some of those comments were, and kind of categorizes them. But nowhere in this report does it suggest how many were for, how many were against, how many comments were negative or positive, and so on. Is there any kind of recording or tally of those for or those against, of the 1,700 comments that you received during that 90-day period?

Ms. MCGINTY. I do believe we have that analysis, and I can provide it. I don't have it—the numbers—off the top of my head.

[The information referred to may be found at end of hearing.]

Mr. SCHAFFER. Well, can you tell us generally? Was it evenly split, overwhelmingly in favor, or overwhelmingly opposed?

Ms. MCGINTY. I can't give an estimation of it. There were communities who were strongly in support of it; there were individuals who were vigorously opposed, and I think we heard from some of that representation today, as well as those who were in favor.

Mr. SCHAFFER. I just find it somewhat remarkable that you don't even have a sense of whether the respondents were somewhat favorable, mixed, opposed. Even if it seems to be a close call, that would seem certainly an indicator for the need for caution.

Ms. MCGINTY. No, there's definitely difference of opinion with regard to this initiative, and I think this hearing has been very instructive in elucidating where there is difference of opinion. So I would not—let me be clear. The comments were not 100 percent positive. The only thing I am hesitating to do here is to put an exact number on how many were positive and how many were negative. There is definitely difference of opinion with regard to this initiative.

Mr. SCHAFFER. The State constitution in my State suggests that—this speaks more to the substance of the program—the State constitution in my State, and I know many western States as well, is very clear that the allocation of water rights and the establishment of water rights and appropriations in my State—they're established in the Constitution. They're within the domain of States. My take on the whole concept of local control here is perhaps different than others might be. When I read the 10th Amendment, suggesting that powers not specifically enumerated to the Federal Government in the Constitution are reserved to the States or to the people, city government isn't mentioned in there for some reason, and neither is the counties, and so on.

Now, as it turns out, in my State there is great deference to counties and local governments, but I guess the question is, the emphasis here seems to skip over the State level of government on the establishment of a Rivers Initiative in the designation, and relies upon communities and municipalities, neighborhoods, or whatever the case may be.

In a semi-arid State like Colorado, there is wide disagreement, as you might imagine, even between communities within a State. Communities fight over water routinely under our State provisions. Now we manage to negotiate those and to arbitrate those very well as a State with several years of history as a State in developing those water laws.

I guess my concern is the neglect of a statewide approach on the river process. You have given the veto authority, or suggested that it exists, for Members of Congress. What about a United States Senator—

Ms. MCGINTY. Yes—

Mr. SCHAFFER. [continuing] on a statewide basis or a Governor or a State legislator voting—legislature voting by resolution?

Ms. MCGINTY. Well, let me say several things. First of all, in terms of the veto, a Senator will have the right to exercise that veto as well as the Member of Congress in whose district this river, or stretch of river, might run. In addition, The Federal Register notice makes clear the authorities of the State and also the necessity of having State support. It itemizes, for example, letters of endorsement from not just local governments, but State and tribal government. It also makes clear, as it says here, of course, any projects identified in the nomination packet must undergo applicable State review processes.

After our conversations, it also makes clear that the American Heritage Rivers Initiative, for example, may not conflict with matters of State or local government jurisdiction, and then itemizes some of those things that you were helpful in elucidating. So there is a very strong emphasis on that throughout the program.

Mr. SCHAFFER. And I appreciate those. That gesture, I assure you, is appreciated; that those comments were considered as a result of the individual meeting that you and I had.

The thing about rules established in the Federal Register is that they're pretty easy to change, and how about opting-out—

Ms. MCGINTY. Yes.

Mr. SCHAFFER. [continuing] after a program is established? Is it your intention that a Member of Congress can have a Heritage River delisted or removed from the program after the program is established, and has that been provided for? And any individual, for that matter, who might find their land or their farm or their water rights associated with the program, how do they go about opting-out and protecting themselves?

Ms. MCGINTY. Well, the Member of Congress certainly, as I had previously articulated, is afforded in this program a veto right in terms of the existence or the participation in this program. In addition to that, in light of the comments—

Mr. SCHAFFER. That's after the existence of the program?

Ms. MCGINTY. It's a veto authority that the Member of Congress would retain throughout the existence of the program. In addition

to that, we have provided that at the time of the nomination or selection of a particular river that the community also would dictate to us their procedures for opting out. Any community that becomes part of this program can opt out at any time, and moreover, the procedures through which that will be accomplished we will not dictate, but the community themselves will decide how that process would be effectuated.

Mr. SCHAFFER. The community as a whole—so that does not include an individual farmer or rancher or water rights-holder; is that correct?

Ms. MCGINTY. Unless a particular community said, well, the way we're going to opt out of this is that if any particular member of the community says they no longer want their community to participate, then we want to opt out; under those circumstances, we would say that's fine.

Mr. SCHAFFER. You know, it happens every day in the West, and I suppose throughout the rest of the country, too, that a municipality or a county, unfortunately, intrudes upon the rights of an individual. Right now I think most local elected officials are very responsible. I mean, just be clear about that. But on occasion, there is a zoning issue or some water rights-related matter, where a municipality and an individual rights-holder come in conflict.

What this seems to do here, as you described, is in fact gives a local government entity a certain amount of authority that they presently do not have over another rights-holder, whether it be property rights or water rights. Again, going back to how the Tenth Amendment reads and has been stated, that these rights belong to the States or to the people, and I'm concerned that the people part of that seem to have no recourse if they decide they want to opt out of a program that they do not wish to be a part of, which you've described as non-regulatory.

Ms. MCGINTY. Well, again, they do have every right to opt out, and they will prescribe the procedures through which they'll opt out. We will not tell them how they can or can't opt out. It will be purely up to—

Mr. SCHAFFER. Let me just ask the other way, just to be sure: Is it possible, under the American Heritage Rivers Initiative, that a farmer or a rancher or a water rights-holder might find themselves within the boundaries of a Heritage River designation and be unable to opt out of the designation?

Ms. MCGINTY. If they are able to—if the community says, here are the procedures through which we want to opt out of this program, and they're procedures A through Z; procedure M involves an individual landowner comes and petitions and says, "We don't want to be part of this anymore." That will govern the process.

Mr. SCHAFFER. So if a community comes up with a recommendation that excludes the ability of a property rights-holder to remove himself from the process, you will empower that community through the initiative, through this Executive Order; is that correct?

Ms. MCGINTY. Well, again, we have to keep in mind what this initiative does. If there is any part of it that an individual landowner is not supportive of, to go back to this: Any protect needs to undergo applicable State and local review processing. So if that

owner right now has a right under State or local law to say no to particular project, that right is still there, and there's nothing in this initiative that changes the rights of those local landowners in any way.

Mr. SCHAFFER. I'm really hoping my questioning helps you understand the confusion you stated when you started out—that you don't understand why anybody would oppose this, because it seems so free and open and voluntary, and so on. What we are nailing down here in this one example a situation where a landowner or a water rights-holder might find themselves within the boundary of a Heritage River Initiative and be bound by rules that presently do not exist, by new authority that has been created by this Executive Order that empowers a local community in a way that they are not empowered presently.

Now even though they follow local meetings and go through the routine process of public hearings, and so on, the fact remains that the communities today that we're speaking about do not have the authority to establish a Heritage Rivers designation in a way that compels the Federal—I'll finish—in a way that compels the Federal Government like we are here. That is the new authority that this represents and the real threat that landowners, ranchers, farmers, water rights-holders are very concerned about, and downstream or people with senior water rights in headwater States like mine.

Thank you, Madam Chairman.

Ms. MCGINTY. But there are no new rules that come with this program or new authorities. There's no new regulation or regulatory program of any kind that an individual is not subject today that they would be subject to tomorrow, if their particular—the place where they lived was designated an American Heritage River. There is nothing from a regulatory or a legal point of view that will be different tomorrow than it is today for that individual.

Mrs. CHENOWETH. Mr. Schaefer, I thank you for your questioning, and I do want to let you know that, should you wish to have another period of questioning, we will go for another round.

Mr. SCHAFFER. I appreciate your tolerance on that, Madam Chairman.

Mrs. CHENOWETH. Ms. McGinty, when you were before the Committee before, you mentioned that—and, again, you reiterated the fact that anyone who wanted to opt out could. And along that line, I wanted to present to you a letter from our entire Idaho delegation, Senators and Congressmen, saying our whole State wants to opt out, and two letters from the Idaho Farm Bureau, and then a letter from the Awahee County commissioners. That's a county down in the southwest corner of Idaho, and so we would like to present those to you at this time. And we would like a written response to all of the letters, and most especially the delegation letter.

[The information referred to may be found at end of hearing.]

Mrs. CHENOWETH. What is your oral response to the delegation letter?

Ms. MCGINTY. Thank you very much.

[Laughter.]

Ms. MCGINTY. I will respond immediately, but I assume that this is a statement that communities in Idaho will not be participating

in this program, and you've exercised a veto, and I think that's just fine. This program isn't for every community, and if the communities of Idaho don't want to be part of it, that's their choice.

Mrs. CHENOWETH. So you will accept no nominations from Idaho; right?

Ms. MCGINTY. Well, I guess I would return the question. I would assume that this represents a consultation with the people of Idaho, and you don't expect a nomination to come from the people of Idaho.

Mrs. CHENOWETH. That's not what your testimony indicated before. You did indicate, if a Congressman or anyone—

Ms. MCGINTY. Absolutely. You will have the absolute right to veto—

Mrs. CHENOWETH. Veto power.

Ms. MCGINTY. [continuing] any nomination that should come from people within your district to nominate a river in your district. And on top of that, Senators from the State would have the veto authority to reject the nomination of citizens from their entire State, yes.

Mrs. CHENOWETH. What our delegation has expressed by making this move is that no petition should even be entertained from Idaho.

Ms. MCGINTY. That's fine, and that's the authority that you certainly have to nominate—I mean to veto any nomination that otherwise might be forthcoming.

Mrs. CHENOWETH. And will you respect that?

Ms. MCGINTY. I will respect it. I will not make the choices of which communities are designated, but there's no question that you have the absolute authority to ensure that no community in your district, and the Senators from the State have the absolute authority to make sure that no community in the entire State, is a participant in this program. And that is fine and that will be respected.

Mrs. CHENOWETH. I do want to reiterate the fact that at the previous hearings you said—and it's on the record—that congressional opposition would stop the initiative in a congressional district, and in this case we've got all the Senators—

Ms. MCGINTY. Yes.

Mrs. CHENOWETH. [continuing] and Congressmen lined up—

Ms. MCGINTY. Yes.

Mrs. CHENOWETH. [continuing] and it will stop the process in Idaho?

Ms. MCGINTY. Absolutely. Well, it will—it will result in a veto on any nomination that would be submitted. Now I have no way of knowing if there is a nomination forthcoming from Idaho, but it would be a veto, yes.

Mrs. CHENOWETH. Well, let me ask you again: Will any initiative petitions be entertained by you from Idaho?

Ms. MCGINTY. I consider that there is now an absolute veto on any participation in this program by anyone in Idaho.

Mrs. CHENOWETH. OK. Thank you.

Ms. McGinty, you are an attorney, aren't you?

Ms. MCGINTY. I went to law school, Chairman.

[Laughter.]

Mrs. CHENOWETH. And did you take the bar?

Ms. MCGINTY. I never took the bar exam, no. I'm not licensed to practice in any State of the Union.

Mrs. CHENOWETH. You cited—let me back up and say that one of the biggest questions that I have is the authority under which this initiative has been put forth. And while I understand that agencies of the Executive have broad discretionary powers, especially with generally 2.5 percent of their budget for discretionary expenditure, that has normally been based on existing authorized programs.

Ms. MCGINTY. Yes.

Mrs. CHENOWETH. Now this program has not been authorized by the Congress. It has not been—monies have not been appropriated for it, and you did cite your authority as coming from NEPA. Now you're not an officer of the court, I understand, because you haven't passed the bar, but you are an attorney.

Ms. MCGINTY. I have not taken the bar exam.

Mrs. CHENOWETH. Oh, excuse me—have not taken the bar. There's a big difference there.

[Laughter.]

Mrs. CHENOWETH. But you did cite NEPA. Could you give me the cite exactly in NEPA that authorizes this?

Ms. MCGINTY. Certainly. I am charged and sworn to execute the National Environmental Policy Act. The National Environmental Policy Act requires every Federal agency in every major undertaking that they—in every major action that they undertake that has significant impact on the environment to coordinate environmental, economic, and social considerations into that decision-making first, and, second, to afford the citizens of the country, and including in particular local citizens, to participate in that decision-making. That's what is at the heart of what we are trying to do.

Mrs. CHENOWETH. Could you cite within—

Ms. MCGINTY. Section 101 of the National Environmental Policy Act.

Mrs. CHENOWETH. Section 101 states the purposes of NEPA.

Ms. MCGINTY. It's section 101(b)(4)—precisely requires the Federal agencies to do what I've just articulated.

Mrs. CHENOWETH. And that is coordinate?

Ms. MCGINTY. It is to integrate environmental, economic, and social considerations into every major Federal action and to afford the public an opportunity to participate in decisionmaking.

Mrs. CHENOWETH. Now the purpose of NEPA, beginning as affirmed by the U.S. Supreme Court in a decision beginning with *National Helium v. Morton*, and then never overturned, was that the purpose of NEPA was to have the Federal Government produce not only studies, but a decision on government actions on man and his environment, and it took NEPA absolutely no further than the study process. And so, therefore, I still actively question that there has ever been authority to grant certain rivers under a certain designation and expend funds and appoint people. We may never agree on that, Ms. McGinty, but I do feel very strongly that the agencies of the Federal Government need to stay in absolute line with the authority given them by Congress.

The Anti-Deficiency Act, in fact, that I cited in my opening statements, in Title 31, also very clearly states that an officer or an em-

ployee of the United States may not make appropriations outside that which has been authorized, and in some cases recently, such as the Endangered Species Act, the courts have adjudged that appropriating funds is in and of itself authorizing programs, but that, again, departs—this is a new departure from even those concepts.

So I really think that we're moving out—you're an adventurous and very bright woman, but I think that we are embarking on a new form of law under this United States that may be a bit dangerous, and could amount to a very definite shift of power into the Office of the Executive.

Ms. MCGINTY. Chairman, if I might, I absolutely understand and respect the requirements of the Anti-Deficiency Act, and I think you're absolutely right to raise that up among the various laws that this initiative and every initiative needs to be in accord with, but I do want to underscore again that there is no new expenditure of funds of any kind here. This is simply an effort to try to facilitate a coordination among the agencies and a more efficient execution of the responsibilities they are charged with under any number of statutes.

Mrs. CHENOWETH. In your earlier testimony, you were stating what the program would be—voluntary, locally driven, et cetera. You finished that cluster of items that it would be with a statement that I believe you said it would exert parent authority. Was that correct? Did I hear that correctly?

Ms. MCGINTY. I wouldn't understand what that statement was referring to, no. It could be the Philadelphia accent. I don't know. [Laughter.]

Mrs. CHENOWETH. According to the Executive Order, it appears that you are the permanent co-chair of the Interagency Committee on the American Heritage Rivers, and will develop the procedures regarding the panel of experts that make recommendations to the President regarding the merit of particular river designations. Some would argue that this makes you the administration's rivers czar, which is a very, very powerful position in these United States. I just wondered, who, other than the President and his staff, and the Vice President, and maybe some members of his staff, but I would doubt that, oversee your work on this particular program?

Ms. MCGINTY. I report directly to the President of the United States.

Mrs. CHENOWETH. OK. What was the sense of urgency that caused the President to issue the Executive Order rather than establishing this program through the more conventional means through the Congress—by having authority, statutory authority come through the Congress?

Ms. MCGINTY. Let me address the first part of the question, which is the urgency—to recall for the Committee the history that the President announced his intention to launch this initiative in January of this year. It's been since January that we have engaged in extensive public outreach, public comment, participation, and development of the program. So it has been the better part of nine months that have been invested in putting this initiative together. So I don't—there's been a longer history here to this, and this has been a program that has involved extensive outreach and public participation.

Mrs. CHENOWETH. I just wish that our permitting process in every area could be as efficient as the White House has demonstrated their willingness to be in this particular issue. And I do want to bring back the testimony that Nancy Johnson had given the Committee and comments that you made about how the communities in Pennsylvania had actually gone about cleaning up the Delaware River, and that is the people's river. We all do feel very much a part of that effort and commend the people of that river basin for their fine work. But there are already-existing programs. Based on the good testimony that we have heard today, there is the National Rural Development Partnership Program that was initiated by President Bush, and generally, as far as the general overall ability to coordinate and try to help communities break rule the regulatory maze, President Bush had envisioned pulling this together to help communities.

There are hundreds of examples where communities have been helped. The only problem is that this new American Heritage Rivers Initiative will have the Director of CEQ as pretty much the head kahoonah, the head honcho in this whole thing. And we are re-inventing that which seemed to have been working pretty well under President Bush.

There are many programs and a lot of help that can be given to communities in the form of grants, and so forth, and I realize there are small communities who may not have the sophistication to know where to go, but I know that those of us who are responsive to our constituents are inundated with casework and are willing to respond.

Did you wish to respond to that?

Ms. MCGINTY. Just to affirm the point that there are any number of programs out there that communities turn in any direction they can, including their congressional representatives, including having sometimes to hire expensive experts to help them wade through and access the resources that are their resources and that should be more effectively and efficiently put at their disposal.

Mrs. CHENOWETH. Can you tell me, for the record, how do you define a river community for the purposes of this new program?

Ms. MCGINTY. There is no one-size-fits-all definition or command and control of what a river community constitutes. Because this is 100 percent locally driven, the locality will self-select. A community will decide or not decide to participate and will define itself, both who's going to be and who's going to be out, and what are the programs that the community is interested in pursuing.

Mrs. CHENOWETH. Ms. McGinty, I want to return to the fact that our entire delegation asked to have the entire State of Idaho opted out of this program. What about a river nominated over its entire length of the water or the watershed, like the Columbia River, from a source outside of, say, my State? But some part of the river is within the boundaries of my State or the watershed impacts my State or my district. I want to get it on the record. Would that kind of nomination impact a nomination in Idaho, or will the veto that has been asserted here remain intact?

Ms. MCGINTY. Chairman, if the example is that a nomination comes forward and proposes that a stretch of river be nominated, and some part of that river has been subject to a veto, the veto ex-

tends to the proposal. That proposal would be vetoed, and it would be up to those who still want to participate to go back and recraft their nomination proposal, so that the community that has opted out is no longer a part of it, yes.

Mrs. CHENOWETH. All right. Mr. Schaefer, do you have any other questions?

Mr. SCHAFFER. Yes, I would like to visit the river navigator topic again. One of the items that I had raised in our private meeting, as well as in the last hearing that we had, was with respect to river navigators or other Federal employees involved in the Heritage River Initiative, whether they would be permitted or whether we should expect to see them testifying in a water court or before a board of county commissioners or a city council with respect to a zoning decision of some sort? Are these—my desire, as you know, is to have them precluded from participating in those kinds of hearings. Do you see any way to accommodate that desire on behalf of my constituents?

Ms. MCGINTY. Well, as a result of our conversations, we have accommodated these issues in at least two places in the final Federal Register notice. For example, the American Heritage Rivers Initiative will not conflict with matters of State and local government jurisdiction, such as—and land use planning is mentioned there specifically in a separate item. It also reiterates that this initiative may not infringe on the existing authority of local governments to plan or control land use or to provide or transfer authority over such land use.

So in at least two places, and maybe more, we have made sure that the sovereignty of local authority over land use planning is absolutely respected here.

Mr. SCHAFFER. Respecting the sovereignty and authority of local land use planners is good, and I appreciate that. I'm speaking to something different, which is the river navigator showing up in a water court before a board of county commissioners, testifying against a landowner. Once again, what we're talking about here is this bill is about cash at the moment, about spending Federal funds on this particular project, and the question we have to resolve is whether this is inherently in the best interest of the public that will pay for them. If the bill—if you were to prevail and the bill would fail, and were rejected by this Committee or some other body along the process here, what would happen, essentially, is that landowners, property owners, income taxpayers throughout the country send their cash here to Washington, and we send it back to them in the form of somebody who will be employed now with those dollars to testify against them. That is the activity I would like to prevent.

Ms. MCGINTY. Well, let me say two things, if I might, on that—well, three. First of all, I do want to reiterate again that there are no new Federal dollars involved in this program, but, second, specifically to the point of what the Federal employee, this river navigator, will be doing, the Federal Register notice makes clear that employees of the Federal Government may not, as a result of this initiative, infringe this authority of local governments, and then, further, the Federal Register notice specifies that the community, rather than the river navigator, will be responsible for the imple-

mentation of the community's plan. The river navigator will have no authority to, among other things, adjudicate and may not engage in the following: lobbying, leadership of community partnership, or any of its endeavors, et cetera. So there is a clear proscription on the river navigator becoming a lobbyist of any kind with regard to any element of this plan. The plan is the responsibility of the community.

Mr. SCHAFFER. This is a new—this individual would represent a new level of Federal presence within a jurisdiction of some sort? It is a new—

Ms. MCGINTY. This would be a person who is—this is not a new Federal presence. Again, these are existing programs. The people who have been involved in this initiative to date are all Federal employees already engaged in working in these areas under the various laws that govern these kinds of activities.

Mr. SCHAFFER. If the South Platte River in Colorado were designated as a Heritage River Initiative or designated as a river within the initiative, a river navigator would be employed and appointed—

Ms. MCGINTY. Yes. Well, a river navigator would be identified with a community having the right to participate in the selection of that person, but the anticipation is that that is a person who is already employed by the Federal Government for these purposes. We're just asking those people to take on another job, and that is to be an ombudsman for a local community.

Mr. SCHAFFER. You have a person with a new title, with a new job description, with a new function, with a new designation for an existing river—

Ms. MCGINTY. Which job description will be written by the community.

Mr. SCHAFFER. OK, I guess we have a difference of opinion as to whether that constitutes a new level of Federal involvement. I think it's undeniable that it does—that it is a new level of Federal involvement, and that really is the question that is still not resolved. Protecting local zoning ordinances and authority, and so on, is fine, but all of a sudden this initiative has the potential of injecting a new Federal employee with a new job title, with a new set of responsibilities, and the question I want—let me just reverse the question again and see if I can answer it that way. Is it possible that a Federal river navigator under this initiative could testify against a landowner in a water court, before a zoning board, or in any local setting of that sort?

Ms. MCGINTY. If it is possible for that Federal employee to do so today, there is nothing in this initiative that changes that in terms of what can happen—

Mr. SCHAFFER. But there are no river navigators today. They're not there.

Ms. MCGINTY. But there is no authority—to the point, this program is not a piece of legislation. That means it can neither cede nor abrogate current Federal responsibilities or authorities. There will be nothing different in terms of Federal responsibilities or authorities tomorrow than there are today.

Mr. SCHAFFER. Is it possible that the person who is designated as the river navigator will testify in a water court or before a board

of county commissioners in a zoning hearing or anything of that sort?

Ms. MCGINTY. The answer is, if it is possible for that to happen today—and I have no information or understanding as to whether it is—if it's possible for that to happen today, there is nothing in this program that would change that possibility tomorrow.

Mr. SCHAFFER. Well, let me ask—this is more difficult than it needs to be.

Ms. MCGINTY. If—if—

Mr. SCHIFF. Let me—OK, let's talk about today. Is it possible for one of these river navigators to go testify in a court today?

Ms. MCGINTY. I would cede to others who have expertise on this. I do not know—

Mr. SCHAFFER. Well, how—there are no river navigators today. [Laughter.]

Mr. SCHAFFER. Why is this hard to answer?

Ms. MCGINTY. The answer is that there are no new authorities, that someone who's name today is Joe Smith and tomorrow is Joe Smith, River Navigator, they will have no new authorities when they have comma "River Navigator" after their name than they have today. And so if Joe Smith doesn't have that authority today, he will not enjoy that authority tomorrow when he's Joe Smith, River Navigator.

Mr. SCHAFFER. I'm just trying to get this answer—you know, the American public, who relies on these congressional records and the records and transcripts from these hearings, or a judge, who I assure you at some point in time is going to be reviewing this record to make a decision, wants to know what our intention is. And all I want to know is, is it possible that the river navigator, whether it's an existing person today or somebody that you hire out of the blue and put the job title and give them the business card, "I am the River Navigator," is that person—is it possible that that person can walk into a water court or a zoning board and provide testimony under that title?

Ms. MCGINTY. Sir, the only answer I can give you is, if, in the absence of this program, that person would have that authority, then the answer is yes. But if the answer is no, then the answer remains no.

Mr. SCHAFFER. So you're suggesting there's somebody who is the equivalent of a river navigator today?

Ms. MCGINTY. What I'm suggesting is that, assuming the title of river navigator affords a Federal employee no new rights or authority. And so if that Federal employee today—there are no river navigators, but there are Federal employees—if those Federal employees do not have the authority that you're referring to, they will not have it as a consequence of this program.

Mr. SCHAFFER. Is it impossible to get a yes-or-no answer to the previous question?

[Laughter.]

Ms. MCGINTY. I'm being as clear as I possibly can. If there is—if it currently is the case that Federal employees can testify as you are describing, then it still will be the case that Federal employees called "river navigators" will be able to do that, but I am not aware as to whether or not—if we've got an expert who can tell us wheth-

er today a Federal employee can testify before a water court, if the answer to that is yes, then a Federal employee tomorrow would be able to do that, too, after this program is in effect.

But I don't know if we have—

Mr. SCHAFFER. Madam Chairman, I'm just going to defer to the Chairman. I have stated that question—if there is some way to get a definitive answer on that, I would sure love to have it—

Mrs. CHENOWETH. Is the general counsel here? I understand she is. Would you like to ask the general counsel, so we can get it on the record?

Mr. SCHAFFER. Oh, sure. Sure. Is there—

Mrs. CHENOWETH. Dinah, I wonder if you would stand and take the oath?

[Witness sworn.]

Mrs. CHENOWETH. Please proceed.

Mr. SCHAFFER. Thank you, Madam Chairman.

Would you identify yourself? I don't know you.

Ms. BEAR. Yes, my name is Dinah Bear. I'm general counsel of the Council on Environmental Quality.

Mr. SCHAFFER. Well, you've heard the question and the answer.

[Laughter.]

Mr. SCHAFFER. But I want to know—is it—

Ms. BEAR. OK, let me see if I can give this a try. But it is substantively the same answer that Ms. McGinty has been giving.

There are a number of circumstances in which Federal employees can testify in Federal, State courts or local proceedings—obviously, in their individual capacities, not as a Federal employee, but as a U.S. citizen; as a Federal employee. Federal agencies occasionally, of course, are sued—sometimes by State and local agencies. They may be called on as witnesses. They may be subpoenaed in different circumstances and obligated to give testimony.

There is nothing about this program that would change any of those authorities or responsibilities. Similarly, or conversely, there is nothing about the designation of river navigator under the American Heritage Rivers Program that would give them any authority or responsibility, as I understand it, to appear in court or in any kind of special administrative or arbitral proceeding as a river navigator.

Mr. SCHAFFER. That's understood.

Ms. BEAR. If they are a lawyer for an agency or a biologist or an engineer, and they're called on to testify in that capacity in court, in some sort of litigation or proceeding, there's nothing that would bar them from doing so as a result of their appointment as a river navigator, but they would not be representing the Federal Government in their capacity as a river navigator.

Mr. SCHAFFER. How about in the capacity of testifying against a landowner in a zoning hearing, before a zoning board, or a water rights-holder with respect to a water court?

Ms. BEAR. My understanding is that they would not be testifying in a capacity as a river navigator. I think where some of the confusion may be arising here is there's a reluctance to say they would not be able to testify, either voluntarily or as a result of a subpoena, in any kind of a proceeding in their other capacity as a Federal employee. I think Ms. McGinty has indicated that this would

be in addition to the regular job, not necessarily a substitute for their job. And because the community would be developing the job description, it might or might not subsume the rest of the responsibilities.

But I think the key here, I think what you're looking for is whether or not there would be testifying against a landowner in their capacity as a river navigator, and I believe the answer to that is no. You, of course—or the Committee, of course—could, I assume, ask river navigators to testify, if you wanted to do so, but that's the only exception that I can think of to that.

Mr. SCHAFFER. I suppose that would be correct. But let me—which raises up—which raises an old issue, at least as far as this issue has gone. In repeated questions as to whether anybody can envision a need or an occasion where the river navigator would testify against a landowner or a water rights-holder in a Federal water court, the answer is no—from Ms. McGinty, from Bruce Babbitt, from Dan Glickman. Everyone says, no, we can't imagine when this would ever need to occur. My response was, well, it would make a lot of us feel better if we could just write that into the Executive Order or into the Federal Register or secure that guarantee some way or another. And it is the resistance from the Clinton Administration to providing that safeguard which causes the concern.

And so it seems to me the question is—the question of, can a river navigator—is it possible that the river navigator could end up in front of a water court or a zoning board, testifying against a landowner, that the answer is yes, but we can't envision when that would be needed. Why would it be harmful—

Ms. MCGINTY. The answer is—

Mr. SCHAFFER. [continuing] to preclude the river navigator from testifying against a landowner or water rights-holder in a water court or before a zoning board?

Ms. MCGINTY. The answer is yes—only to the extent that that employee currently has that authority. The answer is no in terms of whether this initiative grants that employee that authority. It does not.

Mr. SCHAFFER. Well, Federal employees currently have the authority, is what I'm told. Is that not correct?

Ms. MCGINTY. I have no expertise on whether or not Federal employees have the authority to testify against local landowners in either land use or water use courts. To the extent that they do, there's nothing in this program that changes that equation. To the extent that they don't, there's also nothing in this program that changes that equation.

Mrs. CHENOWETH. Ms. Bear—

Mr. SCHAFFER. Thank you, Madam Chairman. I'll stop asking questions.

Mrs. CHENOWETH. Ms. McGinty and Ms. Bear, I want to thank you very much for your testimony. It's been a long day. It's going to be supertime before too long. And you can be excused now.

I would ask, if it's at all possible, for either you or your staff to remain and listen to the rest of the testimony, if that's possible, but you are excused now from the witness table, and thank you very much.

Ms. MCGINTY. Thank you, Chairman. Thank you, Mr. Schaffer.

Mrs. CHENOWETH. And the Chairman now recognizes our first panel. We have been at this for 5 hours almost, and I want to recognize Mr. William Perry Pendley from the Mountain States Legal Foundation in Denver, Colorado; Mr. Robert Lynch, Central Arizona Project Association, Phoenix, Arizona; Ms. Lois Van Hoover, Idaho Multiple Land Use Coalition, Yellow Pine, Idaho; Mr. Desmond K. Smith, Trans Texas Heritage Association, Alpine, Texas, and Ms. Mary A. Yturria, Brownsville, Texas.

We welcome you all.

And while our panelists are taking their place at the witness table, I want to acknowledge two very special friends of mine who are present in the room, who came all the way from Idaho. Pat Barkley, who is president of the Idaho Multiple Land Use Coalition—her office is in Boise, Idaho. I know she spends as much time in Yellow Pine, Idaho as she can. I'd like that, too, Pat. I'm awful glad you're here.

And representative and a chairman of one of our more prominent committees in the Idaho legislature, Sylvia McHeath.

Thank you both for traveling across the country to be present and join us today.

So with that, I wonder if you might all stand and take the oath, please. Raise your right hand.

[Witnesses sworn.]

Mrs. CHENOWETH. Mr. Pendley?

STATEMENT OF WILLIAM PERRY PENDLEY, MOUNTAIN STATES LEGAL FOUNDATION, DENVER, COLORADO

Mr. PENDLEY. Thank you, Madam Chairman. You have my prepared testimony for the record.

I will just say to answer the question Congressman Schaffer asked—Federal officials will testify, and they have testified. You need only look at the example of the New World Mine and the way the superintendent of Yellowstone National Park tried to prevent the opening of that mine. The water adjudications now going on in the State of Idaho have Federal witness after Federal witness. So the answer to the question is yes.

Just as Oliver Wendell Holmes once said, "Regardless of the good you're trying to achieve, there's no excuse for doing it any other way than the constitutional way." And that's what we're dealing with here. We've got the cart before the horse. We're talking about essentially what is legislation, and I sense the frustration that the Committee has in trying to figure out, to paraphrase a famous example, "Where's the beef? Where's the pork?"—because you are buying essentially a pig in a poke here. You don't know. The ball is constantly in motion, as you heard the testimony here today, and anyone who puts any confidence at all in where it will be in the end is, I think, foolish.

I come from that part of the world, as you know, where the rubber hits the road. We are where all these good ideas and well-intended remarks are implemented by bureaucrats and their win-at-all-costs attorneys. We are out there where the caveats and the compromises and the concessions that have been made to protect us end up in the ditch, while the rights and the privileges and the

economic opportunities of the people that are going to testify today wind up as roadkill in the middle of the highway.

And those who have the wherewithal of paying attorneys—those that don't, maybe they can get the attention of Mountain States Legal Foundation, and we can get in the litigation—come back here and say: What about all the agreements that were made? What about the compromises that were made to protect our rights? And we are told it's in litigation; Congress can't get involved.

Let me give a couple of examples. They're from testimony I've given before. They're situations that this body knows of well. We are told there's a self-defense exception in the Endangered Species Act, and yet the only man ever to kill a grizzly bear in his own yard is in his seventh year of litigation to try to use that self-defense claim, because the Fish and Wildlife Service doesn't like it and doesn't want it to be used.

We are told that the Wilderness Act prohibition against motorized vehicles will be implemented sensibly, will use common law, and will allow for emergencies and dangerous situations and accidents and necessity. But, as you know from the famous Bobby Unser case, the Forest Service took the position that being in a wilderness in a snowmobile accidentally, out of necessity, or out of emergency is irrelevant; being there alone is a violation of Federal law.

And, finally, you know as well, when you pass a Wilderness Act, despite the valid existing rights protections that are put in, we have the Forest Service taking the official position that when Congress adopted the valid existing rights provision, it did not know what the phrase meant and so Forest Service can implement it any way it wants.

We remain optimistic. Hope springs, it seems, eternal. I think we are forever like Charlie Brown, thinking that Lucy this time—this time—will leave the ball on the ground, and that we're on the same page, if not maybe the same team, and that she won't pull the ball away from us, and everything will be OK. And it never is, and we just keep hoping that this time it will be all right.

It strikes me as quite incredible that we have created this oppressive, monstrous bureaucracy that doesn't work, that can't deliver services efficiently, and we're told, "Oh, but only if we had one more layer of bureaucracy, then we could assure the efficient delivery of services."—Oops, but only for 10 rivers, not for anybody else in America.

I point the Committee to the experience of the Natural Historic Landmarks (NHL), what happened under that oppressive program, how the National Park Service admitted that it violated property rights, and how eventually the NHL was used by neighbors to nominate lands for designation to prevent neighbors from using their property.

Listening to this, reading the *Federal Register*, we're left with only questions—questions after questions of who, when, where, what, why. Who's going to be on the panel? Who's going to decide the terms? What is a vision? All unanswered.

And the point that Congressman Schaffer made with regard to—I'm sorry, Chairman, you made—with regard to NEPA is a valid one. NEPA does not compel what Ms. McGinty is doing or what

this President is doing. NEPA, in fact, compels that this administration do what it has refused to do, which is to comply with NEPA, publish this, go through an EA, go through a FONSI, go through an EIS, and allow the American people to comment on it.

The fact of the matter is there is absolutely no statutory authority for what the administration is doing here. There are so many questions undecided.

When I came here somebody cynically suggested to me—I thought it was cynically—that people will do this because of pork. I thought that was cynical until I got here and listened to the testimony, and it strikes me as maybe it is pork, and I say, geez, what a low price for which to sell one's liberty.

We have a Constitution that guarantee how our government should do business. The Bill of Rights is not the source of our protection exclusively. It is the way our government is structured that is that source. Read, for example, Justice Scalia's opinion in the Brady case earlier this year, where he lays it out very thoughtfully that source of the guarantee of our rights comes from the way the government is structured, the vision of our government, and the fact that this is the body that adopts legislation, and the executive branch is the body that implements it.

I know my time expired, but let me just add one parenthetical. What will be the "balance" implemented out there in the field? Pick up this morning's copy of *The Washington Post* and look at the balance this administration takes with regard to western resources, where the administration, in balancing the needs of the Nation for energy, in the most potentially productive area of the lower 48, Overthrust Belt of Montana, has said, no, we're not going to allow oil and gas activities there; we're going to set it all aside for environmental purposes. And so anybody who thinks that this *Federal Register* notice, where it talks about economic activity, will answer some recognition of that activity, I think, again, is foolish.

Finally, let me just say that I don't think these people are going to wait until they are roadkill, until their rights are roadkill, in this particular program. I don't think we're going to have to wait until the rights are violated for a lawsuit to go forward. I think this whole program will be challenged, and we'll have the opportunity to have a Federal judge asked some of the questions that the gentleman from Colorado and you, Madam Chairman, are asking, and maybe we'll get some better answers.

Thank you.

[The prepared statement of Mr. Pendley may be found at end of hearing.]

Mrs. CHENOWETH. Thank you, Mr. Pendley.

And the Chair now recognizes Mr. Lynch for his testimony.

**STATEMENT OF ROBERT S. LYNCH, CENTRAL ARIZONA
PROJECT ASSOCIATION, PHOENIX, ARIZONA**

Mr. LYNCH. Thank you, Madam Chairman and Mr. Schaffer, for the opportunity to appear here today and testify on the American Heritage Rivers Initiative and the Chairman's bill, H.R. 1842, which I might note with some pleasure will be co-sponsored by my Congressman, Mr. Shadegg, who I believe notified you of that ear-

lier this afternoon. I have submitted copies of my written testimony to the Committee, and I'll try not to repeat that.

The primary focus of the Central Arizona Project Association is, of course, the Central Arizona Project itself, formed in 1946 to promote the project, its authorization, its construction, and its operation. And I'm pleased to report that this year CAP will deliver approximately 1.5 million acre feet of Colorado River water through a 336-mile canal system through the metropolitan areas of central Arizona. It supplies about two-thirds of our population.

We are not, however, without problems, and those are all, you might imagine, environmental, and they affect the main stem of the Colorado River. Our interest in this initiative stems from our activities in Arizona to solve problems and our fear that this initiative may add a layer of bureaucracy that interferes with the problem-solving that is ongoing in Arizona.

I might note that I have heard a great deal about this initiative today from Ms. McGinty that isn't in the Federal Register notice, and it sounds a lot like the beginnings of a second set of regulations and detail. And we were concerned before we heard that detail; we're even more concerned now because we can't figure out where CAP fits into this scheme.

Unfortunately, the beneficiaries of the Central Arizona Project and the Colorado River don't live on the Colorado River and they don't work on the Colorado River. They live in central Arizona. Phoenix is 190 miles from the Colorado River. Tucson's another 120 miles southeast of us. And yet the beneficiaries of the Central Arizona Project have as much concern about the Colorado River as do our residents and citizens who live on the river. Yet this initiative pays only lip service to those beneficiaries and doesn't involve them either in the nomination process or anything other than a tangential sort of reference to a plan.

Frankly, we don't need a plan. We've got a plan. In the Lower Colorado River Basin, it's called a multi-species conservation plan. It is supported by a Memorandum of Understanding with the United States involving all three lower basin States, major environmental groups, and other interests. We don't need interference with that plan. What we need is for the employees of the Federal Government who are already committed to that plan, to our plan, not to be diverted from that by having to pay attention to this initiative.

And one of our great concerns is that, with all the cost-cutting that's going on and the paring-down of Federal agencies, you're getting down somewhere close to essential numbers of personnel doing tasks who have certain skills. And if those skills are diverted, and if those people are diverted to this, we're afraid that we won't be able to get our problem-solving done under the Endangered Species Act in this plan, or in the upper basin's conservation plan, a recovery plan for four endangered fish. So we're very concerned about what's going to happen to the people we need to continue our problem-solving if they get, because of their expertise, their understanding of rivers, and their scientific backgrounds, diverted into this whole new program.

We're also concerned about the process. I have to disagree with Ms. McGinty; I think they have, in fact, created new regulations,

because there's a consultation mechanism in the Executive Order. I don't know why people aren't paying attention to it, but I consider that some real problem in terms of figuring out the process, the consultation requirements that Congress has legislated in several other areas.

And let me speak about reprogramming. Ms. McGinty said no reprogramming. There's got to be reprogramming. The beneficiaries of CAP pay, through water and power charges, for Federal employees to do work that's considered reimbursable expense. If they are then diverted to this, they're going to pay for this, too. This certainly ought not to be a reimbursable expense to the beneficiaries of local projects who agreed in contract what they were going to be obligated to. Now this is being laid on top of it.

I know I'm out of time, and there are many more witnesses, but I just want to say I agreed fully with what Mr. Pendley said. The National Environmental Policy Act does not authorize this program and it's not a legal foundation for it.

[The prepared statement of Mr. Lynch may be found at end of hearing.]

Mrs. CHENOWETH. Mr. Lynch, I want to thank you for your testimony, and Mr. Pendley.

We have been called to another vote, and we will look forward to hearing from Lois Van Hoover when we get back. And I can see some of you back there who have sat all day long waiting for your chance to respond to our request, to hear from you, and I thank you very much for your patience. It is beyond my control, though, and my responsibility is to make sure that Mr. Schaffer and I can get over there and vote and do our job like our constituents expect of us and cast the vote.

So there will be two votes probably, and we'll hit the tail-end of this vote, and the next vote will be a 5-minute vote. Hopefully, we'll be back in 15 to 20 minutes. So bear with us. Thank you.

[Recess.]

Mrs. CHENOWETH. This hearing will come to order. We will resume testimony by hearing from Lois Van Hoover from Yellow Pine, Idaho.

**STATEMENT OF LOIS VAN HOOVER, IDAHO MULTIPLE LAND
USE COALITION, YELLOW PINE, IDAHO**

Ms. VAN HOOVER. Good afternoon, Madam Chair. As you said, I'm Lois Van Hoover, and I represent the Idaho Multiple Plan Use Coalition. Additionally, I sit on the boards of the Idaho Council on Industry and the Environment, the Independent Miners, and the Alliance of Independent Miners. I am a co-founder of a new group that is forming called the Natural Resource Advocacy Center, and I live in Yellow Pine, Idaho with my husband, Leo.

I just want to speak briefly, encapsulate my written statement. When I first reviewed the American Heritage Rivers Initiative, I think my first response to that was that it was harmless—even though it wouldn't do anything, it wouldn't be effective. With a little further review, I had some real concerns about private property rights and State rights. I need to say that I reviewed this with Katie McGinty's office, and they did put some verbiage in to try to

appease those fears. I have to say that I'm still not totally satisfied, obviously, with what I was told.

Ms. McGinty, at the Western States Coalition meeting last July in Spokane, and again today, stated that her inspiration for this program was the Philadelphia waterfront revitalization. However, the Philadelphia projects have been done through a partnership of private and public entities without the benefit of this program, and it didn't add—there was no added bureaucracy from the American Heritage Rivers Initiative. Many cities and communities in my home State of Idaho have done similar projects without the American Heritage Rivers Initiative, and have not required an additional tax burden on the American people.

Further research indicated that the American Heritage Rivers Program is practically a carbon copy of the Canadian Heritage Rivers Program. Amazingly enough, one could exchange the verbiage from one program to the other. The St. Corry River, on the border of Maine, is part of the Canadian Heritage Rivers Program and is administered by a joint international committee.

I want to thank you and the rest of the delegation for opting out of this program. I think that that is one of the best things that could happen to the State of Idaho.

In June when I was in Ms. McGinty's office, I asked them to define—I did not; somebody in the party did, actually—to define what a river community was. The definitions varied—everything from a river basin to a watershed. And if we're talking about a river community being a watershed, Idaho is a watershed and the headwaters for a lot of different States. And I did hear Ms. McGinty's answer today to your question, Madam Chair, but I still have a question over the jurisdiction of those headwaters, as the example you used, being the Columbia—for the headwaters that would originate in the State of Idaho, and who would have jurisdiction over those waters. That also raises a question of the State's primacy over its water, and as you know, the Supreme Court has held that up many times—that the State does have primacy over its water.

Is it possible that the American Heritage Rivers Initiative could include efforts such as zoning that typically come under county government? I suppose that question is a NEPA question. If we are designating rivers and we're going through a NEPA process, and we have county plans or community plans for the river community, will those plans come under NEPA? And if they come under NEPA, that takes away local control. And I have some questions about that, and I believe those are all the jurisdictional questions. That does not take into consideration the—again, I would like to state—the international borders.

And as a voting, tax-paying American citizen, I take offense to programs that are being initiated by Executive Order, when they should have gone through the legislative process. One of the strengths the Founding Fathers built into our form of government was the separation of powers between the President and the Congress.

Cities and counties are perfectly capable of deciding how to manage their land. Local control with input from local consensus groups will provide the best results.

It seems to me that the Federal Government has a fiduciary responsibility to the taxpayers of the United States of America. This initiative duplicates an existing program: the Rural Development Partnership established by the Bush Administration in 1991. It is already operating in 38 States. You do not reinvent government by duplicating and adding a layer of Federal bureaucracy, nor do you satisfy your responsibility to the taxpayers.

And one of the major differences between what was put in by the Bush Administration and this initiative is that it is headed in each State, and the Governor of each State puts out who is going to nominate the director for the Rural Partnership.

One of the selling points of the initiative is that it will make use of existing Federal personnel. In Idaho, we already do that. For example, the head of our EPA office is working on the Rural Development Partnership. Will he be able to do both? Or would another Federal employee be pulled away from his present duties to be assigned to this program? In any case, who will do the task that these Federal employees are doing now? In fact, who is paying the current 12 members of the American Heritage Rivers Working Group and who is doing their job while they are working on this initiative?

The additional Federal initiative is proposed at a time when we are supposed to be downsizing Federal Government and giving more control to the States. This is the exact opposite.

We do not need a river czar. We do need to have Federal employees who simply do their jobs. We do not need the American Heritage Rivers Program, even though Ms. McGinty said in Spokane last July that she was doing this program because she could not trust State and local government and the private sector to do the job.

If one of the major reasons for the American Heritage Rivers Initiative is to recognize outstanding efforts by communities on behalf of our river heritage in this country, I would suggest that the local communities could be recognized with a plaque that can be placed at the city limits noting their achievement, or you could even include a description of the community's unique efforts in the Congressional Record. But I strongly believe that anything to do within the boundary of the State and the State waters is best left at the State and local level.

Thank you.

[The prepared statement of Ms. Van Hoover may be found at end of hearing.]

Mrs. CHENOWETH. Thank you, Mrs. Van Hoover.

The Chair now recognizes Mr. Desmond Smith, and I understand that you have twice canceled your flight, and will be departing right after your testimony. So we will excuse you.

STATEMENT OF DESMOND K. SMITH, TRANS TEXAS HERITAGE ASSOCIATION, ALPINE, TEXAS

Mr. DESMOND SMITH. Thank you for inviting me to testify. My name is Desmond Smith. I'm a rancher from Lampastas, Texas, where me and my wife operate a ranch that's been in her family for 147 years. I'm president of the Trans Texas Heritage Association. I'm here today representing our members who own 15.5 mil-

lion acres of private property in Texas, and 1 million acres in New Mexico.

Over the past few years, landowners have been trying to make Congress and the public understand the concept of the regulatory taking of private property, but we have not been very successful. We understand that Federal designations can bring with them limitations of the use of private property. This is why we are concerned about the American Heritage River Initiative.

We found that Garry Mauro, the Commissioner of the Texas Land Office, was pushing for local officials along the Rio Grande to petition the river for designation as an American Heritage River. A friend of ours in the Governor's office told us about a meeting that was going to take place in Laredo on the 28th of April of this year. My wife and one other director of our organization decided to go.

When we walked in, the people at the desk started looking for our name tags, but I told them they wouldn't find them. It turned out that the meeting was by invitation only. There were people from all levels of government, also from the Nature Conservancy the Audubon Society. If we had not shown up, there wouldn't have been any representation from any property rights group.

Garry Mauro breezed into the meeting for a few minutes, and there was a lot of back-slapping and glad-handing. It was suggested that he should be made the river navigator during the process of the meeting.

Since then, we've learned that this is supposed to a bottoms-up initiative, but what was obvious that day was that the Texas General Land Office and Commissioner Mauro were really backing this. At this meeting people talked about AHRI in terms of clean water, cultural heritage, economical development. I stood up and asked the question if this would include our friends in Mexico. The fellow from the Council of Environmental Quality said it wouldn't. Then I asked him how they expected to clean up the Rio Grande when Mexico pollutes the river, and he didn't answer.

Right after that the moderator asked everyone to stand and state their name and organization affiliations. Everyone there except us was either from the government or the Nature Conservancy or the Audubon Society. It was clear that the meeting was anything but grassroots and bottoms-up.

Now I've lived in Texas all in my life, and my organization has members who are property owners along the Rio Grande. The people who were invited to the meeting do not speak or represent all the people along the Rio Grande. The landowners I represent do not want their land designated as an American Heritage River—not now, not ever.

Ever since that meeting, we've been trying to figure out what AHRI is all really about, and nothing we have been told makes any sense. The CEQ assured us there would be no Federal dollars and no new regulations.

When Mr. Ray Clark with the CEQ came to Austin on July the 9th, we asked him if the AHRI was about improving water quality; if so, given the fact that we already have the Clean Water Act, and especially since Mexico dumps raw sewage and industrial waste into the Rio Grande, how would the AHRI, with no new regula-

tions, improve water quality? If not water quality, then how about restoring water quantity? Mr. Clark told us the AHRI would have nothing to do with removing dams and improve impoundments along the river.

If there are no new Federal regulations and no Federal dollars, what can we accomplish with AHRI that can't be accomplished now? Nothing. If we private property owners hadn't done such a good job caring for our land, I doubt if the Federal Government and the environmentalists would be so interested in it. Public ownership and access to land does not offer the same protection as the loving care it receives at the hands of private property owners. If resource protection is a problem, private property—not public ownership—is, and always has been, the best solution.

I understand Congressman Reyes and the people of El Paso want a river walk. Well, San Antonio has a river walk, and have had it for years, and they didn't have to get a Federal designation to accomplish that. What is really going on here?

The thinking people of this Nation were shocked and sickened by Clinton's arrogant designation of the Grand Staircase–Escalante National Monument. Now he has given us the American Heritage River Incentive. There are two things that I find very unsettling about this incident. The first is that the administration thinks the American people are so stupid we would fall for this. The second is the negative property rights implication inherent in the Federal designation of anything.

I'm asking you folks to please do the American people a great service and pass H.R. 1842—not just out of this Committee, but out of the full Congress. I thank you for your time. God bless each of you and our Nation, and thank you for having me.

Now may I be excused?

[The prepared statement of Mr. Desmond Smith may be found at end of hearing.]

Mrs. CHENOWETH. You are a real trooper. I do want to let you know that—and I wanted to announce—that I have just received, and will place into the record a letter from eight members of the Texas delegation to President Clinton asking to have their districts exempted from the American Heritage Rivers Initiative.

And now you may be excused.

Mr. DESMOND SMITH. Thank you.

Mrs. CHENOWETH. Thank you very much.

Mrs. Yturria, you have been patient all day, and we welcome your testimony.

STATEMENT OF MARY A. YTURRIA, BROWNSVILLE, TEXAS

Ms. YTURRIA. Thank you very much, Madam Chairman, for being kind enough to ask me to appear here today.

After explaining a little bit about who I am and where I came from, I want to make two points about why some of us who live on the Texas/Mexico border are working so hard to secure an American Heritage River designation for the Rio Grande. One concerns what border communities will face if we do not get more engaged in dealing with the degradation of our river. The other concerns the opportunity we have to celebrate and share with America our very unique history and culture. I will then give you a thumb-

nail sketch of how we hope to take advantage of the initiative and share my concern over the legislation you are considering.

The Rio Grande flows 1,800 miles, making it our Nation's second-longest river. In my State it serves as our border with Mexico, and I am one of over million Texans who live and work in communities along its banks. My home is in Brownsville, Texas, a city near the mouth of the Rio Grande. We are property owners, working ranches that have been in my husband's family for over 140 years.

Fifty years ago, when I married Frank Yturria and came to the Rio Grande Valley, I quickly learned that the quality of our lives, our health, and our well-being are linked to the river and its waters. I soon learned that there is a special Rio Grande heritage that is very complex and sometimes almost magical. It's a fine place to live. I knew immediately I would never leave.

The Rio Grande is the principal source of water for our towns and cities. Its water irrigate our farmland, sustain our industry, and nourishes vital ecosystems and wildlife habitat. They support a tourist industry that ranges from hunting and fishing to birding and whitewater rafting. When the border economy is seen from a business perspective, it is clear the river is our most important asset.

Congress has had ample opportunity to examine the conditions of his river and the plight of communities along its banks. Some say it is America's most polluted river. I say let's get to work and clean it up. Some say border growth will cause water demand to outstrip what the river can offer. I say let's make better use of what we have.

If our communities along the Rio Grande are to survive, we all must work to build the economy in concert with the wise use of our river. We who live and work along the Rio Grande must be allowed to create partnerships, plan for the future, and get meaningfully engaged. If we are prevented from doing so by H.R. 1842, we will all lose—rich, poor, Democrat, Republican, colonias dweller, property owner, even the Federal Government.

Madam Chairman, I want to make another point. The river is something more than an economic asset at risk; it symbolizes the heart of a treasured heritage. In Texas the Rio Grande is both a dividing line between two nations and the place where two cultures have joined to produce a unique borderlands heritage. We treasure our history and our unique mixture of language and custom—our food, our architecture, our music. Along the Rio Grande you will find people from all stations in life working to preserve and celebrate that heritage. Some are Anglos; some are Hispanics. Some have wealth; some do not. Like the waters of the river, our Rio Grande culture is a precious asset, a key facet of America's frontier heritage. Those working to preserve that history and celebrate our heritage deserve recognition, encouragement, and sometimes a helping hand. They, too, want to build partnerships. They want to bring to the Rio Grande the private foundations, great public institutions, and our own hands that built so many American communities.

When I first heard of the American Heritage Rivers idea, I was thrilled. The idea of looking at all the dimensions of our rivers—physical, historical, cultural—made a lot of sense to me, but what

really excited me was the emphasis on local initiative to identify needs and plan responses. Let me repeat that: What really excited me was the emphasis on local initiative to identify needs and plan responses. I thought someone in Washington has finally gotten it.

Better than anyone, we who live and work here know our river, what needs to be done, what we can do on our own, and when we need help. I hoped our local leaders would seize the opportunity, seek the designation, and build a partnership with the Federal Government in which the local authorities and managing partners are partners. I was not disappointed. Within a few weeks, all along the Rio Grande, mayors and county officials were looking into the President's proposal, assisted by our representatives and State officials. Civic groups came forward, as well as private citizens and landowners like me. When private property concerns were expressed, the White House made a special effort to brief the Texas Farm Bureau in Waco, agricultural interests in Austin, Governor Bush's office, and other State agencies. Throughout the 90-day comment period, people came forward with suggestions on how to shape this initiative. Some came with ideas about what to do and what not to do. There were, of course, those who suggested we do nothing with the Federal Government.

To fan the flames of anti-government sentiment is not fair to communities around the country, and those who do so will lose. That also is an impractical solution when dealing with the Rio Grande River. We don't want an absence of government; we want the presence of better government. Fortunately, positive thinking is prevailing, encouraged by leaders like Congressman Silvestre Reyes from El Paso, Mayor Saul Ramirez, Jr., and Judge Mercurio Martines from Laredo. My own mayor, Henry Gonzales from Brownsville, and his colleagues in city and county government throughout the Lower Rio Grande Valley have supported—

Mrs. CHENOWETH. Mrs. Yturria, will you be able to wrap it up?

Ms. YTURRIA. I know, it's—oh, this is very hard to do. I would like to say that the Rio Grande River is in a class all by itself because it is the river that separates two nations. We have Federal problems there, as you can well imagine. NAFTA was pushed through. We were promised all kinds of help. We've not gotten it. We're sitting down there desperate. Austin has neglected that valley and Washington almost pretends that we do not exist, and this is not acceptable.

Thank you very much, Madam Chairman.

[The prepared statement of Ms. Yturria may be found at end of hearing.]

Mrs. CHENOWETH. Thank you very much.

And the Chair recognizes Mr. Schaffer for questions.

Mr. SCHAFFER. Thank you, Madam Chairman. Before I'd ask any questions, I'd note that Mr. Pendley's written testimony contains a number of very useful and very well-researched commentary on legal opinion with respect to the legal questions surrounding the propriety, I guess, of the whole American Heritage Rivers Initiative in the first place.

What I would suggest, Madam Chairman, and ask it to be part of the Committee's deliberations, is to send another letter to the Council on Environmental Quality stating specifically these con-

cerns that Mr. Pendley has outlined and request, as part of our consideration of the legislation before us, answers to these particular challenges and questions and request, in providing it, a suitable deadline at the Chairman's discretion as to when we would like to have those questions answered. But I think that would provide for the Committee's deliberations a pretty good picture about the legal basis for the American Heritage Rivers Initiative and, again, shed some light on the propriety of the program and the necessity of your legislation.

Mrs. CHENOWETH. Without objection, so ordered, and we will set a deadline of 30 days.

Mr. SCHAFFER. Thank you, Madam Chairman.

[The information referred to may be found at end of hearing.]

Mr. SCHAFFER. I'd like to ask Mr. Pendley—you mentioned the Brady Act briefly. I'd like you to speak a little bit more to that, the relationship between the Brady Act and the Prince v. United States case, and the American Heritage Rivers Initiative.

Mr. PENDLEY. Yes, I should give the lawyer disclosure comment. I am admitted to the practice of law in Wyoming, Colorado, Virginia and the District of Columbia.

I think it's instructive to reflect on the Brady Act case, simply because of what happened here in the House. Congressman Joe Skeen, when the Brady Act was coming up on the floor, he said, "We cannot order sheriffs to do this work. This is not a role of Congress. Sheriffs don't work for Congress. We can't do this." Others said, "No, no, it's very, very important; we've got to save lives. The objective is the key thing; the way we do it is unimportant, and we have to do this."

And it got to the Supreme Court, fortunately, and the U.S. Supreme Court said, "No, there's certain ways you do things under the Constitution." In Justice Scalia's opinion, he lays out very carefully how our Founding Fathers put together our system of government; that it's a system of dual sovereignty; that we have the Federal Government does; the Federal Government has certain things the Federal Government, and we have the State governments and there are certain things the State government does.

What the Supreme Court opinion finally concluded was that in earlier decisions the Supreme Court had said Congress cannot order States to do certain things on pain of receipt of Federal funds, certain things that fall within the responsibility of a State. What we are saying in this opinion, said Justice Scalia, is that Congress cannot circumvent States and order employees of the State—in other words, sheriffs—to do what the Congress could not order the States to do.

So what the opinion stands for, once again, is this fundamental principle that we heard in the Supreme Court decision in Lopez with regard to the Safe School Yard Act. Once again, it was something everybody agreed on: we certainly can't have people bringing guns into school yards. But thirty-five States have laws that prohibit guns on school yards, so we don't need a Federal law to do that. The Supreme Court said, furthermore, it's a violation of the Tenth Amendment and the Commerce Clause to do so.

So I think that's an effective summary of what the Supreme Court decided in that case. But I would also say that Scalia pointed

out in his opinion that every generation meets new emergencies, and there are emergencies of the day that we hear about and we're told, "Gee, we've got to bypass these technicalities in our Constitution in order to solve this emergency, this crisis." The fact of the matter is these provisions are adopted for our protection to ensure that we don't do that.

Mr. SCHAFFER. I'd like to ask Mrs. Yturria, if I could, for a moment—you mentioned that the Texas Farm Bureau was part of the meeting with the Council on Environmental Quality when they came and explained their posture on some of the property rights issues, and so forth. Does the Texas Farm Bureau support the initiative as it stands?

Ms. YTURRIA. Oh, well, I am told that they did. I was not at that meeting, so—

Mr. SCHAFFER. The other question that I have in the time remaining—you mentioned—you stated that this bill in front of us would prevent communities from working together on projects regarding the Rio Grande River. Earlier, I don't know if you were here or not, but Congressman Reyes was here speaking about his desire to see the river preserved and protected, and communities come together and work together. I would just point out, by way of example, my State in Colorado has had a number of projects over the years where we have had similar concerns and managed to provide various protections and have communities come together through the work of a congressional office of a United States Senator's office or other elected officials. Do you believe there's something that prevents your Congressman or your mayor—you mentioned Mayor Gonzales in Brownsville—or other elected officials from using the resources and the experience that they have in their offices to accomplish these goals?

Ms. YTURRIA. That is a very complex question. Brownsville is—about 3 years ago, it was noted that it was the poorest city in the United States. Now it's true, Congressmen and Senators come down, and what do they do? They go to a meeting place, and they are there for perhaps 20 or 30 minutes. They never see the colonias; they never see the horror stories that exist in my area.

We need someone to come to that border and see for themselves what really exists. I think people know more—the people in Washington seem to know more about Bosnia than they know about Brownsville, Texas. Really, you can't believe what kind of a condition that border is in and how few people come and really take the time to go out and look at what the reality is.

Mrs. CHENOWETH. Thank you, Mr. Schaffer.

Mrs. Yturria, the Resources Committee disclosure form that you completed says that you're representing the General Land Office in the State of Texas. What is your relationship with the General Land Office, for the record?

Ms. YTURRIA. I hold no position in the Texas Land Office. Over the years since I have been very involved in environmental issues, naturally that would be the office that I would have worked through over the years, and that is my contact with the Land Office.

Mrs. CHENOWETH. Was your testimony approved by the General Land Office in the State of Texas?

Ms. YTURRIA. Yes, it was.

Mrs. CHENOWETH. OK. Thank you.

Ms. YTURRIA. You're welcome.

Mrs. CHENOWETH. Mr. Pendley, could you cite for the record the similarities between the President's use of the Antiquities Act in Utah and this program, the American Heritage Rivers Initiative?

Mr. PENDLEY. I don't think we want to go on that long, do we, Madam Chairman? There are a lot of similarities, obviously. Congress was very clear with regard to the Antiquities Act and what the President could do. The President could set aside areas that are "scientific," areas that are "historic." He had to limit it to "the smallest area" necessary compatible with the resource. I don't think there's any way in the world that you can say 1.7 million acres of scenic land, largely scenic land, meets that requirement. So, No. 1, you have this situation where there is no statutory authority for the President's action.

Let's look now at the American Heritage Rivers Initiative. Ms. McGinty, as you pointed out, Madam Chairman, the only thing she cites to for authority is the purposes section of NEPA, which is all the feel good language about what Congress is trying to achieve. The instructive language, the mandatory language, follows, and the mandatory language is: Do a study once you propose an action that "significantly affects the quality of the human environment," that is, if it's a "major Federal action." So on both issues I think there is no statutory authority for the President to act.

With regard to the Utah situation, what became clear afterwards was that nobody in Utah had ever been notified. This was an initiative that went forward because environmental groups inside Utah that were not effective in electing congressional representatives that represented their point of view, and people from outside—for example, Robert Redford who was consulted prior to the designation—demanded it. The President did not consult with anybody locally. He ignored what the Governor wanted, basically left the Governor sitting outside the Oval Office awaiting a meeting with the President. In fact, as I understand it, there was a phone call made to the Governor of Utah. He was told that: We have no plans to do this, and then at 2 a.m. another call went in: We're about to announce it; in 5 hours we will announce it. So there was no consultation, no recognition of the unique role that the delegation plays.

And here, of course, all we have is this representation you received this afternoon that, yes, we'll consult; yes, we'll make sure that the locals are taken care of. In addition, of course, you have this balance issue. We're told in the *Federal Register* documents that they're going to take recognition of economic activities; that they're going to ensure economic activities are taken care of. In Utah the President had the unique opportunity to permit a trillion dollar coal deposit that represents \$2 billion to the school children of the State of Utah to go forward, and he choose not to. He choose to set it all aside. And so no wonder we have great fears with regard to a river initiative where we're concerned about economic activities. I think any concerns on that issue are justified.

Mrs. CHENOWETH. Mr. Pendley, does your foundation intend on suing the Federal Government over this particular point?

Mr. PENDLEY. Well, certainly we're looking at it. As I lay out in my statement, I think there's a lot of violations here. We have this unique situation. I don't think I've ever seen a situation like this before where we have a program announced by the President for which there is absolutely no statutory authority. The only thing that Ms. McGinty can cite to is the purposes section of NEPA, and she says, that's our authority; that's why we're forced to do this, compelled to this. Gee, I just think it's a no-brainer: they can't do this.

And when you add the uncertainty, the indistinctness of all of this, the arbitrary and capriciousness of it is even more questionable. If we are significantly affecting the human environment—and, of course, Ms. McGinty says we are—we're going to make it all better; we're going to improve the environment, then NEPA requires preparation of these documents. They are required not just when you improve the environment, but when you adversely affect the environment, both when you adversely affect it and when you improve it. Any—any impact on the environment requires a NEPA compliance. So she says we're going to make it all better. I think she's got a major Federal action that significantly affects the quality of the human environment. At the very least, that's an issue as well. I think the issue you brought up of the Anti-Deficiency Act—we got this reprogramming—raises serious questions. Also does it violate the Reorganization Act? I think there's a lot of issues yet to be decided there, and at bottom Congress is the entity that has the authority under the Commerce Clause to take action with regard to our navigable streams and our rivers. I think Congress has to start it.

And this idea that, well, we announced this initiative and then we came up and talked to you, so it's OK now, and you'll do oversight—I mean, where's your hammer? I don't see where the hammer is. I don't see how you rein them in—the very point the Congressman from Colorado made.

So the bottom line is our board of directors has to approve all the cases that we undertake. Our board of directors has not yet approved a case like this, but whenever we see this kind of mischief, we are interested.

Mrs. CHENOWETH. The Chair yields back to Mr. Schaffer for any further questions.

Mr. SCHAFFER. No, Madam Chairman.

Mrs. CHENOWETH. I have some more. I have a question for Lois Van Hoover. Thank you, Mr. Pendley.

Why do you not believe that this program will be voluntary, non-regulatory, as its promoters claim? Why are you suspicious about it?

Ms. VAN HOOVER. Any time you put another layer of bureaucracy, there has to be some guiding mechanism, and guiding mechanism ends up being regulation, either in guidance or in actual regulation, as we see it today.

There is nothing out there—they're talking about an initiative that requires no funding and no additional programs. So why do we need it? So the only purpose to have it is so that the Federal Government can hold our hand because we're not smart enough to do it ourselves and lead us down the road they want us to go. And

there has to be some kind of regulation or they change the word and call it "guidance," but it is the same thing.

EVENING SESSION

Mrs. CHENOWETH. Thank you.

I also wanted to ask Mr. Lynch if you would further elaborate about the possible impacts of the consultation language in the Executive Order to various resource users?

Mr. LYNCH. Yes, Madam Chairman. I'll give you two specifics that are in statute. The consultation requirement under the 1968 Colorado River Basin Project Act: the seven basin States must be consulted with by the Secretary of the Interior for plans for operating the dams constructed on the Colorado River. That's done through an annual operating plan process and through periodic review of long-range operating criteria that were established pursuant to that Act.

There is also another Act that pertains to the Colorado River, as an example, the 1992 Grand Canyon Protection Act, in which there are, I believe, three provisions that directly order the Secretary to consult with affected interests that are named in that Act. I look at—and I think in my written testimony I pointed out that consultation with affected interests does not occur under section 7 of the Endangered Species Act. The Fish and Wildlife Service takes the position that that is a one-on-one debate between the consulting agency and the Service, and the rest of us are left out of the process.

I wouldn't be so worried about this if it were in the CEQ program, but it's in the Executive Order. The President says you will consult with these entities that constitute whatever this river community is, if there's been a designation. That's a direct command, and if he does have the authority, then he is making an Executive command to the Federal agencies. He is, in fact, setting up a consultation program, and he has that—if he has the basic authority for the program at all, he clearly has the Executive authority to issue those kinds of directions.

Now I agree with Mr. Pendley that there is no foundational authority for this program, but there clearly, if this goes forward, is Executive authority for him to order the agencies around, and that is exactly what he's done. And I don't see how you square with the specifically mandated congressional consultation programs where you've made these designations and how you square it with the lack of consultation that we suffer with some of these other programs. It seems to me that we're just asking for trouble, and I think it was a serious mistake for the Executive Order to make that provision in sort of a casual way, either without elaboration or some specificity. I think it's going to cause us a lot of problems trying to go forward with the kind of problem-solving we're doing in the Colorado River Basin now and the changes we need.

Mrs. CHENOWETH. Thank you, Mr. Lynch. I want to thank the panelists for their very outstanding testimony, and excuse you now, and welcome the second panel.

The Honorable Gordon Ross, Coos County Commissioner, Coos County, Oregon; the Honorable David Young, Buncombe County Commissioner, Asheville, North Carolina; Mr. Bill DeVeny, Idaho

Farm Bureau Federation, Boise, Idaho; Mr. David Allan Ealy, Perrysville, Indiana, and Ms. Carol LaGrasse, Property Rights Foundation of America, Stony Creek, New York.

If you would all please take your place at the witness table—would you please stand and raise your right hand?

[Witnesses sworn.]

Mrs. CHENOWETH. Mr. Young has a plane to catch, and he's asked if we might go out of order, and we will. I'll call on Mr. Young first to deliver his testimony.

**STATEMENT OF DAVID YOUNG, BUNCOMBE COUNTY
COMMISSIONER, ASHEVILLE, NORTH CAROLINA**

Mr. YOUNG. Thank you, Madam Chairman. My name is David Young. I'm a resident of Asheville, located in western North Carolina. I'm here today to speak to you as a citizen, small business owner, local elected official, and chairman of the Riverlake Task Force, spearheading the nomination of the French Broad River as an American Heritage River. French Broad—interesting name for a river—it was the broad point in a French territory.

In all of these capacities, I fully support the American Heritage River Initiative. Our task force has been following the American Heritage River Initiative since the President announced the program on February the 4th. Our task force is comprised of interested citizens, chamber of commerce executives, elected officials from throughout the river basin, riverfront property owners, recreational enthusiasts, artists, craftsmen, tourists, development experts, and nonprofit agencies. And I'm not going to read from my text; I'm just going to summarize a few points for you, Madam Chairman.

In forming our task force to nominate the French Broad River, we have made a conscious effort to not make this a partisan effort. In fact, we have had tremendous bipartisan support. We have had over 2,000 endorsements similar to the ones in your packet. We have letters from the Governor of North Carolina, Jim Hunt, a Democrat; the Governor of Tennessee, Don Sequess, a Republican; resolutions from the Henderson County commissioners, who are all Republicans, and the Buncombe County commissioners, who are all Democrats—all in support of this effort to nominate the French Broad as an American Heritage River.

This issue is bigger than politics in our area. We must look beyond politics to the people side of this issue and improving the quality of life for the citizens who reside in our area.

In our efforts to name the French Broad River as an American Heritage River, we realize that we have already won the prize. We have come together in a whole new way, formed new partnerships and alliances, and discovered are neighbors again—not just nearby cities and counties, but our sister State, Tennessee. These are things that perhaps we should have done, but we didn't.

On May 1, we hosted a public input session in Nashville. Many of the suggestions from that meeting have been incorporated into the permanent criteria for the American Heritage River Initiative. During our May 1st meeting, public comments were heard from residents from two States, along with elected officials, property owners, business men/women. We basically came together, dis-

cussed plans for our future, and excitement has grown from that initial meeting.

What we discovered is we need the American Heritage River Initiative. We know that alone no one entity, no one government agency, no foundation, no one person can accomplish all that we have planned for the French Broad. The American Heritage River Initiative gives us the umbrella under which we can continue to build our plans and development of the French Broad River. It helps us unravel the maze of Federal grants and technical assistance opportunities and will give us access to programs that we now don't even know exists.

The Federal Government is big, and often finding the right assistance is difficult. The idea of our own river navigator is exciting to us. It would help us develop and sustain our great river, which brings me to my final point.

We, as our committee, have passed a resolution supporting the American Heritage River Initiative because it is nonregulatory and will not cause an increase in the Federal budget. Rather, it will focus resources on our plan of action. It would give an umbrella under which to work. The initiative will force the Federal Government to be responsive to our plan of action for our river. We have taken this promise to a new level, and I want to read that. We passed a resolution.

"We are pursuing the nomination"—this is our committee's resolution; we have passed this unanimously at our last meeting. "We are pursuing the nomination of the French Broad River as an American Heritage River. Our initial plan with other aspects calls for a greenway along the entire length of the French Broad River corridor through Transylvania County, North Carolina, to Knox County, Tennessee, which would be interpreted with public historic markers."

In pursuit of this greenway and the American Heritage River status, we pledge individually and collectively that no property will be condemned, no property owner will be coerced, and that all participation in the greenway voluntary, with all due regard for individual property rights. We understand our statement and code of conduct is in complete compliance with the stated objectives, goals, and the American Heritage River Initiative Program, as outlined in the Federal Register.

I ask your help for our region to continue to grow and prosper by allowing the American Heritage River Initiative to continue and to vote against the bill H.R. 1842. I also ask that you rethink the timing of this legislation. It might be best to allow this initiative to continue and to look at the results in a year. I think Mr. Schaffer made that suggestion also, to come back in a year.

In fact, if our river is named, I would like to personally invite each of the Committee to visit the French Broad in January 1999, after we have had Federal assistance for one year, and let's look together at the results. I'm convinced that this will be a good program for our river and other rivers chosen throughout the country.

Thank you.

[The prepared statement of Mr. Young may be found at end of hearing.]

Mrs. CHENOWETH. Thank you, Commissioner, and before you leave—

Mr. YOUNG. Yes, ma'am.

Mrs. CHENOWETH. [continuing] I do have a couple of questions.

Mr. YOUNG. Please go ahead.

Mrs. CHENOWETH. In your statement you note the strong support for the French Broad designation, but the Committee has received letters of opposition to this designation from State Senator Bob Carpenter of Franklin, North Carolina; from the Southern Appalachian Multiple Use Council; and the TS Hardwoods, Inc. Were you aware of this opposition?

Mr. YOUNG. Well, Bob Carpenter's district is not in our river basin, but that would not—he's not a senator for any of the counties that are involved in this, and I had not heard of the others.

Mrs. CHENOWETH. All right. I wanted to further elaborate on your testimony by asking you, because this program is described as voluntary, and many property owners believe they should only be included in a particular river heritage designation, if they give written permission to do so, would you support such a provision to this, too?

Mr. YOUNG. That they would not be included unless there was—

Mrs. CHENOWETH. Unless there was written permission to do so.

Mr. YOUNG. You know, that's an interesting question, in that the idea of them agreeing to be a part of it, I think if we're going to do a greenway, which is one of the things we've talked about for what our plan is, and they don't want to be a part of that greenway or have the greenway on their property, they ought to be able to opt out of that.

Mrs. CHENOWETH. So you will support the provision, then, that anyone who doesn't mind being included in it would give written permission to be included?

Mr. YOUNG. Well, when you start talking about trying to get written permission from every property owner, I think that adds—it makes it very difficult. But, you know, you cannot—if our plan is to do a greenway, we cannot do it without the property owner's consent to do that.

Mrs. CHENOWETH. So, then, you would agree that—

Mr. YOUNG. Well, if you're asking, will I agree that before we get the designation, we get all the property owners to agree, no, I don't think that would be fair. If you say that—

Mrs. CHENOWETH. Oh, no, that's not my question. I'm not asking they agree with each other. I'm only asking if you would agree that they should give written permission to be included in a river designation.

Mr. YOUNG. Before we get the designation?

Mrs. CHENOWETH. Before?

Mr. YOUNG. I don't know. I could not agree to that.

Mrs. CHENOWETH. OK, then, as it's proposed?

Mr. YOUNG. As what's proposed?

Mrs. CHENOWETH. The designation.

Mr. YOUNG. I'm sorry, say that one more time.

Mrs. CHENOWETH. As it's proposed, which it seems to be—it seems to be proposed in Asheville and around that area.

Mr. YOUNG. Right.

Mrs. CHENOWETH. So at this point in time, would you agree, then, that there should be written permission from the property owners to be included?

Mr. YOUNG. Well, like I said, I don't think before—we have a December deadline. I think it would be impossible for us to get written permission from every property owner before we got after the designation. If, in fact, we do a greenway, we have to have their consent and know—I've stated our committee passed a resolution saying that we would not look at anybody—we would not do a taking of anybody's land or coerce anybody to give up their land. So, in effect, they would have to agree to be a part of the greenway.

Mrs. CHENOWETH. OK. All right, with that, we'll let you catch your plane—

Mr. YOUNG. Thank you.

Mrs. CHENOWETH. [continuing] and thank you for your patience in this long day.

Mr. YOUNG. Yes.

Mrs. CHENOWETH. The Chair now recognizes Mr. Ross.

**STATEMENT OF GORDON ROSS, COOS COUNTY
COMMISSIONER, COOS COUNTY, OREGON**

Mr. ROSS. Chairman Chenoweth, Coos County is protective of all its rivers and streams, just as we're protective of all our constituents—our landowners and those who farm along those rivers, and those who have timber holdings in those watersheds. What we've done in Coos County is quite unique, although it should not be, because how we started with our watershed associations—and, incidentally, I've made copies of pictorials in a blue binder that you have before you of before and after. Sometimes it's hard to visualize why before and after is better, but if you read what was happening, you can, I think, see that.

We began on two of our streams in the Coos Bay area with a coordinated resource management plan, which is something's that's been available to anyone in the United States for over 40 years. In fact, it was, I believe, clear back in the Roosevelt era that the Agricultural Adjustment Act include the conservation plans and the opportunity for coordinated resource management programs within your community. At the present time, at the Federal level there are Memorandums of Understanding between all resource agencies. At the State level of every State in the Nation there are also signed Memorandums of Understanding between the resource agencies at the State level and at the community level.

So every community that has a soil and water conservation district made up of local landowners who are elected by the people, not just by landowners, but by all the people in the county, has this opportunity to go to the soil and water conservation district in that the technical expertise of the Soil Conservation Service, now called the Resource Conservation Service, for a coordinated resource management plan in their community. The landowners, whether it's a full watershed or just a short area, a small area, can get the assistance of all the agencies to improve their streams or to improve their watersheds, or whatever the need may be. And this voted on

congressionally. This is something that's here and is available to every community in America.

I want to say that Coos County is one of the most favored counties in America, I believe, and for some of the reasons I mentioned in my testimony here: Seventy percent of our land is privately owned. We have no Scenic River designations. We have no congressionally withdrawn Wilderness Areas in our county. We have consistently, since 1855, harvested more timber than any county in the State of Oregon, and that's because we're on the only deep-water port on the coast of Oregon, other than Astoria at the northern end.

We built San Francisco from the days of the Forty-niners until she burned in 1906, and we rebuilt it after that up until 1920. And this has been the largest lumber shipping port in the world for most of my lifetime and for decades before that, and yet we have more Coho salmon spotting per mile than any county on the coast, on the West Coast, and we also have more coho salmon than all the other counties in Oregon combined—and that during a period of time when we harvest more timber than any other county in Oregon.

This seems to defy conventional wisdom, but we also have watershed associations partnering with up to 75 percent of the landowners in the Coos Basin and a good number in the Coquille River Basin. And the private landowners—this is a bottom-up, non-regulatory approach. We have heard that today quite a few times. I can tell you in Coos County it is.

And I want to say that, with the exception of our Federal partners, this has worked very well. And I want to say also that, in defense of our Federal partners on the local level, it has worked very well with them also. It's been above that that things begin to bog down—I think maybe partly because people in the Federal Government don't understand the ecosystems that we have on the coast are the Douglas fir region, and our andramous streams are a result of disturbances—forest fire and flood, now logging and flood—and these disturbance-based ecosystems, we understand now, are the reason for our tremendous response in Coho salmon and in the timber industry.

I see the light is coming on. I just want to say that we've had a lot of great cooperation with our landowners, but when it comes to our Federal partners, their interpretation of the Food and Security Act, the Clean Water Act, and wetland regulations have been a constant impediment to getting through the permit process in order to do Coho habitat enhancement with, for instance, projects ranging from side-rearing ponds to taking sediment out of the streams in order to allow for Coho enhancement have been viewed as wetland violations, and one of our best cooperators was even charged with discharging pollutants into the waters of the United States. He had taken sediment out of his ditch from a previous storm and placed it on his farmland, and that was the charge.

In conclusion, I wish to say that the bottoms-up, nonregulatory, cooperative approach to enlist the efforts of every private landowner can and does accomplish far more than the Federal presence in our communities. I believe it was the Fiddler on the Roof—in the Fiddler on the Roof where someone asked the rabbi, "Is there a

proper blessing for the czar?" And he said, "Yes, God bless the czar and keep him far, far from us."

[Laughter.]

Mr. ROSS. Thank you, Madam Chair.

[The prepared statement of Mr. Ross may be found at end of hearing.]

Mrs. CHENOWETH. Thank you, Mr. Ross, and Mr. Schaffer and I both have reviewed this. It's very, very good. Thank you for providing it to us.

The Chair now recognizes my friend from Idaho, Mr. Bill DeVeney.

**STATEMENT OF BILL DeVENY, IDAHO FARM BUREAU
FEDERATION, BOISE, IDAHO**

Mr. DEVENY. Thank you, Madam Chairwoman, members of the Committee, and visitors. Thank you for the opportunity to present these comments.

My name is Bill DeVeney. I am a rancher from Riggins in central Idaho—maybe I should say west central Idaho. I am speaking on behalf of the Idaho Farm Bureau Federation, representing 47,000 member families, and also on behalf of myself. My testimony is in support of H.R. 1842, to terminate further development and implication of the American Heritage Rivers Initiative.

One contradiction follows another in the initiative. Creating another layer of government cannot possibly make existing government agencies function more efficiently. Allowing nongovernmental organizations to coordinate delivery of Federal services, as stated in the initiative, is a lot like having the fox guard the chicken house. These nongovernmental organizations, NGO's, as they are often called, have no respect for the heritage of the American West. Most of them are bound and determined to eliminate every aspect of the heritage of the West.

Ours is a heritage for trappers of furs, then miners, followed by grazers and farmers; next, loggers, and more recently, recreationists. Trappers are virtually extinct, and the NGO's are the very ones attempting to send the rest of us the same way.

The initiative usurps State powers and ignores constitutional provisions. Water is the lifeblood of Idaho, so the way it is managed and used is a concern to all of us in Idaho. This initiative circumvents the right of States to manage and control water, which is clearly a right of each of us in the State.

Another concern I have is that there is no constitutional authority for the Federal Government to become involved in the issue of water. The Constitution enumerates the powers granted to the Federal Government and reserves to all others the States or to the individuals.

This initiative is duplication of efforts between other Federal agencies—for example, the Rural Development Councils. In some cases, the initiative appears to be in violation of existing law such as NEPA.

This initiative circumvents the authority of Congress and vests authority in yet another bureaucracy. It introduces another layer which we do not need. Agencies have become the fourth arm of gov-

ernment, and this is detrimental. We need less bureaucracy, not more.

From personal experience, about two weeks before this hearing, I was contacted by two Federal employees wanting to come on my private property to make a stream-side survey to see what kind of fish and habitat are in a very small stream that crosses my private property. When questioned why they wanted to make the survey, the employees would not say, nor would they tell me by what authority they were coming on my property. And last of all, they were not willing to provide me with a copy of their survey data or any of the results.

From experience, I am very certain that whatever they might do with the information would not be to my benefit and would be detrimental to my interest, as well as that as to the general public in the long run. This is just an example of the increased intrusiveness of the government that will be created by the American Heritage Rivers Initiative.

Knowing Federal agencies like I do—and I have for 50 years—their help does not have to be helpful or even be nice. When the prospect of grant money is added, local units of government have a hard time saying no. Several years ago, I was asked to testify at the Idaho Association of Counties concerning some of the heritage legislation that was being proposed by Congressman Udall. Earlier versions had been rejected or ignored, but when the counties were promised a share of the money, many county commissioners had a hard time saying no. They were not interested in the heritage areas. They knew very little about them in most cases, but they were definitely interested in the pork. They were willing to accept the money regardless of the consequences, but, fortunately, there was enough commissioners present who could see the down side that the group voted to reject the proposal.

This country was founded on several important principles, not the least of which is the right to own private property. One of the primary reasons many immigrants come to this country is the right to own and control land outright. This initiative is just another chink in taking away private property rights and a step toward Federal land use control. I know of no instance where the government does a better job in the long run for managing property than property owners themselves. We need less government control, not more. So I encourage you to do whatever is in your power to curtail this initiative. Withholding funding is certainly a step in the right direction.

In summary, we do not want another Federal designation, a greater Federal presence, enhanced Federal control over our waters, and we do not want the government to come up with yet another way to spend our taxpayer dollars. Additional detail is provided in my written testimony, and I thank you for the opportunity to present my comments.

[The prepared statement of Mr. DeVeney may be found at end of hearing.]

Mrs. CHENOWETH. Thank you, Mr. DeVeney. I appreciate your good testimony.

Mr. Ealy, we'd like to hear from you.

STATEMENT OF DAVID ALLAN EALY, PERRYVILLE, INDIANA

Mr. EALY. Hello, Madam Chairman. I'm from Indiana, for those who don't know me here, and I live along the Wabash River. I am not a part of any group or organization. The grassroots kind of nominated me to come and speak to you because they felt I could answer your questions.

I've heard a lot of comments today, and I'm going to direct my time at some of those. First off, in Indiana they talk about this thing being a bottom-up. The National Park Service is who is behind getting this initiative started in Indiana, and we have fought them all along. They took the proposal for the American Heritage River to a little environmental group called Banks of the Wabash, and when we found out about their meeting on June 30, about 40, 50 farmers showed up, and they realized it wasn't a good idea to take a vote at that point, they passed the initiative on to a non-elected State commission. We already have an Indiana State program that is more advanced and more aggressive than what they're proposing at the Federal level from the White House.

Anyway, this Wabash Commission then had a meeting and decided that they really didn't have the authority to deal with this. So they decided to pass it back to the county commissioners and try to get their approval to move forward by July 16. That didn't happen. The county commissioners either said no or they were silent. So then what happened, the Wabash Commission decided to make themselves the river, and they scheduled three public meetings, and the advertised purpose of those meetings was to solicit public input. But no public input was allowed.

What we were given was a 50-minute presentation by officials, including the Federal Government. It was a sales pitch, primarily, I think, for the media to absorb. And then if we wanted to, we could ask questions for 10 minutes about the presentation, but we were allowed no input. There was no give-and-take; there was no opposing viewpoints allowed.

They were very vague initially as to what was going to be involved in this as far as the amount of land. At the Lafayette meeting they were also very vague about these new regulations and things, again claiming, as we've heard today, that there would be no mandates, no new regulations. Finally, a farmer asked a question: "You mean to tell me you're just going to hand us all this money with no strings attached?" And the Federal official said, "Well, of course there will be strings attached." Now that kind of tells us folks in Indiana that there's going to be some regulations. Incidentally, that statement's on this tape and I'll put that in as one of my exhibits.

Mrs. CHENOWETH. Without objection, so ordered.

Mr. EALY. Thank you. Down at Vincenze, the question had come up at Lafayette as to how much land would be involved, and they got very vague at Lafayette, but they were specific at Vincenze, and they decided that they would take all of the lands of these 19 counties, which is about 4 million acres in the initial application. Now this appointed commission has no authority over the lands or the Wabash River. They're there just to promote the historical, cultural, get people to work together, that type of thing.

As a result of that, the county commissioners have realized that, hey, this thing is serious; these people are talking about extending their authority well beyond anything that was ever given to them by the Indiana legislature, and since that meeting 10 counties have issued letters telling their commissioners to vote against this thing, when it comes up on October 1; 7 counties have said we're withdrawing from the State designation, so that they cannot include our county in the Federal designation. We'll have three more by the end of the week.

Where this is coming from is the original language that came out for this was they were going to restore and protect rivers. Well, restore to what and protect from what? And what are they going to measure this and how are they going to accomplish it?

They talked about incorporating sustainable development. That raised a lot of eyebrows right away in our country, and then with the Federal official talking about there would be strings attached, people started getting real understanding that what they were talking about was creating out of thin air a new level of government, a regional planning authority that would be a Federal authority and it would consist of this Wabash Commission; it would consist of 12 or 13 or 14 Federal agencies. There would be a river navigator involved, and there would be at least one Federal board involved. And our county officials looked at this as an unfunded mandate that was going to potentially come down on them and on the State, and of course it affects the Congress as well.

The newest stuff is calling for a clearly defined plan of action, and before a legislative services committee a couple of weeks ago, the Federal official held up this and said: "You're a plum. The Wabash is a plum because you already this State designation, and you already have a clearly defined plan of action."

Well, this clearly defined plan of action is a warmed-over version of our wetlands bill which was rejected by our legislature. It has not been approved by our legislature or any county government. It includes things like creating a 510-mile-long greenway, stopping all agricultural runoff into the Wabash watershed; transfer taxes; environmental courts—all of these types of things, which is a part of the more advanced environmental agenda, which of course is not going to get through our State legislature, but this could end up being implemented as the voluntary plan through our river community, this Wabash Commission, and we could end up in court trying to fight Federal officials from implementing this or helping them implement it. So that's why the counties are opting out. They don't want to be any part of that.

When we got really pushy down at Vincenze and it looked like we brought this up, I explained to them that these counties could opt out. The Federal official said, well, if the commission doesn't vote for this, we'll see if we can get a nomination from a lions club or a church. So this idea of a community literally is anything; there's no definition of it.

And it is only the community who can withdraw. I, as an individual, if I don't file the application and if the community doesn't write some kind of rules for me to get out of it, I'm stuck with it.

Thank you. I support H.R. 1842.

[The prepared statement of Mr. Ealy may be found at end of hearing.]

Mr. DEVENY. I'm glad you made that clear.

Mr. EALY. Yes.

[Laughter.]

Mrs. CHENOWETH. I am very glad to know that.

Mr. Ealy, I also wonder if you might introduce your son. I've noticed that he's been sitting here through hours and hours of testimony.

Mr. EALY. Well, I have three sons.

Mrs. CHENOWETH. You have three sons? They have been remarkable in this hearing.

Mr. EALY. I have Brian over here. He's taking notes for his journalism class.

Mrs. CHENOWETH. Brian.

Mr. EALY. Benjamin is behind me, and Patrick is in front of him.

Mrs. CHENOWETH. That is great. They are very, very fine young men.

[Applause.]

Mrs. CHENOWETH. And you are teaching them well.

Mr. SCHAFFER. Madam Chairman, if I may?

Mrs. CHENOWETH. Mr. Schaffer?

Mr. SCHAFFER. I was commenting to those youngsters back there a little earlier that their behavior during the hours they've sat here is far superior to that of Members of Congress on the House floor today.

[Laughter.]

Mr. EALY. I have been impressed.

Mrs. CHENOWETH. And even here, Mr. Schaffer. They stuck it out, and it's just you and me, Tonto.

[Laughter.]

Mrs. CHENOWETH. So you are to be commended, and your sons are to be commended.

Carol LaGrasse, it is so good to see you again, and welcome. Please proceed.

**STATEMENT OF CAROL LaGRASSE, PROPERTY RIGHTS
FOUNDATION OF AMERICA, STONY CREEK, NEW YORK**

Ms. LAGRASSE. Thank you, Mrs. Chenoweth. Thank you for the honor of testifying today.

My name is Carol LaGrasse. I'm the president of the Property Rights Foundation of America in Stony Creek, New York. That organization is a grassroots, nationwide organization dedicated to preserving, in all its fullness, the fundamental human right to own private property, as guaranteed in the U.S. Constitution.

I'm a retired Stony Creek elected councilman and also a retired civil and environmental engineer. For the past 4 years, I have been studying the National, or American, Heritage Areas (or Corridors) and exposing the grandiose scope of this program and its implications for private property rights and local representative government. Now the President has pronounced the American Heritage Rivers program.

Around the countryside where I live in upstate New York or down in New York City or on Long Island, where I originally hail

from, no one has told me that they're looking for an American Rivers Heritage Program or for any element of the program, as defined in any of the written documents. And on the other side of the coin, many people have called the Property Rights Foundation of America from the States of Washington and California, to the mid-western States of Indiana and Minnesota, to the eastern States of Maine and Virginia, and many more, for help to block the program.

The American Heritage Rivers program is of great national concern. Because of the widespread fear, I've been invited to speak numerous times about the American Heritage Rivers program on Radio and TV talk shows, and have in fact received more requests to speak about this topic than any other topic during the year.

After 3 years of successful grassroots private property rights opposition to the National, or American, Heritage Areas program in Congress, the Clinton Administration has pronounced this, a very similar, but more ambitious, in my estimation, program unilaterally through the rulemaking or Executive Order process. Of course, everybody knew that, no matter how much the wording was watered down in the American Heritage Areas program, it was designed to bring the National Park Service into local zoning and to transfer land ownership to government. This is the mentality and future people are afraid of, and I am not ashamed to use the word "fear."

Now I have to add some remarks about New York and get to the home territory because there were some statements which I think were misleading today. In New York's Hudson Valley, contrary to the impression left by Mr. Babbitt, Mr. Hinchey, and Mr. Miller at the July 15th congressional hearing, there is widespread opposition still remaining to the National Heritage Areas Program. People still don't like it in connection with the Hudson River Valley designation, however successfully it's been completed. And I've attached to the testimony two items that demonstrate the continuing opposition.

The first is a statement by one of the active local citizens' groups, the Coxsackie Awareness Group, which was printed in the New York Property Rights Clearinghouse published by this organization, and explains that the local people oppose the program as another potential infringement on their private property rights.

Now this group which authored the letter that we published had gotten started because it successfully defeated a local town zoning program that came down over a period of 25 years from the passage by Congress of the Federal Coastal Zone Management Act.

The second item I'm enclosing is a recent letter to the editor by a Hyde Park resident in opposition to me personally and the Property Rights Foundation. The writer mentions a meeting that was a forum by the Columbia County Planning Department, where I was one of six speakers. The other five were government speakers in support of the Hudson Valley National Heritage Area being completed. You may recall that the Solomon portion was left out, and it was later added.

There was \$10 million in pork barrel that was concerning these speakers, as well as the environmentalists who were included in the six. The writer of this letter states that his group needs Federal funding because of the problem, as he calls it, to him, and now

I quote, "The majority of the standing-room only audience appeared to be supportive of her" [meaning Carol LaGrasse's] views."

Now, the Council on Environmental Quality has represented the American Heritage Rivers Program as an honor and ombudsman. I'd just like to make the statement that, at most, the honor is a very minor feature of the program. Neither is the ombudsman an adequate explanation, as Ms. McGinty has said repeatedly.

There are no proposed rules applying to any of these agencies describing how they could possibly be expediting processes or relaxing enforcement. Those are to me the two elements of an ombudsman. Neither one is ever elucidated.

Today there was some testimony from the Honorable Congressman from Pennsylvania that in the Northeast there is a need for this program because our rivers are deteriorating. Well, the truth of the matter is that in the State of New York the Hudson River, which will be considered, including the Champlain Valley all the way to the Montreal border (if you want to go into the Jeffords plan), the Hudson River Valley was once very heavily farmed and industrialized. The shores were punctuated by wharves and all sorts of industries, but now it's grown up in forests, and it certainly doesn't need to be restored to any kind of a natural heritage that's maybe pre-colonial. It's really changed quite a lot in the recent 50 years.

Another remark was made that the myriad of local planning departments in states like Pennsylvania—and New York which is a very similar state in its governmental structure—aren't "professional"; local government isn't "professional" enough. Well, we have very professional planners in New York, and where we don't have them on staff as government-appointed officials, we're required to hire them as very expensive consultants. So we really are very adequately professionalized in our government, even dismayingly so.

The heart of each application for designation is a very elaborately stated planning plan for the future of the entire river and the land along it. That's the point of concern. The confusing description of the program seems to denote some kind of a plan to coordinate a number of important, powerful Federal agencies under a new national commission established for the purposes of the program at each designated river, in order to meet a plan of action to protect the river, which is nebulously defined as a "community", and apparently this is being worked out in conjunction with the Federal Government to define this community and this plan.

Now a federally appointed "riverkeeper," as you know, for each American Heritage River coordinates with the community and all of these Federal agencies. It seems to me that a plan, judging by how planning takes place in this nation these days, a plan for each river is presumably one that will further restrict the use of land and water to protect nature and someone's idea of historical importance.

Now this new body, the American Heritage Rivers Interagency Committee, includes the heads of 12 agencies, as you know, from the Defense Department to the National Endowment for the Humanities. The primary agencies—the Environmental Protection Agency, the U.S. Fish and Wildlife Service, the Corps of Engineers—are ones that are historically trampling on private property

rights. So it seems to me that this program of more efficient coordination of Federal enforcement agencies sounds like a juggernaut—the opposite of an ombudsman.

In my estimation, the practical meaning and future of the American Heritage Rivers program is to likely pan out something like this: The planning process will be led by Federal agencies and preservation groups which are hostile to private property rights and will be dominated by professionals, environmentalists, economic development types who are experts in the government gravy train who will go the rounds in each river area. Over the years, even 5 to 20 years, of quasi-voluntary partnership programs and mandatory programs of varying nature around the U.S.—

Mrs. CHENOWETH. Mrs. LaGrasse, would you be able to—

Ms. LAGRASSE. Oh, I'm sorry, I should be done, and I am done.

Anyway, it will pan out in that way, with all of these planning programs, and there will be stumbling blocks to local government as responsive to the local populations and problems for private property owners.

I would just like to say that the Property Rights Foundation of America obviously supports your bill, and appreciates your bill, and appreciates the opportunity to testify today.

Mrs. CHENOWETH. And we appreciate your being here, too. Thank you very much.

And the Chair recognizes Mr. Schaffer for questions.

Mr. SCHAFFER. Thank you, Madam Chairman.

Commissioner Ross, looking through the watershed projects in Coos County and some of the other projects that you mentioned, I just have a pretty simple question. In contrast to the statements by some who believe that the only way you can engage in water-related projects, river projects, is with the Heritage Rivers Initiative, I just want to know, how did you get all this done without the Federal Government and without the Heritage Rivers Initiative?

[Laughter.]

Mr. ROSS. We would have gotten farther without them.

[Laughter.]

Mr. ROSS. Excuse me. Mr. Schaffer, Madam Chair, I started with a small group of foresters and fishermen. We call ourselves the Coquille Forestry and Fishery Alliance, and we were looking at ways to solve the problems that some people felt were opposed to each other, and there are still people that try to drive wedges between our resource users in Coos County, but we brought these resource users together, and we did it years ago. Different programs that began in Coos County, the Salmon and Trout Enhancement Program, the Adopt-a-Stream—these all started in Coos County with people that are interested in fisheries and the resource issues that are very near and dear to us there. And so we've been able to work with the farmers, with the loggers, and with the fishermen. Our loggers all fish, too. Our farmers fish. And our fishermen appreciate the efforts that the other industries, the resource industries, have come together to help what is their livelihood—our commercial fishing industry as well as our sport fisheries.

So I guess we've just been lucky that people have enjoyed working together, and we've had some good leadership at different times. Different people in the community spearheaded these. It's

hard to define where it started, but it started with individual people. It didn't start with a government person. It started with people in the community that saw a need and spearheaded something, and then got the resources together.

Mr. SCHAFFER. You are not the reason the Federal Government believes we need to have a Federal agent coordinate these projects?

Mr. ROSS. Pardon?

Mr. SCHAFFER. So you are not the reason, then, that the Federal Government believes that it needs a Federal employee to coordinate these projects?

Mr. ROSS. I hope I'm not the reason.

Mr. SCHAFFER. OK.

Mr. ROSS. I'd get recalled at home.

[Laughter.]

Mr. SCHAFFER. Thank you, Madam Chair.

Mrs. CHENOWETH. Thank you, Mr. Schaffer.

I wanted to ask Mr. DeVeney, did you let the Federal agents on your property—

Mr. DEVENY. No.

Mrs. CHENOWETH. [continuing] to survey the stream?

Mr. DEVENY. Yes, Madam Chairman, I did not—I had a little discussion with one of them the next morning, and when he was telling me what he was—or how he was going to use it, and so I said, no; I said, “I just can't let you do it.” So he said, “OK, we won't look at you, but we'll go up above you,” which is Federal land. It is Forest Service, and it is a long, long, hard walk around on either side.

[Laughter.]

Mrs. CHENOWETH. And could you also repeat for me, very quickly, what the response was in Louiston with regards to this designation?

Mr. DEVENY. Which designation?

Mrs. CHENOWETH. The American Heritage Rivers Initiative. Was there an invitation?

Mr. DEVENY. No, there was not. I was not present, Madam Chairman, but from what I hear from the locals, no, there was no sympathy whatsoever for it.

Mrs. CHENOWETH. Mr. Ross, in your written testimony you state that one of your cooperating landowners was charged with discharging pollutants into the waters of the United States. What exactly was that, and what was that it he supposedly discharged? What did he do? And how serious was this charge?

Mr. ROSS. Madam Chair, he was part of one of our coordinated resource management programs for Larson Inlet. He's a dairyman on Larson Inlet. He's a fellow that loves to fish and loves to do things for the fish, and part of the program had come up with the need to take the sediment out of Larson Inlet, and he had been waiting for 2 years to get through the permit system, and then we had a big storm and it just—he just finally concluded that he and fish, neither one, could wait for a permit from the Corps of Engineers, and he dug the whole thing out, and it was turned over to the EPA, and they charged him with discharging pollutants into the waters of the United States.

Now we thought he took the pollutants out of the waters. This confused us. But the waters was his farmland, you see, because this might be jurisdictional wetland, and none of us qualify there for a prior converted farmland. So what we have is wetland pasture.

And the pollutant was the material coming out. Now the interesting thing—and I explained it to the EPA before and we did get them to turn it back over to local resource people to work with him to mitigate this horrible offense, which did everything a world of good, the fish included. I explained to him it would be an interesting prospect to go before a Federal judge and have one of your people on the witness stand and come with two buckets of dirt, and have you identify which one of them is the waters of the United States and which one's the pollutant, because they'd be exactly alike. Both are erosion from the very same watershed. One formed the land over the years, and the other is what stuck in the creek that year and took out and put on the land.

But this is a serious offense. This person in Meyersville, Pennsylvania a few years back that was an immigrant from Poland, he was charged with this same thing because, after years of working as a mechanic, he was able to realize the great American dream, and he bought a garage and a wrecking yard, and he got rid of all the wrecked automobiles, and in an EPA-approved manner, got rid of a whole stack of tires, and he went into the garage business for himself, and he put up a sign that said: "Fill dirt wanted." Well, while the tires were there, they had plugged up a culvert and a couple of skunk cabbages had grown. So he was arrested also for polluting, for polluting the waters of the United States, and he served 3 years in a Federal penitentiary, and was fined \$206,000. And I met his daughter a few years ago on the steps of the Capitol in a fly in for freedom back here; she was trying to get her father out, and I had read about this in the Reader's Digest already. So I knew what—

Mrs. CHENOWETH. And what—

Mr. ROSS. This person had a very serious charge, and we worked to get that turned back to the local people and the local Corps of Engineers, to work with him on some side-rearing ponds and do some mitigation, and get out from under this, or I'd have had a neighbor in the Federal penitentiary probably by today.

Mrs. CHENOWETH. That was John Pasquis? Was that John Pasquis or was that—

Mr. ROSS. No, the person—oh, I think that's the name of the person from Meyersville. I believe that was his name.

Mrs. CHENOWETH. Yes, he was one of my clients, and he was a Hungarian immigrant, a freedom fighter who was—who had an admirable reputation as being a freedom fighter from Hungary, and escaped to America, the land of the free and the home of the brave, and this is how we treated him. I could spend all evening on this case, but, anyway, thank you very much.

And, Mr. Ealy, I wanted to ask you, what has been the response of the Indiana State legislature in the designating of the Wabash River in the American Heritage Rivers Initiative?

Mr. EALY. Our legislature right now is out of session. So what we hear from them we hear over the telephone or in different meet-

ings. Some of them are saying they've looked at the Kentucky resolution and they want to put something like that in Indiana law, which forbids anyone from seeking something like the American Heritage Rivers Initiative, because that properly is within the jurisdiction of the State legislature. If the Indiana people wish a designation like that, they should petition the State legislature.

An interesting response was the original representative who actually wrote the bill that created this. He happens to be my representative. He's a Democrat. He went before the Legislative Services Committee a week or two ago and asked them to put out an immediate letter, even though they were out of session, telling the county commissioners to oppose it. He also lambasted, opposed, the American Heritage Rivers Initiative. He also lambasted the commissioners who were there, including the president of the commission, and explained to them that we had concerns when we established this State designation that it could impact property rights. We put protection within the law, within the code, to make sure that that never happened. We gave you no authority over land use or over the Wabash River. You are ignoring those protections. And when the legislature gets back in session, we're going to deal with that.

So we have bipartisan opposition in Indiana to this idea of a Federal designation or this commission exceeding their authority. I had another senator who said, if they do this, we'll sue them all the way to the Supreme Court. I'm not sure how he could do that, but that's what his comment was.

Mrs. CHENOWETH. I also—I might suggest from the Chair that they might also, as Congressmen, opt out for their districts of the program, as we did today for Idaho.

Mr. EALY. Now are you talking about State or Federal?

Mrs. CHENOWETH. The Federal, the American Heritage—

Mr. EALY. OK. At the Federal level—I was speaking of the State—at the Federal level, we have two of our Congressmen who have come out vehemently opposed, and two who are somewhat opposed. So we need to work on them a little bit.

Mrs. CHENOWETH. Good, good. Mrs. LaGrasse, you heard Lois Van Hoover talk about the same American Heritage Rivers Initiative Program being used in Canada. Have you heard about this, the Laquois River?

Ms. LAGRASSE. No, I haven't heard about it, I'm sorry.

Mrs. CHENOWETH. OK.

Ms. LAGRASSE. I can't comment on that.

Mrs. CHENOWETH. All right. Well, I want to thank the panel very much for your fine testimony and for your great patience today, and the Committee may have further questions for you in writing and I would appreciate if you could have your answers back to us in 3 weeks. Thank you very much.

[The information referred to may be found at end of hearing.]

Mrs. CHENOWETH. The Chair now calls the final panel: Mr. David Bright, Sr., from Harrison, Arkansas; Mr. Peter Samuel from the Schuylkill River Greenway and Heritage Corridor in Wyomissing, Pennsylvania; Dan Blomquist, Montanans for Multiple Use, Kalispell, Montana; Linda Bourque Moss, Western Herit-

age Center, Billings, Montana, and Reginald William Nelson from Richmond, Virginia.

Would you remain standing and raise your right arm, please?

[Witnesses sworn.]

Mrs. CHENOWETH. Mr. Bright, I wonder if you can open with testimony.

STATEMENT OF DAVID L. BRIGHT, SR., HARRISON, ARKANSAS

Mr. BRIGHT. Yes, thank you, Madam Chairman. I submitted quite a bit of testimony, and some of it was the rage we felt for 25 years, and I'm not much of a writer, so I've done some more here to get it down to 5 minutes.

But, as I listened today, you had very good witnesses on the American Heritage Initiative. So what I'd rather talk about is how a Federal river worked for us.

And it was something that Mrs. Yturria said, and I hope I got that name right, but she said Washington had finally gotten it, she thought. And I would really have liked to have told her, they got ours 25 years ago. It was called the Buffalo River; it's now a national river, and it was the first national river.

And I'm hearing the same terms today that we heard back then. The Forest Service rangers come to our community church in about 1970 to explain this program to us, and they said they only needed about 50 foot up the bank for a national river. That's all they really needed. Nobody would be moved from their homes. Those were all rumors, you know, about taking land and stuff; that the benefits would far outweigh losing that river, because we were going to have tourists flooding in, and I'm hearing that same stuff today, and I just want to tell you how it works.

There's no old folks—my community is totally gone. All the people were moved off; the houses were burned or dozed down or hauled off. No old folks died on their place, like they said. In my community the park boundaries are probably three to five miles wide, not 50 foot, and I just want—I'm hearing this same stuff today.

And I want to mention about the partnerships. We've seen these same partnerships, Federal and State and NGO's, on the biosphere nomination. We've seen them on stream teams this year when they developed them in Arkansas, the same people, Federal and State and NGO's. We're seeing them now—now we're hearing about—on this—partnerships, and I'm going to tell you, Madam Chairman, to us it looks a lot more like gang activity than it does partnerships.

There's no way to ever—and another thing we've heard here today, and we hear it on all of them, is customs and culture and heritage. Now let me tell you how they protected my community. We're talking about communities. I don't know what this community is because evidently you can be a community if you're a few people, and you can designate 200 miles of river. But I want you to remember what happened to my community, and they were going to help it, too, and it's gone.

My church house is now an eco-tour destination, and the cemetery where I buried my daughter is, likewise, an eco-tour destination. The cemetery, because of the Civil War graves of that era there, those people had lived on that land forever; the government

patented those people that land. I guess we're supposed to believe the government giveth and the government taketh away, because that's what they did.

But if you come to my county, you'll see what tourism has done for it. We had a Dog Patch USA Park three miles from the Federal park. It's bankrupt and closed, and has been for years. It went bankrupt three or four times. It sits on our main drag, which is winding, two-lane, no-shoulder, scenic U.S. byway. So that's our highest traffic density.

And I just want you to come and look around my square. We have about 7,000 people, or thereabouts, in my county. Come walk around the square that was supposed—see if you see any highrise motels or any hiking store supplies. Come and look. The Federal Government park—I'm not aware of them hiring any locals, but they may, to haul trash off or something. They've taken 41,000 acres of our very best farmland, our bottom land. We've been exiled in our county to ridgetops and hillsides, and Madam Chairman, they're after it. They want the whole watershed, which is what we've got left on those ridgetops.

There's 197,000 acres also of forestland. We're under an ecosystem assessment, another partnership, by the Forest Service. This year they offered for sale 281 acres to cut for timber. Now I don't cut timber. I'm a real estate broker, but the southern part of my county—and my county coffers depend heavily on the Federal Government, and I believe it's their responsibility, when they have that much of our land base, to provide some jobs and opportunities for our people.

Deer School sits down on that forestland and they're losing kids. The population's going down. Those people are driving 60 miles to pluck chickens, people that used to work in the woods, and there's nothing wrong with plucking chickens; don't get me wrong. I mean, it's honest work, isn't it? But those people are moving out because they can, for what it costs them in gas and wear and tear on their vehicle, and the fact that they spend 4 hours a day driving away from their family to have a job—they can make payments in Carroll County, and that's where they're doing that. And we're losing families.

Madam Chairman, they call this stuff "honorary." I'm going to tell you, we've got—we've had a sackful of honoraries. We've got two Wilderness Areas. We've got Scenic Trailways and Byways. Every stream that runs 3 months of the year is now a Wild and Scenic Riverway. We have—I'm going to tell you, we've had so many honors that we can hardly cope. If we get one—every time we get an honor, we lose families and jobs, and we have had all the honors we need.

There is a bill up here, and I think it sits in your Committee, that mentions Newton County again by name. The last thing we want to do is you people up here to even know where we're at. You've found us so many times that, when you mention us by name, we go to shaking. We've got a little bit of people left, and we really just want to be left alone with the lands you've left us and just live. Is that possible any more in America? Can we own anything? Is there anything sacred that we can own that you can't

take? An acre? A stream? Anything? You know, we've just had just too, too much honor.

And I'm begging you—I support your bill, and I don't want you to think I'm one of those right-wing radicals, but there are many of my heroes that sits on this panel, and I want you to know that. And I appreciate the two that stayed all day; I really do. And we have some hope that maybe there will be some sensibility again because of these kind of bills, and H.R. 901, which we supported heavily, obviously, last year, that as an American ought to make everybody cringe and cry that we even need to introduce a bill like that, but, second, and even worse, that you can't get two-thirds of the people up here to vote for it. And we're watching H.R. 901 with some interest.

I know you're not here to talk about H.R. 901, but I wanted to—I took my first plane trip to come here, and I wanted to throw my two cents in while I was here.

[Laughter.]

Mr. BRIGHT. Thank you, Madam Chairman.

Mrs. CHENOWETH. I appreciate that, Mr. Bright, and I appreciate your entering the tragic story about your community in the record. Thank you for being here and for waiting so long.

Mr. BRIGHT. Thank you, Madam Chairman. I forgot—could I enter—would you entertain entering this? This is the testimony and kind of stuff put together by a county judge, and he wanted you to know that the Park Service is not the best neighbors that we've ever seen. And he sent this up here with me, and if I could entertain you to enter what portions you want or take, and look it over, I would really appreciate that.

Mrs. CHENOWETH. Without objection, so ordered.

[The information referred to may be found at end of hearing.]

Mrs. CHENOWETH. Thank you, Mr. Bright.

The Chair recognizes Mr. Samuel.

STATEMENT OF PETER SAMUEL, SCHUYLKILL RIVER GREENWAY AND HERITAGE CORRIDOR, WYOMISSING, PENNSYLVANIA

Mr. SAMUEL. Thank you. I'm Peter Samuel. I'm the director of the Schuylkill River Greenway and Heritage Corridor, and on behalf of that group, its partners, and community organizations, I want to thank you and the members of this Committee for the opportunity to provide testimony in opposition to H.R. 1842.

We are opposed to H.R. 1842 because we believe the American Heritage River Initiative will provide opportunities and benefits to our region in southeastern Pennsylvania. The Schuylkill River Greenway Association is a membership organization which has been working with citizens and community groups and a host of other partners up and down the river for almost 25 years to promote the river resources and advocate their protection.

In the 1990's we went through a process to develop a management action plan for the Schuylkill as a Heritage Corridor, and in 1995 the Schuylkill River Corridor was designated by Governor Tom Ridge as Pennsylvania's seventh State Heritage Park.

We in the Schuylkill watershed, including conservationists, elected officials, municipal governments, landowners, recreationalists,

industry owners, and more, are very much interested in the American Heritage River Initiative because it will provide an excellent chance for the widest range of people to take new pride in their river. It will enable us to work with the Federal Government as a partner in efforts to improve and restore the resources associated with the Schuylkill.

The goal of the American Heritage Rivers Initiative is to support communities within the existing laws and regulations by providing them with better information, tools, and resources, and by encouraging local efforts deserving of special recognition. This is precisely the kind of assistance the Schuylkill River Greenway Association needs. This will help people better understand how to access existing Federal resources.

Let me provide a little background on the Schuylkill River Valley. You heard about the Delaware River a little bit today. We are a close associate of the Delaware.

The Schuylkill River flows through some of the most historically significant land in the United States. The river itself extends 128 miles from the mining region of Schuylkill County through four other counties and into the city of Philadelphia, where it links up with the Delaware. It comprises three national parks, many acres of State park and gamelands, widespread residential development, agriculture, industrial towns, and private lands.

By the 1770's, Philadelphia had become the hub of America's revolutionary activity. It was the site of the First and Second Continental Congresses, the birthplace of the Declaration of Independence. It was along the Schuylkill in the winter of 1778 that General Washington and his troops camped in Valley Forge, before the turning point in the Revolutionary War.

By 1900, the use of anthracite coal from Schuylkill County to power industry caused a total transformation in the valley. During this period, the entire river valley functioned as an interlocking series of industrial engines, and Philadelphia became a national leader in industry. All this growth and development of communities and industries was not without consequence. By 1927, it was estimated that there was 38 million tons of coal silt in the river. The river was so polluted that it had essentially lost its value as a river. The canal system was no longer navigable. The drinking water had seriously been degraded.

The river has been making a slow comeback. In the 1970's, the Schuylkill River Greenway Association was formed to begin advocating the protection and health of the river and its tributaries. The Schuylkill was designated by the State legislature as Pennsylvania's first scenic river in 1978. After an extensive 3-year planning process which involved representatives from each of the five counties and the public and private sectors, the Schuylkill Heritage Corridor was designated as a Pennsylvania Heritage Area.

The Schuylkill River Greenway Association, which had many years of experience working with partners throughout the corridor, expanded its mission to include increasing recreational opportunities, conserving cultural and historic resources, encouraging regional cooperation, attracting tourism, and generating jobs and permanent economic benefits.

Since I became the director of the Schuylkill Corridor, I've realized that there are Federal agencies in our region which have programs that could provide assistance to our various communities. The Army Corps of Engineers has indicated an interest in transforming the de-silting basins into wetlands. The Environmental Protection Agency has funds for creating riparian buffers along the tributaries. The National Park Service can provide greenways and trail planning. Fish and Wildlife is interested in the development of fish ladders along the many dams, and there are probably many others.

My information about these potential programs has been haphazard, almost accidental, but if the Schuylkill River is designated as an American Heritage River, information about all these programs could be made available as a coordinated package of services. The Federal Government would begin to work for us. People have called for a better, smarter, more coordinated way to work with the Federal Government. The American Heritage Rivers Initiative seeks to coordinate these existing authorities in a more efficient and complementary way, and proposes that assistance from the government will come at the request of our community.

There is no existing system to provide communities with a coordinated package of Federal services. In fact, there is so much lack of coordination, it is very possible that within one very small agency, such as the National Park Service, that more than one department or division could be involved with the same project, and they'd never know what the other is doing. If what is being proposed by the American Heritage Rivers Initiative comes to fruition, it will be a major advance for government.

I'm not talking about more government, not more regulations, not more interference. I'm talking about coordination, organization, and responsiveness. I'm talking about better government, ideal government—one that is there when you want it and one that provides a coordinated strategy of services that will be truly helpful.

The American Heritage Rivers Initiative will allow for recognition of the contributions of ordinary people in the significant regions of our Nation. The Schuylkill Heritage Corridor provides a framework for all types of people to take pride in their community, understand their history, and work together to enhance the quality of life for their children. We are treating our history and heritage as one of our greatest resources. The American Heritage River Initiative will allow us to build on that and ensure that the present and future is successfully linked to our past.

Thank you. I would also like to provide for the record a letter from the National Trust for Historic Preservation and an attachment, if I might.

[The prepared statement of Mr. Samuel may be found at end of hearing.]

[The information referred to may be found at end of hearing.]

Mrs. CHENOWETH. Without objection, so ordered.

Mr. Samuel, I want to thank you for your testimony very much.

Mr. SAMUEL. Thank you.

Mrs. CHENOWETH. Mr. Blomquist, it is very good to see you again.

**STATEMENT OF DAN BLOMQUIST, MONTANANS FOR
MULTIPLE USE, KALISPELL, MONTANA**

Mr. BLOMQUIST. Thank you.

Mrs. CHENOWETH. Welcome to Washington. We will entertain your testimony.

Mr. BLOMQUIST. Thank you, Madam Chairman. Yes, I'm president of Montanans for Multiple Use, a grassroots organization with five chapter groups spread throughout the State of Montana, and, yes, it's good to see you again. I remember the first time that I met you there up in Kalispell, where we were talking about forest access, and as I started to talk about my personal experience with forest access—and I'm going to do it again here in a second—I ended up crying about it, and you said, "I wish that all of Congress could have seen that." Well, I thought this was where they were going to be.

[Laughter.]

Mr. BLOMQUIST. So it's bad that there is so many demands on other people's time today.

One of the first things that I want to bring up is that our county commissioners, both for Flathead County and Lincoln County, which is most of northwestern Montana, they cover an area of probably bigger than a couple of States back here. Both of them have unanimously signed resolutions that they do not want the American Heritage River; they don't want any part of it. If it's introduced, they will not participate. They will not allow it into their counties, and those are in the written record there. So I also know that they're working with other counties within the State of Montana to come up with the same thing.

I've rewritten this thing about 27 times today because I keep hearing just gross inaccuracies. Ms. McGinty, she makes lots of promises, but follows through, in my personal experience, on very, very few. She spoke at the Western States Coalition Summit Meeting in July 1997 in Spokane, Washington, and I'm going to have to paraphrase this a little bit, but she said something to the effect of she would like to trust people, but she can't always trust people to do the right thing. Well, apparently, she has reasons to believe this because she didn't follow through and do the right thing, and put into the—the promises made at that meeting, put them into the documentation in the final deal of the American Heritage Rivers Initiative.

She specifically said, and I asked her again today—I walked over here to the side of the room and asked her—I says, "In Spokane, you said that a private property owner could opt out of the American Heritage Rivers Initiative if they so desired." And she says, "No, I said a community." And I says, "No, you were specifically asked the question and you said that a private property owner could opt out of it." There's many other instances throughout there that she's done the same thing.

And I tried to explain to her that it's this kind of vagueness, this kind of saying one thing one time and doing something else—her response to me was, "Well, it's our intentions to make government better." Give me a break. All your actions, everything that you've done has said exactly the opposite.

Now something that doesn't have anything to do with American Heritage Rivers, but it has to do with rivers and water qualities—I have a book here—Congressman Hill has a copy of this, if you'd like to see it, and if you would like to have a copy, I will get it to you, if you will let me know about it. This is water quality money that was set aside to reduce sedimentation in the streams. This is full of pictures of what happened when the Federal Government got involved in removing culverts for the sake of closing roads on the Flathead National Forest. One stream, two culverts, 80 tons of sediment into the stream because of what they've done. That's one of the hazards you run into when you take moneys from one program that are set aside to do something and divert them over here to do something totally different. You run into these kind of problems. Now they have no money to fix it.

Mrs. CHENOWETH. Mr. Blomquist, let me ask you, would you like that to be a part of the record?

Mr. BLOMQUIST. Yes, you can have it, sure.

Mrs. CHENOWETH. Thank you. So ordered.

[The information referred to may be found at end of hearing.]

Mr. BLOMQUIST. OK. We have one—in fact, Ms. Moss will speak to this, and we have one river that's proposed for listing in Montana, Yellowstone River, and I had heard a lot of things about what the proposal was. So I asked her today specifically what it was, and it's to bring out the history of the river and have little sites along, kind of a walk-down-memory-lane. And surprisingly, I support that, but I do not and cannot support the American Heritage Rivers Initiative.

This is a way—I don't think that she really understands—or not her personally, but the committee that's down there—really understands what happens when you start working with the Federal Government. I can't outdo Mr. Bright over here, but we've got the spotted grizzly bear; we've got the spotted gray wolf; we've got the spotted bull trout; we've got National Park Service; we've got 78 percent of our county is administered by the Federal Government, and we know what kind of partners they are, and it ain't the best ones in the world.

I would have the opportunity to come here today for a little different reason than what most people have had. We didn't have the money to come here. I didn't have it personally; my organization didn't have it. But when I was invited, I started asking people and organizations from all over the State of Montana. That was a very humbling thing for me to do—to go around with my hand out and ask for donations to get here. And the response was just overwhelming.

And I always think of Isabelle Fratt, who called me and says, "I'm so sick of what the Federal Government's been doing to us. I can't send much, but could I please have your address and send you \$10 to help you get to Washington, DC?"

Excuse me. I'd better go back to reading something so I can get through this.

The gentleman from Pennsylvania said this morning that the Northeast has led the way in independence. Well, the ancestors from the Northeast moved to the West, looking for the same things: independence and liberty. And for 150 years, they've taken care of

the places like Montana, so that they're still the last best place. We are still leading the way for freedom and liberty, and we don't want a river rammed through it.

Thank you.

[The prepared statement of Mr. Blomquist may be found at end of hearing.]

Mrs. CHENOWETH. Thank you, Mr. Blomquist. I appreciate your testimony. And can you give up another notebook for the record?

Mr. BLOMQUIST. Pardon?

Mrs. CHENOWETH. Can you give up another notebook for the record, the exhibit there?

Mr. BLOMQUIST. Yes.

Mrs. CHENOWETH. All right, good, thank you.

And the Chair recognizes Linda Bourque Moss, and thank you for your patience, Ms. Moss. We welcome your testimony.

STATEMENT OF LYNDIA BOURQUE MOSS, WESTERN HERITAGE CENTER, BILLINGS, MONTANA

Ms. MOSS. Thank you. Good evening, Madam Chairman and members of the Committee. My name is Lynda Bourque Moss and I am the director of the Western Heritage Center, a regional museum located in Billings, Montana. Founded in 1970, the Western Heritage Center is a museum dedicated to interpreting and reflecting Yellowstone River Valley life. I am here this evening to present the background of a regional project of the Western Heritage Center, the Yellowstone Heritage Partnership, and to relate our regional interest in support of the American Heritage Rivers Initiative. I am here today with the encouragement of the Yellowstone County commissioners, the Western Heritage Center board of directors, and supporters of the Yellowstone Heritage Partnership. I'm just going to summarize my written statement for you.

Several years ago the Western Heritage Center began two projects: one called Our Place in the West, which was a long-term exhibit and oral history projects, and public programs, and publications that looked at living in the Yellowstone River Valley from the perspective of residents. We also embarked on another project called The Real West: Farming and Ranching Families of the Yellowstone Valley.

With both of those projects, we visited people. We were in kitchens and back yards of farmers and ranchers throughout the Yellowstone Valley, getting their sense of their history and perspective of this remarkable region. Many of those people were very interested in continuing this history project. We worked with small, local museums. We looked at their artifacts and collections, and saw that there was a remarkable wealth of information within the Yellowstone region. Out of this dialog, we saw that there was a need to develop a regional partnership, and in 1996 the Western Heritage Center became the lead organization for the Yellowstone Heritage Partnership.

For the Yellowstone Heritage Partnership, we focused on the Yellowstone region, which involves Montana, northern Wyoming, and western North Dakota. To begin building support, and the process to establish this partnership, we requested technical assistance from the RTCA program, which is with the National Park Service.

For that assistance, we enlisted the support of counties and all types of nonprofit organizations and museums throughout the Yellowstone Valley. We had over 40 letters of support for that application. One of my favorite letters came from McKensy County in North Dakota, and they even called me and said, “We are so pleased that you’re including us in this regional project. We’ve always felt that we are part of the Yellowstone Valley, and in western North Dakota oftentimes we go unnoticed.”

In January 1996, the Western Heritage formed an advisory council, and that was comprised of many individuals that sent in letters of support. And we have letters of support from that from county commissioners throughout this region.

The Yellowstone Heritage Partnership advisory council includes representatives from Federal, State, and local agencies, museums, colleges. The Crow and Northern Cheyenne communities have representation on our advisory council. Agriculture, recreation, and natural resource management organizations in Montana, northern Wyoming, and western North Dakota are involved. We have three appointees from each of the Governors—from the Governor of Wyoming, the Governor of Montana, and the Governor of North Dakota.

In February 1996, the advisory council formulated a vision statement. Our vision statement is this: “The Yellowstone Heritage Partnership, working together to promote the Yellowstone River Valley: a place valued for its quality of life; communities that respect their region’s natural and cultural heritage, and consider these in their developmental projects; a region with a sustainable economy that offers opportunities for growth and employment while managing change; and a people that cooperate through the free exchange of ideas and develop consensus.”

Since 1996, we’ve had many public meetings throughout the Yellowstone Valley. We’ve had meetings in Billings, in Colstrip, Lame Deer, Hardin, Crow Agency, in Livingston, Red Lodge, Joliet. We’ve had meetings in Williston, North Dakota, and in Sheridan, Wyoming, we had over 100 people attend a meeting.

We also worked with another organization who is a partner, the Yellowstone Center for Applied Economic Research, and that organization has conducted several focus group studies throughout the region, asking residents their perception of the region, the quality of life, resource use, and economic development. And one of those is cultural tourism.

And I’m going to read some of the statements from people from those meetings. This is from Bill Michaels. He’s a sugarbeet farmer. He lives in Huntley, which is near Billings, and he’s also on our advisory council.

He said, “I could support any program that does not in any way diminish private property rights. My concern is agriculture and its future. Family farms are very important. It is my belief most rivers need some type of flood control and effort to diminish the destruction of timberland”—he was talking about deer habitat—“and productive farmlands. Strange how farmers and ranchers are not part of many of these programs.”

Ivy Brubaker in Terry, Montana—Ivy is probably 80 years old, and whenever I see her, she gives me a big hug. “We think the

State and county should have charge of our area. We are concerned for the farmers and ranchers, fishermen, and those with their fun boats.”

Dallas Johannsen—this is from a meeting in Hysham that I attended. He’s the executive director of the Eastern Plains RC&D. We went through very intense discussion of the Yellowstone Heritage Partnership with many of their members, and Dallas commented, “We need to begin to build trust as we look at these types of initiatives.”

Based on the public input through these methods, the Western Heritage Center identified the following projects and tasks as part of our partnership. One is to develop a traveling exhibit. That’s called “Explore the Yellowstone!” and we’re going to take that to fairs and pow-wows, rodeos, places where people gather, to begin talking to people about the Yellowstone region, sharing this wonderful history of this area.

We’re conducting a regional economic study of cultural tourism in the Yellowstone region which will create information that is user-friendly, so all these organizations can be using the same data, as we talk about cultural tourism as one leg of the economy of the Yellowstone region.

We looked at the need to obtain what we called a circuit rider for the region or someone that could facilitate multi-agency coordination and collaboration, and also further expanding the support base of the partnership. At all of our advisory council meetings we have representation from our three congressional offices, and they have been very helpful in providing input from their perspective as well.

When the American Heritage Rivers Initiative was announced by President Clinton, the partnership began gathering information about the initiative. Many of the partnership members saw parallels between our regional initiative and the American Heritage Rivers Initiative. In May we received a consensus to continue to evaluate the initiative while conducting a regional survey to gather other information related to the initiative, and we submitted comments as part of that public review process.

Our preliminary approach is based on information gathered from 17 surveys, and the strongest—

Mrs. CHENOWETH. Ms. Moss, will you be able to wrap it up pretty soon?

Ms. MOSS. Oh, sure. I’m sorry. OK.

The strongest surveys, the projects look at the Lewis and Clark Bicentennial, the Nez Perce National Historic Trail, and the Yellowstone River Greenway.

While I was here today, two of my colleagues were meeting with the Montana Stockgrowers Association to talk about our plans for this initiative, and I will just conclude by stating something from Mike Penfill, the director of the Montana State Parks Association.

“We believe in community-based, citizen, grassroots action as the best way for people to secure a positive future for Montana. With that as the background, we are excited about the American Heritage River Initiative for the Yellowstone River in Montana, Wyoming, and North Dakota.”

Thank you.

[The prepared statement of Ms. Moss may be found at end of hearing.]

Mrs. CHENOWETH. Thank you very much.
The Chair recognizes Mr. Nelson.

**STATEMENT OF REGINALD WILLIAM NELSON, RICHMOND,
VIRGINIA**

Mr. NELSON. Thank you, Madam Chairman. I guess I'm the one you've been waiting for, being last on the list.

[Laughter.]

Mr. NELSON. No one will be happier than I when my time is up.

[Laughter.]

Mr. NELSON. I'm here today to support H.R. 1842. My name is Reginald Nelson, and I live at 1820 New Market Road in eastern Henrico County, which is just outside the city of Richmond.

Mr. DeVeny from Idaho could have written my testimony for me, and I could have changed the name and a few facts. I'm a full-time farmer also, and have experienced many of the same things that he has dealing with the Federal Government and bureaucrats.

The land that we farm is in sight of the James River, which has a watershed of over 10,000 square miles, as mentioned earlier. We've been farming most of this land for the past 75 years.

I have no business really being here today. This is the height of our harvest season, and time is very precious to us now. I'm spending 12 to 16 hours a day this time of the year, and I had a hard time explaining to my two young daughters yesterday why I had to come to Washington today to testify before this Committee—to protect our rights.

I elected representatives to Congress to protect my interest and my rights, not to be run over with Presidential Executive Orders in which Congress had no say. This seems to be dictatorial, not democratic.

In my testimony, you will see that I have stated that my Congressman is Thomas Bliley. He is the one who represents my interest. I live on the edge of the district, and technically live in—my Congressman is Mr. Scott.

As a farmer, I already know about excessive regulation. I comply and file—comply with and file a nutrient management plan, a Chesapeake Bay plan, an integrated pest management plan, record the pesticides which I use on my property, and at the same time have to comply with local land use regulation. And, yet, none of these regulations have changed the way my family has farmed this land over the years. We have been good stewards of the land since the beginning. My father and grandfather took care of it and taught me how to take care of it. We haven't needed the Federal Government to tell us how to farm. What has changed is the amount of time and the cost that it takes to report these things back to the Federal bureaucrats.

A question I have: If this initiative is truly voluntary and non-regulatory, why is there a Federal presence? Why will Federal agents be involved? Why? It's because there clearly will be additional regulations or policies placed on the property that has this designation. Is this going to mean that we're going to have more records and more reporting to do with more regulation?

We've dealt with some of these so-called partnerships over the years with the farm, and it seems to be a way to pass the buck. One agency tells us we need to see the next agency, and that agency tells us we need to go back to the first agency.

Another question I've got is where the funding comes from for these policies. If it's not going to cost any more and we don't have to hire any more people, what have these people been doing if they didn't—they didn't have anything to do before now?

There are 12 agencies that have been identified to work with this initiative. FSA is one of those agencies, I believe, the Farm Service Agency, and many of the offices have been consolidated and closed recently due to budget cuts. They apparently don't have an excess amount of money to support these things.

What really irritates me more than anything is the fact that my Senators and my Representatives didn't have the opportunity to approve this Federal program, nor did they have a part in creating it. This initiative has been created with the rules yet to be established, it appears. The devil is in the details, and we haven't been given those details in advance of this program being written.

Now for years we were asked as farmers to sign up in the farm programs, where the rules and regulations were written sometimes after we signed up. This doesn't work; it never has worked; it never will work.

We have dealt with—in our neighborhood we have had a lot of problem with the National Park Service coming in and trying to overrun us with historic preservation. It appears that some of these bureaucrats must go to the same school and learn how to avoid answering questions, as we saw Ms. McGinty earlier. The question was asked if the Federal—if the person could testify at a zoning board hearing. The National Park Service representative, superintendent of Richmond Battlefield Parks, stands up frequently at the board meetings and the zoning meetings in uniform and testifies. So it does happen.

Some years ago, we had the opportunity in the State to have a road, Route 5, voluntarily designated as a Scenic Byway. Nothing was done then except a few pretty signs were put up along the road stating this designation. Now we have a group of citizens in the area who are using this designation, trying to obtain a 1,300-foot setback off of Route 5 back onto our property. They're trying to stop development, and they want no further improvements to Route 5, saying it's an historic road. Well, farm equipment has become rather wide, and with the traffic we have on Route 5, if the road's not improved, we won't be able to continue to farm it, and then the development will come, and then the road will be improved.

Mrs. CHENOWETH. Mr. Nelson, will you be able to wrap it up in the next minute or two?

Mr. NELSON. Yes, I will.

I am fortunate that my local jurisdiction, Henrico County, is in strong opposition to the designation and is preparing a letter to be sent to all of our congressional delegation stating and clarifying their opinion. I would like to provide a copy of that letter to this Committee to be attached to my testimony as soon as it is available.

Mrs. CHENOWETH. Without objection, so ordered.

[The information referred to may be found at end of hearing.]

Mr. NELSON. Again, I would just like to strongly support H.R. 1842, and thank you for your time.

[The prepared statement of Mr. Nelson may be found at end of hearing.]

Mrs. CHENOWETH. Thank you, Mr. Nelson. Being the daughter of a farmer, and knowing what farm life is like, I certainly understand. I understand your sacrifice today, and I understand the sacrifice of every single one of you who are here. I just want you to know there is a committee markup going on in the Commerce Committee and in ISTEAA, and even as we speak, my staff is giving a major speech for me—that there's a lot of times things have to go by the wayside. That pales in comparison to the sacrifice of all of you in coming here to offer your testimony.

And although there's just two of us here, remaining here, I want you to know that this becomes a part of the permanent record, part of the permanent congressional record that will last in the archives of the Library of Congress, and your contribution today will be referenced a lot and reviewed by many people. And so I just want to say, for my colleagues who can't be here, thank you so very, very much for coming.

I would like now to yield to Mr. Schaffer for any questions he might have.

Mr. SCHAFFER. Thank you, Madam Chairman.

I like to think in terms of quality instead of quantity when it comes to Committee members here.

[Laughter.]

Mr. SCHAFFER. So I can assure you we're in good shape here.

I'd like to ask Mr. Samuel—if this Heritage River Program continues to move forward as it is suggested by the Clinton Administration and you pursue it—you're in southwest Pennsylvania?

Mr. SAMUEL. Southeast.

Mr. SCHAFFER. That's right.

Mr. SAMUEL. Philadelphia's southeast.

Mr. SCHAFFER. Oh, you're in southeast, OK. You're in southeast Pennsylvania. What are your thoughts about this opt-out provision? You've heard the exchange between Ms. McGinty and I on who would establish the standards associated with—the terms of who would be opting out or not. She suggested that it's her intention to give quite a bit of authority to the local proposal, the organizing group. In your case, stating your desire to pursue the Heritage River Initiative on your particular river, do you plan on allowing property owners along the river to opt out of the program right at the beginning?

Mr. SAMUEL. I don't quite understand what opting out is going to do for someone. And the reason I say that is the Schuylkill has been designated a Heritage Corridor. That didn't do anything to landowners along the river, and you have to understand southeastern Pennsylvania, obviously, is very different from Idaho and many parts of the West. It's very densely populated. It's very heavily residential. We're talking about a lot of residents with small properties. We're not talking about a lot of large farmers or landowners.

And I think—you know, there was some discussion earlier that perhaps everyone who's a landowner along the river should be sur-

veyed and given the opportunity to opt out. I guess I don't understand, with the Schuylkill being a greenway, with the Schuylkill being a Heritage Corridor, with the Schuylkill being a designated Scenic River, what did that do to landowners that created any restrictions for them? And I also don't see the American Heritage Rivers Initiative imposing any restrictions on landowners.

So I don't understand truly why there's a real need for opting out, and I guess that's—explain it to me: Why—what there is to fear? I guess I'm not sure what's going to happen to landowners along the river that they need to opt out of something.

Mr. SCHAFFER. I'm less interested in explaining to you the fears that need to be associated with the Heritage River Initiative. As for me, I sat through quite a bit of scary testimony from others who have been affected by the Federal Government in various ways, but that's not really the point of my question. It is, though, presumably, you would be primarily involved in formulating the proposal and working with the community on drafting the proposal to the Federal Government to establish the Heritage River Initiative on the Schuylkill River, and I'm just trying to inquire, at least at this point—so much of this is speculative, even the rules and regulations and how they will eventually unfold. But from your perspective, do you envision allowing local property owners who live along the river, who own land along the river, to opt out in your proposal?

Mr. SAMUEL. Oh, I would say there certainly can be people who do not support it. I guess I don't—and I'm sorry that I was not clear, but I don't understand what opting-out means. I guess I can—

Mr. SCHAFFER. Well, it would mean—let's say Farmer Jones has a little farm, one of these little farms, you mentioned that's right along the banks of the Schuylkill River, and he hears that you're applying for the Heritage River Initiative and you want the designation, and he sends you a letter and says, "You know, this might be fine for everybody else, but I would appreciate it if the boundary went around my property." Are you going to allow that. That's what that means.

Mr. SAMUEL. OK. I guess, again, my confusion is that I didn't see that there was any boundaries here. I mean, we already have a Schuylkill Heritage Corridor that has very, very mysterious unclarified boundaries, and it's really more a partnership among—

Mr. SCHAFFER. OK, but I'm suggesting that Farmer Jones wants you to establish a boundary around his little farm on the banks of the river.

Mr. SAMUEL. Then I do not have a problem with that. That's the answer.

Mr. SCHAFFER. Do you anticipate that your proposal will allow for the opt-out provisions so the boundary can be drawn around his land?

Mr. SAMUEL. Yes.

Mr. SCHAFFER. You do?

Mr. SAMUEL. If there are boundaries drawn and someone needs to be outside of those boundaries—I mean, I guess I—you know, we're functioning on a model of—

Mr. SCHAFFER. I'm not suggesting need; I'm suggesting desire—that he just wants to be outside the boundary.

Mr. SAMUEL. Yes, I mean, it seems like you're using a model of like a national park, where they draw a boundary around something and say, "This is all now under the jurisdiction of the Federal Government," and I don't think that's what a Heritage Area or a Heritage River is about. There's not a firm boundary. It's a way of developing a partnership amongst interested people who are interested, in this case, in a river, in a river corridor. I don't see a hard boundary, but if we do draw a boundary and someone does not want to be in that boundary, then they have, certainly, the free will to be outside of it.

Mr. SCHAFFER. Well, that is encouraging. My time's up, so I'll stop. Thank you, Madam Chairman.

Mrs. CHENOWETH. Ms. Bourque Moss, I'd like to ask the same question of you that was posed to Mr. Samuel. Do you believe that people ought to give written permission before they are included in a designation under the American Heritage Rivers Initiative?

Ms. MOSS. As it stands now, we have a task force that's working on our proposal for the Yellowstone River as an American Heritage River. And based on the latest information from the Federal Register, it doesn't have to be the entire river, and that helps us considerably. We'll be looking at specific areas.

And the focus of our projects look at public places, at museums, at sites, whether they're national historic sites or parks, places that are in the public interest. So we won't be looking at private property at all. We are working with the Montana Stockgrowers Association and they have offered their assistance to work with us on this nomination, as we proceed to make sure that it meets the interest of that particular organization. We've always felt that it's important to be open with our project and our partnership and invite the views of many different groups of individuals and associations in this region, so that that dialog hasn't come up yet with our advisory council members; it certainly will. We have a meeting in October, and I'm sure that will be part of the discussion.

Mrs. CHENOWETH. So, generally, what you are saying is that the property owners will not even be considered as being included?

Ms. MOSS. They're an important voice to the Yellowstone region. We aren't defining boundaries at this point.

Mrs. CHENOWETH. But if they want boundaries defined around their property, define them out of the project, would you support that?

Ms. MOSS. I think so. That would be fine with us.

Mrs. CHENOWETH. Thank you.

Mr. Blomquist?

Mr. BLOMQUIST. Yes, just for clarification here, I know the Montana Stockgrowers I've been talking with them, too, and I know that they do support the idea of some kind of history being—a lot of what they're talking about as far as the history sites, putting up a display, or whatever it is, working with the museums and all that, but I also have a letter here from the—it's in with my testimony there—from the Montana Stockgrowers, and I'll just—it's quite lengthy, but I'll just read a couple of sentences here at the very end of it.

It says, "We support your effort to bring"—this is addressed to me, by the way—"We support your efforts to bring badly needed insight to this ominous program through testimony during the congressional hearings. We also offer our support for your efforts to have this initiative withdrawn until a full congressional review has been completed and a fully developed program is presented for adequate public comment."

They are interested in working with the group in Billings, because if it's going to go ahead anyhow, which apparently this President has the idea that this will go ahead regardless of what we do, they certainly want to be part of it. But they are very, very concerned because this thing has not been up for public comment; it has not been fully developed; it has not been fully explained.

Mrs. CHENOWETH. Thank you. Mr. Bright, could you briefly describe the National Park Service's policy regarding roads within the Buffalo National Park?

Mr. BRIGHT. Yes, thank you, Madam Chairman. When they came to our community, they talked about better access for more people, and in reality they've taken roads that were historically our county roads and blocked them. And I'd just like to give you one example, if I could.

Mrs. CHENOWETH. Oh, wait a minute. Wait a minute. "They" being—

Mr. BRIGHT. I mean the Park Service put boulders in part of them because they say that our roads were not surveyed off and that we just had a proscriptive easement, but you have to understand, this was not Federal land; this was private land, and we had those easements in there. We had a visitor fall off a bluff—they love to climb bluffs, you know, and he fell, and it took our first responders, local people, 3 hours to haul him out for medical attention. He fell within 100 yards of our county roads called Centerpoint Road. They had a horse die down there; they unlocked the cable on it and took a backhoe down and hauled the dead horse out. But we had to haul the—they had to haul the gentleman that had fell out by hand; it took them 3 hours. They have no common sense.

Mrs. CHENOWETH. Well, where is your sheriff and your county commissioners?

Mr. BRIGHT. That's a good question.

Mrs. CHENOWETH. They have absolutely no—I'm sorry about getting so excited, and I'm not supposed to testify here, but they have no jurisdiction over your county roads. What's wrong with your local units of government?

Mr. BRIGHT. They're intimidated; they've been bullied and intimidated, and we are a very poor county and they don't have the guts to wind up in court, and the Park Service tells them that when they put that gate there, that if they go through that, they'll be destroying government property and they'll be—

Mrs. CHENOWETH. It isn't government—I'm sorry.

Mr. BRIGHT. I know, I understand. The cable's there; you have to understand, Madam Chairman. The cable they put up is theirs, and I guess if you knock it down, that would be government property; I don't know. I don't get it, either.

Mrs. CHENOWETH. Well, this is shocking to me.

Mr. BRIGHT. We would really appreciate some help. I know you've got so much to investigate up here, though; you probably don't have time to investigate something in poor little Newton County, but if you ever get around to it, we'd love to have you.

Mrs. CHENOWETH. Well, I'm telling you, I am exceedingly interested in this particular issue. You have certainly gotten my attention. The Park Service—no national or Federal agency has jurisdiction over ingress or egress using county roads, and I don't know where your county attorney is, or who's protecting you people, but you need protecting, and that's not from the Federal Government.

Mr. BRIGHT. I understand. We had an attorney general's opinion, and he really agreed with them. He also joined a suit with the Sierra Club on a timber sale in Newton County, and probably will again, and is currently suing three property owners along Crooked Creek, trying to prove that it is a navigable stream, because they have fences there, and they've had them there for 50 years. So we don't get much help at home in places.

Mrs. CHENOWETH. Mr. Bright, I know the hour is late, but I want you to stay in personal contact with me on this.

Mr. BRIGHT. I would be happy to do that, Madam Chairman.

Mrs. CHENOWETH. Would you, please?

Mr. BRIGHT. Yes.

Mrs. CHENOWETH. Thank you.

Mr. BRIGHT. Thank you.

Mrs. CHENOWETH. Mr. Nelson, would you please elaborate more about what you testified to, about the Park Service superintendent standing up in uniform and testifying at county zoning board meetings?

Mr. NELSON. The superintendent has attended several meetings. I believe one of them had to do with the mining, a farm that was going to be mined for gravel that was in the viewshed of the park. They objected to that. They had—they presented in front of the board of supervisors on different—with their different plans and other things as well.

Mrs. CHENOWETH. Well, I guess it's a new trend, but I'm not pleased with it.

Mr. NELSON. We're not pleased with it, either.

Mrs. CHENOWETH. No.

How much of your property would be—is there—let me ask it this way: Is there a part of your property that aligns a river?

Mr. NELSON. We have a road that separates us from the river. There is the property right on the river, then the road, and then we're across the road from that. We can see the river.

Mrs. CHENOWETH. Mr. Nelson, tell me, where does your county come down on the American Heritage Rivers designation?

Mr. NELSON. The county, to my—as I have been informed, is in opposition to it, to that initiative.

Mrs. CHENOWETH. I would suggest you go home and get your county to petition or just simply to opt out.

Mr. NELSON. OK. As I stated in here, they're supposed to be writing a letter to their congressional—

Mrs. CHENOWETH. And I would very much appreciate—and I know Mr. Schaffer would, too—receiving a copy of that letter.

Mr. NELSON. Yes, ma'am.

[The information referred to may be found at end of hearing.]

Mrs. CHENOWETH. OK.

Mr. NELSON. And as an individual, I opt out of it.

[Laughter.]

Mrs. CHENOWETH. That's good. Mr. Nelson, would you please get Mr. Bliley to sign onto my bill? You work on him from the home front; I'll work on him from this front.

Mr. NELSON. We will try.

Mrs. CHENOWETH. OK. Ladies and gentlemen, I want to thank you so much for your patience. Your testimony has been very, very valuable. I must commend Ms. Moss on the work that she is doing, especially on the local level, and all of you, thank you very, very much for your testimony. And, again, it's been a long day, but my hat is off to you for your perseverance, and please stay in touch with me as things develop in your State. Thank you.

This record will remain open for three weeks. If any of you wish to alter or amend any of your testimony, please do so within that timeframe. I want you to know also members of the Committee may have additional questions, and if they do, they will be submitting them to you in writing.

[The information referred to may be found at end of hearing.]

Mrs. CHENOWETH. Mr. Schaffer, do you have anything for the Committee?

Mr. SCHAFFER. No, Madam Chairman.

Mrs. CHENOWETH. With that, this Committee is adjourned.

[Whereupon, at 7:53 p.m., the Committee adjourned subject to the call of the Chair.]

[Additional material submitted for the record follows.]

STATEMENT OF HON. CHRISTOPHER B. CANNON, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF UTAH

Thank you Mr. Chairman for the opportunity to discuss this bill. I am proud to be a cosponsor of H.R. 1842. I along with many of you here today have serious concern about the need for the American Heritage Rivers Initiative.

Although this national rivers proposal has been in the Federal Register for three months and was the subject of a recent hearing by the House Resources Committee, few of my fundamental questions about this proposal have been satisfactorily answered. I, along with 54 of my colleagues, signed a letter to President Clinton on August 14 asking him to postpone the comment deadline for the American Heritage Rivers Initiative. We were denied our request. The Administration's response was that in the 90 day comment period, they had received *enough comments* and *enough suggestions*. In fact they had received less than 2,000 comments from across this country. But it appears that no number of comments would have affected the Administration because the individuals who had proposed the program had already made up their minds.

Limited input is not sufficient input. Last year, my home state of Utah had eleven days notice before the Grand Staircase-Escalante National Monument was created—notice given in a leaked story of the Washington Post. Utah's elected officials approached the Administration and objected to the proposal. The Administration adamantly claimed that no action was imminent. Now the Administration claims that Utahans had input. Of course that is silly. Now, I guess I shouldn't complain. I would have been exhilarated to have had the chance to solicit some 1,700 comments and suggestions on the Administration's actions last Fall in Utah.

There is another aspect of this initiative that is important to me. I have serious concerns that this initiative will be used as a political tool to reward "friends" of the Administration. Now that we have exposed the White House fundraising scandals, I foresee a partisan political agenda that will grant American Heritage River status as favors to various supporters nationwide. My fear is that political undercurrents will soon be driving the river designation process.

I support H.R. 1842 because the American Heritage Rivers program is not good for our rivers, a River Navigator is not good for our communities or the programs that would be raided. This Administration has proved it does not care about private property rights. A voluntary program should not take 13 agencies for implementation. If we need a program to help our rivers, let us do it on the local level, where states and local communities can run it without layering another bureaucratic blanket across our nation.

Ms. McGinty, chair of the Council on Environmental Quality, has said that they have "worked diligently" to address the concerns about private property rights. If they were serious about answering our concerns, they would have at least taken the time to listen to them. In my view they have not done that, and our private property rights are seriously in jeopardy. That is why I support H.R. 1842.

STATEMENT OF HON. HENRY BONILLA, A REPRESENTATIVE IN CONGRESS FROM THE
STATE OF TEXAS

Chairman Young, thank you for the opportunity to present testimony to your Committee today on the American Heritage Rivers Initiative (AHRI). I have many concerns about the initiative the President just implemented, without Congressional approval.

I represent the 23rd Congressional District of Texas, which includes 800 miles of the Rio Grande. For those of you who have never seen the river, let me tell you it is majestic river that twists and turns its way through some rough but beautiful country. The river has contributed a great deal to the rich culture and heritage of the region and just imagine, it has managed to do all of this without a Federal initiative, program or declaration.

The Council on Environmental Quality (CEQ) asserts this initiative will "create a government that works better and costs less through focusing on customer service, developing partnerships and delegating power to the front lines." The Federal Government should already be doing this. Efficiency should not require a new Federal order. Why do we need this or any other initiative to direct the Federal agencies to do their jobs? Since when is duplicative government a good idea?

The initiative's authors claim it will not cost any additional money or add new regulations. My understanding is that communities can already apply for money and they can apply without any type of Federal designation. We just do not know what kind of strings will be attached to the designation and any money that may

come with it. The AHRI only says the communities will receive assistance with the application process but it does not guarantee any money.

I am also concerned that this initiative will lead to increased Federal intrusions into communities and may regulate or control the use and access of the rivers. The possibility that it may be defined as including watersheds is particularly alarming. This could lead to government control of an entire region. Any time the U.S. Fish and Wildlife Service is hunting for new tasks I am very worried. Let the bureaucrats in and there goes the use and control of the river and any property along the river to say the very least.

I am particularly concerned about the directive to the Federal agencies to go into the communities to restore the river. Until Congress is able to bring common sense to many of the overburdensome laws and regulations such as the Endangered Species Act, and Federal wetlands policies, to name a few, these agencies be able to wield as much power as they want in these communities and on private ranch and farm land.

CEQ has also promoted this as a grass roots or bottom up program that is good for the communities and the rivers. But I have to wonder about this. Most of my constituents are vehement in their opposition.

I also have to wonder why CEQ rushed this initiative limiting thereby citizens input. Why did they need to rush the initial comment period? Only after being inundated with requests to extend the deadline did they add another 60 days to the comment period.

I would also add that since the initiative was first proposed I have received many letters and phone calls from constituents asking me to oppose the initiative. And that is exactly why I am here today, to allow the people in my district to have a voice. Most of the people I have heard from live in rural communities along the river and depend on the river for their livelihoods.

The significance of the Rio Grande will not change based on this designation nor will it be diminished in any way if it does not receive this designation. I will continue to stand strong for property rights and recognition to the area for the rich heritage and culture that the river has brought the region. We need not sacrifice any right to obtain Federal recognition of our region's beauty and importance. We know far better than any Washington bureaucrat the unique nature of our region. This is why I am a cosponsor of H.R. 1842 and I have come here today to support the passage of this bill. I look forward to voting for this bill on the House floor.

The only things clear about the AHRI are the questions it raises. Thank you.

STATEMENT OF HON. RAY LAHOOD, A REPRESENTATIVE IN CONGRESS FROM THE
STATE OF ILLINOIS

Thank you, Mr. Chairman, for allowing me to appear here today to express my support for the President's American Heritage Rivers Initiative.

When the President announced this initiative during his State of the Union Address, many of us in Illinois, who have been working since 1994 to develop an integrated management plan for the Illinois River, were elated that such national prominence was being placed on the protection and restoration of our nation's rivers. Without the leadership of Lt. Governor Bob Kustra, the monetary commitment of Governor Jim Edgar, and the teamwork of the Illinois River Strategy Team, Peoria Lakes, in my hometown, would be nothing more than a mosquito infested mud flat in a very short time. Over the last eight years, nearly a foot of silt has been deposited across the bottom of the river in Peoria Lakes.

Additionally, serious flooding in many areas along the river has caused tremendous damage. While increased rainfall contributes mightily to flooding, there is no doubt that a shallower river, altered landscapes, and channelized streams throughout the watershed have a strong influence on where that rainfall, and the silt carried in flood waters, is deposited. Water naturally follows the easiest path. When the volume of the river is reduced due to a shallower base, the flood water will rise into surrounding farmlands and communities, bringing the financial damage that goes with it.

Illinois cannot afford to wait to take action on plans to restore the river to what was once a national treasure. That's why the Illinois River Strategy Team was created. This team is a diverse group of farmers, environmentalists, local company executives, college professors, and elected officials. I am a member of that team. And let me take this opportunity to emphasize that our plan recognizes that both the public interest and private property rights must be protected if this plan is to move forward. The plan brings together local citizens and all levels of government in a grassroots, coalition-building effort to maintain the watershed. We are all interested

in the long-term maintenance of the river for our future generations. By asking his Administration to focus on coordinating Federal resources for the restoration of our national waterways and to serve as a network, the President has given all of us a tremendous boost in our efforts to implement our plans. We would be very disappointed to have to go back to the people that have worked so hard to develop these plans and tell them that this initiative will not receive the support of Congress.

Clearly, we believe that implementation must be controlled at the local and state level, but with the help of the Federal Government as a partner. I, for one, will work to see that control under this initiative is maintained at the state level. But I believe the Federal Government has an important role to play.

While I have given my support to the American Heritage Rivers Initiative, I remain a fierce advocate of personal property rights. Additionally, any attempt to alter, limit, or restrict farmers and ranchers access to traditional agricultural environmental programs, will not be favorably looked upon by me.

Agriculture has made tremendous strides in the last decade in meeting its environmental obligations. Today's farming techniques have come a long way. These techniques make the Federal Government a partner with producers in addressing environmental challenges, rather than an adversary. It is voluntary and incentive-based and that should not change. I view the American Heritage River initiative as another incentive-based, voluntary program available to agriculture.

The Illinois River is a tremendous natural, recreational and economic resource for the country. And nine out of every ten Illinois residents are in some way touched by the Illinois River watershed, which is why our entire Illinois delegation has written to the President supporting the National Heritage Rivers Initiative, and, in particular, our own Illinois River as one of the National Heritage Rivers. A copy of our letter to the President is attached to this statement for the record. It is my hope that this process will be allowed to continue and to provide much needed national attention and a coordinated effort by all of us to improve our nation's rivers.

Thank you, again, Mr. Chairman, for the opportunity to appear here today.

STATEMENT OF HON. LAMAR S. SMITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

I appreciate the Committee's willingness to allow me to testify today about the American Heritage Rivers Initiative.

Congress has an important responsibility to protect citizen's Constitutional guarantees such as the right to own and use private property. I am extremely concerned about the recent Proclamation issued by President Clinton that creates the American Heritage Rivers Initiative.

When the President announced in his State of the Union address that he was creating a program such as this, I never dreamed that he would completely dismiss the legislative process. As we all know, this proposal was rammed through the administrative process without Congressional comment or review. Had the normal process for the creation of new programs been followed, the American Heritage Rivers Initiative would have had the benefit of congressional hearings. And the public would have had maximum input. It would have been carefully considered and amended, if necessary, in a series of legislative steps that begin with full and open debate on the floors of the House and Senate and end with recorded votes.

Full and open debate on a bill that was supported by a majority of Senator's and Representative's would have yielded authorization and appropriation of the program. However, because the program was created by Presidential proclamation, Congress has done neither.

Absent any express funding, the President has chosen to ignore Congressional intent and reprogram funding. Money is being taken from legitimate, authorized programs that have already undergone cuts to pay for this unauthorized and unstudied new program. The President's plan is taking personnel from many of these same programs and requiring them to work on the American Heritage Rivers Initiative. This is not fair to those programs who are already strapped for funding and personnel, nor to the constituents who rely on them.

The lack of protection for private property rights within this program is of great concern to me. I have expressed my concern repeatedly since the program was first published in the Federal Register. There are no substantive protections for private property rights. And given that a majority of the land in the United States is privately held land, I think there is cause for concern.

While the final rule has been issued for this program, a number of questions remain about the protection of private property rights. First and foremost in my mind

is how much control over private property would ultimately be placed in the hands of Federal regulators?

From my reading of the final rule I believe that an enormous amount of power would be granted to Federal agencies and in particular the one Federal agency from which the "river navigator" is chosen. This river navigator would have the power to dictate how land abutting a designated river could and could not be used. Why are local citizens not trusted to care for local resources?

This power raises serious concerns, especially in my home state of Texas where many farmers and ranchers rely heavily on rivers, streams, and watersheds. In many cases it is their only source for irrigation purposes or for the survival of their livestock. Much to my dismay this issue has never been adequately addressed.

Problems occur when Federal agencies are allowed to run rampant and given new authority without Congressional approval. This is precisely what will happen with the American Heritage Rivers Initiative. Federal agencies have been given no parameters to work within. I cringe at the thought of farmers, ranchers, and especially private property owners fighting this unchecked power in the future.

It is a shame that President Clinton did not have the confidence in his program to allow it to bear the burden of public scrutiny, whether from the citizens or from Congress. Since the announcement of this program the President and Kathleen McGinty from the Council on Environmental Quality have said they are "baffled" by the outrage that has been generated. Once again the Administration has completely misused the American people. However, they decided to move forward amid much public discontent and officially create the American Heritage Rivers Initiative.

As Members of Congress we have an obligation to our constituents to protect their rivers and their land. It is our duty to ensure that the money that we authorize and appropriate is spent on its intended programs and not "reprogrammed." The American Heritage Rivers Initiative is in direct contrast to the will of the people and the Congress and should not receive any money until it authorized and appropriations are made. I am a cosponsor of Mrs. Chenoweth's bill because I feel that it is our best opportunity to halt the forward movement of this program and hopefully bring it to Congress to be fully vetted by the people's representatives.

As the Chairman of the House Coalition on Property Rights, I am supportive of any steps that this Committee takes in moving Mrs. Chenoweth's bill forward. A vote on the House floor will reflect the voice of the American people—the voice that was ignored by the administration when it created this program.

Again I thank the Committee for allowing me to testify today on this important issue.

STATEMENT OF HON. ASA HUTCHINSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARKANSAS

Mr. Chairman and members of the Resources Committee, I thank you for inviting me here to testify before you today, and I commend you for the outstanding leadership you have displayed throughout the months since the announcement and publication of the Administration's "American Heritage Rivers Initiative." I am grateful for the opportunity to express to this body the concerns of many of the constituents I serve in the Third District of Arkansas, and, I am delighted that later on today you will welcome one of those constituents, Mr. David Bright of Jasper, Arkansas, to speak to those concerns himself.

Mr. Bright's is a story which, I am sad to say, is not the only one of its kind. But it is my hope that through the efforts of this Committee and citizens like Mr. Bright, the potentially negative effects of innocent-sounding Federal involvement in local land matters will be brought to light and scenarios like the one Mr. Bright and his neighbors endured will not be allowed to take place in the future.

Mr. Chairman, I was first alerted to the American Heritage Rivers Initiative during the week of May the 19th, when I received at least fifty calls from angered constituents asking that I oppose the President's new river plan and stop the Administration from taking their land.

Mr. Chairman, I have a number of concerns about the substance of the American Heritage Rivers Initiative and about the way the Administration has gone about its implementation.

The Administration states that the initiative creates no new Federal regulation but simply allows "River Communities" streamlined access to Federal programs. It is designed to be community-driven and community-led, and is not supposed to appropriate any new monies or create any new programs. This, on the surface, seems commendable. However, I would assert that the implementation of the initiative will

not be as simple and beneficial as it seems, and I must question why it is being implemented by executive fiat rather than through the normal legislative process.

The initiative does not *require* the authorization of local officials in designating a river a "Heritage River." Nor does it specifically state that if a river community's action plan infringes on the rights of private property owners living in a heritage area, designation will not take place. This is understandably worrisome to those private landowners living within the bounds of these areas.

Rivers are not limited by man-made boundaries; they run freely across state, county and local lines. By designating rivers "Heritage Rivers," and allowing people in those areas to avail themselves of Federal resources, the initiative will create new Federal jurisdictions that cut across town, city, county and state lines. Moreover, the initiative allows for designations encompassing not only rivers, but contributing watersheds and streams as well and will allow the twelve Federal agencies involved in implementing the initiative to favor these "Heritage River" communities over other communities in granting Federal aid. This circumvents the Federal legislative process and, more importantly, the will of the people who elected Federal legislators by reprogramming and reallocating Federal funds without the express consent or authorization of Congress. This is not right.

Mr. Chairman, as I stated before, the Administration's final proposal states that the initiative will create no new Federal regulations. However, it also states that "the American Heritage Rivers Interagency Committee may assist in overcoming obstacles that arise as many Federal services are provided." This committee is comprised of twelve Federal agency heads. In "overcoming obstacles," what is to prevent these agency heads from withholding funds from other projects in the event that communities do not cooperate unanimously? What will keep them from imposing existing regulations, to which these areas are nor currently subject, on these areas— from imposing them on the people or land in these areas?

Mr. Chairman, I realize that the President has the prerogative to set rules and regulations for executive branch agencies, and I believe that the Administration means well in creating this initiative. However, the Administration is aware of the concerns of this Committee about the program's refocusing of funds, reallocation of resources, grant monies and employees, and its new enforcement of already-existing regulations on areas not currently under "Federal" jurisdiction. These are all things that should come under the jurisdiction of Congress, but the President has already enacted this initiative by Executive Order—without congressional hearings or congressional consent.

By doing so, the Administration has already demonstrated an unwillingness to act in good faith in the process. Why, in this era of cooperation displayed in the recent enactment of the Balanced Budget and Taxpayer Relief Acts, is the Administration so unwilling to cooperate with Congress on this matter and submit this initiative to the normal legislative process? Why, with as much controversy as surrounds the initiative at this point, should we believe that the Administration will act in any better a fashion in implementing the initiative's provisions than it has acted in ordering its enactment?

This initiative, which is supposed to be part of the "re-invention of government" touted so vigorously as of late, will only reinforce a dependence upon Washington for that which should come from the community. If this initiative is community-driven, why is there a need for "focused attention" from Federal agencies? If this initiative is designed to make government smaller and more easily accessible, why not remove the Federal Government from participation all together?

Mr. Chairman, I applaud the effort of this Committee to prevent the further implementation of the American Heritage Rivers Initiative—not because I don't believe that our nation's rivers need to be protected, but because I believe that our communities and the people living in them know best how to protect these resources and can do so *without* Federal oversight or regulation. For these reasons, I have co-sponsored H.R. 1842, which is being considered by the Committee today, and I urge my colleagues to do so as well.

STATEMENT OF ROBERT S. LYNCH, CHAIRMAN OF THE BOARD, CENTRAL ARIZONA
PROJECT ASSOCIATION

Mr. Chairman, Members of the House Resources Committee, thank you for the opportunity to appear here today and testify on the American Heritage Rivers Initiative and H.R. 1842. I have the pleasure of serving as Chairman of the Board of the Central Arizona Project Association, an Arizona non-profit association formed in 1946 to promote authorization and then construction and operation of the Central Arizona Project. Our Association membership represents business, resource, local

government and agricultural interests throughout the state interested in the continued success of the Central Arizona Project.

The Project itself consists of over 300 miles of canal system and a regulating reservoir that provides an average of 1.5 million acre-feet of water annually to roughly two-thirds of the population of the state, industries, agriculture and Indian communities in central Arizona. That quantity of water represents over half of the entitlement of the State of Arizona to water from the Colorado River and some 20 percent of the entitlement of the three Lower Basin states (Arizona, California and Nevada) to water from the Colorado River.

Our interest in the American Heritage Rivers Initiative stems from our interest in and support of the Central Arizona Project. We are concerned that implementing this Initiative could very well interfere with ongoing efforts to resolve problems in the Colorado River Basin that affect the Central Arizona Project and its water supply. Our concerns fall into three categories: participation, process and personnel.

PARTICIPATION

Both the President's Executive Order and the Council on Environmental Quality (CEQ) Federal Register notice imply some loose geographic standard for defining non-Federal participation in this Initiative. The Executive Order talks about "communities along rivers," 62 Fed. Reg. 48443 at 48445 (September 15, 1997). The CEQ Federal Register notice talks about "communities surrounding designated rivers" and "River communities" and "People . . . who live and work in the area . . .", 62 Fed. Reg. 48860, 48862 (September 17, 1997). The Phoenix metropolitan area served by CAP is some 190 miles from the Colorado River. The Tucson metropolitan area is another 120 miles beyond that. CAP is a vital part of the water supplies of central Arizona but this Initiative apparently would not consider these vital interests part of the interests to which the interagency committee established by the Executive Order would listen concerning the Colorado River.

Similarly, Salt Lake City would have no voice in matters related to the Duchesne or Green Rivers, even though receiving water from the Central Utah Project. Denver and other east slope Colorado cities would have no voice in the Colorado, the Green, the Yampa, the White, the Gunnison, etc. People in Albuquerque could voice opinions about the Rio Grande but not the San Juan. The Los Angeles metropolitan area would have nothing to say about the Lower Colorado River as this Initiative may impact it. Presumably national and regional environmental groups and other organizations also would be excluded from this process.

The point is that legitimate interests concerning rivers are not confined merely to those who live or work alongside them. Nor is proximity much of a test when, as is often the case in the West, *no one* lives or works alongside them. It appears that those who crafted this Initiative, while paying lip service to rural areas and Western communities, were primarily drawing on their personal experiences as residents of other parts of the country. In the West, legitimate interests regarding rivers are often at great distance from them. That does not render these interests any less legitimate nor any less important. The Initiative is seriously flawed in this respect.

PROCESS

We are very concerned about the processes outlined in the Executive Order and the CEQ program. The Executive Order mandates a consultation requirement that must precede Federal agency action with regard to rivers designated under this program. There is no explanation in the Executive Order or in the CEQ program about how this gets done and how this consultation requirement relates to similar requirements in various laws affecting the same resources. For example, the 1992 Grand Canyon Protection Act contains some very specific directives from Congress about consultation. If the Colorado River between Glen Canyon Dam and Lake Mead were designated under this Initiative, would this consultation requirement add processes to those required by Congress? There is no requirement, according to the Fish and Wildlife Service, under Section 7 of the Endangered Species Act to consult with affected interests when the Service is consulting with another Federal agency (or itself) as required by Section 7. If a river is designated under the Initiative, must the Fish and Wildlife Service now consult with affected interests before entering into consultation with another agency under Section 7? Must the Environmental Protection Agency add a consultation requirement pursuant to this Executive Order to permit processes under the Clean Water Act and other programs it administers?

We raise these issues because we have had some experience with the Colorado River and these programs. There is an ongoing recovery program in the Upper Colorado River related to four endangered fish. There is a program entered into for the Lower Colorado River between the United States on the one hand and the three

Lower Basin states and other affected interests on the other covering over 100 species from Glen Canyon Dam to the southerly international border. If the Colorado or any portion of it were designated, would these processes be impacted by this new consultation requirement? Would the River Navigator or River Navigators designated assume a role not currently defined in Colorado River processes? Would the consultation requirements of the 1968 Colorado River Basin Project Act be affected?

Additionally, the CEQ Federal Register notice promises that obligations of Federal agencies under the National Environmental Policy Act will not be disturbed by this Initiative (62 Fed. Reg. at 48866). Since the agencies in the next breath are being directed to provide programs and resources aimed at satisfying community interests in site-specific areas of a watercourse, it would seem that this program is creating a new class of Federal actions requiring NEPA clearance separate and apart from existing programs. Will designation require such NEPA clearance before any Federal help can be received after the designation? Who will pay the cost of that clearance?

PERSONNEL

Finally, we are concerned about the effects of implementing this new Initiative on Federal personnel and the costs associated with that commitment. The Executive Order requires agencies to establish a method for field offices to assess the success of the Initiative and recommend changes. The Executive Order also mandates high-level participation by 12 departments and agencies, directs the agencies to do a number of assessments and inventories of programs, regulations, grants and other assistance and then requires them to reformulate those to fit this Initiative. That reads like a serious time commitment.

In turn, the CEQ program announces that Federal field staff have been identified in each state to answer questions (62 Fed. Reg. at 48861). It provides for a River Navigator to be available for each designation. This person would be a Federal employee. Other Federal employees would have to be involved in distributing, receiving and processing nomination packets. A report for the panel of experts would have to be provided and staffing for the cabinet or sub-cabinet interagency task force would also have to be provided, as well as the members themselves.

All of this takes time. Presumably, the people involved in this program at the various agencies will be people with some knowledge and background about rivers and about the resources typically associated with them. People knowledgeable in the sciences, people active in cultural, archaeological, endangered species, water resources, power resources, wetlands, and environmental programs, etc., will have to be detailed to these tasks. We are concerned that doing so will pull them away from other important tasks that already take too much time to get accomplished. We are concerned that other coordination and permitting processes could suffer. Specifically, we are concerned that people already stretched to the limit will be drawn away from two critical Endangered Species Act programs: the Upper Basin Recovery Program and the Lower Colorado River Basin Multi-Species Conservation Plan. We are also concerned that, in a year of stressful hydrologic conditions, personnel of the Bureau of Reclamation may be diverted from critical tasks on the Colorado River to other areas because of designations that need to have knowledgeable people involved in them.

We are also concerned that costs associated with implementing this new program have not been addressed. Even if no new dollars are appropriated by Congress for grants, loans, construction funds, and the like, the personnel costs associated with implementing this program have to be borne somewhere. How will those costs be allocated? To what programs or projects will they be assigned? Will they be reimbursable by local sponsors of existing projects and programs? Is there a danger of significant cost shifting from costs already assigned pursuant to which Congress has already approved funding?

One thing is clear. There will be costs in both time and dollars associated with implementing this Initiative. Those costs are real and may be substantial. If the Initiative goes forward, those costs should be tracked and reported to Congress by each of the agencies involved. In the meantime, the public should be assured that existing projects and programs will not be hampered by this additional workload. Justice delayed is justice denied in the executive branch as well.

Before closing, we would be remiss if we did not congratulate Congressman Bob Schaffer for his efforts in having inserted in the CEQ Federal Register notice the savings language with regard to water and water rights. That had been and continues to be a matter of critical concern to us and to many others in the West. We remain concerned, however, that the focus of designation pursuant to this Initiative on a particular watercourse will concentrate interest in applying other regulatory programs to those water resources in a manner that could create the same problems

this savings language seeks to avoid. If Congress is providing no additional money beyond salaries and administration for this program, what the agencies are left with is a command from the President to go forward and only existing tools to use. The Federal tools used on rivers are typically the Endangered Species Act, the Clean Water Act, the Safe Drinking Water Act and similar laws with Federal enforcement programs and permit programs. The river community congratulating itself about its designation may find that the "help" it is getting from the Federal Government comes in the form of increased demands for changes in water uses. Concentrated examination under existing regulatory programs of that river or river segment may generate local costs, rather than local benefits.

CONCLUSION

Having made a sincere effort to review these documents and understand their intent, we are unfortunately left confused. We do not see how CAP interests can participate in, let alone be enhanced by, this new program. We cannot tell how the requirements of this new program mesh with existing requirements that affect CAP interests and the interests of others similarly situated. We cannot ascertain how the costs of this new program and the time burdens associated with it will be allocated and what barriers to accomplishing tasks under other programs will be created.

This new program is uncomfortably vague. We would recommend that this program be set aside, at least for the moment. Perhaps CEQ could enter into another, more inclusive, round of discussions with interested groups and parties around the country and answer the questions that have been raised such as those we raise here. Failing interest in doing that, regretfully we would recommend that Congress withhold funding for any efforts under this Initiative until it can be clarified as to its purpose and impacts.

Thank you very much for the opportunity to appear here today and testify on this important subject.

STATEMENT OF DESMOND SMITH, PRESIDENT, TRANS TEXAS HERITAGE ASSOCIATION

My name is Desmond Smith. I am president of the Trans Texas Heritage Association and I am here today representing our members who own 15½ million acres of private property in Texas and one million acres in New Mexico. The Trans Texas Heritage Association has four regional associations; Davis Mountains Trans-Pecos Heritage Association, Hill Country Heritage Association, East Texas Heritage Association and the Bootheel Heritage Association in New Mexico. Our purpose and goal as an organization is the preservation of private property rights.

I am a rancher from Lampasas, Texas, where we operate a ranch that has been in my wife's family for 147 years. Most people know that farmers and ranchers are the original environmentalists. In fact, if we hadn't done such a good job of caring for our land I doubt the government and the environmentalists would be so interested in taking it from us, even though there is ample evidence that public ownership and public access to land does not offer the same protection as the loving care it receives at the hands of private property owners. So you can see why private property owners would question the motives of the environmental movement. If resource protection is the problem, private—not public—ownership and control is and always has been the solution.

In Texas, 98 percent of the land is privately owned and we'd like to keep it that way. But it's getting more and more difficult. Not because the government has been on a buying spree, but because the government is taking more and more private property through *regulatory* means. Through Federal laws like the Endangered Species Act and the Clean Water Act, the government has been telling landowners what they cannot do with their land.

Over the past few years, landowners have been trying to make Congress and the public understand the concept of *regulatory* taking of private property, but we haven't been very successful. For some reason, people think the 5th and 14th Amendments to the Constitution don't count and that it's OK to take people's property in the name of the environment. Now this administration has gone beyond even regulatory takings to "takings" by Federal designation.

The people of Utah know how it feels to have their land taken by designation, and Texas landowners are no stranger to this concept. In 1994, there was a move to designate 5 water bodies as Outstanding *National* Resource Waters. The property rights implications for surrounding landowners were grave. We were able to defeat that. Then, the U.S. Fish and Wildlife Service threatened to designate 33 counties in central Texas as critical habitat for the endangered golden-checked warbler.

Again, the property rights of every landowner in those 33 counties would have been gone, except that Texas landowners said “absolutely not.”

We understood then as we do now that Federal designations necessarily bring with them limitations on the use of private property. And this is why we are so concerned about the impact of the Federal designation of the Rio Grande River as an American Heritage River.

I first became aware of the AHRI from a rancher who noticed low-level helicopter flights over his land. He asked the pilot later at the local airport what was going on and he was told the Texas General Land office was conducting aerial mapping of the private property along the Rio Grande as part of an effort to map transnational resources. I learned more about this mapping through an article in the Marfa, Texas newspaper dated February 13, 1997, but not nearly enough. And nobody I have talked to yet can tell me what a “transnational resource” is. Some of our members who are landowners along the Rio Grande were naturally concerned that their land and water might suddenly be classified as a transnational resource.

Then we found out that Texas Land Commissioner Garry Mauro was pushing the local officials along the Rio Grande to petition for Federal designation as an American Heritage River. A friend in our Governor’s office told us about a meeting on the AHRI in Laredo on April 28, this year, and my wife and I and one of the directors of our organization decided to go.

When we walked in, the people at the desk started looking for our name tags and I told them they wouldn’t find them. It turns out the meeting was by invitation only. There were people from all levels of government and also from the Nature Conservancy and the Audubon Society. If we hadn’t just shown up, there would have been no representation from landowners or landowner groups.

What we have learned since then, is that this is supposed to be a “bottom up” initiative, but what was obvious that day was that the Texas General Land Office was really behind this. It is generally known that Garry Mauro, the Land Commissioner, is a good friend of the Clintons and we were told that the White House had suggested the AHRI would be good for the Rio Grande. That sure doesn’t sound very bottom up to me.

Garry Mauro breezed in to that meeting for a few minutes and there was a lot of backslapping and glad handing going on. He did a TV interview then said he had to leave for Washington, DC. At the meeting it was suggested Garry Mauro should be made the “River Navigator” for the Rio Grande. I won’t elaborate on that here, but if you have any questions about the River Navigator, please feel free to ask me later.

At that Laredo meeting, the people talked about the AHRI in terms of clean water and cultural heritage and economic development. I stood up and asked if this would include Mexico and the fellow from the CEQ said it wouldn’t. Then I asked him how they expected to clean up the Rio Grande if Mexico wasn’t going to be made to do its part. He didn’t answer.

Right after that, the moderator asked everyone to stand and state their name and organizational affiliations. Everyone there was from the government except the people from the Nature Conservancy and the Audubon Society and us. When I discovered a representative from the U.S. Fish and Wildlife Service was there I really became concerned. It was obvious from their presence and that of the environmental groups that the AHRI was intended to have some environmental consequence.

We’ve been trying to figure out what the AHRI is all about ever since and nothing we have been told makes any sense. The CEQ said the AHRI is supposed to help Federal agencies do a better job of giving money away at the local level. We were told it was part of Vice President Gore’s plan to reinvent government. Somehow, if a community would apply for a Federal designation as an American Heritage River, these agencies would magically begin to do their jobs. The CEQ assured us there would be no new Federal dollars and no new regulations—just that Federal agencies would focus more on communities that had applied for and received the Federal designation.

The CEQ told us the AHRI was about restoring rivers, but how do you restore a river? When Ray Clark with the CEQ came to Austin on July 9, we asked him about that. Did they mean restoring water quality? If so, given the fact that we have a Clean Water Act already and especially since Mexico still dumps raw sewage and industrial waste into the Rio Grande, how would the AHRI, with no new regulations, improve water quality? He allowed as how a petition for designation of the Rio Grande on the basis of improving water quality probably wouldn’t be very well received.

If not water quality, then how about restoring water quantity? If you look at the website for American Rivers, an environmental group dedicated to restoring rivers to their natural state, you’ll see that they heartily support the AHRI. This group

also supports removing dams and impoundments. Is that what this is really about? If so, what about water rights and flood control and drinking water supplies and hydroelectric power from dams? Ray Clark told us the AHRI wouldn't have anything to do with removing dams and impoundments along the river.

Well, what's left? How else do you restore a river? Did they mean restoring commerce to the river? If so, to what previous level and what prevents this from happening now, without a Federal designation? For that matter, if there are no new Federal dollars and no new Federal regulations, what can we accomplish with AHRI that we can't accomplish now? NOTHING.

Why would a *local* community allow itself to become a *Federal* community in order to attract Federal dollars that are already there for the asking through programs that already exist? I understand Congressman Sylvestre Reyes and the people of El Paso want a River Walk. Well, San Antonio has had a river walk for years but they didn't have to get a Federal designation to accomplish that. What in the hell is really going on here?

The thinking people of this nation were shocked and sickened by Clinton's arrogant designation of the Grand Staircase Escalante as a national monument. Now he has given us the American Heritage Rivers Initiative, which will ignore private property rights in the name of economic development, I guess. Only with AHRI he won't take it from the people; he'll blackmail communities into asking for the Federal designation using the veiled threat of withholding Federal dollars.

There are two things that I find very unsettling about the American Heritage Rivers Initiative. The first is that this administration thinks the American people are so stupid we would fall for this. The other is the negative property rights implications inherent in the Federal designation of anything.

I am asking you folks to please do the American people a great service and pass H.R. 1842, not just out of this Committee but out of the full Congress. And if there is anything the Trans Texas Heritage Association can do to help you, please know we are at your service.

Thank you for your time. God bless America and God bless you all. I will be happy to entertain your questions.

STATEMENT OF DAVID YOUNG, ASHEVILLE, NORTH CAROLINA

Good Morning:

My name is David Young. I am a resident of Asheville, located in western North Carolina. I am here today to speak to you as a citizen, small business owner, local elected official, and as the Chairman of the RiverLink task force spearheading the nomination of the French Broad as an American Heritage River. In all of these capacities, I fully support the American Heritage River Initiative.

Our task force has been following the AHRI since the President announced the program on February 4th. Our task force is comprised of interested citizens, chamber of commerce executives, elected officials from throughout the river basin, river-front property owners, recreational enthusiast, artists and craftsmen, tourism development experts and non-profit agencies.

We cannot afford to make this a partisan issue. This is a viable program which will help us both develop and preserve our wonderful river. We have over 2,000 endorsements similar to the ones in your packets. We have widespread bipartisan support including Governor of North Carolina, James B. Hunt, Jr., a Democrat and Don Sundquist, Governor of Tennessee a Republican. We have resolutions by the Henderson County Board of Commissioners, (all Republicans) and the Buncombe County Board of Commissioners, (all Democrats) all in support of this effort to nominate the French Broad as an American Heritage River.

Our task force has been meeting with officials from Tennessee since the initiative was announced and we have formed a new bond with our sister state. Like the river itself our committee has decided that we will not be bound by superficial state, city or county lines. Rather we will work together, mindful of the fact that we all live upstream and downstream of each other.

Wilma Dykeman, the author of the book *The French Broad*, is the honorary chairman of our efforts. A native of WNC, Wilma divides her time between her homes in Eastern Tennessee and Western North Carolina. She is the State historian for Tennessee and has written over 17 books and numerous articles that have chronicled the French Broad Region. I know she won't mind me quoting from her book, the *French Broad* when I describe the French Broad as "a river and a watershed and a way of life where day before yesterday and day after tomorrow exist in an odd and fascinating harmony as a way of life." "The French Broad country, like most of the mountain region which surrounds it, nourishes paradox. That is the source

of much of its allure.” Over the years our French Broad has become urban and rural, suburban and farmland—it carries us toward our future yet reminds us daily of our past—of our beginnings.

The French Broad River Basin is the ninth largest river basin in the state of North Carolina covering 2,842 square miles. It is located entirely within the Southern Appalachian Mountains region, west of the Eastern Continental Divide. All waters from the French Broad basin drain to the gulf of Mexico via the Tennessee, Ohio and Mississippi Rivers. The basin includes the highest point in the United States, east of the Mississippi River, located atop Mount Mitchell (elevation 6,684 feet above mean sea level). The lowest elevation in the basin is 1,254, mean sea level, where the French Broad River flows into Tennessee. There are 4,113 miles of freshwater streams in the basin and seven lakes, all man-made, greater than eight acres in size. The French Broad river watershed has only three small dams—making it one of the most free flowing watersheds in the country.

On May 1, 1997 RiverLink sponsored a public input session to help gather ideas and develop criteria for the AHRI. We are delighted to see that our suggestions during that May 1 meeting have been incorporated into the permanent criteria for the AHRI. Most notably our suggestion that the designation be given to a broad variety of rivers—some smaller—some larger. The French Broad may not be the largest river in the United States, or the widest or the longest—but it certainly is one of the most diverse.

During our May 1 public comment period, residents from the two states mixed with elected officials, property owners, businessmen and women, environmentalists, young and old alike—and you could feel the excitement grow. Our interest in the French Broad is igniting a prairie fire of action and a new spirit of cooperation.

We have all learned quite a bit on our journey of discovery of the French Broad. For example, two areas on the French Broad river—the city of Asheville and Cooke county Tennessee are each celebrating their bicentennial this year. These areas were settled as a direct result of the French Broad. The French Broad has been the region’s historic lifeline providing transportation for commerce and routes for exploration. The earliest settlers to the region used the Buncombe County turnpike, which followed the course of the French Broad, to deliver livestock and others goods to and from Tennessee, and Western North Carolina to the seaports in South Carolina.

The French Broad watershed has over 20 archaeological sites—some as old as 12,000 years. Our earliest settlers were the Pisgah Culture, ancestors of the Cherokee Nation, utilized the river for religious ceremony, for bathing, for farming, for fishing and for hunting. Hernando DeSoto and his men floated the French Broad River in search of gold in 1540. One of his campsites, built on top of an ancient Indian Mound, in the middle of the French Broad river, is buried today under the Douglas Dam which provides the power source for Oak Ridge—where man unraveled one of the secrets of the universe and the first atom was split.

The botanical diversity of the French Broad River is unequaled anywhere in the U.S.A., perhaps in the world. 25,000 years ago as the great ice cap formed over Labrador and pushed slowly out across North America, animal and plant life fled before its crushing destruction to our mountain region. Our forests, the Pisgah National and the Cherokee National, are richer in variety of trees than the whole of Europe. The French Broad is the area where Northern and Southern vegetation meet and mingle. While all of the northern United States was buried under ice, the trees and plants once native to Canada made their last stand on the heights of the Southern Appalachian—these trees and shrubs and herbs have never deserted the mountain refuge they found in WNC and Eastern Tennessee.

Also along the banks of the French Broad at George Vanderbilt’s summer home, The Biltmore Estate, the first school of Forestry in the United States was founded in 1898.

During the past decade our focus on the French Broad as a place where people can work, live and play has been intensified under the leadership of RiverLink. RiverLink is a non-profit regional organization dedicated to the environmental and economic revitalization of the French Broad River and its watershed. We view the river as the link—just as our name indicates—the river link to our past and to our future. The river links our businesses to our neighborhoods, our commercial centers to our recreational amenities.

The French Broad is our water source, play space, job creator and major attraction. But above all is a living symbol of our common destiny.

Old warehouses, remnants of the 1920’s through 50’s industrial riverfront sat empty for many years. Today they are teeming with life once again as artists and craftsmen are reclaiming these historic riverfront buildings for studio and living space. We believe that our efforts to reclaim the French Broad are now paying divi-

dends. The French Broad is featured in the September-October issue of *Audubon Magazine* as one of three rivers in the United States where the Clean Water Act, coupled with citizen governmental involvement has resulted in a river that, once again, can sustain human and animal life.

In meetings with our Task Force for the AHRI, we have talked about the possibility of building a greenway from the French Broad's headwaters to where it ends in eastern Tennessee. This won't be any ordinary greenway! It will encompass two national forests, the Appalachian Trail, the Blue Ridge Parkway, the Biltmore Estate, the NC Arboretum, the Ramsey House in Tennessee, Dollywood, Civil War battle sites, neighborhoods, and industrial, recreational and commercial districts, just to name a few of our attractions. We would like for the greenway to have historical markers and public art interpreting the many and varied events that have occurred on the river's banks. We have also discussed the possibility of reestablishing passenger train service along the French Broad River Gorge. The gorge has some of the most spectacular scenery in the world and tourists and residents alike will marvel at the vistas. We have also spoken of the need for special economic assistance programs for Madison County in North Carolina and Cocke County in Tennessee. These two counties are contiguous and are among the most economically distressed in either of our states.

We will be seeking additional public comment on October 15th at the North Carolina Arboretum and on October 24 at the Cocke County, Tennessee Community Center. We have sent out over 8,000 letters of invitation to attend these public brainstorming sessions and have invited every foundation in western North Carolina and Eastern Tennessee to join us as partners as we develop our application to nominate the French Broad as an American Heritage River.

We know that alone, no one entity, no government agency, no foundation, no one person can accomplish all that we have planned for the French Broad. That is why the American Heritage River Initiative is so important—It gives us an umbrella under which we can continue to build our constituency for the French Broad. We need businesses, and environmentalists, and bankers and boaters and craftsmen and government to sit together and plan for the future. The AHRI umbrella will help us unravel the maze of Federal grants and technical assistance opportunities; and will give us access to programs that we don't even know exist.

Our greenway demonstration project at the confluence of the French Broad and Swannanoa Rivers is a perfect example of the community coming together to reclaim the river. Our local electric utility company, Carolina Power and Light, donated 1.9 miles of riverfront property as the first link in an urban greenway system. This land had been an unofficial "landfill"—people would clean out their closets, their attics or their basements and bring their discarded items to the river. Today, after years of clean-up work and the cooperation of over 1,300 people, foundations, government agencies, companies and garden clubs the French Broad River Greenway is a wonderful example of what can and does happen when a community comes together in a spirit of cooperation. That's what we believe is the premise of the American Heritage River Initiative—cooperation and coordination with a single vision from the broadest cross-section of the community.

In our efforts to name the French Broad as an American Heritage River we realize that we have already won the prize. We have come together in a whole new way, formed new partnerships and alliances, and discovered our neighbors again, not just nearby cities and counties but our sister state—Tennessee. There are things that perhaps we should have known, but we didn't.

We support the American Heritage River Initiative because it is non-regulatory and will not cause an increase in the Federal budget. Rather, it will focus resources on "OUR" plan of action. It gives us an umbrella under which to work. The AHRI will force the Federal Government to be responsive to "OUR" plan of action for "OUR" river.

In addition to the AHRI promise of no additional regulations for rivers selected, our committee has adopted its own code of conduct in regard to our pursuit of the AHR designation for the French Broad. I would like to read that to you. This was adopted unanimously at our last meeting as an additional and personal guarantee.

"We the organizing committee for the AHRI, adopt the following as our personal guarantee and code of conduct in seeking the nomination of the French Broad as an American Heritage River."

We are pursuing the nomination of the French Broad River as an American Heritage River. Our initial plan, along with other aspects, calls for a greenway along the entire length of the French Broad river corridor from Transylvania County to Knox County, Tennessee, which will be interpreted with public art and historic markers. In pursuit of this greenway and the American Heritage River status we pledge individually and collectively that no property will be condemned, no property owners

will be coerced and that all participation in the greenway will be voluntary with all due regard for individual "property rights." We understand that our statement and code of conduct is in complete compliance with the stated objectives, goals and American Heritage River Initiative program as outlined in the Federal Register.

When I am not acting as a county commissioner, or a RiverLink board member or as the chairman of the American Heritage River Initiative I am a small businessman. My wife and I own a travel agency. Over the years our business has grown as our region has been discovered. I know that the national recognition and the coordinated Federal services that will accompany the naming of the French Broad as an AHR will bring more people, tourists and businesses to our region. That's good for my business and good for business in general. I invite you to visit our French Broad—I invite you join us as we applaud the French Broad—and I urge you to support the American Heritage River Initiative.

Thank you for this opportunity to tout the French Broad and to show our regions support for the American Heritage River Initiative.

STATEMENT OF GORDON ROSS, COOS COUNTY COMMISSIONER, COOS COUNTY,
OREGON

In the opinion of this County Commissioner, Coos County is the most favored county in the most favored state in the union for some of the following reasons:

1. Seventy percent of our 1 million acres is privately owned;
2. We have no "scenic rivers" designated;
3. We have no Congressionally withdrawn wilderness areas;
4. We have consistently, since 1855, harvested more timber than any county in the State of Oregon;
5. We have more Coho Salmon per spawning mile than any county on the West Coast;
6. We have more Coho salmon than any county on the Pacific Coast;
7. We have more Coho Salmon than all other coastal Oregon counties combined; and
8. We have watershed associations partnering with up to 75 percent of the land owners and managers in the watershed, improving habitat conditions in a "bottom up" non-regulatory cooperative fashion.

I must say, in defense of our Federal partners on the local level, we have the best of cooperation, but that is where it ends. Almost without exception, Federal regulatory agencies and their regulatory mind set, stand in the way of progressive local problem solving. Agency interpretation of 1990 Food Security Act, the Clean Water Act, Wetland Regulations, etc. have been a constant impediment in getting through the permit process in order to do Coho habitat enhancement with our farm land cooperators. Projects ranging from sediment removal to "side rearing ponds" have been viewed as "wetland violations" and one cooperator was even charged with "discharging pollutants into the waters of the United States." He had taken sediment from the previous year's storm out of the creek and placed it on his farm land.

What Coos County does not need is another Federal presence in our county or another Federal designation. It may be argued that the "Navigator" that would be hired would "help" us get through the Federal red tape. I would propose that it is time Congress take care of the "navigation" by getting rid of the red tape.

In conclusion, I wish to say that the "bottoms up" non-regulatory, cooperative approach that enlists the efforts of the private land owners can and does accomplish far more than another Federal presence in our community. I believe it was in Fiddler on the Roof where the rabbi was asked "Is there a proper blessing for the Czar.? Yes he replied. God bless the czar and keep him—far far from us!"

Please do not saddle us with any more Federal bureaucracy. We don't need any heritage river designations. We, at the local level, are best suited to protect our watersheds. We are the true "guardians" of our heritage, the caretakers of the future.

STATEMENT OF BILL DeVENY, STATE DIRECTOR, DISTRICT V, IDAHO FARM BUREAU
FEDERATION

Mr. Chairman, members of the Committee and visitors, thank you for the opportunity to present comments before this Committee. My name is Bill DeVeny. This written testimony is submitted in support of H.R. 1842 to terminate further development and implementation of the American Heritage Rivers Initiative. I am a rancher from Riggins which is in Central Idaho. I am speaking in behalf of the Idaho

Farm Bureau Federation representing 47,000 member families in Idaho and also in behalf of myself.

Water is the lifeblood of Idaho, so the way it is managed and used is of concern to all of us in Idaho. Water is not only essential for all domestic uses, but has transformed the arid southern part of the state into productive, irrigated crop ground producing grain, onions, beans, potatoes, sugar beets, hay, mint, hops, small seeds, fruit, and numerous other crops on 3.4 million acres. The value of agricultural products produced including cattle is \$35 to \$45 billion. Water provides transportation from the Port of Lewiston to the Pacific Ocean at Portland, Oregon, for 2 million tons of cargo valued at \$1.5 to \$2.0 billion. Hydro-power generation of electricity provides an average of 70 percent of the electricity used in Idaho. Recreation, which is the third largest industry in the state, depends heavily on water resources including lakes, rivers and streams for a variety of uses such as rafting, boating, and fishing. Continued use of Idaho water is essential to the continued well being and quality of life for residents of this state.

One concern I have with the American Heritage Rivers Initiative is that it circumvents the right of states to manage and control water which is clearly a right of each individual state. The Idaho Constitution (as approved by Congress when Idaho entered the Union) expressly states: "The use of all waters ... (is) subject to the regulations and control of the state ...". Additionally, Idaho code 42-101 states: "All the waters of the state, when flowing in their natural channels, including the waters of all natural springs and lakes within the boundaries of the state are declared to be the property of the state, whose duty it shall be to supervise their appropriation and allotment to those diverting the same therefrom for any beneficial purpose." The initiative would clearly be in direct violation of state law and the state constitution.

Another concern I have with the American Heritage Rivers Initiative is that nowhere in the Constitution of the United States is there authority for the Federal Government to become involved in the issue of water. The Constitution enumerates the powers granted to the Federal Government and reserves all others to the states or to individuals.

Furthermore, there is no authority for the Federal Government to expend funds for the American Heritage Rivers Initiative. The following is quoted from *IMPRI-MIS*, "Our Unconstitutional Congress," by Stephen Moore.

"The enumerated powers of the Federal Government to spend money are defined in the Constitution under Article 1, Section 8. These powers include the right to 'establish Post Offices and post roads; raise and support Armies; provide and maintain a Navy; declare War ...' and to conduct a few other activities related mostly to national defense. No matter how long one searches, it is impossible to find in the Constitution and language that authorized at least 90 percent of the civilian programs that Congress crams into the Federal budget today."

There certainly is nothing that allows the executive branch to initiate spending programs. My understanding has always been that spending originates with the House of Representatives.

The American Heritage Rivers Initiative is duplication of effort between other Federal, state, and local agencies: for example, the Corps of Engineers, Rural and Economic Community Development, Rural Development Councils, Natural Resource Conservation Service, and Soil Conservation Districts to mention a few. There also are other rural initiative programs in effect and there is no reason to think that another Federal program can accomplish what these other programs are not doing, nor can any other Federal program cause existing Federal programs to be more efficient or effective. In reality, probably just the opposite is true.

A serious anomaly is created by the initiative when "nongovernmental organizations" are included to nominate rivers, and to "coordinate delivery of Federal services" and "... restore, protect, and revitalize American Heritage Rivers that run through their communities." These nongovernmental organizations are the same organizations that do not respect any of the heritage of the American West. The heritage, at least in the West, relies first on the trappers (which have become virtually extinct), then miners, later grazers followed by farmers, next loggers, and recently recreationists. These nongovernmental organizations are the very ones that are trying to send the rest of us, grazers, farmers, loggers, and recreationists, the way of the trappers—into extinction. The nongovernmental organizations might tolerate a few recreationists who are hardy souls and want to brave a wilderness, but even that will require agency permission.

The American Heritage Rivers Initiative is in conflict with other Federal laws such as the Clean Water Act and does not comply with existing laws such as NEPA which requires an extensive environmental assessment for Federal actions or at least a finding of no significant impact. The initiative attempts to avoid the intent

of Congress when it passed the Congressional Review of Agency Rulemaking Act by claiming this is not a rule. It also avoids, in fact violates, the Administrative Procedures Act.

The American Heritage Rivers Initiative is circumventing the authority of Congress and vesting authority in yet another bureaucracy. It introduces another layer of bureaucracy which we do not need. Agencies have become the "fourth" arm of government and this is detrimental. We need less bureaucracy, not more.

From personal experience about two weeks before this hearing I was contacted by two Federal employees wanting to come on my private property to make a stream side survey to see what kind of fish were in a very small stream running through my property and what kind of habitat there was. When questioned why they wanted to make the survey, the employees would not tell me why they wanted to know, what they would do with the information, or by what authority they were collecting this information. From experience I am pretty sure that whatever they did would probably not be for my benefit and would probably be detrimental to my interests and well being and in the long run to the general public as well. This is simply an example of the intrusiveness of government that this new initiative would create more of.

The "river communities" that would be created by the American Heritage Rivers Initiative would have no jurisdictional basis and could, in fact, cross jurisdictional lines such as those between cities and counties and thus create hard feelings or confrontations. The results could be chaotic and entirely unpredictable situations.

When the prospect of grant money is added to a legislative proposal, local units of government have a hard time saying no. Several years ago I was asked to testify at a meeting of the Idaho Association of Counties concerning some of the heritage legislation that was being proposed by the late Morris Udall. Earlier versions of heritage legislation had been rejected, but when the counties were promised a share of the money which most certainly would have been "pork," many county commissioners had a hard time saying no. They were willing to accept the money regardless of the consequences even though there might have been serious bad side effects from accepting this money. Fortunately there were enough commissioners present who could see the down side to the proposed legislation that the Association of Counties voted to reject the proposal. Since the "river communities" are not legally established units of government, the temptation to accept grant money might even be greater and put the private property owners within the area in jeopardy because of the obligations that would come associated with the grant money. There always are some obligations, even though hidden initially. Grant money is a "carrot and stick" approach. The promise of grant money is the carrot. Any agency is made up of human beings, and they can be very unfriendly, then the stick is wielded. In an initiative such as this one there are myriad opportunities for favoritism. This initiative is particularly susceptible to these failings, and to creating special favors for selected people or groups of people.

Another concern I have is for the position that would be created of "river navigator." This would be yet one more unelected official who would have untold powers over the rights, lives, and livelihoods of citizens of the area involved yet individuals impacted would have no recourse for unfavorable actions or decisions. Local control and decision making will be further diluted. For instance in Idaho, this could interfere with the Snake River Basin Adjudication of water rights that is taking place for the Snake River System. This is a legal proceeding.

Once a river is designated, the designation becomes permanent and there are no provisions to reverse this designation or for individuals or groups of individuals to opt out of the program. The definition of those who can propose a designation would allow people from entirely out of the area to control local issues. The American Heritage Rivers Initiative is yet another tool for use by environmental extremists to stop the wise use of our lands. This is an issue about the control of resources, Separation of Powers, State Sovereignty, private property rights, and freedom from unnecessary and harmful Federal intrusion.

In my view the American Heritage Rivers Initiative is contrary to every thing I have ever learned about our form of government. We are a nation of laws. The legislative branch is to create the laws, the executive branch is to implement and to enforce the laws, and the judiciary branch is to interpret the laws—not to make the laws. The American Heritage Rivers Initiative is contrary to each of those tenets.

This country is founded on several important principles not the least of which is the right to own private property. One of the primary reasons many, if not most, immigrants came to this country was the freedom to own and control land outright. This initiative is just another chink in taking away private property rights and a step toward Federal land use control. I know of no instances where the government

does a better job in the long run of managing property than private property owners themselves.

We need less government control, not more, so I encourage you to do whatever is in your power to curtail the American Heritage Rivers Initiative. Withholding funding as proposed in H.R. 1842 is certainly a step in the right direction.

We do not want another Federal designation. We do not want a greater Federal presence. We do not want enhanced Federal control over our waters. And we do not want the government to come up with yet another way to spend taxpayer dollars.

Thank you for the opportunity to provide these comments.

STATEMENT OF PETER SAMUEL, EXECUTIVE DIRECTOR, SCHUYLKILL RIVER GREENWAY AND HERITAGE CORRIDOR

On behalf of the Schuylkill River Greenway and Heritage Corridor, its partners and community organizations, I want to thank you and the members of this Committee for the opportunity to provide testimony in opposition to H.R. 1842. We are opposed to H.R. 1842 because we believe the American Heritage River Initiative will provide opportunities and benefits to our region in Southeastern Pennsylvania and others like ours around the country.

The Schuylkill River Greenway Association is a membership organization which has been working with citizens and community groups and a host of other partners up and down the river for almost 25 years to promote the river resources and advocate the protection of open space. In the 1990's we went through a process to develop a plan for the Schuylkill as a Heritage Corridor. In 1995 the river corridor was designated by Governor Ridge as Pennsylvania's seventh Heritage Park. Thus the Association expanded its mission to include conservation of the historic and cultural resources within the watershed and a focus on economic development.

We in the Schuylkill Watershed—including conservationists, elected officials, municipal governments, landowners, recreationalists, industry owners and more—are very much interested in the American Heritage River Initiative because it will provide an excellent chance for the widest range of people to take new pride in their river. It will enable us to work with the Federal Government as a partner in efforts to improve and restore the resources associated with the Schuylkill.

The goal of the American Heritage Rivers initiative is to support communities within existing laws and regulations, by providing them with better information, tools and resources and by encouraging local efforts deserving of special recognition. This is precisely the kind of assistance the Schuylkill River Corridor needs.

We believe that our community knows best what resources will benefit us the most and would like to see the government prioritize Federal spending based on that community led process, and to help people better understand how to access existing Federal resources.

Before I explain further why and how this proposed new initiative will help the people and resources directly in the Schuylkill River Valley I would like to describe my area of the country. I will discuss our efforts to create a heritage corridor based on wide ranging partnerships, what works already been accomplished, what the larger shared vision is for the region and there, how we see this new government initiative fitting into the entire picture.

BACKGROUND ON THE SCHUYLKILL

The Schuylkill River flows through some of the most historically significant land in the United States. The natural resources of the region and the people who live and work there have helped weave the social, political, economic and industrial fabric of Pennsylvania and the nation.

The river itself extends 128 miles from the mining region of Schuylkill County through four other counties and into the city of Philadelphia where it links up with the Delaware River. It comprises three national parks, many acres of state park and game lands, numerous county parks, arboretums, wildlife preserves as well as widespread residential development, agriculture, industrial towns and private lands.

William Penn established his colony relatively late in the history of European colonization of North America's seaboard, but the rapid growth of the colony soon made Pennsylvania a region of major substance and significance within the world.

By the 1770's Philadelphia stood as the political, economic and cultural center of colonial America. The city's strategic location, wealth, industrial and commercial importance, large and cosmopolitan population combined to make it the hub of America's revolutionary activity. It was the site of the First and Second Continental Congresses and the birthplace of the Declaration of Independence. It was along the

Schuylkill, in the winter of 1778, that General Washington and his troops camped in Valley Forge before the turning point in the Revolutionary War.

By 1900, the use of anthracite coal to power industry caused a total transformation in the valley. The region was still dominated by Philadelphia, but with many urban and industrial centers, both large and small, thriving and interconnected by railroads. During this period, the entire river valley functioned as an interlocking series of industrial engines, and Philadelphia became a national leader in industry.

The vast growth and development of communities and industries along the river was not without consequence. By 1927 it was estimated that there was 38 million tons of coal silt in the river. The Schuylkill was so polluted that it had essentially lost its value as a river—the canal system was no longer navigable, the river was spurned as a recreational resource and as a supply of drinking water it had become seriously degraded.

The river has been making a slow come back. In the 1970's the Schuylkill River Greenway Association was formed to begin advocating the protection and health of the river and its tributaries. The Schuylkill was designated by the state legislature as Pennsylvania's first scenic river in 1977.

In the spring of 1995, after an extensive three year planning process involving representatives from each of the five counties and the public and private sectors, a Management Action Plan for the Schuylkill Heritage Corridor was completed. Later that year the Schuylkill was designated by Governor Tom Ridge as Pennsylvania's seventh State Heritage Park.

The Schuylkill River Greenway Association which had many years of experience working with partners throughout the corridor, became the organization to implement the Heritage Corridor Plan. The SRGA adopted a revised and expanded mission for improving the river, increasing recreational opportunities, saving historic structures, encouraging regional cooperation, attracting tourism and generating jobs and permanent economic benefits.

These actions mirror steps that have been taken in hundreds of communities. People across the nation have begun to realize the promise of heritage tourism. They are discovering how well the preservation of historic, cultural and natural resources combines with the development and marketing of tourism to sustain local economies and ways of life. Resource preservation and economic viability are not mutually exclusive but compatible and mutually enhancing. It has been recognized that multiple management and funding sources are the most appropriate method of preserving and interpreting the nationally important resources and themes.

The Greenway and Heritage Corridor has committed to work towards the following goals:

- Be the keeper of the vision—coordinating, managing and implementing programs projects and activities within the corridor that serve to celebrate the heritage and preserve and enhance quality of life
- Linking and Leveraging—working between and among agencies, attractions and organizations in support of the vision, mission and goals of the Schuylkill Heritage Corridor
- Serve as a resource—providing leadership and guidance in educational, historical, financial and marketing efforts and technical assistance in training, interpretation, and community involvement

PROJECTS OF THE GREENWAY AND HERITAGE CORRIDOR

Projects range from the creation of trails built on abandoned rail corridors, the construction or improvement of trail bridges that cross streams and roads, development of riverside parks and open space, creation of canoe launches, historic conservation and interpretation projects, development of visitor information and a wayfinding system, and the implementation of an educational curriculum plan.

Projects throughout the five county area in Historic Conservation and Interpretation include:

- Planning for the renovation of the historic Phoenixville Foundry building in Phoenixville to become a visitor center which focuses on the steel and iron making heritage—in association with Phoenixville Area Development Corporation
- The Reconstruction of the Schuylkill Navigation Canal Lock 60 in Port Providence—in association with the Schuylkill Canal Association
- Interpretive Planning and Exhibit Design to develop visitor center exhibits to describe the agricultural history in the Schuylkill Valley—in association with the Peter Wentz Farmstead
- Development of a plan for reuse of the historic Tamaqua Train Station in downtown Tamaqua for use as a visitor reception point—in association with the Save Our Station group

- Renovation of an historic building in downtown Reading to be used as a heritage corridor visitor center—in association with the Berks County Conservancy
- Development of Engineering Plans for the restoration of the historic water wheel at the Fairmount Waterworks in Philadelphia—in association with the Philadelphia Water Department and Fairmount Park
- Assistance in the stabilization of the historic Continental Powder Works—in association with East Vincent Township

It was recognized early on that there would need to be a broad range of support among financial, community, educational, business, and government leaders and foundations and existing partners in order to balance programmatic goals and objectives and achieve financial stability within the organization. This diversification of support allows the organization to develop flexible funding programs that strengthens the corridor and ensures its long-term success.

HOW THE AMERICAN HERITAGE RIVER INITIATIVE CAN HELP OUR WORK

Since I became the Director of the Schuylkill Corridor I have realized that there are Federal agencies in our region which have programs that could provide assistance to our various communities. The Army Corps of Engineers has indicated an interest in rehabilitation of desilting basins into wetlands, the Environmental Protection Agency may have funds for restoration projects on the tributaries, the National Park Service could provide greenway and trail planning, Fish and Wildlife may be involved in the development of fish ladders along the many dams. And there are probably many others. How would I know?

My information about these potential programs has been haphazard, helter skelter. If the Schuylkill River is designated as an American Heritage River, information about all of these programs would be made available as a coordinated package of services. The Federal Government would begin to work for us.

People have called for a better, smarter and more coordinated way to work with the Federal Government. The American Heritage River Initiative seeks to coordinate these existing authorities in a more efficient and complementary way and proposes that assistance from the Federal Government will come *at the request of the community*. Once a river is designated, a team of Federal agency representatives will be available to help the community determine the role for Federal assistance. The committee will look for opportunities to reduce bureaucracy, streamline services and remove policy obstacles.

There is no existing system to provide communities with a coordinated system of Federal services. In fact there is so much lack of coordination that it is very possible that within one very small agency such as the National Park Service that more than one department or division could be involved with the same project and never know what the other is doing.

If what is being proposed by the American Heritage Rivers Initiative comes to fruition, it will be a major advance for government. I am not talking about more government, more regulations, more interference, I am talking about coordination, organization and responsiveness. I am talking about better government, ideal government. One that is there when you want it to be and one that provides a coordinated strategy of services that will be truly helpful.

The American Heritage River Initiative will allow for the proper recognition of the collective contributions of ordinary people in significant regions of our nation. The Schuylkill Heritage Corridor provides a framework for people to take pride in their communities, understand their history and work together to enhance the quality of life for their children. We are treating our history and heritage as one of our greatest resources. The American Heritage River Initiative will allow us to build on that and ensure that the present and future is successfully linked to our past.

Thank you for the opportunity to testify here today.

STATEMENT OF REGINALD WILLIAM NELSON

Mr. Chairman, members of this Committee, ladies and gentlemen:

My name is Reginald William Nelson and I live at 1820 New Market Road in eastern Henrico County, just outside of the City of Richmond, Virginia. I am a full-time farmer. I farm land within sight of the James River and practice responsible management of my farmland to ensure the safety of my livelihood for the perpetuation of my farming, and the cleanliness of the environment, as my father and grandfather before me have done. My farmland is just beyond the urban boundaries of the City of Richmond.

I and many of my neighbors are concerned that President Clinton's "Executive Order" creating the "American Heritage Rivers Initiative" will further denigrate our

ability to effectively produce crops from our fields and use our private property as guaranteed by our United States Constitution.

This "Initiative" addresses "river communities." Those folks lobbying hard for this Federal bureaucratic program have been defining the boundaries of this Initiative to include all land within a river's watershed. That is a broad and inclusive definition. Along the James River, its watershed includes 10,102 square miles, one fourth of the land base of the Commonwealth of Virginia.

What we are *sure* of, is that this "Initiative" intends to consume *more* than the *riparian properties* adjacent to any designated river.

Further, this "Initiative" addresses the concerns of those people who consider themselves to be "stakeholders" in this initiative. They appear to be many, varying "special interest groups"—*not among them*, appears to be the affected individual private property owner!

There is no provision in this "Initiative" for even the individual notification of all property owners which are to be included in any such "designation." That is appalling to me!—However, from my experience over the recent years with the Department of the Interior, this is the Federal bureaucracy functioning in its regular mode of operation.

Having worked for several years to try to gain local control over the National Park Service's boundary, condemnation authority and land use control over as much as 250,000 acres in and around Richmond, (including my property), and observing the bureaucratic attitude to ignore residents and property owners' requests and recommendations—I have had to learn how this mushrooming, land-usurping predator works. It continually creates additional layers of Federal bureaucrats to confuse the taxpaying citizen to slowly, but surely, diminish the private property owner's Constitutional rights to use his own property. Instead of helping the private property owner, the Federal bureaucracy works to use private property "For the Good of All" such as that non-owner "stakeholder" I spoke of earlier.

Ladies and gentlemen, I have no business being here before you today. I should be at home in my fields—on my combine—where I am presently at the peak of my corn and soybean harvesting. I usually spend twelve (12) to sixteen (16) hours a day this time of year away from my family—working, farming—to support my family—and they know an understand that. My two young daughters were confused that instead, today, I have traveled to, and am sitting in, a Congressional Hearing Room to tell you about the harm this "American Heritage Rivers Initiative" will cause for me and innumerable Americans.

I and my neighbors regularly elect a Congressman from our home district; mine is The Honorable Thomas J. Bliley, Jr.

Congressman Bliley understands the considerable economic harm this new Federal program will cause to me and my neighbors as we go about our business of farming and using our private property without additional Federal bureaucratic intervention or accountability;—and yet, this "Initiative" can designate and begin appointing a "River Navigator" to "oversee" the activities within a designated community and a river's watershed—even over the objection of the duly elected Congressional Representative! This is unconstitutional and just plain wrong!

As a farmer I already know about excessive regulation. I must comply with and file a "Nutrient Management Plan," an "Integrated Pest Management Plan," a "Chesapeake Bay Preservation Plan," and I am also required to record the pesticides I use in my farming, as well as assuring that I am in compliance with local land use regulations.

And yet, I am here to tell you that none of those regulations has changed my family's farming practices or the methods by which my family grow crops. We have always been responsible guardians of our land and the environment. What it has changed—is the time and costs involved in reporting back to these unelected, government bureaucrats, whose job is perpetuated by my being required to spend time at my computer reporting minute details of what I have done to grow my crops, instead of either: (1) working my fields, or (2) sharing precious time with my wife and children.

If this "Initiative" is truly voluntary and nonregulatory, why is there to be a Federal presence? Why are there Federal agencies to be involved? Why? Because, clearly, there *will be* additional regulations placed on all properties within a designation—written by nameless, faceless, unaccountable bureaucrats. If this "Initiative" is truly "honorary," there would be no Federal involvement.

The reason I am here to speak in favor of H.R. 1842 is that I fear this Presidential Executive Order's effect on my farm, my family, my neighbors, my community and our diminishing Constitutional Rights.

Neither my Senators nor my Representative were given an opportunity to vote their approval of this Federal program. They were not a part of the process of creat-

ing it. They were not given *my right* for them to vote on this invasive and expensive Federal program which will add an additional layer of bureaucracy through which I must weave to earn a living for my family.

There is no reason that localities along any river cannot work together to accomplish what this "Initiative" purports to do. No Federal program is necessary or serves a constructive purpose.

Along our James River, the localities are meeting and finding creative methods to promote the river, but, at this time, the Federal Government is not involved—or in control. And "in control" is what it wants to be. But that is neither necessary—nor desirable.

Years ago the James River was seriously polluted. Today it is recovering—without Federal intervention. It is not needed—or wanted—now. The cost for this program is to come from the resources within the 12 Federal agencies already identified to be involved in this Presidential enacted "Initiative"—from agency budgets reportedly already stretched beyond their ability to function appropriately. Will funds be taken from roadway repair projects? Will they be taken from environmentally sensitive clean-up programs to fund this "Initiative"? Clearly, the burden of the cost of this added layer of bureaucracy will be passed to the over-taxed American taxpayer—of which I am one.

This "American Heritage Rivers Initiative" was stated to be created to "preserve, protect and restore rivers and their adjacent communities." The vagueness and imprecision of these words will allow the established—and "yet to be established"—bureaucracies to use Federal controls on private use of privately owned property. This strikes fear in the hearts and minds of property owners anywhere near *any* river! And so it should! "The devil is in the details!" And we have not been given those to review in advance of the establishment of this Federal bureaucratic program! They will, instead, be determined at some later time by those nameless, faceless, unaccountable bureaucrats!

Any citizen *ever hoping* to own property should fear such authority for unchecked Federal control!

This new Federal power will be used to impose the will of the Federal bureaucracy on local jurisdictions, usurping the powers Constitutionally "reserved to the States respectively, or to the people."

Any intelligent person knows that, historically, development began around these flowing conduits. Rivers were—and are—a natural mode of transportation for relocation and trade. And, of course, there is usually fertile farmland near and adjacent to rivers. So, with no limits, controls, guidelines or "opt-out provisions" in this Federal program—not unlike any other trumped-up "historic" or "heritage" designations—virtually *any* river in the United States would qualify for control by this central, Federal bureaucrat—the "River Navigator"—who could impose great and costly restrictions on local government land use control.

I bring to you today a different knowledge and perspective from your other speakers. I have had the unfortunate necessity to research and learn, together with my neighbors, the details and effect of a "historic designation" under the *Historic Preservation Act*. We were all under attack by the National Park Service in our area, and were misleadingly assured that such a designation, even over our objection, had no effect on the use or value of our land. Well, that's what they would like citizens to believe! But it is absolutely untrue!

This Presidential Executive Order creating the "American Heritage Rivers Initiative" expressly states that the Department of the Interior shall be one of those Federal agencies which shall "identify all technical tools, including those developed for purposes other than river conservation, that can be applied to river protection. . . ." My community and others around my state know all too well how that Section 106 Review Process of the *Historic Preservation Act* can curtail any changes in the area. *Progress stops*—not just damage. If the members of this Committee are not aware of this Act and its Section 106 Review process—and the far reaching effect it can and has had on communities around the nation—please contact me or have your staff members look into the matter. It has the propensity to bring this nation to a halt.

I am fortunate that my local jurisdiction, Henrico County, Virginia, is in strong opposition to the designation of the river threatening my community, and is preparing a letter to be sent to all of our Congressional delegation stating and clarifying their opposition. I would like to provide a copy of that letter to this Committee to be attached to my testimony, as soon as it is available.

This Presidential-created program, however, does not clarify that my community can be saved by my local government's refusal to approve of, or request, the designation—we may still be forced into the designation by the request of other more-naïve

... to say nothing of it being forced upon the unnotified, individual private property owners!

There are no guarantees under this program—except that we have no guarantees that our Constitutionally guaranteed rights to representation and private property protections have—and will be—further violated by this program.

I ask again—if this “Initiative” is truly honorary and voluntary, why is there a Federal presence? Why is there no property owner notification? Why is it not, instead, required that the property owner request the designation in writing and have the right to quit the program at any time?

Why? Is it because these protections from our Federal Government were never intended to be a part of this program? Because land use control being removed from local control was the primary intent from its inception?

I believe it was and still is.

Mr. Chairman, and members of this Committee, I appreciate this opportunity to explain my personal concerns about the “American Heritage Rivers Initiative,” and I enthusiastically request your strong support for H.R. 1842 so that I may go home and pursue my livelihood the anticipation of no further Federal manipulation and regulation of my land and my community. Such an invasive and controlling program should be created only by the will of the people—and then must be in compliance with the Fifth Amendment to the United States Constitution!

Please take action to stop this oppressive, dictatorially-created Federal program by passing and enforcing H.R. 1842.

**VOTING ON MOTION OFFERED BY SEN. DODD (D-CT) AND SEN. D'AMATO (R-NY) TO
TABLE SEN. HUTCHINSON'S (R-AR) AMENDMENT NO. 1196 TO INTERIOR
APPROPRIATIONS BILL**

YEAS - 57

Arizona - McCain (R)
Arkansas - Bumpers (D)
California - Boxer (D), Feinstein (D)
Connecticut - Dodd (D), Lieberman (D)
Delaware - Biden (D), Roth (R)
Florida - Graham (D)
Georgia - Cleland (D)
Hawaii - Akaka (D), Inouye (D)
Illinois - Durbin (D), Moseley-Braun (D)
Iowa - Harkin (D)
Kentucky - Ford (D)
Louisiana - Breaux (D), Landrieu (D)
Maine - Collins (R), Snowe (R)
Maryland - Mikulski (D), Sarbanes (D)
Massachusetts - Kennedy (D), Kerry (D)
Michigan - Abraham (R), Levin (D)
Minnesota - Wellstone (D)
Missouri - Bond (R)
Montana - Baucus (D)
Nebraska - Kerrey (D)
Nevada - Bryan (D), Reid (D)
New Hampshire - Gregg (R)
New Jersey - Lautenberg (D), Torricelli (D)
New Mexico - Bingaman (D), Domenici (R)
New York - D'Amato (R), Moynihan (D)
North Carolina - Faircloth (R)
Ohio - DeWine (R), Glenn (D)
Oregon - Wyden (D)
Pennsylvania - Specter (R)
Rhode Island - Chafee (R), Reed (D)
South Carolina - Hollings (D)
South Dakota - Daschle (D), Johnson (D)
Tennessee - Frist (R), Thompson (R)
Virginia - Robb (D)
Vermont - Jeffords (R), Leahy (D)
Washington - Murray (D)
Wisconsin - Feingold (D), Kohl (D)

NAYS - 42

Alabama - Sessions (R), Shelby (R)
Alaska - Murkowski (R)
Arizona - Kyl (R)
Arkansas - Hutchinson (R)
Colorado - Allard (R), Campbell (R)
Florida - Mack (R)
Georgia - Coverdell (R)
Idaho - Craig (R), Kempthorne (R)
Indiana - Coats (R), Lugar (R)
Iowa - Grassley (R)
Kansas - Brownback (R), Roberts (R)
Kentucky - McConnell (R)
Minnesota - Grams (R)
Mississippi - Cochran (R), Lott (R)
Missouri - Ashcroft (R)
Montana - Burns (R)
Nebraska - Hage! (R)
New Hampshire - Smith (R)
North Carolina - Helms (R)
North Dakota - Conrad (D), Dorgan (D)
Oklahoma - Inhofe (R), Nickles (R)
Oregon - Smith (R)
Pennsylvania - Santorum (R)
South Carolina - Thurmond (R)
Utah - Bennett (R), Hatch (R)
Texas - Gramm (R), Hutchinson (R)
Virginia - Warner (R)
Washington - Gorton (R)
West Virginia - Byrd (D), Rockefeller (D)
Wyoming - Enzi (R), Thomas (R)

NOT VOTING - 1

Alaska - Stevens (R)

July 14, 1997

Dear Representative:

We, the 176 undersigned river, fisheries, recreation, business, and conservation organizations, urge you to support the American Heritage Rivers Initiative and oppose H.R. 1812, introduced by Representative Heien Chenoweth (R-ID) to terminate the initiative. This initiative enjoys the support of a broad bipartisan coalition of mayors, local officials, communities, river activists, governors, businesses, and historic preservation and environmental groups across the country.

The American Heritage Rivers Initiative ("AHRI") will make the federal government a better partner for communities across the nation as they protect and revitalize their hometown rivers. At its heart, the AHRI is about community revitalization and providing more efficient and effective federal programs and services to help community-led conservation initiatives. It also celebrates the important role that rivers played in our nation's history and continue to play in our culture. The AHRI is designed to foster community-led conservation initiatives.

The AHRI will provide innovative models of community-based conservation initiatives for the new century. It also clearly acknowledges the connection between healthy rivers and healthy communities, and reflects the conviction that we can integrate environmental, economic, and social needs and values.

The AHRI will impose no new regulations and no additional funding authorities. It does not affect private property rights, and it does not create any federal land use controls. This entirely voluntary initiative very much reflects the bipartisan view that the federal government should assist communities in meeting local objectives for river revitalization and stewardship.

Unfortunately, in recent weeks, the anti-environment lobby has been publishing significantly inaccurate information about the AHRI. We encourage you to discuss the real facts about this transformational river conservation initiative with us and help us to ensure that our river and community revitalization efforts succeed.

Now is the time to advocate strongly for the American Heritage Rivers Initiative, a program intended to help citizens develop and implement solutions that will revitalize and restore their local economies and hometown rivers.

Sincerely,

Alabama Rivers Alliance
Alaska Center for the Environment
Alaska Clean Water Alliance
Alliance for the Chesapeake Bay
Alliance to Restore the Kankakee River (IL)
American Canoe Association
American Fisheries Society

American Greenways Program
American River Coalition (CA)
American Rivers
American Sportfishing Association
American Whitewater Affiliation
Amigos Bravos (NM)
Anacostia Watershed Society (MD)

Appalachian Mountain Club
 Arkansas River Coalition (KS)
 AuSable Manistee Action Council (MI)
 B.A.S.S., Inc.
 Battenkill Conservancy – New York
 Big Sandy Area Lakes Watershed Management
 Project (MN)
 Biodiversity Legal Program – Environmental
 Law Foundation (CA)
 Blackstone River Watershed Awareness
 Campaign (MA)
 Border Ecology Project (AZ)
 Bull Creek Foundation (TX)
 Cahaba River Society (AL)
 California League of Conservation Voters
 Canoe Cruisers Association of Greater
 Washington (DC)
 Cape Fear Riverkeeper (NC)
 Central Appalachian Biodiversity Project
 Central States Education Center (IL)
 Chattooga River Watershed Coalition (TN)
 Chehalis River Council (WA)
 Chesapeake Bay Foundation
 Citizens for San Luis Valley Water (CO)
 Clark Fork-Pend Oreille Coalition (MT)
 Clean Up Our River Environment (MN)
 Clearwater Biodiversity Project (ID)
 Coastal Canoeists (VA)
 Colorado River Task Force – Sierra Club
 Colorado Rivers Alliance
 Committee on the Middle Fork of the Vermillion
 River (IL)
 Connecticut River Watershed Council
 The Conservation Foundation (IL)
 Coosa River Basin Initiative (GA)
 Delaware Riverkeeper Network
 Elkhorn Paddlers (KY)
 Endangered Habitats League (CA)
 Everglades Ecosystem Restoration Campaign –
 National Audubon Society
 Farmington River Watershed Association (MA)
 Folsom Auburn Trail Riders Action
 Coalition (CA)
 Friends of Arizona Rivers
 Friends of Arnold Creek (OR)
 Friends of Daniels Run Park (VA)
 Friends of Lime Creek (ID)
 Friends of Nevada Wilderness
 Friends of the Chicago River
 Friends of the Cowlitz (WA)
 Friends of the Detroit River
 Friends of the Garcia River (CA)
 Friends of the Green River (WA)
 Friends of the Kennebec Salmon (ME)
 Friends of the Locust Fork River (AL)
 Friends of the Los Angeles River
 Friends of the Minnesota Valley
 Friends of the Mississippi River
 Friends of the Nanticoke River (MD)
 Friends of the River (CA)
 Friends of the Rivers of Virginia
 Friends of the Roanoke River (VA)
 Friends of the Russian River (CA)
 Friends of the Santa Cruz River (AZ)
 Friends of the St. Joe River Association (MI)
 Friends of the Tennessee River
 Friends of the White River (IN)
 The Georgia Conservancy
 Grand Canyon Trust
 Great Lakes United
 Greater Yellowstone Coalition
 Greenway Network, Inc.
 Headwaters (OR)
 High Country Citizens' Alliance (CO)
 Hop Brook Protection Association (MA)
 Housatonic River Commission (CT)
 Housatonic River Walk (MA)
 Housatonic Valley Association (CT)
 Hudson River Sloop Clearwater
 Huron River Watershed Council (MI)
 Idaho Rivers United
 Idaho Watersheds Project
 International Rivers Network
 James River Association (VA)
 Kentucky Resources Council
 Kentucky Waterways Alliance
 Kids for Clean Water (WI)
 Little Tennessee Watershed Association (NC)
 Massachusetts Riverways Program
 Massachusetts Watershed Coalition
 McKenzie River Trust (OR)
 Merrimack River Watershed Council (MA)
 Mining Impact Coalition of Wisconsin
 Minnesota Center for Environmental Advocacy
 The Minnesota Project
 Mississippi River Basin Alliance
 Missouri Coalition for the Environment
 Montana Afloat
 Montana River Action Network
 Nashua River Watershed Association (MA)
 National Audubon Society – New Mexico
 National Organization for Rivers

Natural Resources Council of Maine
 Neponset River Watershed Association (MA)
 New Hampshire Rivers Council
 New York Rivers United
 Northcoast Environmental Center (CA)
 1,000 Friends of Florida
 Oregon Environmental Council
 Oregon Natural Desert Association
 Oregon Natural Resources Council
 Oregon Trout
 Ouachita Watch League (AR, OK)
 Ozark Watch League
 Pacific Rivers Council
 Pennsylvania Organization for Watersheds and Rivers
 Philadelphia Canoe Club
 The Potomac Conservancy
 Protect American River Canyons (CA)
 Quad City Conservation Alliance (IL)
 Regional Environmental Action League (MN)
 Rio Grande Restoration (NM)
 Rio Grande/Rio Bravo Basin Coalition (TX)
 River Action (IA)
 River Alliance of Wisconsin
 River Care (MT)
 River Keepers (ND)
 River Network
 Riverkeeper, Inc. (NY)
 RiverLink (NC)
 Rivers Alliance of Connecticut
 Rivers Council of Washington
 Rivers Curriculum Project (IL)
 Rivers Unlimited (OH)
 Rocky Mountain Chapter -- Sierra Club
 S.A.F.E. (GA)
 Salmon For All (OR)
 San Jacinto River Association (TX)
 Saugus River Watershed Council (MA)
 Save Barton Creek Association (TX)
 Save Our Rivers, Inc. (NC)
 Scenic Hudson
 Schuylkill River Development Council (PA)
 Sequoia Paddling Club (CA)
 Sheep Mountain Alliance (CO)
 Sierra Student Coalition
 Smith River Alliance (CA)
 South Yuba River Citizens' League (CA)
 Southeast Alaska Conservation Council
 Southeastern Fisheries Association
 Southwest Regional Conservation Committee --
 Sierra Club

Sudbury-Assabet-Concord Rivers Watershed Association (MA)
 Susquehanna River Watch (PA)
 Tennessee Conservation League
 Texas Rivers Protection Association
 Thames River Watershed Association (CT)
 Toiyabe Chapter -- Sierra Club (NV)
 Trout Unlimited
 Tuolumne River Preservation Trust (CA)
 Upper Chattahoochee Riverkeeper (GA)
 Utah Rivers Council
 Washington Kayak Club (WA)
 Water Watch of Oregon
 West Virginia Rivers Coalition
 Western Heritage Center (MT)
 Western Maryland Group -- Sierra Club
 Willamette Riverkeeper (OR)
 Wisconsin Waterfowl Association
 Yellowstone Heritage Partnership (MT)

July 14, 1997

Dear Representative:

We urge you to support the American Heritage Rivers Initiative, and to oppose H.R. 1842, introduced by Representative Chenoweth (R-ID) to terminate the Initiative. The American Heritage Rivers Initiative enjoys the support of a broad coalition of state and local officials, business and civic groups, river activists, as well as the historic preservation and community revitalization groups listed below. The American Heritage Rivers Initiative is a positive step that promises to provide more efficient and effective federal programs and services to community-led conservation initiatives throughout the nation. It also celebrates the important role that rivers played in our nation's history and continue to play in our culture. River revitalization efforts invariably enhance the economic development efforts of the surrounding communities, and as well as benefiting historic areas which are the legacy of early settlements along our nation's rivers.

The American Heritage Rivers Initiative would refocus programs, grants, and technical assistance in a number of departments to provide special support to American Heritage Rivers. Each community will be given resources to enhance locally-driven work on behalf of restoration and revitalization of rivers and waterfronts. This initiative will be a partnership between the federal government and the people who enjoy the many values of rivers. It will not impose new regulations, standards, or requirements on communities. This entirely voluntary initiative very much reflects the bipartisan view that the federal government should efficiently and effectively assist communities in meeting local objectives for river revitalization and stewardship.

We urge you to support the American Heritage Rivers Initiative and to oppose any efforts to limit or terminate this timely, well-targeted proposal.

Sincerely,

The Undersigned Organizations

July 14, 1997

page two

National Trust for Historic Preservation
 National Conference of State Historic Preservation Officers
 Preservation Action
 Society for American Archaeology
 The Countryside Institute, Cold Spring, NY
 Conservation, Environment and Historic Preservation (CEHP)
 Downtown Gadsden, Inc., AL
 City of Denver, CO
 City of St. Petersburg, FL
 Main Street Coming, LA
 Idaho Historic Preservation Council, Boise, ID
 Galesburg Downtown Council, IL
 Noblesville Main Street, Inc., IN
 Historic Landmarks Foundation of Indiana, Indianapolis, IN
 Boone County Kentucky Historic Preservation Review Board, Burlington, KY
 Flemingsburg Main Street, KY
 City of Newport, KY
 Monmouth Street Commission, Newport, KY
 City of New Orleans, LA
 Louisiana Preservation Alliance, Baton Rouge, LA
 Historic Massachusetts, Inc., Boston, MA
 Preservation Maryland, Baltimore, MD
 Preservation Alliance of Minnesota, Minneapolis, MN
 Albemarle Downtown Development Organization, Albemarle, NC
 New Bern, North Carolina Historic Preservation Commission
 Manchester, New Hampshire Enterprise Community
 New Jersey Historic Trust, Trenton, NJ
 Bernalillo Main Street, NM
 Ohio Preservation Alliance, Inc., Columbus, OH
 Ohio Department of Development, Division of Travel and Tourism, Columbus, OH
 Historic Preservation League of Oregon, Portland, OR
 City of Harrisburg, PA
 Johnstown Area Heritage Association, Johnstown, PA
 Pennsylvania Environmental Council, Philadelphia, PA
 Preservation Alliance for Greater Philadelphia, PA
 Preservation Pennsylvania, Harrisburg, PA
 The Providence Plan, Providence, RI
 Association for the Preservation of Tennessee Antiquities, Nashville, TN
 Shelbyville Historic Zoning Commission, Shelbyville, TN
 Bryan Main Street Project, Bryan, TX
 City of Irving, Preservation and Redevelopment Program, Irving, TX
 American Cultural Resources Association (ACRA), Salt Lake City, UT
 City of Woodstock, VT
 Preservation Alliance of West Virginia, Charleston, WV

Columbia Times

SUNDAY, AUGUST 17, 1997

Tri-Cities project mired in red tape

ASSOCIATED PRESS

KENNEWICK — Backers of a plan to revive the Tri-Cities' shoreline along the Columbia River say their efforts are being stymied by federal bureaucracy.

The Tri-City Rivershore Enhancement Council wants to restore salmon habitat, lower levees and make the river more accessible to boost tourism, business and quality of life.

But the plan's success depends on cooperation from the U.S. Army Corps of Engineers. So far the agency isn't helping much, backers say.

"These obstacles they put in the way prevent you from getting anything done," said Kris Watkins of the Tri-Cities Visitors and Convention Bureau. "... I don't know why there is such a lack of enthusiasm (from the corps)."

One big problem has been money. To decrease processing time and cost, the corps told area cities and counties to put four river-enhancement projects together in one grant application.

But last week, the corps said that with the merged projects, the

\$20 million package was too expensive to qualify. At the same time, the cities and counties can't go back and apply separately, because the corps now views them as one, said Bill MacDonald, corps study manager.

Another big hangup is getting the corps' headquarters to determine whether land transfers from the corps to cities and counties require a National Environmental Policy Act study.

U.S. Sen. Slade Gorton, R-Wash., and Rep. "Doc" Hastings, R-Pasco, wrote to the corps June 19, asking for a prompt answer so they could request money if a study was needed.

"When a senator sends a letter to an agency, we usually get some kind of response," said Suzanne Heaston, Gorton's regional office coordinator. "It's very unusual for this to happen."

If the environmental study is required, the initial phase could take six to nine months and cost \$50,000. However, if a full-blown environmental impact statement is needed, it could cost significantly more money and time, Heaston said.

Corps of Engineers turns rule shuffling into an art form

The ineptitude of the U.S. Army Corps of Engineers in handling rivershore projects for the Tri-Cities is becoming so obvious it begs description. ■ The corps doesn't answer its mail from members of Congress.

■ The corps forgets from week to week what it has asked for.

■ The corps demands one thing and when it gets it, changes its mind.

■ The corps fragments responsibilities so much, outsiders seldom know if they are dealing with the right person, and corps insiders don't appear to be talking to each other.

■ The corps, when confronted with its misdeeds, shuffles and mumbles and tries to shift the blame to the very people it misdirected in the first place.

If this were the world of Dr. Seuss, the Corps of Engineers would be made up of North-Going Zax.

With a few South-Going Zax thrown in.

But no East- or West-Going Zax. That would require an act of calculation beyond the corps' ability, judging from the evidence we read on the rivershore mess.

Tri-Citians, encouraged and even excited by the prospect that at last a consolidated and cohesive plan is emerging from all our jurisdictions for improving the Columbia River shoreline, are astonished at the bungling the corps has committed.

Ports, cities, counties and others worked together diligently over the past two years. At last, it looked as though the ugly levees could be brought down to a reasonable height. It appeared Clover Island might be expanded and developed into a riverside retailing center with small shops and peaceful waterside walks. It seemed Columbia Park could be given the attention and appropriate development such a wonderful community asset deserves.

Instead, the truculent authoritarians of the corps seem to have led the local citizens on.

Consider that the corps, when brought into planning sessions on shoreline mitigation or what the corps refers to as 1135 projects, suggested that the four principal projects be put together in one package, to make it easier, more efficient and cheaper to do one feasibility study rather than four. The understanding was that although the four proposals would exceed the 1135 limit, that was OK because they would be prioritized and split up later.

The cooperating groups from the Tri-Cities complied. Yet when the combined projects were sent forward, higher headquarters ruled that they made just one \$20 million project, and ruled it ineligible for the 1135 program.

JCH F-17-87 O

Worse still, the corps now says that because the projects have been combined and considered as one, they cannot be broken into the separate projects they once were.

It's as though Tri-Citians were led into a trap they couldn't back out of. Such thinking is more reminiscent of Kafka than Seuss.

Then there is the question of the land transfers to local ownership as required in congressional legislation passed last fall. U.S. Sen. Slade Gorton and Rep. Doc Hastings, both R-Wash., wrote the corps asking for clarification over whether government-to-government land transfers require a National Environmental Policy Act study. A quick answer was necessary, because time was running out to get money into the next appropriations budget to pay for the studies, if needed.

After the corps let two months slide without answering, Hastings' office prodded them finally into sending a hasty note saying they really didn't have an answer.

In deciding how much levees may be lowered, the corps insists they be several feet higher than Federal Emergency Management Agency requirements — even though the corps admits that if it were putting in the levees today, they would be at the FEMA levels.

It is odd how the more work that is put into community projects, and the more cooperative a spirit emerges among the many jurisdictions, the harder the corps rides the brakes.

Or rather, continue in its plodding path, undeterred by intent of Congress, reality or the contradictions that the corps, itself, generates.

An excerpt from Dr. Seuss tells it all:

"... And I'll prove to YOU, yelled the South-Going Zax,

"That I can stand here in the prairie of Prax

For fifty-nine years! For I live by a rule

That I learned as a boy back in South-Going

school.

Never budge! That's my rule. *Never budge in the least!*

Not an inch to the west! Not an inch to the east!

I'll stay here, not budging! I can and I will

If it makes you and me and the whole world stand still!"

The corps has long insisted that it is merely a tool of government and serves at the direction of the administration and Congress — that it follows policies others establish.

Yet when it gets into the mode of interpreting the regulations that are supposed to guide it, the corps looks an awful lot like it is nudging those rules for purposes of its own.

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**STATEMENT OF
REPRESENTATIVE PAUL E. KANJORSKI**

**BEFORE THE
HOUSE COMMITTEE ON RESOURCES**

**HEARING ON
H.R. 1842: A BILL TO TERMINATE
THE FURTHER DEVELOPMENT AND IMPLEMENTATION
OF THE AMERICAN HERITAGE RIVERS INITIATIVE**

WEDNESDAY, SEPTEMBER 24, 1997

INTRODUCTION

Mr. Chairman, thank you for allowing me to speak today before the House Committee on Resources about the American Heritage Rivers Initiative. During my tenure in Congress, I have discovered that the House often does not conduct enough oversight into the activities of the executive branch. That is why I appreciate the efforts of this and other congressional committees to examine meaningful issues.

Some individuals have determinedly opposed this the American Heritage Rivers Initiative since its inception. The arguments that they use against the initiative are many and varied. For example, some uninformed people assume that the American Heritage Rivers Initiative is an attempt by the federal government to exert greater control over state and local governmental jurisdictions. Others mistakenly believe that the initiative will infringe upon the rights of property owners. Still others incorrectly deduce that the initiative conflicts with the mandates of laws enacted by Congress, such as the National Environmental Policy Act of 1969.

My careful analysis of the American Heritage Rivers Initiative leads me to conclude otherwise. ***At its core, the initiative is about good government.*** It will create no new regulatory requirements or rules. Instead, the effort will complement the existing environmental and economic development statutes enacted by Congress. Also, by streamlining the delivery of existing federal resources to communities, the American Heritage Rivers Initiative will likely result in greater efficiencies, improved effectiveness, and increased public satisfaction with their government. ***Additionally, because participation in the American Heritage Rivers Initiative is locally driven and voluntary, it will empower communities to help themselves.*** Members of Congress should encourage, not discourage, such innovation by the executive branch.

In an effort to be concise, I will limit the remainder of my comments today to three issues. First, I will further detail the Administration's openness in responding to the concerns of those opposed to the American Heritage Rivers Initiative. Second, I will discuss how the American Heritage Rivers Initiative will help to reinvent government. Finally, I will explain some of the ways in which the Susquehanna might be helped if the Administration designated the waterway as an American Heritage River.

RESPONSIVENESS OF THE ADMINISTRATION TO PUBLIC CONCERNS

In my opinion, the Administration has been exceptionally receptive in designing the American Heritage Rivers Initiative to meet the public's needs. The Council on Environmental Quality and other federal agencies have, for example, held numerous meetings across the country to solicit the public's input on the criteria and selection process. Additionally, in response to public and congressional requests, the Administration extended the *Federal Register* public comment period on its proposal to a total of 90 days. Ultimately, the Administration received more than 1,700 comments about the American Heritage Rivers Initiative.

Moreover, during the public comment period on the *Federal Register* notice, the Administration consistently worked to ensure that the many concerns of critics of the American Heritage Rivers Initiative were fairly addressed. For example, in its final *Federal Register* announcement regarding the American Heritage Rivers Initiative, the Administration revised its plans and explicitly incorporated Executive Order 12630. Signed by then President Reagan, this executive order requires government agencies to act with due regard for the constitutional protections of private property. *In implementing the American Heritage Rivers Initiative, President Clinton also took steps to ensure that the effort will not interfere with matters under state, local and tribal government jurisdiction.* These explicit statements have led me to conclude that the Administration is fully committed to ensuring that private property rights, water rights, and other rights are fully *respected* and *protected* under the American Heritage Rivers Initiative.

REINVENTING GOVERNMENT

The American Heritage Rivers Initiative is not about more government; rather, it is about making government work more efficiently and effectively. Furthermore, the American Heritage Rivers Initiative embodies the Clinton Administration's effort to reinvent government in accordance with the National Performance Review. Begun in 1993 and directed by Vice President Gore, the National Performance Review has worked to create a federal government that works better and costs less. Since its inception, I have been among the strongest supporters in Congress of the National Performance Review.

Almost every Member of Congress can detail for you some case or story where the delivery of federal programs has been disjointed or where the actions of one federal agency or another have created a "Catch-22" situation for their constituents. We and our staffs often spend many thousands of hours each year helping people, businesses, and organizations located in our congressional districts to jump over these hurdles. Therefore, one of the things that impresses me the most about the American Heritage Rivers Initiative is that it will streamline the delivery of existing federal resources to river communities. *It will also simplify the process for communities that have not*

previously organized to pool their resources and gain access to federal programs. In my congressional district, there are hundreds of local political authorities and jurisdictions which have not always worked together. Thus, the American Heritage Rivers Initiative could serve as the catalyst for the many communities of Northeastern Pennsylvania to address their environmental and economic problems.

Another thing that impresses me about the American Heritage Rivers Initiative is that it is not solely focused on the environment. Instead, it also gives equal standing to promoting economic development. The consideration of environmental and economic issues together will help river communities to identify opportunities for creating and delivering sustainable development over the long term. As a result, the American Heritage Rivers Initiative will help communities to better plan for their futures.

A consolidation in the provision of services will likely result in greater efficiencies and improved effectiveness. Better delivery of government services should produce increased public satisfaction with government. ***This streamlining will also empower communities to more quickly abate pollution, improve water quality, protect drinking water, promote economic development, facilitate commerce, and protect wetlands. It will also enhance, not diminish, the value of private property along the heritage rivers.*** These are the types of effective reforms that Congress should support.

POTENTIAL BENEFITS OF DESIGNATING THE SUSQUEHANNA

As some of you may know, I was one of only a few Members of Congress to attend President Clinton's speech announcing the start of the nominating phase for the American Heritage Rivers Initiative. During that speech, the President noted that rivers are the lifeblood of many communities. In fact, some estimate that approximately four-fifths of the country's 150 largest cities are located along rivers. My congressional district is no different. The Susquehanna River flows through its heart and past such cities as Wilkes-Barre, Kingston, Nanticoke, Pittston, Berwick, Bloomsburg, and Danville. Moreover, the Upper Susquehanna-Lackawanna Watershed encompasses such places as diverse as Hazleton, Kulpmont, Scranton, and Nescopeck.

The designation of the Susquehanna as an American Heritage River would produce tangible results for the people of Northeastern Pennsylvania and the river deserves this designation. It would also help to preserve the country's cultural heritage. The Susquehanna played an important role in the start of the Industrial Age. The river helped to transport the anthracite coal mined along its banks to America's fledgling factories. Thousands of immigrants from Eastern Europe, Italy, Ireland and Wales also settled along the river to work in these mines and factories.

Yesterday's promise of anthracite coal also left today's legacy of acid mine drainage. As you probably already know, the problem of acid mine drainage occurs when water flows through abandoned mine tunnels and over waste piles that litter the

landscape. ***The U.S. Environmental Protection Agency has determined that the primary source of industrial pollution into the Chesapeake Bay comes from the acid mine drainage originating in Northeastern Pennsylvania and delivered by the Susquehanna River. Thus, the selection of the Susquehanna as an American Heritage River would help the people of Northeastern Pennsylvania to clean up this problem and improve the quality of life for millions of people living along the Chesapeake Bay.***

In addition to providing targeted and coordinated assistance for abating pollution and protecting natural resources, the American Heritage Rivers Initiative would work to promote economic revitalization in Northeastern Pennsylvania. Such a focus would complement projects already underway in my congressional district. For example, assuming that an environmental feasibility and economic study demonstrates the benefits of its construction, the community will construct an inflatable dam near Wilkes-Barre. Once built, this dam will serve as an economic development tool and will also serve as a catalyst for cleaning up the river. In turn, cleaner water will help to attract new businesses and good jobs to Northeastern Pennsylvania.

The American Heritage Rivers Initiative can help in each stage of the process of constructing the dam and cleaning up the river. The initiative will, for example, permit the community to learn more about alternatives during its efforts to improve water quality. By reviewing the successful water improvement strategies used in other areas of the United States, Northeastern Pennsylvanians will be better able to clean up their river. The review of other successful economic development ventures across the country, especially for those in river communities that have built inflatable dams, created artificial lakes, or constructed waterfront parks, will help the region to better plan for its future.

Since the announcing the American Heritage Rivers Initiative, the people of Northeastern Pennsylvania have begun to come together to support the selection of the Susquehanna River. Local newspapers have also endorsed the effort, and many other people more are now learning about the opportunity. In the upcoming weeks and months, I am sure that this momentum will continue to build. ***Although some communities may not welcome designation as an American Heritage River, they should not prevent those who wish to become one from the chance to clean their watersheds and improve their economies.***

CONCLUSION

Last week, the Senate considered an amendment which would have significantly hampered efforts of the Administration to implement the American Heritage Rivers Initiative. At that time, Senators looked at the facts. Some of them found that the Administration has consistently taken steps to respond to opponents of the undertaking. Others determined that American Heritage Rivers Initiative would help lead to a more efficient and effective government. Still others discovered that their constituents genuinely supported the initiative. For these reasons and others, the Senate killed that amendment.

With respect to H.R. 1842, I encourage the Committee on Resources to do the same. If one were to carefully consider the reality about the American Heritage Rivers Initiative, one could see that it follows the principles of good government. In my opinion, it would be a mistake for the Committee on Resources to favorably report H.R. 1842 to the full House. Our decisions as lawmakers should be based on hope and opportunity, not fear and ignorance.

Again, thank you for allowing me the chance to express my views about this important and much needed environmental and economic initiative. I welcome any questions that the Committee may have.

AMERICAN HERITAGE RIVERS INITIATIVE TESTIMONY

**Statement of Kathleen A. McGinty, Chair, Council on Environmental Quality,
Executive Office of the President
And the Departments of Agriculture, Commerce, Defense, Energy, Interior, Justice,
Transportation and Housing and Urban Development, the Environmental Protection
Agency, Advisory Council on Historic Preservation, Army Corps of Engineers, the National
Endowment for the Arts, and the National Endowment for the Humanities
Before the
Committee on Resources
U. S. House of Representatives
September 24, 1997**

The Administration is testifying regarding H.R. 1842, an amendment which would prevent federal agencies from implementing the American Heritage Rivers initiative. The Administration opposes H.R. 1842 and fully supports the implementation of the American Heritage Rivers, which supports community-led efforts to revitalize local economies, protect natural resources and the environment, and preserve historic and cultural resources. It is driven by the goals and needs of the communities themselves. Through the American Heritage Rivers initiative, all communities will receive better access to the information, tools and resources of the various federal agencies. In addition, ten rivers will be designated as *American Heritage Rivers* and receive special recognition and focused federal support. They will serve as models of the most innovative, successful, and sustainable approaches to river restoration and community revitalization across the United States. This is a purely voluntary initiative; it will create no new regulatory requirements for property owners or state and local governments.

This approach embodies the Administration's effort to reinvent government in accordance with the National Performance Review. The National Performance Review, directed by Vice

President Gore, seeks to create a government that works better and costs less through focusing on customer service, developing partnerships and delegating power to the front lines.

SUMMARY

In the State of the Union Address on February 4, 1997, President Clinton announced the American Heritage Rivers initiative to support river-based, community-led efforts to revitalize local economies, protect natural resources and the environment, and preserve historic and cultural resources. President Clinton has since issued Executive Order 13061 directing agencies to establish and implement the initiative.

Through this initiative, the federal government will play two critical roles in supporting river-related projects. First, federal agency services will be offered to organizations and state, tribal, and local governments participating in community-based efforts. Second, a national information and communications network will be created to provide easy access to information relevant to river restoration, and success stories will be presented for the benefit of all.

The American Heritage Rivers initiative is voluntary and locally driven; communities choose to participate and can terminate their participation at any time. In implementing the American Heritage Rivers initiative, federal departments and agencies will act with due regard for the protections of private property provided by the Fifth Amendment to the United States Constitution.

The American Heritage Rivers initiative will create no new regulatory requirements or rules for property owners or state, tribal, or local governments. The initiative will use existing federal resources more effectively to assist communities.

The American Heritage Rivers initiative was developed by an interagency task force

convened by the White House.

The President's Executive Order creates a new committee, called the American Heritage Rivers Interagency Committee (Committee) that will be responsible for the implementation of the American Heritage Rivers initiative. The Committee will be composed of the following members or their designees at the Assistant Secretary level or equivalent:

- o The Secretary of Defense,
- o The Attorney General,
- o The Secretary of the Interior,
- o The Secretary of Agriculture,
- o The Secretary of Commerce,
- o The Secretary of Housing and Urban Development,
- o The Secretary of Transportation,
- o The Secretary of Energy,
- o The Administrator of the Environmental Protection Agency,
- o The Chair of the Advisory Council on Historic Preservation,
- o The Chairperson of the National Endowment for the Arts, and
- o The Chairperson of the National Endowment for the Humanities,
- o The Chairperson of the Council on Environmental Quality.

Each of these departments and agencies oversees programs and services, authorized by Congress, that can benefit citizens in riverfront communities. By engaging many of these departments and agencies in the creation of the American Heritage Rivers initiative, the Administration has tried to ensure that the initiative is founded on the various missions they are mandated to address -- economic revitalization, natural resources and environmental protection, and historic and cultural preservation -- and is directed at improving the coordination and delivery of related services.

Denver Mayor Wellington Webb, the sponsor of the U. S. Conference of Mayors' resolution supporting the American Heritage Rivers initiative, hailed the initiative as an example

of the economic, environmental and cultural benefits to be gained through locally-led river projects.

AMERICAN HERITAGE RIVERS BACKGROUND

Rivers are an integral part of our Nation's history. They often define the distinctive character of communities, providing avenues for trade, opportunities for commerce, agriculture and forestry, routes for exploration and discovery, inspiration for ideas and culture, means of recreation, and habitat for wildlife.

In a letter of support for the American Heritage Rivers initiative, Brian Lees, Massachusetts Senate Minority Leader, observed, "At every stage of . . . development, the river has been a vital, absolutely necessary cog in the city's growth, prosperity, and "livability" . . . The river has been a living, breathing monument to the past even as it simultaneously influences our future."

It is little wonder, then, that communities across America are working to revitalize their waterfronts and to enhance the historic, cultural, recreational, agricultural, economic, public health, and environmental values of their rivers. At the same time, many people have called for better, smarter, and more coordinated ways to work with the federal government.

To do this, the American Heritage Rivers initiative seeks to coordinate existing authorities articulated by Congress in the National Environmental Policy Act (NEPA) of 1969, as well as other authorities granted to agencies (the National Historic Preservation Act, the Housing and Community Development Act, the Clean Water Act and ISTEA, the Intermodal Surface Transportation Efficiency Act) in a more efficient and complementary manner. NEPA, for example, instructs federal agencies to seek to create and maintain conditions under which man and

nature can exist in productive harmony, while preserving important historic, cultural, and natural aspects of our national heritage.

The American Heritage Rivers initiative is a mechanism for more effectively coordinating activities related to river resources for which different federal agencies already have authorizations and appropriations. The Administration is not proposing to conduct activities that are not already authorized. Since this initiative is an approach to fulfilling the mission of existing agency programs related to rivers and community revitalization, there has been no reprogramming of funds for this purpose in Fiscal Year 1997, and there will be no need to reprogram funds in Fiscal Year 1998.

AMERICAN HERITAGE RIVERS DEVELOPMENT

The American Heritage Rivers initiative has been designed by communities to the greatest extent possible. Public outreach consists of four major components. First, after President Clinton announced the initiative during the State of the Union Address, background materials were widely distributed.

Next, on February 10, 1997, a home page on the World Wide Web was established to share ongoing information with the public and to encourage input on all components of the initiative (<http://www.epa.gov/rivers>). The home page is updated on a regular basis. In addition, a hotline was established for citizen comments and questions (1-888-40RIVER).

Third, the interagency task force has continuously sought ideas and recommendations from communities and interested parties on all aspects of the initiative. During April and May, meetings were held across the country to solicit input on the criteria and selection process and to identify the particular federal resources sought most by communities. Staff members from the

relevant Congressional authorization and appropriations committees, along with a varied group of stakeholders, were invited to the two meetings in Washington, D.C. Meetings have also been held in Albuquerque, New Mexico; Boston, Massachusetts; Philadelphia, Pennsylvania; Atlanta, Georgia; Chicago, Illinois; San Francisco, California; Los Angeles, California; Seattle, Washington; Asheville, North Carolina; and Denver, Colorado. In addition, members of the interagency task force were invited to meetings in El Paso (organized by Congressman Silvestre Reyes) and Laredo, Texas (convened by Mayor Saul N. Ramirez, Jr. and Webb County Judge Mercurio Martinez, Jr.).

Participants in these meetings offered many excellent suggestions on the overall initiative design and the needs of communities across the country engaged in river revitalization efforts. As a result, a draft notice of the initiative was published in the Federal Register on May 19. The Federal Register notice specifically asked for comments on the proposed overall design of the initiative, the qualifying and selection criteria, and the nomination and selection process. It also solicited advice regarding the specific types of federal assistance communities would find most helpful.

The comment period was originally scheduled to end June 9, 1997, but was extended until August 20, 1997 at the request of individuals and organizations and to encourage additional public comment. On June 20, the Federal Register notice was republished to clarify some key issues and to alert communities that the comment period had been extended.

Following the May 19 publication of the Federal Register notice, members of the interagency task force were invited to attend a number of meetings, including the Western States Coalition in Spokane, Washington. In addition, task force members were invited to: Minneapolis,

Minnesota (organized by St. Paul Mayor Norm Coleman and attended by some 20 mayors along the Upper Mississippi River); the Fox River, Wisconsin (at the request of Congressman Jay Johnson); the cities of Dubuque, Iowa; Jefferson City, Missouri; and Austin, Texas (at the invitation of representatives from the agriculture community); Denver, Colorado (at the invitation of the Upper Arkansas Watershed Council); West Virginia (at the request of the Hardy County Commissioners); and Frederick, Maryland (at the request of the Frederick County Board of Commissioners). All invitations were promptly accepted.

The Federal Register notice comment period ran from May 19 to August 20, 1997, for a total of 90 days. More than 1,700 comments were received. Many respondents wrote in favor of the initiative, citing increased coordination of federal services, attention to environmental, economic, and cultural and historic values in the design of the initiative, the integrated method to river restoration and revitalization that the initiative represented, and the community-driven approach. Many appreciated the fact that no new regulations would be imposed as a result of the initiative and applauded the effort to better coordinate the myriad of existing programs.

Many respondents also wrote in opposition to the initiative. Many of these respondents were opposed to federal involvement of any kind in restoring and revitalizing rivers; expressed concern about the protection of property rights; and, offered ways to improve the design of the initiative by addressing more clearly the Federal role and that of the communities as well as all possible conflicts with State laws and State priorities.

Efforts were made to address all comments received. Special effort was made to clarify and refine the following areas:

- o overall initiative design;

- o need for the initiative;
- o qualifying and selection criteria;
- o role of the federal government;
- o Congressional, state, and local roles;
- o benefits to non-designated rivers;
- o role of the River Navigator;
- o private property concerns;
- o nomination and selection process
- o public involvement in the design of the initiative.

Many aspects of the initiative, including the criteria, were refined to reflect the comments received. Clarifications were also made on a number of issues, including the protection of private property rights. The Administration is committed to ensuring that private property rights, water rights, and other rights are fully respected and protected under the American Heritage Rivers initiative:

- o The American Heritage Rivers initiative will work within the framework of laws and regulations that seek to reduce pollution, improve water quality, protect drinking water, manage floodplains, promote economic development, facilitate interstate commerce, promote agriculture, protect wetlands and endangered species, preserve important historic and archaeological sites, and address other concerns.
- o The American Heritage Rivers initiative will not conflict with matters of state and local government jurisdiction, such as water rights, land use planning and water quality standards, nor will it change interstate water compacts, Indian tribal treaty rights, flood damage reduction, or other existing rights. By achieving greater coordination between programs and local needs, American

Heritage Rivers will work to build mutual understanding and better solutions to existing and future problems. It will provide a forum in which federal officials, community organizations, and other stakeholders can examine how the range of regulations are implemented locally.

- o Employees of the federal government, including the River Navigator, may not as a result of the American Heritage Rivers initiative infringe on the existing authority of local governments to plan or control land use, or provide or transfer authority over such land use; nor may the initiative affect any existing limitations on or create any new authorities for the participation of federal employees, including River Navigators, in local zoning or land management decisions involving private property.
- o The initiative will not supersede, abrogate, or otherwise impair the authority of each state to allocate quantities of water within its jurisdiction; and if there is any proposal relating to water rights in a community's plan it must comport with all applicable laws and interstate compacts. Nothing in this initiative is meant to preclude any holder of a state water right from exercising that right in a manner consistent with state law.
- o In implementing the American Heritage Rivers initiative, federal departments and agencies shall act with due regard for the protections of private property provided by the Fifth Amendment to the United States Constitution.

A final Federal Register Notice was published on September 17. As finalized, the American Heritage Rivers continues its focus on local initiative. Priorities will be driven by local

communities who elect to participate in the initiative. Communities return time and again to the importance of this element of the initiative. The Town of Essex, Connecticut, for example, in its resolution supporting the initiative, noted that "as stakeholders in this new initiative, we applaud the spirit of "local empowerment" embodied in [it]."

NOMINATIONS PROCESS

Last week, the Senate defeated an amendment which would have imposed additional burdens on communities seeking designation.

It was originally proposed that communities nominate their river or stretch of river and that communities define the area covered by the nomination. Communities across the nation agreed.

To be considered for designation, communities must meet basic criteria and complete a nomination packet. Nominations are currently being solicited and must be received by December 10, 1997. A panel of experts will review nominations and recommend rivers to the President for designation in early 1998.

In their nomination packet, communities are asked to:

1. Describe the proposed American Heritage River area;
2. Describe the notable resource qualities in the area;
3. Describe the community's plan of action; and
4. Illustrate who supports the nomination and plan of action.

It was proposed that the nomination process be controlled, discussed and organized completely at the local level and the concerns of all members of a community, including elected officials, be aired as the nomination is prepared. Communities agreed.

American Heritage Rivers Initiative

The 10 designated rivers will receive focused support in the form of programs and enhanced services in four areas.

1. Each designated river will be assigned a River Navigator to work with the community to facilitate access to the federal agencies and existing programs. It is likely each River Navigator will be an existing federal employee already engaged in community-based restoration and revitalization activities who will then become the primary point of contact for designated rivers and their communities.
2. The federal agencies will act as "Good Neighbors" by considering the plans of communities in making federal decisions. This was one of the key elements cited by the U. S. Conference of Mayors in their resolution supporting American Heritage Rivers.
3. The Administration proposes to use designated rivers as laboratories for reinvention of federal programs, since learning from our customers is the best way to improve the delivery of services for all communities. The interagency task force will work with each community, as it is designated, to help them identify their needs. Field staff will provide technical assistance, and help in identifying existing funding programs. This could take many forms, depending on the specific requests and desires of each community.
4. The private sector will also be encouraged to provide additional support for these communities. A number of corporations and foundations have already

expressed interest in making substantial contributions to local efforts through this initiative. The creativity, innovation and vision, not to mention the technical and financial resources, possessed by the private sector make it a critical partner in efforts to improve and restore river resources.

But the benefits of American Heritage Rivers will extend beyond the 10 designated rivers in two ways.

First, all communities that invest their time to complete the American Heritage Rivers nomination package have already taken important steps to revitalize their communities and improve their rivers. In recognition of these efforts, those who submit complete nomination packages will receive:

- o An invitation to a national or regional symposium on partnering with federal, state, tribal and local governments to share information and learn about the tools and resources available from a variety of sources, including community organizations. These symposia will also provide community members an opportunity to give important feedback to federal program managers.
- o Relevant site-specific data and computer software, including environmental information, geological maps, community planning software and economic modeling tools. This information will be tailored to meet the community's needs as identified in their nomination.

Second, all communities will be able to take advantage of improved informational services and greater access to information. American Heritage Rivers Services consolidates existing information from many organizations in one, easy-to-use World Wide Web site. Those

who do not have Internet access can call 1-888-40RIVER to request information.

Services, tools and products related to the three primary objectives of American Heritage Rivers -- local economic revitalization, natural resource and environmental protection, and historic and cultural resource preservation -- are referenced in the web site. Users may choose from categories such as:

- o Information Centers, Publications, Maps and Databases
- o Calendars, Discussion Groups, and Contacts
- o Hands On Assistance and Talent Banks
- o Laws and Regulations
- o Financial Assistance
- o Community Outreach Tools, Curricula, and Professional Training
- o Data Collection and Evaluation Techniques
- o Planning and Management Tools
- o Research and Development

Each entry describes the services and provides contacts for further information, including Internet links (where possible).

American Heritage Rivers Services also provides information organized geographically. Using familiar prompts, such as a river or city name, users can locate information on flood events, population change, road networks, the condition of the water resources, and the partnerships already at work in their area. They can construct and download customized maps, use environmental assessment models, find information on relevant educational programs, link their own information, or enter a dialogue with others.

In conclusion, the Administration believes the American Heritage Rivers initiative will achieve two goals. First and foremost, it will recognize outstanding local efforts on behalf of the river heritage of this country. This cannot be underestimated. Volunteers, nonprofit organizations, state and local governments and many others expend enormous resources and efforts to improve their communities. These efforts deserve recognition.

Second, all communities will benefit from improved information, especially the experiences of communities surrounding designated rivers that can be used as models. By accessing one web site, communities will learn about the federal resources that can assist economic revitalization efforts, natural resources and environmental restoration, and historic and cultural preservation. Hard copies of this information will also be available by calling a toll-free number.

The American Heritage Rivers initiative is a historic opportunity to expand our commitment to revitalize the communities that surround the 3.5 million miles of rivers and streams that flow throughout our nation. By focusing on the powerful link between healthy rivers and healthy communities, the American Heritage Rivers initiative embodies the conviction that environmental, cultural, and economic goals are interdependent.

Thank you for the opportunity to speak on this important initiative. I am happy to respond to any questions you might have.



IDAHO FARM BUREAU FEDERATION

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July 16, 1997

Executive Office of the President
Council on Environmental Quality
Old Executive Office Building
Room 360
Washington D.C. 20501
ATTN: Kathleen A. McGinty

Dear Ms McGinty:

The Idaho Farm Bureau Federation representing over 47,000 member families has reviewed the American Heritage Rivers Initiative and submit the following comments regarding the proposal.

The initiative appears to be a hastily assembled response by the Council on Environmental Quality to a nebulous thought by the President in his State of the Union Address. Restoring and protecting American Rivers may be a noble thought, but noble thoughts and implementing actions oftentimes do not mesh well and the American Heritage Rivers Initiative appears to be a classic in principles and actions working at cross purposes.

Apparently in the Cabinets haste to design an initiative supporting the Chief Executive, they overlooked the fact that they have no constitutional authority to create such an initiative. The Initiative really is a law adopted by this administration with far reaching interstate commerce affects. Implementing such a LAW, would appear to be a blatant attempt to bypass congress and we strongly oppose any such misuse of executive authority.

The comment period originally proposed for the initiative was too short and we firmly believe the additional 60 days granted for this potentially far reaching initiative is still too short. What is the rush? We can think of no community in eminent danger of collapse because this initiative was not implemented on a 60 day fast track mode. We feel the proposal must be better thought out, better defined, better publicized and better understood by the American public. As it exists right now it is simply a bunch of words thrown together that barely make sense and certainly are not well defined.

River Communities as discussed in the proposal are really not defined. Apparently a river community can include everything from a social club in a small local jurisdiction to a major River drainage encompassing multiple states and thousands of jurisdictions. We feel the vagueness incorporated in the proposal must be rethought and clearly defined. There really is no criteria outlined that will be used to designate a Heritage River Community, but communities as such own very little property. Private citizens own property and this initiative with its theme and its approach aimed at community-based "restoration", "protection" and "revitalization" will have major impacts on private property. We note, however, there is no protection offered in the initiative for protection of private property and this concerns us greatly. We feel the proposal must include private property protection to be at all workable and we will strongly oppose any proposal that does not include this type of protection for the individual property owner.

Some of the thrust of the wording in this initiative incorporates the principles embellished in Al Gore's reinventing government agenda. In seeking a government that "works better and costs less through focusing on customer service, developing partnerships and delegating power to the front lines" sounds very good to us on paper, but in a practical sense we neither believe it nor have we witnessed it. In our state, one merely has to try to work with the US Fish & Wildlife Service, National Marine Fisheries Service, Department of Interior in any of their programs or some US Forest Service agencies to know that reinventing government is simply words that sound good and do nothing. If this program is simply an extension of Federal Agencies destroying our multiple use concepts in the west, we again will oppose any implementation of any such program.

We note in the proposal that a "River Navigator" position is created in each of the to be designated American Heritage Rivers. The proposal does not indicate where the funds will come from, which agency will pay the funds, what authority the River Navigator will have or what qualifications one must have to become a river navigator. The only statement regarding this position is that the River Navigator "will work with the community to provide access to the federal agencies and existing programs and simplify the delivery of these programs." This would appear to us to be a total duplication of the Rural Development Councils which are already in existence throughout the United States and have executive directors that already coordinate, collaborate and simplify delivery of federal programs. Once again it appears that one branch of government hasn't the vaguest idea what other branches are doing, yet go happily on duplicating each others efforts. We totally oppose this expensive, unnecessary duplication of effort.

The thrust of this proposal appears to be the revitalization of vaguely defined communities, however there is an underlying impact that concerns us greatly and that is the control of water in the various states. Federal encroachment on state water law is totally unacceptable to us and not only will we strongly oppose any such move, we will fight to prevent any such happening. The courts have held firmly that water resources are a ward of the state and this initiative would appear to be aimed at federal

encroachment into that area. We feel if the President wants to revitalize communities, let him clearly define the community, enhance their ability to get grants to stimulate commerce and jobs and revitalize their area. If a river flows through such a community then we are sure the waterfront district would be no different than the rest of the community. We see no purpose to encroach on state water law or focus on water at all. The EPA is quite good at focusing on water clean up including the Clean Water Act and the Clean Drinking water act. This initiative needs to redefine its goals and focus on economic revitalization if that is its goal. If the goal is to clean up water simply take the monies programmed for this initiative and give it to EPA for grants to states for use in upgrading wastewater facilities.

Our final concern with this initiative centers around the procedural requirements of the National Environmental Protection Act. This initiative appears to be an agency action with major impacts and as such should have gone through the NEPA process. For some reason this requirement has been totally circumvented by this administration. With this requirement simply ignored, the public input that should occur is also circumvented and the poorly publicized and attended hearings on this initiative would tend to indicate the process has gone awry. We strongly recommend the initiative be withdrawn, the proposal more clearly defined and goals established for the program and go back out for public comment under the NEPA process. We also strongly recommend to keep the initiative totally away from state water law.

We thank you for the opportunity to comment on this initiative. Since there is still considerable information missing regarding the actual meaning of the initiative, the Idaho Farm Bureau Federation reserves the right to further comment prior to the 60 day deadline.

Sincerely,



Tom Geary, President
Idaho Farm Bureau Federation

cc: Senator Larry Craig
Senator Dirk Kempthorne
Representative Mike Crapo
Representative Helen Chenoweth
IFBF Officers, Directors, Staff, County Presidents
American Farm Bureau Federation



IDAHO FARM BUREAU FEDERATION

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June 6, 1997

Executive Office of the President
Council on Environmental Quality
Old Executive Office Building Room 3607
Washington D.C. 20501

Dear Sirs:

The Idaho Farm Bureau Federation, representing 47,000 member families is writing to express our concerns with the American Heritage Rivers Initiative.

The comment period on this very poorly understood initiative is entirely too short and we respectfully request that the comment period be extended 90 days or until September 9, 1997, in order for us to get information to our members and for them to comment directly to you on the issue.

This initiative is not well understood and has not been well advertised nor has much information been sent out to the states regarding the proposal. We feel considerable more information must be presented, hearings conducted and public input sought before adopting such an initiative.

The funding mechanism for this program is unclear. We feel additional information must be provided to the public regarding the amount of dollars available and where the appropriation or executive dollars are coming from. In addition, we would like information on how the 10 rivers will be selected and the application process that will be utilized in selecting communities for participation.

We would like to know what type of projects are being anticipated in the initiative and what the effects could or might be on private property rights. Since we have some indications that this program is designed to protect natural resources we are concerned with what type of impacts this will have on owners of private property, small business and local resources.

River restoration means many things to many groups and we feel an initiative of this scope must have information available that delineates the specifics of the proposal. None of this information is available and certainly a 21 day comment period on a program as nebulous as this is not in the best interest of our members or of any citizen in the United States that we can think of. It is because of these concerns that we respectfully ask for an extension of time to comment of at least 90 days and a request for specific information on the initiative.

Thank you for allowing us to comment on the proposal.

Sincerely,

A handwritten signature in cursive script that reads "Tom Geary".

Tom Geary, President
Idaho Farm Bureau Federation

cc Senator Larry Craig
Senator Dirk Kempthorne
Congressman Mike Crapo
Congressman Helen Chenoweth
AFBF Jon Doggett
IFBF Officers, Directors, Staff, County Presidents



Owyhee County Commissioners

COURTHOUSE, POST OFFICE 128
MURPHY, IDAHO 83650-0128
TELEPHONE (208) 495-2421

BOARD OF COMMISSIONERS

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337-4844

DISTRICT NO. 3
CHESTER SELLMAN
P.O. BOX 169A
BRUNEAU, IDAHO 83604
845-2293

CLERK
JIM HUNTLEY JR.

June 9, 1997

Executive Office of President
Council on Environmental Quality
Old Executive Office Building
Room 360
Washington, D.C. 20501

Delivered by Fax and Mail. Fax number 202-456-6546

Attention: Karen Hobbs

In response to the notice of the American Heritage Rivers Initiative which appeared in the Federal Register on May 21, 1997, the Board of County Commissioners for Owyhee County, Idaho protest the procedure by which the President, the Vice President and their Council on Environmental Quality have attempted to by-pass all legal requirements regarding establishment of "major Federal actions significantly affecting the quality of the human environment". See National Environmental Policy Act, 42 U.S.C. Section 4321 et seq.

They are proceeding on a fast track to establish a broad-scale program which will siphon federal funds from important management functions, which will adversely impact private property, which will usurp the right of the states to determine matters of water law under state law, and which will by-pass requirements of federal statutes which direct specific coordination by federal management agencies with county governments which are engaged in the land use planning process. Yet, they are proceeding without complying with the requirements of the National Environmental Policy Act, 42 U.S.C. Section 4321 et seq.

We protest the short period of time allowed for public comment regarding this latest attempt by the President, Vice President and their Council to engage in federal land use management. It is inconceivable that real, objective and unbiased public opinion is sought, since the notice was published on May 21, 1997, and comments are due June 9, 1997. We request an extension of time for submission of comments. Especially in the rural west it is unrealistic to believe that we would have time to even solicit the comments from our constituents in such short time. We request an extension so that the ninety (90) days usually allotted for review of such notices under the Administrative Procedures Act is available.

We certainly understand why you have set such a short time for comments. You do not want to receive a large outpouring of public outrage at this blatant attempt to by-pass and evade the action of Congress in rejecting the National Heritage Areas Partnership Program Bill during the 1996 session. After the defeat of that Bill, the chairman of the National Coalition for Heritage Areas wrote that "We must be prepared to accept a shortened step along the pathway many of us envision." He envisioned a day on which "some other 'national heritage corridor' legislation and ideas for linking federal programs to the basic foundation of a designation program" would be possible. (See American Heritage Rivers: Recreational Welfare for the 21st Century by Joanna Waugh, Land Rights Letter, June, 1997) The "shortened step" has been taken by the executive branch of government in complete defiance of the Congress. We trust that members of the Congress will be so incensed at this arrogant violation of the separation of powers that they will halt this Rivers initiative in its infancy.

We should not be surprised at the administration's attempt to by-pass Congress. The same attempt was made, and succeeded, regarding establishment of the Upper and Lower Columbia Basin Ecosystem planning programs in Oregon, Washington, Idaho and Montana. After the Biological Diversity Treaty was not ratified by the Senate, the same basic group of federal agencies involved in this River initiative entered into a Memorandum of Understanding by which they pursued the goals of the Treaty through administrative action. The Ecosystem planning effort was funded by money siphoned from management goals and activities contained in the appropriations authorized by Congress. No congressional authority for the Ecosystem planning effort was sought, and millions of dollars were spent in the effort--dollars which had been appropriated by Congress for different purposes. This is just another step in the arrogant march toward federal land use regulation by this Administration.

The term "River Community" is not even defined. Yet, this "Community" will be authorized to define the area to be covered. It will be authorized to define "the length of the area, whether it be an entire watershed, the length of an entire river, or a short stretch of a river..." Thus, an undefined "River Community" to be served by a "River Navigator" will be allowed to define "an entire watershed" as the Community which will receive "focused support in the form of programs and enhanced services" from participating agencies such as the Department of Interior. This allows such undefined "River Community" to involve federal lands such as grazing lands in this process. As a result, management decisions can be made through "focused support" which exceeds the scope of the constitutional authority of the executive branch of government. The Constitution provides that the Congress shall manage the federal lands. But, through this River initiative, executive agencies will be able to engage in management activities outside the authorization of Congress.

Such management activities are clearly contemplated. The participating federal agencies have been pledged to "commit field staff and resources" to interagency teams which will provide "technical assistance, education and funding", "planning assistance and community outreach", "training in soil and water quality testing", "economic modeling" and "interpretative techniques". All such commitments can be carried out by agencies "granted flexibility from certain bureaucratic requirements."

No doubt one such "bureaucratic requirement" to be avoided will be the requirement which Congress placed in the Federal Land Policy and Management Act that federal agencies such as the Department of Interior "coordinate" all its planning and management activities with county governments which are involved in the land use process. Owyhee County has worked very determinedly to require the Bureau of Land Management in Idaho to follow that mandate of Congress. But, the various activities identified in this River initiative will allow planning and management activities to be conducted by the BLM outside the mandate of Congress.

The citizens of Owyhee County have been exposed to great expense and much effort in resisting federal agency attempts to curtail grazing and agricultural pursuits in the Bruneau Valley in our County. The Department of Interior's Fish and Wildlife Service listed the Bruneau Hot Spring Snail as an endangered species. The Idaho Farm Bureau and the Bruneau Coalition, in which the County participated, succeeded in securing a delisting decision from a United States District Judge in Boise's federal court. The Ninth Circuit overruled that decision, and we now are faced again with a pending federal decision as to whether to continue the listing. Much of the problem faced by this species is

the water level problem which faces those engaged in farming and ranching: a lowering aquifer in the Bruneau Valley. In the last several years, several federal and state agencies in coordination with our County have engaged in a study of the aquifer. That study included monitoring of test wells in the area which has shown a rise in water level. Then, we were advised that the Fish and Wildlife Service has no more funds to continue the monitoring which is critical to gaining information regarding water supply for the snail and for continued economic use. But, even though funds for such a critical task are not available, we now see that funds will be siphoned off for the River program. Those of us who are dependent upon good management of the federal lands are appalled by such action.

The Bureau of Land Management for the Boise, Idaho district, claims that it does not have adequate funding for prescribed burns of encroaching juniper which threatens the productivity of our range land. It claims that it does not have enough funds to adequately staff a management staff of sufficient size to develop allotment management plans which would be site specifically designed to sustain productivity of our range land. Yet, the Department of Interior commits "field staff and resources" to the river teams.

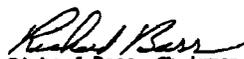
Such siphoning of funds makes no common sense. Such siphoning of funds ignores and evades the mandates of Congress contained in specific statutes such as NEPA and FLPMA. Such siphoning of funds ignores and evades the mandates of our Constitution which places management of federal lands in the hands of Congress.

The entire impact of this program, including the effect it can have on private property and private water rights, is to adversely effect private property rights without affording the owners and holders of those rights due process of law as guaranteed by the United States Constitution.

This program is one further step by the Administration to erode private property rights, and at some point soon such erosion must be stopped. Now seems the critical time for action to stop this executive attack on property rights.

The program is disguised within a title, and a glowing concept, which on its surface will appeal to the public. It seems to promise everything of value regarding our rivers: additional federal funding to protect our rivers, no new federal regulations, complete cooperation with local governments. We, however, know that Senator Barry Goldwater of Arizona spoke truthfully and accurately when he stated: "The government gives nothing to its citizens that it does not first take from them." (Goldwater, *The Man Who Made a Revolution*, Lee Edwards, 1995, p. 72)

We call upon you to extend the time for comments. Even if you do not grant an extension, we will continue to comment as we have time to further review this initiative with our constituents. If our subsequent comments fall on deaf ears in the Administration, perhaps they will not in the Congress.


Richard Bass, Chairman


Hal Tolmie, Commissioner


Chet Sellman, Commissioner

Larry E. Craig
 United States Senator
 313 Hart Senate Office Building
 Washington, D.C. 20510

Dirk Kempthorne
 United States Senator
 304 Russell Senate Office Building
 Washington, D.C. 20510

Congress of the United States

The Nation

Mike Crapo
 Member of Congress
 437 Cannon House Office Building
 Washington, D.C. 20515

Helen Chenoweth
 Member of Congress
 1727 Longworth House Office Building
 Washington, D.C. 20515

September 23, 1997

The Honorable Kathleen A. McGinty
 Chair, Council on Environmental Quality
 Old Executive Office Building, Room 360
 Washington, D.C. 20502

Dear Chairman McGinty:

We are writing you once again regarding the American Heritage Rivers initiative. As you know, on August 14, 1997 we sent you a letter outlining our objections to the initiative. Since you have decided to continue with this initiative, we are requesting that no rivers in Idaho be designated as American Heritage Rivers.

We have enclosed a copy of our original letter to you, but we would like to reiterate the underlying principles for why we object to this initiative -- the increase in federal bureaucracy and the continued shift of control over water from the states to the federal government. The initiative creates another layer of federal bureaucrats for local citizens to trudge through as they try to manage their rivers. Furthermore, it establishes the federal government as the ultimate authority in river protection. Yet, who knows better than the local citizens what is best for them?

The citizens of Idaho have continually demonstrated they can work together to strike a balance between protecting their rivers and using them as valuable economic resources. Over the years, Idaho has worked to protect the Payette River, designate the Salmon River, and others, as Wild and Scenic Rivers and worked to ensure Southern Idaho farmers have one of the most expansive irrigation systems in the world while ensuring high water quality in the Snake River. Furthermore, Idaho has struck a balance between using dams to provide the lowest cost and cleanest electricity in the nation, an irrigation system which sustains Idaho agriculture and vital flood control while maintaining the beauty of Idaho's rivers.

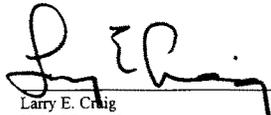
More recently, Idaho residents have come together in support of river cleanup. As you know, the Coeur d'Alene River Basin is contaminated from more than a century of mining activities. Many of these activities were sanctioned by the federal government. Yet now, the federal government

is spearheading a multi-billion dollar lawsuit against the mining companies and citizens of North Idaho, while no cleanup is occurring in the Basin outside of the Superfund area. The local residents are concerned, as they should be, that cleanup activities have been delayed because the process is locked up in litigation. However, local residents have united to support legislation which would settle the lawsuit and implement cleanup activities. Local communities, without the federal government, are working to clean up the Coeur d'Alene Basin.

In addition, since the May 19, 1997, announcement for the initiative in the *Federal Register* we have received an overwhelming number of comments from the people of Idaho, opposing the American Heritage Rivers initiative.

Idaho's rivers are some of the most majestic and beautiful rivers in the country. Idahoans have worked together to protect their rivers without additional federal control or expense. Because of this and the opposition we have heard from the people of Idaho, we, the elected federal representatives for Idaho, request, as you offered, that no rivers within the borders of the great state of Idaho be designated as American Heritage Rivers.

Sincerely,



Larry E. Craig
United States Senator



Dirk Kempthorne
United States Senator



Mike Crapo
Member of Congress



Helen Chenoweth
Member of Congress

Larry E. Craig
United States Senator
313 Hart Senate Office Building
Washington, D.C. 20510

Dirk Kempthorne
United States Senator
304 Russell Senate Office Building
Washington, D.C. 20510



Congress of the United States
The Idaho Delegation

Mike Crapo
Member of Congress
437 Cannon House Office Building
Washington, D.C. 20515

Helen Chenoweth
Member of Congress
1727 Longworth House Office Building
Washington, D.C. 20515

August 14, 1997

The Honorable Kathleen A. McGinty
Chair, Council on Environmental Quality
Old Executive Office Building, Room 360
Washington, D.C. 20502

Dear Chairman McGinty:

The following are comments from Idaho's united Congressional delegation on the American Heritage Rivers Initiative as described in the *Federal Register*, Volume 62, No. 96, Monday, May 19, 1997.

Let us be clear - we have serious concerns with the initiative. We are not only concerned about the initiative itself, but the manner in which it was advanced. It is a clear effort on the part of the Administration to bypass the Constitutionally directed lawmaking power of Congress and our system of checks and balances. Congress has not authorized this initiative and has not appropriated money for this program. Additionally, the Council on Environmental Quality (CEQ) is not granted the power to govern or regulate rivers or watersheds within sovereign states. As such, this initiative represents a challenge of Congress's power and the rights of states, in line with the protections guaranteed in the Fourteenth Amendment.

We have other objections beyond this fundamental concern. For example, this initiative actually works against its stated goals: to streamline the federal process dealing with river protection. There are existing federal and state authorities that are charged with the mission of regulating water resource planning and allocation. In addition, there are nearly a hundred grass roots watershed councils across the nation that are accomplishing the same objectives as the initiative, but they have local input as opposed to federal control. The initiative creates an unnecessary, additional layer of bureaucracy that will make it more difficult for private individuals to continue to develop and use water resources that have in the past been controlled by state and local government entities.

page two
Idaho Delegation Comments

Another concern relates to the effort to obtain local input regarding the designation of rivers as an American Heritage River. While we support obtaining local input, we question whether the initiative is designed to achieve a truly representative sample. This is because the local input is based upon what is referred to as "river communities." Any small group, environmental organization or local civic club could be defined as a "community." The initiative redefines communities, watersheds, and jurisdictional boundaries to create this governing entity, which will then have the power to decide the "length of the area" to be designated "whether it be an entire watershed, the length of an entire river, or a short stretch of a river, and may cross jurisdictional boundaries."

Because these communities have no set definition and because of the diverse, and often conflicting set of opinions, this may cause real communities to become fragmented. Worse, there is no guarantee that private property owners will be included in any decisions made by this river community. In fact, a river could be designated over the specific protests of local private property owners whose land would most be affected.

This potential threat to property rights is a serious one. There are no safeguards written into the initiative to protect the rights of property owners. On the contrary, it appears the initiative could result in rezoning properties, thereby disallowing legitimate uses or development. It's also feared that property values will decline because of the designation.

Another major concern with this initiative is that the designation of a river is essentially permanent. While CEQ may claim that a river can be undesignated at any time, according to the wishes of the local community, there is no defined process for undesignation. As you are aware, the needs and wishes of communities change and a community may decide it no longer wants to have that section of river designated.

The process by which this initiative was proposed is flawed, as well. It is in violation of the National Environmental Policy Act (NEPA), which requires an Environmental Impact Statement (EIS) to be filed for any federal action which would significantly impact our environment. No EIS was filed. Furthermore, NEPA requires a ninety-day public comment period for any EIS. A mere three weeks was originally provided for public comment. While we appreciate the extension of the comment period to sixty days, it was only after extensive public outcry.

Despite all of these significant problems with the initiative, there is still one more that cannot be ignored. If this initiative were to be enacted, it would conflict with the Idaho Constitution. Article XV, Section 1 of the Constitution of the State of Idaho, as approved by the U.S. Congress, states: "The use of all waters ... [is] subject to the regulations and control of the state...." Additionally, Idaho Code 42-101 states: "All the waters of the state, when flowing in their natural channels, including the waters of all natural springs and lakes within the boundaries of the state are declared to be the property of the state, whose duty it shall be to supervise their appropriation and allotment to those diverting the same therefrom for any beneficial purpose." Idaho clearly has jurisdiction, control, and sovereignty over water within her own borders and any federal attempt to usurp or interfere with that authority will be aggressively resisted.

page three
Idaho Delegation Comments

As you can see, we have some serious reservations about your American Heritage Rivers initiative. Our concerns can be summed up into three basic areas: the lack of Congressional approval, the vague language and absence of definitions and the excess federal control over private property and state water rights.

We thank you for extending the comment period to sixty days, but we request you withdraw this initiative and allow the local stakeholders and the state to use their current laws to govern their water.

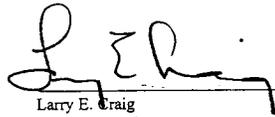
Sincerely,



Helen Chenoweth
Member of Congress



Mike Crapo
Member of Congress



Larry E. Craig
United States Senator



Dirk Kempthorne
United States Senator

Statement of

WILLIAM PERRY PENDLEY

Introduction

As this Committee has discovered, there is great distress throughout the country regarding the proposal of President Clinton to implement his American Heritage Rivers Initiative. There is good reason for such concern. For the legacy of these types of well-intentioned, pleasant-sounding, feel-good programs is of broken promises. The American people are told that such programs are for their benefit, to assist them in fulfilling their environmental and economic objectives while being assured that their rights will be protected and their liberties secure.

We are told, for example, that there is a self-defense provision in the Endangered Species Act, yet in the only instance of a man compelled to make use of that provision--Mountain States Legal Foundation's (MSLF's) client John Shuler of Dupuyer, Montana--the provision has been rendered a nullity by federal officials. Mr. Shuler, who killed a grizzly bear after being attacked late one night, is told that he is at fault for going into the "zone of imminent danger;" that is, his own yard.

We are told, on the adoption of wilderness legislation, that "valid existing rights" will be protected, that no private land will be taken into the wilderness area without the consent of the owner, that only federal land will become wilderness, and that no buffer zones will be created. Yet in the Upper Peninsula of Michigan, MSLF's client Kathy Stupak-Thrall has been compelled to fight, for nearly a decade, government lawyers who assert that those provisions have no meaning, or at least no applicability to her private property and her valid existing rights. (These are the lawyers who have the audacity to assert that when Congress adopted the "valid existing rights" language it had no idea what that phrase meant and therefore the federal government can interpret it in any manner it wishes.)

We are told that the prohibition against motorized vehicles in wilderness areas will be interpreted in a common sense fashion, that it is not a strict liability provision and thus requires what almost every federal law requires, *mens rea*, or criminal intent. Yet when a man, in the midst of a dangerous, howling blizzard, accidentally, or out of necessity, or out of emergency, finds himself in such a wilderness area on a motorized vehicle, he is told he is guilty regardless of his intent or the need or the emergency. Common sense and more importantly, the law, takes a back seat to a radical agenda.

To whom do such victims turn when the provisions ostensibly adopted for their protection are ignored, or worse yet, violated? Certainly not to Congress, where the essential compromises that permitted federal legislation to go forward are too quickly forgotten and the victims are told that intervention by Congress should not take place since "the matter is in litigation." No

wonder the American people are concerned with President Clinton's rivers initiative.

One Reason for Concern: The National Natural Landmarks Program

One reason for the public's concern is what took place regarding the National Natural Landmarks program, which first came to the public's attention in a seven-part series of articles written by the late Warren Brookes that began on January 17, 1991, and ran through January 29, 1991, in The Washington Times.

Under the National Natural Landmarks program, the National Park Service (NPS) designated property as a National Natural Landmark. Ostensibly this program was established under the authority of the Historic Sites Act of 1935, 16 U.S.C. §461, et seq. However, the Historic Sites Act speaks only of a "prehistoric or historic district, site, building, structure, or object" 16 U.S.C. §470w. The word "natural" is nowhere to be found in the Historic Sites Act. Nonetheless, citing the Historic Sites Act, federal regulations defined a National Natural Landmark as any area "within the boundaries of the United States . . . that contains an outstanding representative examples(s) of the nation's natural heritage, including terrestrial communities, aquatic communities, landforms, geological features, habitats of native plant and animal species, or fossil evidence of the development of life on earth." 36 C.F.R. Ch. 1 (July 1, 1992 Edition) § 62.2.

While the NPS insists that such a designation carries no special meaning, the National Natural Landmark designation exposes the land to local land-use restrictions, and to local, state, and federal bureaucrats. The NPS, for example, used the designation to target future land acquisitions. More than 587 such landmarks were designated throughout the country. In the process it seems National Park Service employees have violated the law by surveying private property without the permission of the landowner. A 1992 investigation revealed that "land may have been evaluated, nominated, and designated without the landowners' knowledge or consent." According to one NPS document, "The question of secrecy and publicity is a hot topic which will undoubtedly come back to haunt us over the years if this document becomes generally available to the public."

While this particular program has been applied throughout the nation, Western landowners were singled out for abuse, intrusions, and attempts to seize their property. In 1989, a landowner in Idaho discovered that the National Park Service, without his knowledge or permission, had proposed that his property be designated as a National Natural Landmark. As a result of that proposal, to which the landowner objected strenuously, federal officials refused to issue permits or to take actions requested by the landowner. To make matters worse,

it appears the proposed designation took place at the request of a private citizen who then used the National Park Service's listing of the property as grounds for attempting to prevent the issuance of various permits and other authorizations to the landowner. No wonder the American people are concerned.

The Initiative Violates Federal Law and the Constitution

A. Only Congress May Make Rules and Regulations Respecting Federal Lands and Resources.

The U.S. Constitution grants specific powers to each of the three branches of Government. Under the Property Clause, the United States Congress is given exclusive and unlimited power over public lands and resources retained by the United States and not passed to the states or individuals.

The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States;

U.S. Constitution, Article IV, § 3, Cl. 2. (Emphasis added). Title to lands under navigable waters were passed to the states, unless there was a federal reservation, Pollard v. Hagan, 44 U.S. 212, 230 (1845). Lands under non-navigable waters were retained by the United States. State of North Dakota v. United States, 972 F.2d 235, 236 (1992).

The Property Clause establishes "full power in the United States to protect its lands, to control their use and to prescribe in what manner others may acquire rights in them." Utah Power & Light Co. v. United States, 243 U.S. 389, 404 (1917). See also McKelvey v. United States, 260 U.S. 353, 359 (1922) (stating that under the Property Clause, Congress "may sanction some uses [of the federal lands] and prohibit others, and may forbid interference with such as are sanctioned."). Congress may also use this power to achieve objectives not within the scope of enumerated federal concerns. In Light v. United States, 220 U.S. 523 (1911), the Court held that the United States possessed plenary power to control the use of public lands and could exercise that power for any "national and public purpose." Id. at 536.

Congress may also legislate against activity taking place off federal property when such legislation is necessary to effectuate the Government's power to regulate the use and occupancy of federal lands and to protect these lands from damage. The authority for such legislation is found in the Necessary and Proper Clause. U.S. Constitution, Art. I, §8. It empowers Congress "[t]o make all Laws which shall be necessary and proper for carrying into Execution" the powers enumerated elsewhere in the Constitution. In order to justify federal

action under this Clause, the government must show the existence of a means-to-end relationship between the action and the exercise of one of its enumerated powers. McCulloch v. Maryland, 17 U.S. 316, 421 (1819), contains the classic statement of this rule:

Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end . . . are constitutional.

This grant of authority over federal lands does not extend to the Executive branch. The Presidents' legislative authority is limited to "recommending to [Congress'] Consideration such Measures as he shall judge necessary and expedient." U.S. Constitution, Article II, § 3, Cl. 1. The President is also empowered to "take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States." Id. at Cl. 4. The President may not act as a lawmaker in the absence of a delegation of authority or mandate from Congress. Independent Meat Packers Assn. v. Butz, 526 F.2d 228, 235 (8th Cir. 1975), cert. den., 424 U.S. 966.

Specifically, the President cannot develop and enact the American Heritage Rivers initiative without Congressional authority or mandate. The American Heritage River initiative will impact federal lands under non-navigable rivers, federal lands under navigable rivers that were reserved to the United States, and all federal lands adjacent to all selected rivers. Since the Property Clause grants Congress exclusive control over federal lands, the American Heritage River initiative exceeds the President's Constitutional powers and deprives Congress of its Constitutional responsibility of open debate and vote on issues and legislation involving federal public lands. The President cannot act on this program until he receives such authority or such a mandate.

B. Only Congress May Regulate Interstate Commerce.

The power of the United States over waters that can be used as interstate highways arises from the Commerce Clause of the Constitution.

The Congress shall have power . . . to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.

U.S. Constitution, Article 1, § 8, Cl. 3. This power includes the power to regulate navigation so that waterways can be utilized for the interests of the commerce of the whole country. United States v. Appalachian Electric Power Co., 311 U.S. 377, (1940). See also Gilman v. City of Philadelphia, 70 U.S. 713,

724-725 (1866). Congress' power over interstate navigation not only includes keeping the waterways clear of obstructions, but also includes the power to improve and enlarge their navigability. United States v. Chandler-Dunbar Co., 229 U.S. 53, 59 (1913).

This grant of authority over United States waters does not extend to the Executive branch. The Presidents' legislative authority is limited to "recommending to [Congress'] Consideration such Measures as he shall judge necessary and expedient." U.S. Constitution, Article II, § 3, Cl. 1. The President is also empowered to "take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States." Id. at Cl. 4. The President may not act as a lawmaker in the absence of a delegation of authority or mandate from Congress. Independent Meat Packers Asso. v. Butz, 526 F.2d 228, 235 (8th Cir. 1975), cert. den. 424 U.S. 966.

Specifically, the President cannot develop and enact the American Heritage Rivers initiative without Congressional authority or mandate. The American Heritage River initiative will impact navigable and non-navigable rivers, thus impacting interstate commerce. Since the Commerce Clause grants Congress exclusive control over interstate commerce and United States waters, the American Heritage River initiative exceeds the President's Constitutional powers and deprives Congress of its Constitutional responsibility of open debate and vote on issues and legislation involving interstate commerce and United States waters. The President cannot act on this program until he receives such authority or such a mandate.

C. President Clinton's Initiative Usurps Inherent State Powers Reserved Under the Tenth Amendment.

The Constitution of the United States created a federal Government of enumerated powers. James Madison wrote:

[t]he powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite.

U.S. v. Lopez, 115 S.Ct. 1624, 1626 (1995) (citing The Federalist, No. 45, pp. 292-293).

Under the federal system, federal and state governments coexist. The federal government is one of limited, enumerated powers, while state governments have inherent undefined powers. The Tenth Amendment states:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

U.S. Constitution, Amendment 10. Enumerated federal powers were included to protect the fundamental liberties of the people, and the adoption of the Bill of Rights strengthened the protection of fundamental rights by placing restrictions upon federal governmental actions. The Supremacy Clause modifies this coexistence by nullifying state laws that conflict with the Constitution, treaties, or other laws of the United States. This Clause states:

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

U.S. Constitution, Article 6, § 2.

When Congress exercises one of its enumerated powers and intends to occupy an entire field of law, such as commerce, or the President exercises one of his enumerated powers, the federal government has plenary power and the states have residual power in that specific field. The control and regulation of fields of law such as land-use and zoning, property, and water have traditionally been left within the province of the individual states, in that they are not part of the enumerated powers designated in the Constitution.

President Clinton cannot develop and enact the American Heritage Rivers initiative without Congressional authority or mandate. The American Heritage River initiative infringes upon powers reserved to the states. Thus, the American Heritage River initiative exceeds the President's enumerated powers and violates the Tenth Amendment.

D. The President's Initiative Violates NEPA and FLPMA.

1. National Environmental Policy Act.

In creating the National Environmental Policy Act of 1969 (NEPA), Congress declared:

[I]t is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures . . . to create and maintain conditions

under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.

42 U.S.C. §4331(a). This national environmental policy also sets forth the proposition that the federal government would:

(3) attain the widest range of beneficial uses of the environment (4) preserve wherever possible, an environment which supports diversity and variety of individual choice; (5) achieve a balance between population and resource use which will permit high standards of living

42 U.S.C. §4331(b). In an effort to implement NEPA, Congress created the threshold requirement imposing a duty on federal agencies to prepare an environmental impact statement (EIS) for major federal actions.

[All agencies of the Federal Government shall---
(C) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on---

(i) the environmental impact of the proposed action,
(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,
(iii) alternatives to the proposed action,
(iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and
(v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented
Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the public as provided by section 552 of title 5, United States Code, and shall accompany the proposal through the existing agency review processes.

42 U.S.C. §4332(C) (emphasis added).

In order to comply with NEPA, the federal government has published 40 C.F.R. §§ 1500, et seq., to ensure that all agencies act according to the letter and spirit of the law. The regulations specifically state, "All agencies of the Federal Government shall comply with these regulations." 40 C.F.R. § 1507.1. In an effort to simplify an agency action dealing with

"major" or "significantly", the Council on Environmental Quality (CEQ) adopted 40 C.F.R. § 1508.18, creating a "unitary standard." Under the standard, if a court determines an action is "significant," it should also find that the action is "major." National Ass'n for advancement of Colored People v. Wilmington Medical Center, Inc., 584 F.2d 619 (3d Cir. 1978). A finding that a federal action is "major" and "significantly" impacts the environment requires the preparation of an EIS.

a. Major Federal Actions

"Major" federal actions are described as:

[A]ctions with effects that may be major and which are potentially subject to Federal control and responsibility. Major reinforces but does not have a meaning independent of significantly (40 C.F.R. § 1508.27). Actions include the circumstance where the responsible officials fail to act and that failure to act is reviewable by courts or administrative tribunals under the Administrative Procedure Act or other applicable law as agency action.

(a) Actions include new and continuing activities . . . new or revised agency rules, regulations, plans, policies, or procedures

40 C.F.R. § 1508.18.

Despite these guidelines, most courts have approached the "major" determination on a case-by-case basis. Since generalization is quite difficult when dealing with NEPA cases, cases appear to turn on the magnitude and size of the action to determine if the action has a potential impact on the human environment. Large projects with the potential of substantial impacts will be "major" actions. The following are examples of cases that have identified "major" actions:

Monroe County Conservation Council, Inc. v. Volpe, 472 F.2d 693 (2d Cir. 1972) - a \$14 million bridge with 60 percent federal funding;

Jones v. United States Dep't of Housing and Urban Development, 390 F.Supp. 579 (E.D.La. 1974) - the conversion of a large federally subsidized housing project with a major change in use;

NRDC, Inc. v. Grant, 341 F.Supp. 356 (E.D.N.C. 1972) - a 66-mile water channel project costing \$1.5 million with \$706,000 of federal funding;

Douglas County v. Lujan, 810 F.Supp. 1470 (D.Or. 1992) - the designation of critical habitat for endangered species affecting approximately 6.9 million acres.

Catron County v. U.S. Fish and Wildlife Service, No. 94-2280, 1996 U.S. App. Lexis 1479 (10th Cir. Feb.2, 1996) - NEPA and ESA are not mutually exclusive and the FWS must follow regulations in designating critical habitat.

It is readily apparent that the American Heritage Rivers initiative is a major federal action. It has the potential of effecting all fifty states, depending upon the individual rivers selected for designation. Once selected and designated, management activities and projects on the river can impact federal, state, and local government lands and private lands. Thus, an EIS should have been prepared for this initiative.

b. Significant Actions

"Significantly" is described as:

Significantly as used in NEPA requires considerations of both context and intensity:

- (a) *Context*. This means that the significance must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action
- (b) *Intensity*. This refers to the severity of impact The following should be considered in evaluating intensity
 - (1) Impacts that may be both beneficial or adverse. . .
 - (2) Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.
 - (3) The degree to which the effects on the quality of the human environment are likely to be highly controversial
 - (4) The degree to which the possible effects on the human environment are highly uncertain
 - (5) The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about future consideration
 - (6) Whether the action is related to other actions with individually insignificant but cumulatively significant impacts Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts

40 C.F.R. § 1508.27.

When deciding on the need to prepare an EIS, an agency must evaluate whether the nature of the action is such that significant environmental impacts could occur, not whether the agency has adequately considered the significance of the federal action. Daniel R. Mandelker, NEPA Law and Litigation, §8.06[4] [a] (2d Ed. 1995). The Court of Appeals for the Tenth Circuit has held that when reviewing administrative decisions not to issue an EIS, the court must, first, utilize the "hard look" doctrine, and, second, if a "hard look" was utilized, determine whether the agency's decision was arbitrary and capricious. Park County Resource Council, Inc. v. USDA, 817 F.2d 609 (10th Cir. 1987) and Committee to Preserve Boomer Lake Park v. Department of Transportation, 4 F.3d 1543 (10th Cir. 1993). A "hard look" will include an evaluation of the possible effects of the proposed action, which effects have been broadly defined by NEPA.

Effects include:

- (a) Direct effects, which are caused by the action and occur at the same time and place.
- (b) Indirect effects, which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable Effects includes ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative. Effects may also include those resulting from actions which may have both beneficial and detrimental effects, even if on balance the agency believes that the effect will be beneficial.

40 C.F.R. § 1508.8.

The American Heritage Rivers initiative will significantly affect the environment of each watershed or community containing a designated heritage river. The federal government will be providing funds and expertise to assist in implementing measurable results, such as water resource protection, river restoration, protection of historic and cultural resources, revitalization of local and regional economies, and implementing sustainable development. The Executive branch failed to evaluate any potential effects associated with this initiative, thus violating NEPA. An EIS must be prepared.

2. Federal Land Policy and Management Act.

The Property Clause establishes "full power in the United States to protect its lands, to control their use and to prescribe in what manner others may acquire rights in them." Utah Power & Light Co. v. United States, 243 U.S. 389, 404 (1917). See also McKelvey v. United States, 260 U.S. 353, 359

(1922) (stating that under the Property Clause, Congress "may sanction some uses [of the Federal lands] and prohibit others, and may forbid interference with such as are sanctioned."). Congress may also use this power to achieve objectives not within the scope of enumerated federal concerns. In Light v. United States, 220 U.S. 523 (1911), the Court held that the United States possessed plenary power to control the use of federal lands and could exercise that power for any "national and public purpose." Id. at 536.

Utilizing its enumerated power found in the Property Clause, Congress declared that it is the policy of the United States that the present and future use of federal lands be projected through a land-use planning process coordinated with other federal and State planning efforts, that Congress exercise its constitutional authority to withdraw or otherwise designate or dedicate federal lands for specified purposes, and that Congress also delineate the extent to which the Executive may withdraw lands without legislative action. 43 U.S.C. § 1701(a).

In enacting FLPMA, Congress retained its authority over federal lands by limiting the role of the President and the Executive branch to specific federal land withdrawal limits and to resource inventorying and management activities. Congress did not delegate federal land dedication and designation powers to the President or the Executive branch. Without congressional authority, the development and implementation of the American Heritage Rivers initiative violates FLPMA.

Conclusion

Finally, I would draw the attention of Congress to the decision of the United States Supreme Court in Printz v. United States, its last decision before adjourning in June. It was in Printz that the Court held the Brady Act, and its requirement that state officers enforce a federal program, unconstitutional.

The opinion makes fascinating and educational reading as Justice Scalia gives a history lesson on the origins of our federal system, the views of its creators, and the manner in which it has been interpreted for 200 years. Although Justice Scalia based his holding on the Tenth Amendment ("The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."), he noted that "numerous constitutional provisions" ensure "dual sovereignty."

To those who assert that those provisions are "formalistic" impediments to the "era's perceived necessity," Scalia responded, "[T]he Constitution protects us from our own best intentions . . . the temptation to concentrate power in one location as an expedient solution to the crisis of the day." Justice Scalia's

statement has particular meaning to those of us who have heard, much, much too often, that there is an environmental crisis, so we must give up our right to own and use private property as well as other constitutional guarantees.

We are the inheritors of the greatest political system ever devised by humankind, which recognizes, uniquely, that "all men are created equal, [and] are endowed by their Creator with certain unalienable rights, [including] life, liberty, and the pursuit of happiness." However, with that freedom comes an obligation, as the Constitution commands, to "secure the blessings of liberty to ourselves and our posterity. . . ."

We hear a lot today about the legacy that we pass on to our children and grandchildren--our posterity--the national debt, the environment, our diverse society. However, the most important legacy we can leave, that we are duty bound to leave, is the Constitutional system entrusted to us by our Founding Fathers. It would be the greatest tragedy if out of apathy, or expediency, or short-term self interest, we allowed the destruction of the only thing that ensures that we remain a free people.

As Justice Oliver Wendell Holmes once wrote, "a strong public desire to improve the public condition is not enough to warrant achieving the desire by a shorter cut than the constitutional way. . . ."

TESTIMONY

of

LOIS VAN HOOVER

Before

THE COMMITTEE ON RESOURCES

U.S. HOUSE OF REPRESENTATIVES

SEPTEMBER 24, 1997

AMERICAN HERITAGE RIVERS INITIATIVE

Good Morning. I am Lois Van Hoover. I represent the Idaho Multiple Land Use Coalition (IMLUC). Additionally, I am on the boards of the Idaho Council on Industry and the Environment, Independent Miners Association, the Alliance of Independent Miners, and co-founder of Idaho Natural Resource Center. I reside in Yellow Pine, Idaho with my husband Leo.

According to its Home Page, this program will:

1. Be broad-based;
2. Be a partnership among, federal, state, local, tribal and the private sector;
3. Be flexible;
4. Encourage local empowerment.

It involves the Department of Agriculture, Commerce, Defense, Energy, Interior, Justice, Transportation, Housing and Urban Development, the Environmental Protection Agency, the Army Corps of Engineers.

These federal agencies use existing federal personnel and funds. They work with the states to bring together public and private resources to find solutions to local problems.

The program is a working model for reinventing government, replacing quick-fix programs with long-term solutions.

However, this is not a description of the American Heritage Rivers Initiative given by Kathleen McGinty when she testified before the house Committee on Resources in July, 1997.

These words came from the Home Page of the National Rural Development Partnership which was started during the Bush Administration in 1991. In fact, in the Vice President's National Performance Review's Status Report for September, 1994, in Chapter Three, "Cutting Red Tape," the National Rural development Partnership was praised as the "true spirit of reinventing government."

In fact, there are now 38 state councils. The Partnership involves 11 Federal departments, plus the Appalachian Regional Commission, Environmental Protection Agency, the Small Business Administration, the National Endowment for the Arts, and the Tennessee Valley Authority.

The National's Governors' Association, the International City/County Management Association, the National Association of Counties, the National Association of Development Organizations, the National Association of Regional Councils, the National Association of Towns and Townships, the National League of Cities—all are partners.

In addition, the American Association of State Colleges and Universities, the American Forests, the Aspen Institute, the National Council of Nonprofit Associations, the National Rural Electric Cooperatives Association and the Rural Coalition are members as well.

On the American Heritage Rivers Home Page, the American Heritage Rivers Initiative principles are described as:

1. Community-led;
2. Flexible;
3. Coordinated;
4. Broad;
5. Partnerships;
6. Action-based.

In Kathleen McGinty's July testimony, she went into great detail about the new program, but her detail could just as readily have described the Bush Administration program initiated in 1991:

The same federal agencies are listed as participants. The same claim that no new federal personnel, funding or regulations are mentioned. The same emphasis on local involvement, voluntary initiatives.

In fact, she says, "This approach embodies the Administration's effort to reinvent government in accordance to the National Performance Review." Just as the National Rural Development Partnership was described as being "in the true spirit of reinventing government."

After review of the American heritage Rivers Initiative I find myself bewildered and confused. I personally discussed the initiative with Kathleen McGinty in June of this year. I was present for Ms. McGinty's presentation to Western States Coalition in Spokane last July. The initiative at first seems perfectly harmless. However, further review finds the initiative duplicates services, is an unneeded expense to the tax payers, will create jurisdictional problems, and only creates another layer of bureaucracy.

Some questions must be asked:

1. If a partnership already exists in 38 states, has been working for six years, involves the same federal agencies, national groups and state and local governments and whose mission is to build networks, bring people together to solve local problems, create opportunities, use existing resources, use existing funds, create no new regulations—is there any reason to create a whole new initiative based on the same parameters as the existing one but give it a new name?
2. Do we need another program to revitalize waterfronts and enhance the historic, cultural, recreational, economic, public health and environmental values of our rivers?

In her speech to the Western States Coalition in Spokane in July Ms. McGinty mentioned the efforts to revitalize the Philadelphia waterfront as her inspiration for this program. However, Philadelphia's project is being done without this type of program.

In Idaho, we began this work many years ago. Boise, Idaho Falls, Lewiston, Coeur d'Alene have greenbelts, parks, and bike paths along their rivers and lake fronts. Idaho has an ongoing effort to enhance

our historic values along rivers. Our rivers and lakes have become the centers of cultural and recreational activities. Our economy is closely tied to our rivers and lakes. We do not need a new federal program to continue this effort.

As for the environmental values of our rivers, we in Idaho have been working on this as well. And, of course, we have a large number of existing federal laws and regulations like the Clean Water Act that require our attention be paid to the environmental health of our water.

In fact, I would urge you to visit my home town of Yellow Pine. We have rivers, creeks, high alpine lakes and not one of them looks like the Potomac River or the Anacostia River. The water is so clear you can usually count the rocks in the bottom while driving by in a car.

One of the selling points of the American Heritage Rivers Initiative is that it will make use of existing federal personnel. In Idaho, we already do that. For example, the head of our Idaho EPA office is working on the Rural Development Partnership. Will he be able to do both? Or would another federal employee be assigned to the new program? And if that is so, who will do the tasks that these federal employees are doing now?

American Heritage Rivers Initiative is unneeded. Cities and community have proven they do not need this program. In the west we have a different situation. Federally administered lands are the largest part of our state.

If the first and foremost purpose of the American Heritage Rivers Initiative is to recognize outstanding local efforts on behalf of river heritage in this country, I would suggest that these local communities be recognized by a plaque that can be placed at the city limits noting the community's achievement. You could even include a description of each community's unique efforts in the Congressional Record.

Respectfully submitted,



Lois Van Hoover

RON PAUL
14TH DISTRICT, TEXAS
BANKING AND
FINANCE COMMITTEE
SUBCOMMITTEES:
FINANCIAL INSTITUTIONS
AND CONSUMER CREDIT
DOMESTIC AND INTERNATIONAL
MONETARY POLICY
EDUCATION AND
WORKFORCE COMMITTEE
SUBCOMMITTEES:
WORKFORCE PROTECTIONS
EARLY CHILDHOOD, YOUTH
AND FAMILIES

Congress of the United States
House of Representatives
Washington, DC 20515-4314

September 23, 1997

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William J. Clinton
The President of the United States
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

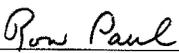
Dear Mr. President:

On September 11, 1997, you signed an Executive Order to various Federal agencies to implement the American Heritage Rivers Initiative, and you announced the beginning of the formal application process. This, despite the fact that your proposal has triggered an avalanche of concern over what precisely an American Heritage River designation would entail, as well as the associated impacts to private property rights. It is this widespread distress that has caused us to write to you.

Among the numerous issues raised by our constituents in Texas are whether the executive branch has the authority to create such a program, whether the initiative was brought forth in a procedurally correct manner, and whether the program is an unwarranted encroachment upon state water law. We share these concerns and ask you to withdraw the American Heritage Rivers Initiative.

Mr. President, now that this program has unfortunately been implemented, we request that Texas rivers, waterways and watersheds, including Texas water downstream which are tributaries to other waterways, within our respective Congressional districts not be considered for an American Heritage River designation. We would appreciate your attention to this matter and your written assurance that Texas will not be made a part of any American Heritage River designation.

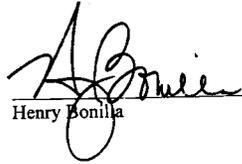
Sincerely,



Ron Paul



Bill Archer


Henry Bonilla


Pete Sessions


Sam Johnson


Dick Arney


Lamar Smith


Kay Granger

**STATEMENT OF
MARY A. YTURRIA**

Good day Mr. Chairman. I am Mary Yturria. Thank you for inviting me to appear.

After explaining a little about who I am and where I come from, I want to make two points about why some of us who live on the Texas-Mexico border are working so hard to secure an American Heritage River designation for the Rio Grande. One concerns what Border communities will face if we don't get more engaged in dealing with the degradation of our river. The other concerns the opportunity we have to celebrate and share with America our unique history and culture. I will then give you a thumbnail sketch of how we hope to take advantage of this initiative and share my concern over the legislation you are considering.

The Rio Grande flows 1,800 miles, making it our nation's second longest river. In my state, it serves as our border with Mexico, and I am one of over 1 million Texans who live and work in communities along its banks. My home is in Brownsville, Texas a city near the mouth of the Rio Grande. We are property owners, working ranches that have been in my husband's family for more years than any of us have lived.

Fifty years ago when I married Frank Yturria and came to the Rio Grande Valley I quickly learned that the quality of our lives, our health and our well being are linked to the river and its waters. I soon learned that there is a special Rio Grande heritage that is complex and magical. It is a great place to live. I knew immediately I would never leave.

The Rio Grande is the principal source of water for our towns and cities. Its waters irrigate our farmland, sustain our industry, and nourish vital ecosystems and wildlife habitat. They support a tourist industry that ranges from hunting and fishing to birding and white water rafting. When the Border economy is seen from a business perspective, it is clear the river is our most important asset.

Congress has had ample opportunity to examine the condition of this river and the plight of communities along its banks. Some say it is America's most polluted river. I say let's get to work and clean it up. Some say Border growth will cause water demand to outstrip what the river can offer. I say, let's make better use of what we have.

If our communities along the Rio Grande are to survive, we all must work to build the economy in concert with the wise use of our river. We who live and work along the Rio Grande must be allowed to create partnerships, plan for the future and get meaningfully engaged. If we are prevented from doing so by HR1842, we will all lose - rich, poor, democrat, republican, colonia dweller, property owner, even the federal government.

Mr. Chairman, I want to make another point. This river is something more than an economic asset at risk. It symbolizes the heart of a treasured heritage. In Texas, the Rio Grande is both a dividing line between two nations and the place where two cultures have joined to produce a unique borderlands heritage. We treasure our history and our unique mixture of language and custom - our food, our architecture, our music. Along the Rio Grande, you will find people from all stations in life working to preserve and celebrate that heritage. Some are anglos, some are hispanics, ~~some have wealth, some don't~~

Like the waters of the river, our Rio Grande culture is a precious asset, a key facet of America's frontier heritage. Those working to preserve that history and celebrate our heritage deserve recognition, encouragement, and sometimes a helping hand. They too want to build partnerships. They want to bring to the Rio Grande, the private foundations, great public institutions, and our own hands that built so many American communities.

When I first heard of the American Heritage Rivers idea, I was thrilled. The idea of looking at all the dimensions of our rivers - physical, historical, cultural - made sense. But what really excited me was the emphasis on local initiative to identify needs and plan responses. I thought, someone in Washington had finally gotten it! Better than anyone, we who live and work here know our river - what needs to be done, what we can do on our own and when we need help. I hoped our local leaders would seize the opportunity, seek the designation and build a partnership with the federal government in which the local authorities are managing partners. I was not disappointed.

Within a few weeks, all along the Rio Grande, mayors and county officials were looking into the President's proposal, assisted by our Representatives and state officials. Civic groups came forward, as well as private citizens and landowners like me. When private property concerns were expressed, of the White House made a special effort to brief the Texas Farm Bureau in Waco, agricultural interests in Austin, Governor Bush's office and other state agencies.

Throughout the 90 day comment period people came forward with suggestions on how to shape this initiative. Some came with ideas about what to do and what not to do. There were of course those who suggested we do nothing with the Federal government. To fan the flames of anti-government sentiment is not fair to communities around the country and those who do so will always lose. That also is an impractical solution when dealing with the Rio Grande. We don't want an absence of government, we want the presence of better government.

Fortunately, positive thinking is prevailing, encouraged by leaders like Congressman Silvestre Reyes from El Paso, Mayor Saul Ramirez, Jr. and Judge Mercurio Martinez from Laredo. My own Mayor Henry Gonzalez from Brownsville and his colleagues in city and county government throughout the Lower Rio Grande Valley have supported this effort, along with heritage groups like the Caminos del Rio.

By last week, when the President signed the Executive Order creating the American Heritage Rivers initiative, we were well on our way to complete formation of a multi-jurisdiction,

public-private Rio Grande Heritage Consortium. That will become the vehicle we will use to solicit designation of our river.

I am happy to be co-chair, along with Congressman Reyes, an advisory group being formed for the Consortium. We are recommending that our program concentrate on partnerships designed and managed by communities on the Rio Grande itself. Jurisdictions that don't want to participate don't have to join. We are asking, however, that they not stand in the way of those that do.

In the coming weeks, we will work diligently on a proposal to have the Rio Grande designated as one of the first ten American Heritage Rivers. It will be a proposal that will have broad community support and is about Texans protecting the Rio Grande.

Through a consortium of local jurisdictions, with participation by all sectors, we will invite the federal authorities to join those of us who live and work along the Rio Grande in a new partnership. The purpose is to help us to celebrate our heritage and seek a new approach to the stewardship of our river.

Mr. Chairman, this is what we are doing down on the Rio Grande.

Let me conclude with a plea.

Like most Americans we Texans don't like having government telling us what we can and cannot do. Through the American Heritage Rivers initiative we see an opportunity to direct the federal government to where the problems lie. We see an opportunity to do so by local people asserting leadership. We see an opportunity for a partnership with our federal government involving less bureaucracy, less red tape. We want to use this initiative for OUR river, OUR heritage, OUR efforts for a new approach to our problems. Congress should not use its powers to tell communities they cannot work with the federal government. HR 1842 brings power back to Washington at the expense of local communities including the Rio Grande.

Thank you again for having me here, and God bless you.

MARY A. YTURRIA

A native of York, Alabama, Mary A. Yturria graduated from Sophie Wright School for Girls in New Orleans after attending local schools in York. Mrs. Yturria attended Louisiana State University in Baton Rouge before marrying banker-rancher Frank D. Yturria and moving to Brownsville, Texas in 1947.

The Yturria family has a long and honorable history in Brownsville and, upon becoming part of the family, Mary promptly began carrying on the family tradition. She has immersed herself in philanthropic and charitable causes that have endeared her to thousands of beneficiaries of her work.

Long a wildlife conservationist, Mrs. Yturria in mid-1997 was named to the Board of Directors of the Texas Audubon Society, an arm of the National Audubon Society. This is a fitting appointment and is in keeping with her earlier membership on the founding board of Los Caminos del Río, an organization dedicated to the restoration and preservation of historic buildings, landmarks and wildlife on both sides of the Rio Grande, the river that separates the United States and Mexico. Also, Mrs. Yturria served on the Founding Gulf of Mexico Program Board, appointed by the Governor of Texas, to work towards monitoring the ecological well being of this vast body of water.

In addition, Mrs. Yturria currently serves as a Guardian of the Texas Historic Trust Fund; Chairman of the Board of the Brownsville Community Foundation; a board member of the Brownsville Adult Literacy Council; a board member of the Brownsville Art Museum; a member of the board of Sombrero Club; a member of the board of trustees of the Rio Grande Marine Institute; a member of the Bi-National Committee on Philanthropy, Council on Foundations, and a member of the board of directors of the Gorgas Science Foundation, where she is chairman of the Gorgas "Treasure Hunters".

Also Mrs. Yturria is a past member, chairman, founder or president of 15 service or philanthropic organizations, including 10 years as vice president of the board of directors of Valley Community Hospital. Mrs. Yturria also served as president of the Brownsville Public Library Board; president of the South Texas Youth Services; president of the American Cancer Society of Brownsville; chairman of Valley Beautiful; chairman of the Washington Park Restoration Project; chairman of the Horizons Committee of the Brownsville Bicentennial Committee; chairman of the American Wind Symphony Project, a past member of the Texas Historical Foundation.

Mrs. Yturria is one of the founders of Vision 2000 (a plan for Brownsville's future); Brownsville Emergency Medical Services, and co-founded the Villa Bethany Home for Girls. Mrs. Yturria also chaired and organized a 129-mile wagontrain trek from the Rio Grande to a Sesquicentennial Wagontrain in Kingsville, Texas, in 1986.

While conservation, philanthropy and charity are vital areas of Mary Yturria's concern, she also finds time for the esoteric: responding to a call for help from Cameron County Commissioners, she caused a bronze sculpture of Padre Nicolas Balli—namesake of South Padre Island—to be created by a noted Vatican sculptor. That statue stands today at the entrance to the town of South Padre Island.

Time and time again, Mrs. Yturria has proven to be the catalyst that breaks stalemates and deadlocks, much to the benefit of the public.

Some of the awards she has received include the Ruth Lester Lifetime Achievement Award from the State of Texas—the highest award given by the state for service to historic preservation, and the Texas State Teacher's Association Humanitarian Award. She and her husband, Frank have been honored with a school named the Mary and Frank Yturria Elementary, and each July 4 is designated "Mary Yturria Day" in Brownsville in recognition of her continuing contributions to the community.

Mary and Frank Yturria are the parents of two daughters, Mary Eleanor Irvin of Tulsa, Oklahoma, and Dorothy Elizabeth Frazier of Houston. They have three grandchildren.

Mary Yturria is a proven achiever with a reputation in the community for reliability, dependability, compassion and the ability to get things done.



STATE OF NORTH CAROLINA
OFFICE OF THE GOVERNOR
RALEIGH 27603-8001

JAMES B. HUNT JR.
GOVERNOR

May 1, 1997

Board of Directors
Riverlink
Post Office Box 15488
Asheville, North Carolina 28813

Dear Riverlink Board of Directors:

On behalf of the citizens of the State of North Carolina, I congratulate you on your efforts to nominate the French Broad River an American Heritage River. I welcome the opportunity for the States of North Carolina and Tennessee to join hands on this very important project and offer the state's assistance on seeking this designation. Wayne McDevitt, my Senior Advisor, has kept me informed of your progress. He has been an active advocate on behalf of the French Broad both here and in Washington. Henry Lancaster, Deputy Secretary of the Department of Environmental, Health and Natural Resources, will be working closely with you to pursue your goals.

President Clinton's initiative to name 10 rivers as American Heritage Rivers is an effort to recognize the important and integral part our rivers have played in this nation's history. I share in his desire to celebrate these environmental, economic, cultural and historical treasures.

We share this great river, the French Broad, with our sister state of Tennessee with a sense of awe and a grateful heart for the many things it brings to our lives. In North Carolina, we are doing many things to improve and enhance the rivers all across our state. And we must all do still more. Today, here in Raleigh, I am announcing even more help for our North Carolina rivers.

I am extremely proud of your efforts today and over the last several years to revitalize the French Broad River. Best wishes for your input session. Asheville is the perfect city to host a "regional meeting" for the American Heritage River Initiative. I know that you will have an enthusiastic group of supporters for your efforts to develop criteria for the program. I look forward to joining you in nominating the French Broad as an American Heritage River.

My warmest personal regards.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Hunt".

James B. Hunt Jr.



STATE OF TENNESSEE

DON SUNDQUIST
GOVERNOR

April 30, 1997

Dear RiverLink Board of Directors:

It is a pleasure to endorse the nomination of the French Broad River as an American Heritage River. I offer you the full cooperation of my offices and look forward to continuing our working relationship with the State of North Carolina and Governor Jim Hunt to pursue this special honor.

Rivers have played an integral part of our nation's history and our country's development. The French Broad River and the Smoky Mountains have been the defining feature of the Southern Appalachian region. As we approach the new millennium, both Asheville and Knoxville are developing their riverfronts in celebration of our shared historic past and in anticipation of a shared future.

The initiative to name ten rivers as American Heritage Rivers will offer opportunities for our two states to work on one of our most important shared resources, the French Broad. Tennessee shares another valuable resource with North Carolina, our state historian, Asheville native Wilma Dykeman, who is the author of The French Broad.

I wish you the very best of luck today and I look forward to our joint efforts to name the French Broad as an American Heritage River.

Sincerely,

A handwritten signature in black ink that reads "Don".
Don Sundquist

DS/jah

State Capitol, Nashville, Tennessee 37243-0001
Telephone No. (615) 741-2001

County of  Buncombe

PROCLAMATION

ENDORISING THE DESIGNATION OF

**"THE FRENCH BROAD RIVER AS AN
AMERICAN HERITAGE RIVER"**

WHEREAS, President Clinton will designate 10 American rivers as American Heritage Rivers in 1997 in an effort to help communities along the rivers revitalize their waterfronts and cleanup pollution; and

WHEREAS, the French Broad River flows through the oldest mountains in the world, the Appalachians and the Great Smoky Mountain range and has the rare distinction of being one of the few rivers in the world to flow North; and

WHEREAS, the French Broad River is a water source, play space, job creator and major attraction for Buncombe County; and

WHEREAS, the French Broad River region has become internationally acclaimed for the quality and variety of its handmade goods, crafts, art culture, music and dance; and

WHEREAS, the people and elected officials of the French Broad River watershed have formed a strategic alliance to share and protect the French Broad River as a destination where our children and grandchildren can live, work and play; and

WHEREAS, the designation of the French Broad River as an American Heritage River will provide resources in the form of programs, technical assistance, and better access to grants which will enable our communities and region to work on behalf of a restored, revitalized river.

NOW, THEREFORE, BE IT PROCLAIMED BY THE Board of Commissioners for the County of Buncombe as follows:

1. That this Board does hereby endorse the naming of the French Broad River as an "American Heritage River."
2. That this proclamation be forwarded to Riverlink and all other appropriate offices or officials.
3. That this proclamation be effective upon its adoption.

BOARD OF COMMISSIONERS FOR THE
COUNTY OF BUNCOMBE

BY: 
TOM SOBOL, CHAIRMAN



WHEREAS, President Clinton will designate 10 American Rivers as AMERICAN HERITAGE RIVERS, in 1997 in effort to help communities along them revitalize their waterfronts and clean-up pollution; and

WHEREAS, the AMERICAN HERITAGE RIVER INITIATIVE is not a regulatory program, rather it is a way for communities across America, and particularly those of us who live, work and play along the French Broad, to celebrate the integral role in our region's history the French Broad has had in providing opportunities for commerce, routes for exploration, inspiration for ideas and culture, means of recreation and source of drinking water both now and in the future; and

WHEREAS, the French Broad flows through the oldest mountains in the world, the Appalachians, and the Great Smoky Mountain range, and has the rare distinction of being one of the few rivers in the world to flow North; and

WHEREAS, the story, people, plants, history and events of the French Broad River watershed have been forever immortalized in the award winning book by Wilma Dykeman, The French Broad, which was published in 1955 and has never been out of print. It is currently being celebrated at the Library of Congress, as an integral part of the "Rivers of America" series; and

WHEREAS, the French Broad is this historic region's lifeline, tying together dispersed communities and linking diverse natural and man-made wonders. It is a water source, play space, job creator, and major attraction, but above all a living symbol of our common destiny; and

WHEREAS, since time beyond measure, animal and human wayfarers have traveled this historic corridor: Cherokee canoes, rafts of Spanish explorers, settlers' wagons, drovers with their flocks of livestock, pioneering railroad lines, all followed the river's twisty channel. Even today, we take our cues from the river. I-40 follows the Svannanoa, and the extension of I-26 into Tennessee mirrors the French Broad's northward course; and

WHEREAS, the French Broad is where 25,000 years ago, as a great icecap formed over Labrador and pushed slowly out across North America, animal and plant life fled before its crushing destruction to our mountain region. Our forests are richer in the variety of trees than the whole of Europe, for this is the area where Northern and Southern vegetation meet and mingle. While all of the northern United States was buried under ice, the trees and the plants once native to Canada made their last stand on the heights of the Southern Appalachians -- these trees and shrubs and herbs have never reted the mountain refuge they found in Western North Carolina and Eastern Tennessee; and

XIII. New Business:
A. French Broad River as an American Heritage River

WHEREAS, Hernando DeSoto's island campsite in the middle of the French Broad River is buried under the Douglas Dam, the power source for Oak Ridge, where man unraveled one of the secrets of the universe and split the atom; and

WHEREAS, the Cherokee had special names for the river: *Tahkeyostee*, meaning "where they race," the tributaries were called the Chattering Children, and the river itself *Agiqua* or "Long Man;" and

WHEREAS, on the banks of the French Broad River the first school of Forestry was formed in the United States in 1898, at the Biltmore Estate under the guidance of Dr. Schenck following Gifford Pinchot's successful experiments on the Estate from 1892 to 1895; and

WHEREAS, the French Broad region has become internationally acclaimed for the quality and variety of its hand-made goods, crafts, art, culture, music, and dance; and

WHEREAS, the French Broad River could become an internationally acclaimed greenway with pedestrian paths, bikeways and wildlife corridors, that link historic sites, activity centers, and access points with docking facilities, launch points, picnic and camping sites and access to the All American Road known as the Blue Ridge Parkway; and

WHEREAS, the people and elected officials of the French Broad River watershed have formed a strategic alliance to share and protect the French Broad River as a destination where our children and grandchildren can live, work and play; and

WHEREAS, the designation of the French Broad River as an AMERICAN HERITAGE RIVER will provide resources in the form of programs, technical assistance, and better awareness and access to grants which will enable our communities and region to work on behalf of a restored, revitalized river;

NOW, THEREFORE, BE IT RESOLVED BY:

HENDERSON COUNTY
BOARD OF COMMISSIONERS _____ That
(I), (We) residing at 100 N. King Street
Hendersonville, North Carolina _____

do hereby endorse the designation of the French Broad River as an AMERICAN HERITAGE RIVER. On the _____
18th of June 1997.

Shady Hawkins

The French Broad River as an American Heritage River

WHEREAS, President Clinton will designate 10 American Rivers as American Heritage Rivers, in 1997 in an effort to help communities along them revitalize their waterfronts and clean-up pollution; and

WHEREAS, the American Heritage River Initiative is not a regulatory program, rather it is a way for communities across America, and particularly those of us who live, work and play along the French Broad, to celebrate the integral role in our region's history the French Broad has had in providing opportunities for commerce, routes for exploration, inspiration for ideas and culture, means of recreation and source of drinking water both now and in the future; and

WHEREAS, the French Broad flows through the oldest mountains in the world, the Appalachians, and the Great Smoky Mountain range, and has the rare distinction of being one of the few rivers in the world to flow North; and

WHEREAS, the story, people, plants, history and events of the French Broad River watershed have been forever immortalized in the award winning book by Wilma Dykeman, *The French Broad*, which was published in 1955 and has never been out of print. It is currently being celebrated at the Library of Congress, as an integral part of the "Rivers of America" series; and

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WHEREAS, Hernando DeSoto's island campsite on an ancient Indian mound in the middle of the French Broad river, is buried under the Douglas Dam, the power source for Oak Ridge, where man unraveled one of the secrets of the universe and split the atom; and

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WHEREAS, the French Broad region has become internationally acclaimed for the quality and variety of its hand-made goods, crafts, art, culture, music, and dance; and

WHEREAS, the French Broad River could become an internationally acclaimed greenway with pedestrian paths, bikeways and wildlife corridors, that link historic sites, activity centers, and access points with docking facilities, launch points, picnic and camping sites and access to the All American Road known as the Blue Ridge Parkway; and

WHEREAS, the people and elected officials of the French Broad River watershed have formed a strategic alliance to share and protect the French Broad River as a destination where our children and grandchildren can live, work and play; and

WHEREAS, we () support the designation of the French Broad River as an American Heritage River from Rosman in Transylvania County to Knoxville, Tennessee. This designation of the French Broad will provide resources in the form of programs, technical assistance, and better awareness and access to grants which will enable our communities and region to work together on behalf of a restored, revitalized river;

Now, Therefore, We Be Resolved: We,

Madison Co Commissioners that
(I/We), residing at Madison Co Court House

do hereby endorse the designation of the French Broad River as an American Heritage River. On this, the 2

of Jan 29 1997.
John H. H. H. H., Chairman

Please return the completed form to RiverLink
PO Box 15488, Asheville, NC 28813-0488
(704) 253-5846 or visit us on email at RiverLink@uncombe.main.nc.us
or download this resolution from our web page at <http://mainciv.main.nc.us/riverlink/>

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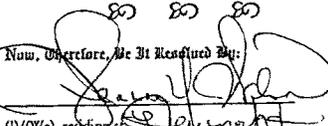
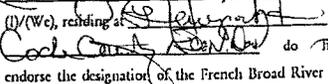
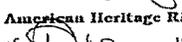
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Now, Wherefore, We It Resolved By:

that
(I)/(We), residing at

do hereby endorse the designation of the French Broad River as an **American Heritage River**. On this, the 18 of  1997.

Please return the completed form to RiverLink
PO Box 15488, Asheville, NC 28813-0488
(704) 253-6846 or visit us on email at RiverLink@buncombe.main.nc.us
or download this resolution from our web page at <http://mainrv.main.us/riverlink/>
v
nc.

The French Broad River
 as an
 American Heritage River

HEREAFTER, President Clinton will designate 10 American Rivers as American Heritage Rivers, in 1997 in an effort to help communities along them revitalize their waterfronts and clean-up pollution; and

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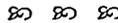
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Now, Therefore, Be It Resolved By:

Mayer and Board of Aldermen _____ that
 (I)/(We), residing at Town of Hot Springs _____

do hereby
 endorse the designation of the French Broad River as
 an American Heritage River. On this, the
7th of July 1997.

Please return the completed form to RiverLink
 PO Box 15488, Asheville, NC 28813-0488
 (704) 253-6846

WATERSHED PROJECTS IN COOS COUNTY

**EXAMPLES
OF THE
NON-REGULATORY**

CO-OPERATIVE

BOTTOMS-UP

**APPROACH TO STREAM ENHANCEMENT
AND WATERSHED PROTECTION
IN COOS COUNTY, OREGON**

IN CO-OPERATION WITH:

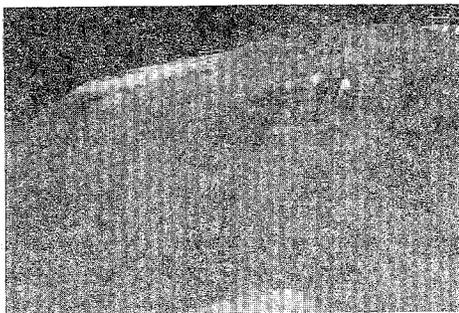
**WATERSHED COUNCILS
SOIL AND WATER CONSERVATION DISTRICTS
PRIVATE LAND OWNERS
PUBLIC LAND MANAGERS
CO-OPERATIVE EXTENSION SERVICES
REGULATORY AGENCIES**



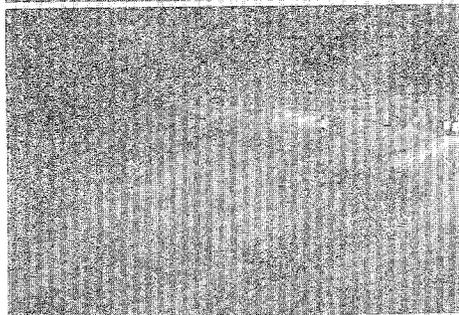
**Culvert made passable with rock weir jump pool
(August 96)**

CORRECTION OF PASSAGE BARRIER (WEIR/JUMP POOL)

...oding river bank adds sediment to stream



Regrading and planting with willow to trigger bank rebuilding process

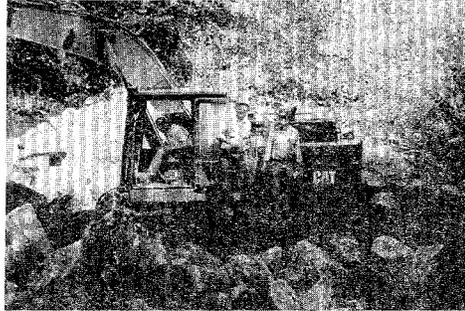


River bank immediately following 100-yr. flood (natural deposition is 6 feet deep.)

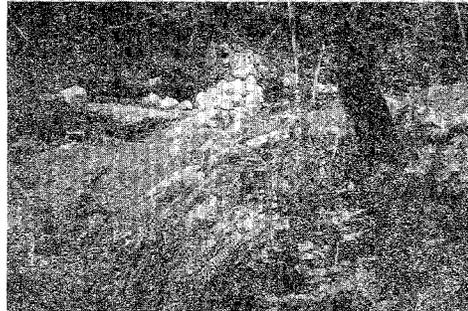


COOS WATERSHED ASSOCIATION
P.O. Box 5860
Coos Bay OR 97420
(541) 888-5922

Local contractors installing rock weir to
v winter currents, permit fish passage.



Completed weir (August).



Weir at high winter flows creates calm pool.

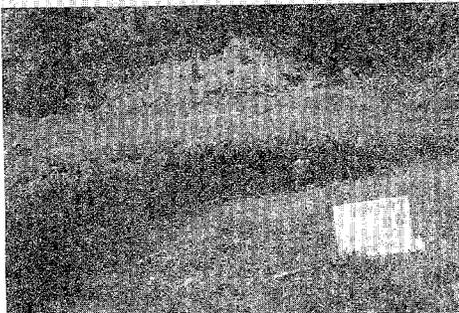


COOS WATERSHED ASSOCIATION
P.O. Box 5860
Coos Bay OR 97420
(541) 888-5922

Unemployed fishermen build willow wall
field overgrazed, eroding stream bank.



Completed wall stuffed with old Christmas
trees from community.



Willow posts sprout one week after planting.



COOS WATERSHED ASSOCIATION
P.O. Box 5860
Coos Bay OR 97420
(541) 888-5922



Logs placed to trigger formation of more complex habitat in simplified stream.
Photo taken October 2, 1996.

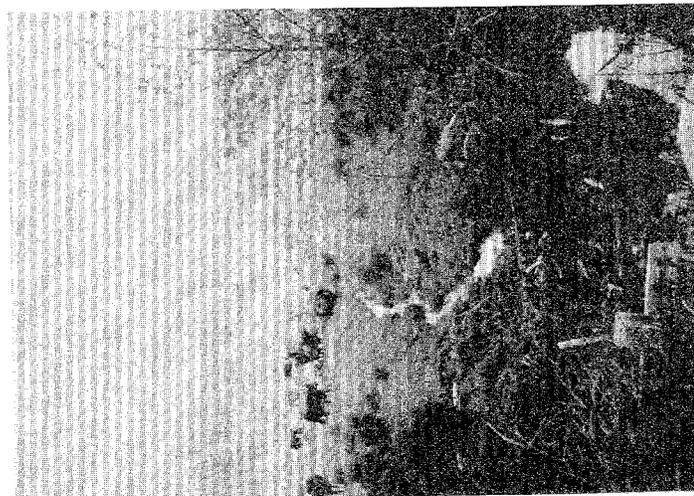


Same site after 100-year flood event; natural stream debris is retained, creates refuge from predators and high winter flows.
Photo taken November 29, 1996.

COOS WATERSHED ASSOCIATION
P.O. Box 5860
Coos Bay OR 97420
(541) 888-5922

RED REEK

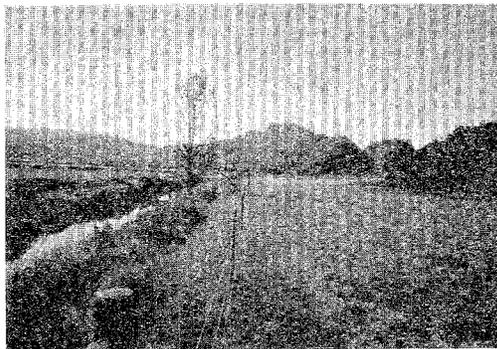
BEFORE



AFTER



MAINSTEM COQUILLE RIVER AND SLOUGHS

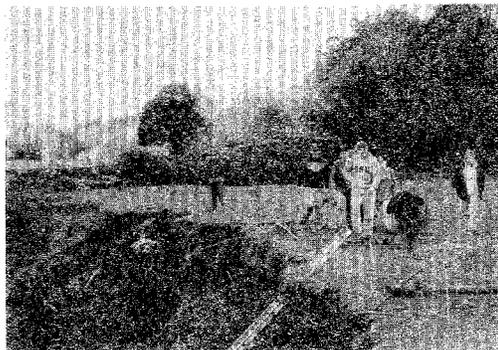


Fifteen miles of fence have been constructed along the mainstem and sloughs through the Hire The Fisher program.

There are an additional 29 miles of stream that have landowner agreements in-place for future fencing projects.

Eighty percent of the fencing projects have been planted with native vegetation to restore/enhance the riparian areas.

Planting is done by the Hire the Fisher crew and volunteers such as local school students, Society of American Foresters, Salmon Trout Enhancement Program (STEP), Rural Outdoor Education (ROE) and miscellaneous landowners.



SANDY CREEK



BEFORE

Red alder, a short lived hardwood, was removed or thinned at several sites along Sandy Creek to increase sunlight intensity and duration on understory, seedling conifers.

The specific sites were historically conifer-dominated sites.



AFTER

The increase in sunlight should enable the conifers to grow much faster and again become the dominant canopy vegetation type.

Someday, we hope the trees can contribute to the habitat complexity of Sandy Creek by blowing over into the creek or dying and falling in.

DEMENT CREEK



BEFORE
Summer low flow.
Simple channel characteristics

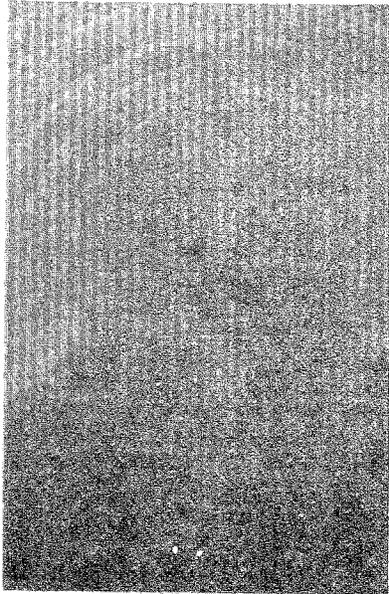
AFTER
Installation of boulder weirs to collect spawning gravel and to create deeper pools.
Barbs installed to deflect flow toward center of stream.



COLD CREEK



BEFORE
Barrier to juvenile and adult fish passage.
Original culvert installed with 5 foot outfall.



AFTER
New culvert with weirs installed to slow water velocity to ease fish passage.
Adult steelhead trout have been observed spawning in gravel collected in front of lower weir.

THE TESTIMONY OF DAVID ALLAN EALY

Mr. Chairman and members of the committee. My name is Dave Ealy. I support HR-1842. I thank Representative Chenoweth and the many co-sponsors for introducing 1842. I am not here representing any group or foundation. I am not an expert. I have no special qualifications. I am not a political activist. I send thousands of dollars in taxes to Washington each year. I receive no funds from the federal government. I am here because those in the Indiana grass roots felt I could best answer your questions.

The Lord has granted me a faithful wife and three wonderful sons. My sons are here with me today to learn about Washington, and how our government works. We live in a rural area along the Wabash River, near Perrysville, Indiana.

My eldest son Brian is a full time high school senior, and also a full time freshman at the local junior college. Brian has attended private, home, and is currently in Illinois public schools. Benjamin is in the sixth grade. Patrick is in the third grade. Both Ben and Pat have attended public school. They are currently home schooled by my wife Sandy. All three of my sons are A students. We spend our vacations visiting national parks, monuments, and historical sights. Our travels together have included 37 states, and Canada.

My wife Sandy recruited me a little over three months ago to help in the grass roots effort. Two people became three, four, then many. During the last 90 days we have grown to include Democrats, Republicans, and Independents. We are young, old and everything between. We live on farms, in rural areas, small towns, and large cities. Our faces bear the marks of many cultures. Among us are found the Jewish, Catholic, Christian, and those of no faith. We are farmers, businessmen, blue collar, white collar, and retired. We include private citizens, elected officials, government officials, and many who have never been active in politics.

We share a common concern. The strength of America is found in our individual freedom, private property rights, national sovereignty, and free enterprise. We are committed to preserving our Republican Form of Government at the local, state, and federal levels. We believe in the separation of power between local, state, and federal government. We understand the unique responsibilities of the Executive, Legislative, and Judicial branches.

Our Republican Form of Government and separation of power has protected and preserved our liberties and Constitution for over two hundred years. We are today the wealthiest and most powerful nation on the earth. We all share the mantle of responsibility to preserve for future generations the vision of our forefathers, and the America we inherited.

While we feel many who oppose us are sincere, we also feel they are misguided. All the stated objectives of the American Heritage Rivers Initiative are currently in place under our existing local and state governments in Indiana. There is no environmental crises in Indiana. We are protecting the environment. Our rivers, air and lands are getting cleaner. Good stewardship of our soil is evidenced by our agricultural production. We have a vibrant and diverse economy. Historic and cultural protection has already been codified by the Indiana Legislature.

Because the American Heritage Rivers Initiative has bypassed the public forum and separation of power provided by our Constitution, confusion and fear has resulted. Our Indiana Wabash Commission which represents nineteen counties in the Wabash River watershed is taking steps toward applying for the federal designation. Under Indiana law this appointed, not elected, commission has no authority over the Wabash River, or land use. Many of these appointed commissioners are opposing the will of the elected county governments.

Local governments are opposing the federal designation. The elected governments of ten counties in the Wabash Watershed Sullivan, Vigo, Vermillion, Parke, Fountain, Warren, Carroll, Wells, Adams, and Allen, have signed letters opposing the federal designation. See enclosures 1 and 2.

These elected local governments in opposition to the federal designation represent more than five hundred sixty thousand Indiana Citizens. Four of these counties Parke, Fountain, Wells and Allen have also signed withdrawal resolutions from the Indiana designation, should the Wabash Commission move forward with the federal application. We expect more counties to oppose the federal application, and sign withdrawal resolutions. See enclosure 3.

The Indiana Farm Bureau which represents 271,000 Indiana families opposes a federal designation of the Wabash River. Some of those dedicated Indiana Farm Bureau members are here today. Senators Lugar and Coats voted for the Hutchinson amendment. Our Congressmen whose districts include the nineteen counties oppose the federal designation. Both Democratic and Republican Indiana legislators have pledged to take action when the Legislature returns in January. See Enclosure 4.

We support the efforts of the Whitehouse and the Congress to balance the federal budget. We see a danger of this federal designation of our rivers becoming an unfunded Presidential mandate on private property, the Congress, state, and local governments. This is not the time for new programs. This is the time for both the Whitehouse and Congress to stand firm for fiscal responsibility. We ask the committee to consider these questions.

DO WE NEED FEDERAL DESIGNATION OF OUR RIVERS?

DO WE WANT FEDERAL DESIGNATION OF OUR RIVERS?

WHERE IS THE MONEY GOING TO COME FROM?

These are the questions which should have been answered by the Congress, not the Whitehouse. We hope this hearing restores the proper roles of the Congress, and the President. We urge you to pass HR-1842 as soon as possible, and end the confusion and fear, which is tearing our Indiana designation of the Wabash River apart.

I am happy to answer your questions.

A handwritten signature in cursive script, appearing to read "D. Allan Ealy".

David Allan Ealy

September 20, 1997

Box 239
Ferrysville, Indiana 47974
765-793-4175



BOARD OF COMMISSIONERS
VERMILLION COUNTY
NEWPORT, INDIANA 47966
PHONE 765-492-3570
765-492-3330
FAX NUMBER 765-492-5000

August 19, 1997.

Karen Hobbs
Executive Office of Presidential
Council on Environmental Quality
Room 360
Washington, D.C. 20501

RE: Wabash River

Dear Karen;

On Aug 19th, 1997 the Vermillion County Commissioners voted no in response to your request to include Vermillion County's portion of the Wabash River into the American Heritage Initiative.

We, the commissioners of Vermillion County Indiana, do not approve of the Wabash River being designated into the American Heritage Rivers Initiative.

We prefer to retain local control of the Wabash River under county and state jurisdiction. We do not want the Federal Government to take control of our rivers.

VERMILLION COUNTY COMMISSIONERS

Tim J. Wilson

Lewis L. Baird

Harry L. Crossley

Enclosure #1

TIM J. WILSON, PRESIDENT
803 W. CURTIS ST.
CAYUGA, IN 47928

LEWIS (LONIS) BAIRD,
2407 W. 100 N.
DANA, INDIANA 47847

HARRY CROSSLEY
330 S. DAVIS ST.
CLINTON, IN 47842

**RESOLUTION OF NON SUPPORT
FOR THE
AMERICAN HERITAGE RIVERS INITIATIVE**

On behalf of Carroll County, Indiana, we the undersigned, as duly elected officials and representatives of the community, do hereby oppose the American Heritage Rivers initiative. We oppose the intervention of the federal government agencies and employees into our local zoning, planning, land use and water authority. We will not submit nor support any petition for federal designation of a river in our community for the federal government concerning the same federal designation within the boundaries of our jurisdiction. Any person submitting a petition to the federal government for inclusion of a designated river or area within our jurisdiction does so without the approval or consent of the duly elected officials and representatives of this community.

Now, therefore, be it resolved on this the 8th day of September, 1997, that this resolution shall be executed, made public and delivered to the White House Council on Environmental Quality in Washington D.C.

Signed:

Carroll County Commissioners

Charles S. Seltzer
Uma L. Riden
Donald D. Rhine

Enclosure # 2

Carroll County Council

Dorothy McLean
William K. Brown
Kim Felt
Ruby Woodwell
Kathleen Roach
Marquitta R. Baerger

WITHDRAWAL RESOLUTION FROM THE WABASH HERITAGE CORRIDOR

WE THE WELLS COUNTY COMMISSIONERS IN ACCORDANCE WITH INDIANA CODE IC-14-13-6-7 FINDING WE NO LONGER SUPPORT THE ACTIVITIES OF THE WABASH HERITAGE CORRIDOR COMMISSION DO HEREBY THIS RESOLUTION WITHDRAW WELLS COUNTY FROM THE INDIANA WABASH HERITAGE CORRIDOR AND RECALL OUR MEMBER OF THE WABASH HERITAGE CORRIDOR COMMISSION. THIS RESOLUTION IS TO TAKE EFFECT IMMEDIATELY UPON A VOTE BY THE WABASH HERITAGE CORRIDOR COMMISSION TO APPROVE APPLICATION FOR A FEDERAL DESIGNATION OF THE WABASH AS AN AMERICAN HERITAGE RIVER.

SIGNED THIS DATE SEP 15 1997

C. Scott Moseley
Walter Roberts
Alvina Miller

Enclosure # 3



225 South East Street • Post Office Box 1290 • Indianapolis, IN 46206

TO: Kathleen A. McGinty
Executive Office of the President
Council on Environmental Quality
Old Executive Office Building, Room 360
Washington, D.C. 20501

FROM: Harry L. Pearson, President
Indiana Farm Bureau
225 South East Street
P.O. Box 1290
Indianapolis, IN 46206

Enclosure #4

DATE: August 15, 1997

SUBJECT: Comments for Proposed
American Heritage Rivers Initiative

The Indiana Farm Bureau appreciates the extension of the comment period for this proposed initiative. We would like to also express our agreement that citizens, communities and local governments should be able to work together to restore and protect America's rivers.

We are the largest farm organization in Indiana. Our organization is committed to protecting the environment and farmers' interests in environmental concerns. We work to assist citizens, organizations, legislators and public officials to understand the interrelationship between a productive agriculture and programs relating to environmental protection and enhancement.

While we believe the expressed intent of the American Heritage Rivers Initiative is positive, we have several concerns about the program design and structure, as well as the implications of a successful river designation. We offer the following comments:

The *Federal Register* announcement describes one of the benefits of designation as the assignment of a "river navigator" whose role will be to implement the community's vision and to be a liaison for all federal resources. We are concerned that the "river navigator" position creates an additional and unnecessary layer of government. Several questions and concerns also arise about the "river navigator" and his or her authority. Will this person be an employee of the federal government, if so, which agency? What are the selection criteria for the "river navigator"? To whom will they be accountable, the federal government or the local community? What powers and authority will the "river navigator" possess, and what will be the process for citizens to communicate with him or her? Will actions taken by the "river navigator" be subject to the Administrative Procedures Act? Will access to "all federal resources" be limited to those deemed appropriate by the "river navigator"? Will additional appropriations be required for the "river navigator" or will the funding come at the expense of existing federal programs?

Additional benefits to designated rivers listed in the *Federal Register* were "coordinated delivery of federal services" and a federal agency "Good Neighbor Policy." The Indiana Farm Bureau believes that these benefits should come to all citizens regardless of any designation by the President of the United States. The implication is that without designation, these federal services are not coordinated, program delivery is inadequate, and that federal agencies are not "good neighbors." Unfortunately, that has sometimes been the experience of our organization and some of our membership. Perhaps a more useful Executive Order would instruct all federal agencies to provide coordinated delivery of quality services and to practice "good neighbor policies" as a matter of daily business for all citizens.

In Indiana, there are groups who have initiated meetings to nominate various rivers or river segments prior to the deadline of the public comment period. Some of these meetings have involved federal employees providing advice on how to write a successful river nomination. While this certainly demonstrates initiative, the Indiana Farm Bureau feels that the comment period should be allowed to close before nominations are solicited. We are also concerned that farmers and landowners are being excluded from these meetings and the nomination process. We believe that nominated rivers and river segments should include the input of all potentially affected parties and that their concerns be addressed before a nomination is made.

Although the *Federal Register* announcement states that "the initiative will create no new regulatory requirements for individuals or state and local governments," we are concerned that the designation as an American Heritage River may bring future regulation from federal or state agencies. The *Federal Register* describes the initiative as intended to "support communities in their efforts to restore and protect America's rivers." It does not require too much of a stretch of imagination to envision additional requirements or future restrictions on the property rights of landowners in the watershed of a designated river or river segment.

While the Indiana Farm Bureau respects the prerogative of the President to issue Executive Orders to federal agencies under his control on conduct and procedural issues, we believe that the design of successful government programs should involve the participation and oversight of the legislative branch. Due to our concerns about the initiative as proposed, we believe that it should not go forward at this time.

Thank you for the opportunity to comment and express our concerns with the American Heritage Rivers Initiative.

Enclosure #4

THE PROPERTY RIGHTS FOUNDATION OF AMERICA, INC.

P.O. Box 75, Stony Creek, New York 12878 - 518/696-5748

American Heritage Rivers Program

Testimony of
 Carol W. LaGrasse
 President
 Property Rights Foundation of America, Inc.
 Submitted to
 The Committee on Resources
 United States House of Representatives
 September 24, 1997

Mr. Chairman, thank you for the honor of testifying today. My name is Carol W. LaGrasse, the president of the Property Rights Foundation of America, Inc., in Stony Creek, N.Y., a grassroots nation-wide organization dedicated to preserving in all its fullness the fundamental human right to own private property as guaranteed in the U.S. Constitution. I am a retired Stony Creek Town Councilman and a retired civil and environmental engineer. For the past four years I have been studying the National, or American, Heritage Areas (or "Corridors") program, and exposing its grandiose scope and implications for private property rights and local representative government.

Around the countryside where I live in upstate New York, or down in New York City and Long Island where I often visit old friends and relatives, *no one has told me they would like to see an American Heritage Rivers program, or any program that contains any element of the features described in the unveiling by the President's Council on Environmental Quality in the Federal Register in May or as further revealed in the President's Executive Order approximately two weeks ago.* Furthermore, *no one* who has contacted me from the private property rights movement has told me that he or she sought any of the elements described for the program, no matter how I try to extend some of the nebulously outlined features. Many people have called and written, from out in the states of Washington and California, to midwestern states of Indiana and Minnesota, to eastern states of Maine and Virginia, and many more, for help to *block* the program.

The American Heritage Rivers program is of great national concern. Because of this widespread fear, I have been invited to speak numerous times about the American Heritage Rivers plan on radio and TV talk shows, and have, in fact, received more requests to speak about it than for all other topics this year.

After three years of successful grassroots private property rights opposition to the National, or American, Heritage *Areas* program in Congress, the Clinton Administration has announced a similar, but more ambitious, program unilaterally through the rule-making process. On June 10, when I asked Ms. Katie McGinty, the director of the Council, why the Administration thought it could unilaterally do this program when for three years its

Continued...

THE PROPERTY RIGHTS FOUNDATION OF AMERICA, INC.

LaGrasse Testimony
(page 2)

sympathizers fought in Congress to get Congress to pass the similar program, she replied that she had never heard of the National, or American, Heritage Areas program. She directed the question to Mr. Ray Clark of her office, who offered in explanation the statement that the reason was that the *Administration* wanted the *Rivers* program, whereas the National Heritage *Areas* program was sought by Congress. Of course, everybody knows that no matter how much the wording is watered down, the National/American Heritage *Areas* program is designed to bring the National Park Service into local zoning, and to transfer land ownership to government. This is the mentality and future people are afraid of.

Broad programs like this with vaguely defined powers and goals have been found to sneak up on private property owners during a period of five to twenty-five years from their enactment (in this case, promulgation). Regulation becomes ever more stringent.

Two existing federal waterway protection programs passed during the 1970's have of late had profound effects locally as the rules are **passed down** from the federal to the state or local basis of direct regulation. One is the Federal Flood Insurance program which often unnecessarily restricts activity in areas designated as flood prone. The other is the Federal Coastal Zone Management Act of 1972, which has caused no end of tinkering with local zoning to make it greener and more onerous. The American Heritage Rivers program has the verbiage to create the same kinds of problems as these programs, and more.

Congress has also brought us rules that are **directly enforced** on a federal basis. A prime example is the final legal evolution of Endangered Species Act, onerously imposed by U.S. Fish and Wildlife Service. This act was not originally imagined to carry the power over property owners which it now has. A federal land-use control agency which has turned out exactly as feared by its most vociferous opponents is the Columbia River Gorge Commission. People are zoned off much of their land. No one would have predicted that prohibitions against dredging and filling the navigable waters of the U.S. under Sect. 404 of the Clean Water Act would have ultimately given the U.S. EPA and Army Corps of Engineers *carte blanche* to usurp private property ownership in wetlands of every conceivable definition.

Alternately, the Council on Environmental Quality has represented the American Heritage Rivers program as an **honor** and an **ombudsman**. The "honor" claim has no basis in any of the Council's May 19 proposed rules or in the President's September 11 executive order. At most, the "honor" is a very minor feature of the program. Neither is the ombudsman an adequate explanation. This is not merely, as Ms. McGinty said on June 10, a plan to make it easier to reach federal agencies and to get them off your back or to help you. There are no proposed rules applying to any of the agencies describing how they will expedite processes or relax enforcement.

The heart of each application for designation is elaborately stated planning for the future for the entire river and land along it. The confusing description of the program seems to denote some kind of a plan to coordinate a number of important, powerful federal agencies

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LaGrasse Testimony
(page 3)

under a new national commission established for the purposes of the program at each designated river in order to meet a plan of action to protect the river which each nebulously defined "community" has worked out in conjunction with the federal government. A federally appointed "River Keeper" for each American Heritage River coordinates with the "community" and all the federal agencies. Although economic development is noted, a plan for each river is presumably to be one that will further restrict use of land and water to protect nature and someone's idea of historical importance. **This program of more efficient coordination of federal enforcement agencies sounds like a juggernaut, the opposite of an ombudsman.**

The American Heritage River Designation may soon involve the Mississippi above St. Louis, the Connecticut, James, Wabash, Columbia, Willamette, tributaries of Puget Sound, Hudson and with it perhaps the Champlain Valley, Rio Grande, French Broad in North Carolina and Tennessee, and perhaps the Penobscot.

But no one in the Administration is willing to spell out what really is expected to happen under the draft rules or the executive order. It is remarkable that the Council issued the draft rules in May before the President's executive order creating the program in September, and that the final rules are to be issued by a new body, the American Heritage Rivers Interagency Committee. This elusive entity is to have co-chairs, the Council chair and a continuing rotation among the heads of twelve agencies from the Defense Department to the National Endowment for the Humanities.

Many speculations fly about how the program is to operate.

Judging by (1) the emphasis on planning, pollution and population in the original agency announcement, and the primary focus on planning in the new executive order,

(2) the involvement of so many agencies, particularly the primary ones - Environmental Protection Agency, US Fish and Wildlife Service, Corps of Engineers - ones historically trampling on private property rights,

(3) the creation of a new federal Interagency Committee and the River Navigator in the executive order, and

(4) by the recent history of use of the seeming "essence" of the name American Heritage Rivers and the participating agencies and organization (to the exclusion of property rights advocates),

I think that the program is meant to pan out something like this:

The Practical Meaning and Future of the American Heritage Rivers Program

(1) A river is the focus of interest of certain agencies and environmental groups. Local politicians and certain interest groups, including certain businesses, are promised financial benefits. Planning (which means more rules) financed with federal and state assistance, is exciting to local officials who gain more power, and to environmental groups.

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(page 4)

(2) As in every other federal land-use control program when originally implemented, the citizens, taxpayers, small businesses, farmers and private property owners are shielded from information about the program.

(3) Many of the players are in line when the application is submitted. State moneys have been pledged to demonstrate "capability" to carry out the program. Federal porkbarrel will be arranged to get U.S. Congressmen on board.

(4) When the application is complete, without much opposition, it is to be approved and the program set in motion. The use of "linear" regions for federal land-planning and controls has often successfully eluded opposition in the past because the great distances involved and often interstate, rather than regional, designations, make it costly for grassroots opponents to organize. If there is opposition, it can be ignored unless extremely vociferous.

(5) After the fanfare or lack of it, over a period of years the various committees and advisory groups connected to the River Navigator, state commissions and other agencies will be working on plans. Parallel state and interstate river planning agencies will be established by governors or state legislatures.

(6) The planning process, dominated by professionals, environmentalists, "economic development" types who are experts in the government gravy train, etc., will go the rounds in each River area. It will perhaps be years before quasi-voluntary, "partnership," and mandatory programs of varying nature around the U.S. bring in more state and local preservation zoning. The variation will be as great or greater than the planning still coming down to local towns and counties as a result of the 1972 Coastal Zone Management Act, which comes through a different agency depending on the state. The gravy train will provide for selected economic development eased by the ombudsman aspect of the River Navigator through a multitude of potential stumbling blocks through federal agencies.

(7) Private property will be greatly restricted, a great deal of financial losses will occur, enforcements and prosecutions will increase and be more effective because of greater inter-agency coordination. But the specific role of the President's Council on Environmental Quality and the American Heritage Rivers program will be unclear to those bearing the final brunt of the planning goals.

Because of the future harm that the American Heritage Rivers program will likely bring to private property rights, the Congress should assert its constitutional prerogative to prohibit expenditures by federal agencies to implement the program. It is not a new regulation or an executive order to further implement the Nixon-era National Environmental Policy Act as claimed but is outside the law. It is, in fact, a means to institute land-use planning and zoning from a national level, which is unconstitutional on its face. Even if it were constitutional to create such a program on a federal level, the Rivers program is a new project needing Congressional authority which is lacking. ♦

Hinton Program Expands on Defeated National Heritage Areas Program Without Congress HINCHHEY: AMERICAN HERITAGE RIVERS IS A "VERY, VERY EXCITING PROGRAM"

Top Administration officials refuse to promise not to intervene in local zoning

"Republican state government... strongly supports the program," Congressman Maurice Hinchey (D-Saugerties) testified in favor of the American Heritage Rivers program before Congress.

Since the President's Council on Environmental Quality announced the program in the Federal Register on May 19, opposition by property rights activists and conservatives has swept the country. Congressmen, talk show hosts such as Mike Reagan and Stan Solomon, and many others have blasted the program, and property owners and grassroots activists have bombarded each other, the media and the Council with FAXes, letters and E-mail opposition.

The American Heritage Rivers program has many similarities to the National/American Heritage Areas program which was defeated in Congress during each of the preceding three years, but the new program is being implemented unilaterally by the Clinton Administration. The President had promised in a surprising but obscure part of his State of the Union Address that he would designate ten American Heritage Rivers this year.

On July 15, the House Resources Committee held oversight hearings where members of the Administration and Congress testified on the American Heritage Rivers program.

"I want to say that I have been excited about the program ever since the President announced it in the State of the Union Address earlier this year," testified Mr. Hinchey. "I think it is a terrific idea and one that ought to be supported by all of the American people."

Many local property owners and citizens along the Hudson River have fought both the State's ten-county Hudson River Greenway designation and the Congressional designation of the National Park Service's new Hudson River National Heritage Area encompassing approximately the same area, which were both Mr. Hinchey's schemes. The property owners gained many concessions but both programs were enacted.

Now environmentalists are pushing for the new designation in New York, to extend perhaps as far as the Canadian border, to bring in Vermont Senator Jim Jefford's repeatedly aborted scheme of the Champlain-Hudson Heritage Corridor without having to go through Congress.

"Most of the support that we have seen has come from non-partisan organizations, environmental, civic, other organizations stretching all along the Hudson River, excited about the prospects of this program, looking forward to it, and hoping that the Hudson River will in fact merit the designation of one of America's National Heritage Rivers," Mr. Hinchey testified. "It's a very, very exciting program."

The American Heritage Rivers program involves all federal agencies in helping to preserve the natural, historical, economic and cultural resources of American River Communities, according to the Council's pronouncement. Each river region, of undisclosed, variable length and width (apparently the length of any given river) is considered a "Community" and is assigned a "caseworker" known as a "River Navigator." "Planning assistance" available by a "talent bank" is emphasized. "Environmental monitoring" with a continually updated computer "report card" on river conditions is a centerpiece of the program.

A federal "State of the Rivers" Home Page will announce the status of pollution, population, and land-use planning.

The Rivers program is announced as part of Vice President Gore's efforts to "reinvent government in accordance with National Performance Review," according to the Council.

Some Rivers will have "Performance-Based Organizations" which allow "flexibility" to meet "performance-based Goals."

Katie McGinty, the director of the Council on Environmental Quality, assured a delegation of national property rights leaders in June that the program is no more fearful than an "ombudsman," which is all it is, she said. But at the same meeting she could not say why the Administration was unilaterally pronouncing the "Rivers" program when the "Areas" program had to go through Congress. She said she had never heard of the National/American Areas program, and turned the question over to aide Ray Clark, who said that the National/American Heritage Areas program had to go through Congress because Congress wanted it, but this was an Administration program.

During the Congressional hearing, Rep. George Miller (D-California), the Ranking Minority Member of the Committee, argued in favor of the American Heritage Rivers program by referring to the earlier National/American Heritage Area, or Corridor, system. "In this session, we now have one of the strongest opponents of that legislation seeking extra legislative measures by which to get an area included that he fought so hard last year to get excluded," Mr. Miller said, referring to Rep. Jerry Solomon's change of heart this year after he'd heroically excluded the part of his District in the Hudson River Greenway from Mr. Hinchey's National Heritage Area. Mr. Miller neglected to mention the \$10 million in federal pork barrel sought from Mr. Solomon by local officials even over the objections of local people.

Even Secretary of Interior Bruce Babbitt was testifying about New York at the hearing.

"I spent three days going up the Hudson River that summer [1995] in the area described by Mr. Hinchey, and I saw a remarkable renaissance in communities like Poughkeepsie, Troy, Peekskill, where those waterfronts are literally being revived," Mr. Babbitt said.

Mr. Babbitt testified that in Troy, "I heard communities talking about the Corps of Engineers and how the Corps at their request had joined in these partnership efforts." After ironically testifying about one of the federal agencies most troublesome to property owners, Mr. Babbitt spoke glowingly of the helpfulness elsewhere of the two other most burdensome federal agencies to property owners, the Environmental Protection Agency and the Fish and Wildlife Service.

Mr. Babbitt indicated that the President would like to "showcase," presumably designate, the examples he testified of, the Hudson, Columbia, Cayohoga, Willamette, Susquahanna, and tributaries of Puget Sound. Designations are actively sought for the Connecticut, Wabash, Rio Grande, French Broad River in North Carolina and Tennessee, and James, plus possibly the Penobscot and Illinois.

Compelling stretches of testimony involved repeated questions by Rep. Bob Schaffer (R-Colorado) to first Ms McGinty and then Mr. Babbitt, "... is there anything that you can see that would prevent you from prohibiting river navigators and all other federal employees involved in this program from intervening in local zoning and land management discussions involving private property?"

The evasions of Ms. McGinty and Mr. Babbitt went on interminably. Ms. McGinty said at one point, "The river navigator, facilitator, or whatever we wind up ultimately calling this person will do only those things that the local community call on them, ask, request of them to do." - CWL ♦

Poughkeepsie Journal
 Foughkeepsie, N.Y.
 August 22, 1997
 Page 8A



LETTERS

Watch out for Heritage Area fund drain

I have been following news of the "newly formed Northern Dutchess Alliance" and its relationship to the planned release of federal government funding for the Heritage Area Bill. This bill, which was until recently rejected by Congressman Jerry Solomon, could introduce more than \$1.5 million to the 22nd Congressional District.

In March, I attended a forum at Columbia-Greene Community College, the purpose of which was to discuss whether communities in the 22nd District should become part of the Heritage Area. At this forum I did not see our congressman, nor any of those members involved in the "newly formed Northern Dutchess Alliance."

I did see David Sampson of the Greenway Council, Skip Cole of the National Park Service and Carol LaGrasse, president of the Property Rights Foundation of America. She voiced her objection to Heritage Area funding, stating that the "insidious tentacles of the National Park Service would invade our communities." The majority of the standing-room-only audience appeared to be supportive of her views.

Three months later, by the grace and generosity of our congressman, the gates to "King Solomon's Mines" are suddenly flung open and our county executive directs his troops to be there to accept those much needed resources.

Chairman Marc Molinaro said, "Some funding might be available to help the Northern Dutchess Alliance get started." Noreen Reilly, vice chairwoman, said, "It will give us a great opportunity to break bread together."

Indeed, the potential for \$1.5 million is a lot of bread to break among a handful of communities, especially before the next election.

It is up to the voters of the 22nd District to demand a detailed balance sheet from all the elected officials who are involved in the distribution of these federal dollars.

R. Christopher Schoefer
 Poughkeepsie, N.Y.

THE PROPERTY RIGHTS FOUNDATION OF AMERICA, INC.
P.O. Box 75, Stony Creek, New York 12878 - 518/696-5748

A Brief Introduction
American Heritage Rivers
A Saccharine Incarnation of the National Heritage Area Program

Although the National (or American) Heritage Area program was publicly downplayed in importance by environmentalists, they and historical preservationists placed highest priority on its passage during the three consecutive immediately past years of the Democratic, then Republican, Congress. When their push failed in 1996 because of the counter-efforts of the nation-wide grassroots property rights movement, Congress passed nine more individual National Heritage Areas, in the omnibus National Parks bill, plus one new Area in Colorado, separately, making the current total sixteen.

By and large, the National Heritage Areas are wide strips of land along rivers that are to be the subject of federal preservation efforts in conjunction with a regional state or federal commission that signs a "management contract" with the National Park Service. The Areas are touted for "tourism," "recreation," and "economic development."

The new National Hudson Valley Heritage Area in New York, for instance, encompasses much of ten counties that are already under the jurisdiction of New York State's Hudson River Valley Greenway Communities Council. The area, which is the focus of State regional planning pressures, extends northward from the New York city line to the Albany area.

The American Heritage Rivers program is, for all practical purposes, the same program pronounced unilaterally with a heavy dose of double-speak by the Administration without Congressional participation.

In his State of the Union address, President Clinton announced that he would designate ten American Heritage Rivers in 1997. In April and May joint interagency meetings with environmentalists were quietly called around the country to solidify a constituency. On May 19, the President's Council on Environmental Quality issued a proclamation in the Federal Register describing the program as an administrative *fait accompli* and inviting input, but not debate over whether to have the program. The Council requested nominations for the ten American Heritage Rivers.

Comments were originally due by June 9 at: Executive Office of the President, Council on Environmental Quality, Old Executive Office Building, Room 360, Washington, DC 20501 (FAX:202-456-6546). The comment period has been extended to August 20, 1997. Further official information is available from Karen Hobbs at her phone 202-395-7417.

The official announcement states, "These designated rivers will receive special recognition and focused federal support and will serve as models of the most innovative, economically successful and ecologically sustainable approaches to river restoration and protection for communities across the United States."

The program alleges to be non-regulatory to "support communities (...known as River Communities), within existing laws and regulations."

Continued...

PROPERTY RIGHTS FOUNDATION BACKGROUND BRIEF

THE AMERICAN HERITAGE AREAS

THE NATIONAL PARK SERVICE NATIONAL HERITAGE CORRIDOR SCHEME FOR FEDERAL CONTROL OF ZONING

It is hard to imagine that the National Park Service, which already has 21 administrative categories from National Parks to National Scenic Trails, plus seven more nebulous realms of control from U.N. Biosphere Reserves to National Historic Districts, would receive serious Congressional reception to a program that would ultimately give it control of all land area in the entire 2,500 mile Mississippi River valley and at least 100 other already-defined river "regions." But the 104th Congress has both a Democratic bill proposed by Bruce Vento (D, Minn.), known

as the American Heritage Area Act (HR1301) and a Republican bill proposed by Joel Hefley (R, Co.) deceptively entitled the National Technical Assistance Act (HR1280), to create the framework for the vast land-control system. Both Heritage versions are opposed by Republican Congressional champions of property rights.

The program is innocently couched as a way for the Park Service to extend financial support and technical assistance to preserve the cultural, economic and natural resources of "distinct ensembles" of physical assets of a region by designating the corridor as an American Heritage Area.

Certain Democrat and Republican supporters claim that the American Heritage Corridor system has "grassroots" support, but the grassroots is generated by pork barrel to sell it locally and environmental lobbying by the Heritage Area Coalition funded by taxpayers through the National Park Service and the National Trust for Historic Preservation. The Heritage Area Coalition has published the admission that it will live happily with the sanitized, substitute Republican bill *because it can build on the designation.*

While deceptive proponents were slipping the corridor plans through Congress a few at a time, the Property Rights Foundation discovered the enormous secret extent of designations that are being cultivated by the National Park Service and the National Trust for Historic Preservation.

There is no practical point to the designations as "honors" supposedly bestowed as incentives for tourism. As for the guise of economic development, the designations are only a ploy. Manufacturing, modern agriculture, and commerce will suffer. Furthermore, sportsmen will be blocked from fishing and boating access to rivers, as Jack Peters, secretary of the Federated Rhode Island Sportsmen's Clubs reports is happening at the much touted model area, the Blackstone River National Heritage Corridor. In Rhode Island, the new bike and hiking trail for

the Heritage corridor is blocking off existing river access routes used by sportsmen, according to Peters, just as limited access highways block off cross-roads. Although promised when the support of fishermen was sought, boat ramps are not being allowed. Hunting is being deemed "incompatible."

The official management plan for the Blackstone River National Heritage Corridor, prepared by the Center for Rural Massachusetts, University of

The Danger of Designations

THE REPUBLICAN HERITAGE AREA PROGRAM COMPROMISE

A temporary expedient on which to build more federal intrusions...

"In general, it appears that if we are to see federal legislation addressing heritage areas in this Congress, we must be prepared to accept a shortened step along the pathway many of us envision. In the best of all possible worlds, perhaps someday we will see a combination of what has been laid out in some other "national heritage corridor" legislation and ideas for linking other federal agency programs to the basic foundation of a designation program."

"Letter from the Chair," *Heritage Links*, the publication of the National Coalition for Heritage Areas April 1995, p 1 (emphasis added)

Massachusetts, Amhearst, declares:

"Regional Commissions

"At some point, a sufficient level of concern is reached along with a growing concern that *voluntary, non-regulatory measures are themselves insufficient* to ensure that environmental, cultural and historic resources are adequately protected against indiscriminate and inappropriate development. One response has been to draft an intergovernmental cooperative agreement outlining responsibilities of each party to guarantee consistency and coordination in future actions taken by participating municipal governments, and state and federal agencies." (p 56, emphasis added)

In an area that is sometimes cited as a model, the Columbia River Gorge, an interstate, federal commission, has denied property owners the use of their land and severely damaged the tax base. The Trust for Public Land agrees-

Continued on page 2

The American Heritage Areas (continued from page 1)

sively depopulated the historic mill town of Bridal Veil, scaring out the last few residents with an "asbestos exposure" fraud.

The elite genesis of the American Heritage Areas scheme is illustrated by the corruption of New York's Hudson River Greenway agency head. The director, David Sampson, has been receiving his salary and benefits, not from the State Comptroller, but from the Rockefellers' Historic Hudson Valley via a donation to that charity from the Rockefellers' Jackson Hole Preserve.

That New York Greenway agency was conceived as a state-level agency to supersede local zoning powers. Only after 6 bill revisions was the Greenway zoning made voluntary using a carrot and stick approach. The member of the New York Legislature who sought the mandatory agency

THE INSIDIOUS PLAN TO GET THE HERITAGE PROGRAM PASSED

THE NATIONAL PARK SERVICE DIRECTOR'S COMMENT ON THE 1989 DRAFT AMERICAN HERITAGE PROTECTION PROGRAM

"I would say that its goals are noble and there are some good concepts within the draft, but its chances to pass are about as good as a snowball in hell."

"It simply tries to do too much and threatens too many individual freedoms. It is geared to not allowing another Manassas to occur, but I believe the heavy hand of big government will be clearly seen and defeated if such a bill is introduced..."

"Suggestion: That you... begin to think about putting something together a little less broad in scope."

from an Aug. 30, 1989 internal memo by National Park Service Director James M. Ridenour

has been espousing a National Park Service Hudson Valley Heritage Area since being elected to Congress. Meanwhile, funding has come through secretly for a National Park Service study of the 10-county area.

An illustration of the National Park Service's requirement for a management plan is the Augusta Canal National Heritage Corridor, where the National Park Service stated at a congressional hearing in June 1994,

"We recommend... that the designation of the heritage corridor shall not take effect until the Secretary of the Interior approved the partnership compact for the heritage corridor..."

The compact would require "evidence of commitment to modify zoning and regulations."

The one area with the name "Heritage," which is a genuine economic development project and has no official boundaries or regional plan, is located in southwestern Pennsylvania. It has been slammed by the proponents of heavy planning with trumped-up claims of heavy cost overruns so that the National Park Service can push through legislation to create boundaries and a management compact for the region.

The main two features of both the Democratic and Republican bills are the same - the requirement for compacts between the Secretary of Interior and a State or regional entity for a land management plan and the requirement that the boundaries of the region be defined. These two features are the foundation for a greenway under the jurisdiction of the National Park Service.

The American Heritage Corridors, starting in county-wide river bed designations, are being expanded into other geographic zones, an example being the controversial National Park Service Catskill Mountaintop Heritage Corridor for lower New York State. The capacity under the American Heritage Areas for Federal control of land-use planning as watersheds, riverfronts, flood plains, watersheds, culturally significant sites, or historic routes is endless. The real purposes are biodiversity, land bridges and corridors under the Wildlands and U.N. Biosphere Reserve schemes, and elite rural gentrification. National Park Service control of land-use planning in all but large urban centers may result if the Heritage Areas system of designations is established.

The National Park Service's current abuse of property rights in Alaska and many other areas of the country argues that instead of granting it power to dictate land-use planning, Congress ought to conduct a broad investigation of the violation of the law by National Park Service and restructure the agency.

THE DEMOCRAT AND LIBERAL REPUBLICAN HERITAGE SCHEMES

"Ultimately, therefore, the parties differ little. Both exploit the legitimate ideals of ordinary Americans for selfish ends. The former support central planning not only because it distributes largess that buys votes, but also because they believe in it. The latter harbor philosophical objections to big government but promote it anyway, because it preserves incumbency."

Comments on the American Heritage Areas Act and the National Technical Assistance Act by Alston Chase, July 1995 Creators Syndicate

For additional copies at no charge, and additional information contact:

The Property Rights foundation of America, Inc
P.O. Box 75, Stony Creek, NY 12878 (518) 696-5748

Our Eroding Freedoms
National
Heritage Area
Program May
Spread Up the
Hudson Valley

Clinton announces course rejected by Congress

Grassroots property rights activists are standing firm locally and nationally against the National/American Heritage Area program. They effectively worked for a three-year standoff in the Congress, under first the Democrats, then Republicans, who found porkbarrel so appealing that they were ready to overlook the threat of Federal involvement in local zoning. Environmentalists wanted the National Heritage Area program so badly that they were ready to trade off grazing "reform" in which they'd invested years of work. But when the 104th Congress called it quits in 1996, there was no generic National Heritage Area Act, only nine individual porkbarrel projects.

One of the new National Heritage Areas of 1996 was the Hudson Valley National Heritage Area passed for Representative Maurice Hinchey (D-Saugerties). Mr. Hinchey's project was considered important during his reelection campaign. Its passage was allowed by House Speaker Newt Gingrich because Democrats threatened to otherwise obstruct the omnibus 1996 National Parks bill, a two-year Republican reform and porkbarrel achievement.

The Hudson Valley National Heritage Area was to include all of the area in New York State's Hudson River Greenway, plus the portions of Ulster and Greene Coun-

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December 19, 1996

U.S. Rep. Gerald Solomon
 Rayburn Office Bldg.
 So. Capitol & Independence Ave. S.E.
 Room 2206
 Washington, D.C. 20515

Dear Congressman Solomon:

I am writing to you about your position on the Hudson River Valley National Heritage Area.

I fully support your leaving our district out of this act and so do the greater majority of the people who live here. I will qualify this statement with the following explanation:

This year the town and Village of Coxsackie were jointly proposing a Waterfront revitalization program that is part of a coastal management program. I had attended two meetings in the past. Town supervisor Sy Delucia who was also the chair of the "LWRP" committee essentially stonewalled me by saying that it was only a draft proposal therefore, I could not see it and did not effect me. Town river front property. In Dec. of '95 I told Mayor Henry Rausch that he should be cautious. He said he did not have the time to read his book but would gladly give it to me for review and advice.

Being heavily involved in community affairs as a volunteer for many years, approximately 11 years on the village planning board, (Past Chair), three years on the zoning, bd. of appeals (past chair) 14 years on the town republican committee (chair 93-95), I had concerns!

In April of '96 Village Trustee Bob Malloy, an avid proponent of property rights and home rule, asked me join him in his efforts to defeat the program.

Our research uncovered a sea of red tape, hidden costs, laws, zoning changes, financially prohibitive historic designations, loss of home rule, severely restrictive subjective scenic designations, fines, penalties, added bureaucracy, new layers of review boards. The L.W.R.P. required a compact with Greenway, which would severely infringe property rights as well as appearing to be a blueprint for regional government. We were then compelled to begin an extensive effort to inform the public.

No matter where one went, coffee shops, grocery store, sidewalk, the town's people were outraged. We received an overwhelming groundswell of support from leaders of the business community, residents, and every farmer here! The people gave Bob and me a couple of mandates- 1. defeat the "L.W.R.P.", 2. organize them in a united front. We made contact with Sheila Powers, Albany Co. Farm Bureau Pres., and Carol LaGrasse, Founder of the Property Rights Foundation of America. These two intelligent, gutsy Americans graciously donated their time and expertise. As a result we gave birth to "The Coxsackie Awareness Group" that promptly elected Bob Malloy vice and myself chair.

On June 15 and July 17 public hearings were held by the town and village officials with well over 700 in attendance. Sixty citizens spoke against the plan and no one spoke in favor of the plan. Mayor Rausch stated, "The bad points far outweigh the good. I can't get away from the L.W.R.P. fast enough!" Subsequently the Village Bd. voted to withdraw, followed a short time later by the humiliated no other choice Town Board!

The people came together on all points some of which I will list for you.

Many citizens were opposed to State and Federal Grants seen as picking the pockets of other tax payers elsewhere and then offering it to local officials to sell off home rule and sign Compacts with programs such as Greenway.

Opposition to matching grants for the above reasons plus the fact that local taxes would have to pay for the match.

second page of letter on page 6

ties within the Catskill Forest Preserve, which had been excluded from the state Greenway. The Greenway includes parts of the Congressional Districts of both Mr. Hinchey and Congressman Jerry Solomon (R-Glens Falls).

Representative Solomon, Chairman of the Rules Committee, had waged a heroic battle against the National Heritage Area for three years. He removed the portion of the Hudson River Greenway within his District from the National Heritage Area bill before it passed.

Mr. Solomon has also held back the Northern Forest Lands Stewardship Act, a bill that is designed to open the door for the federal land use controls envisioned by the Northern Forest Lands Council program, and he has opposed a more northerly National/American Heritage Area to link the Hudson Valley National Heritage Area to Quebec via the Champlain Valley.

In the Hudson Valley, local elections have been swung by property rights positions. In Coxsackie, which is on the Hudson 30 miles south of Albany, Robert Malloy was elected to Village Trustee and reelected in March 1997 on a platform of private property rights and opposition to the greenway/

"waterfront rehabilitation" zoning. His organization opposes the National Heritage Area designation, as do citizens' groups in many of the towns along the Hudson.

But officials of municipalities where Mr. Solomon's district was removed from the designation stood to lose their share of \$10,000,000 of federal funds for implementation of the management plans for the Heritage Area, in addition to planning grants.

Early this year, Mr. Solomon developed a bill to allow the cities, towns and villages of his District into the Heritage Area. The bill which is expected to pass Congress unopposed by the end of April.

According to Mr. Solomon's legislative director and counsel Frank Petramale, the bill would protect home rule.

Mr. Solomon's bill allows cities, towns and villages in his District the choice of whether to opt into the Heritage Area and to opt out without penalties. The bill prohibits the

Opposition to more stringent zoning compounded by the fact that State and or Federal officials must review and approve zoning changes.

Opposition to the Scenic designation as to restrictive and subjective.

Opposition to the "Selling off" of home rule.

Opposition to the signing of a compact with Greenway.

Opposition to the heavy financial burden of being declared Historic or living in a Historic neighborhood.

Opposition to new and tougher environmental restrictions.

On Sept. 18 '96 The Coxsackie Awareness Group sponsored an educational seminar on property rights. Guest speakers were Sheila Powers and Carol LaGrasse covering such topics as Greenway, Heritage Areas, Land conservatories, and Scenic Hudson to name a few. Our seminar was well attended by Greene Co. people from Coxsackie, Athens, Greenville, Durham, Cairo, New Baltimore, Catskill, as well as people from Berne, New Scotland, Delmar, Saugerties, Kingston, Rosendale, Schoharie and New Paltz. I can honestly tell you that when well informed of the facts of these programs the people are against them! In today's world people are busy making ends meet and these programs slide by. Locally elected officials are part time low paid with limited time who are given "sales talks" by entrenched professional bureaucrats who steer while working hand in hand with over zealous environmental groups and promise moneys -- just sign up.

Despite all this the town Supervisor Sy Delucia went to a meeting on Nov. 21 between the Greene Co. Planning Bd. and your representative and wanted to know how to become involved. Town councilman Jeremy Copleston said that every thing was going fine in Coxsackie until a few people spread misinformation and turned everything around on them. Funny, at the public hearings his lips were sealed! These two do not represent their constituency but arrogantly pursue their personal agendas.

The 1996 civilization is here; we cannot turn the clock back to the time when Henry Hudson sailed the river.

Thank you Jerry for standing up to the extremist environmentalists, ... for protecting our property rights... for protecting home rule, and ... for representing your constituency!

Private property owners have been good stewards to the land and we would like to continue being our own stewards! ... Keep your district out of the Hudson River National Heritage Area!

Sincerely,

Larry Connolly, Chairman

The Coxsackie Awareness Group

Robert M. Malloy, Vice-Chairman

Coxsackie Awareness Group

Secretary of Interior from requiring any local zoning changes in Solomon's Congressional District. It allows the local government to back out of any changes in zoning they may make in connection with entering the Heritage Area.

Nonetheless, any bill which helps the National Heritage Area system to be implemented furthers its overall goals, which are central planning, stricter zoning, federal control of zoning, rural preservation rather than rural development, regionalization of government, gentrification rather than the occupation land by a cross-section of economic groups, very limited tourism to the exclusion of a spectrum of business and productive rural industry, and elimination of use of waterfront by ordinary people.

Irrespective of the home-rule provisions, local officials are likely to be sucked into the program by professional planners, the New York State Hudson River Greenway Council, the New York State Department of State, and spin-off groups generated by the National Trust for Historic

Continued on page 13

PROPERTY RIGHTS FOUNDATION BACKGROUND BRIEF

DANGERS OF DESIGNATIONS**REGIONAL, FEDERAL, STATE AND INTERNATIONAL LAND-USE INTRUSIONS**
*National/American Heritage Areas, UN Biosphere Reserves and UN World Heritage Sites***Myths**

The Designation of National/American Heritage Areas is merely honorary and has no regulatory power.

The designation of UN Biosphere Reserves is for research and education only.

The designation of UN World Heritage Sites does not bring foreign influence over land in the United States.

The designations are to promote tourism.

According to United Nations testimony before Congress, local officials are always consulted before Biosphere Reserves are proposed.

Reality

Congressional bills and federal laws for **National or American Heritage Areas** require a contract between the state government regional entity and the U.S. Secretary of Interior to manage the land-use of the region for preservation. This means federal control of zoning, either directly, by the terms of the "management compact," or indirectly, by the use of funds dispensed by preservation agencies to influence zoning under a seductive porkbarrel system, the iron-clad zoning is enforced locally, with home-rule seemingly preserved, but private property owners' rights diminished and locally generated land-use patterns foreclosed.

The preponderance of research (published in specialized journals) about **Biosphere Reserves** is about "restoring" rural areas so that human influence on nature is eliminated. The "international significance" of the designated region is trumpeted by the national environmental groups to lobby for government land acquisition and more "environmental" restrictions on land-use.

Exactly what people feared happened near Yellowstone National Park, which is a **World Heritage Site**. When environmentalists acting in conjunction with the Clinton Administration persuaded UNESCO to declare the park a "World Heritage Site in Danger," United Nations officials flew to the U.S. from Paris to complain about a gold & copper mine that was planned outside the park, but inside an area the environmentalists call "Greater Yellowstone." President Clinton himself then stopped the environmental impact review required under the National Environmental Protection Act (NEPA) from being completed and disapproved the mine based on the UN World Heritage Committee's recommendation.

If the stated purpose of tourism succeeds for the **National Heritage Areas**, of which over 200 are proposed (encompassing much of the West, the entire 2,500-mile Mississippi River and adjacent counties, and most of the land east of the Mississippi), the United States will theoretically become one vast "heritage" tourism complex, to the detriment of productive, less "beautiful" industries, agriculture and forestry. In addition, for **Biosphere Reserves and World Heritage Sites** to be successful, areas must be off-limits to hunting, and many roads used by hunters and tourists closed. Tourism is one of the first sectors to suffer from recessions and depressions. Much tourism is both weather-dependent and seasonal, and tourism jobs are predominately low-paid. The only things that are "sustainable" are the views that new restrictions protect. Flexibility to respond economically is lost. Most communities cannot afford to focus a large part of their resources on their past heritage. Communities with sagging economies become run-down and uninviting. Preservation zoning and lack of jobs force ordinary people to move away, whereby wealthier people may move in and gentrify the area without generating a productive local economy.

When state and local elected officials in New York learned from property rights activists about the secret proposal to designate the Catskill Mountains Biosphere Reserve, they were angry, and the application ultimately had to be withdrawn from the U.S. Department of State. **Biosphere Reserve** applications are usually done secretly, and local people and their elected representatives excluded from information.

Over...

Dangers of Designations *continued*

Myths

UN Biosphere Reserves and World Heritage Sites are approved only after public hearings and Congressional vote.

The Biosphere Reserve and World Heritage Site programs have potentially little impact on government or private property.

UN Biosphere Reserves and World Heritage Site designations present no threat to American sovereignty.

Reality

The U.S. Congress failed to pass the legislation (H.R. 2379) to establish the **Biosphere Reserve** system when it was proposed in 1983. The **World Heritage Convention** was ratified by the U.S. Senate in 1973. Working in conjunction with the National Park Service, the Department of State does **not** consult Congress before designating individual **Biosphere Reserves** or **World Heritage Sites**. Neither of these agencies, nor Congress, holds public hearings and no Congressional vote takes place before the UN sites are designated.

There are 47 **Biosphere Reserves** and 20 **World Heritage Sites** in the United States. The designations involve not only government, but private property. The largest Biosphere Reserve in the U.S. is the 10-million acre, secretly designated Champlain-Adirondack Biosphere Reserve. Private landowners were not notified and their permission was not granted for the designation, but environmental groups quickly publicized it among their members, who thereupon lobbied for stricter environmental regulations of the private land in the region. Official goals for "core" and "buffer" regions of Biosphere Reserves and for World Heritage Sites are not consistent with the continued population of the regions.

"I think it perfectly understandable that people are concerned that when you set up a program, when you give it a designation, where you as international authorities recognize it, the implication is that down the road when there are conflicts, somebody's going to be leaned on, and the authority for this, at least the moral authority for this, will be an invocation of some very dubious international authority."
 - **Dr. Jeremy Rabkin**, Associate Professor, Cornell University, from testimony before the U.S. House of Representatives, Committee on Resources Sept. 12, 1996, on the American Land Sovereignty Protection Act.



AVAILABLE FROM

THE PROPERTY RIGHTS FOUNDATION OF AMERICA:

National Heritage Areas
(Positions on Property, Jan-Apr 1996) \$3.00 p. pd.

The National Park Service, No. 2 - UNESCO Biosphere Reserves
(Positions on Property, Jan-Mar 1995, 12pp) .. \$3.00 p. pd.

The American Heritage Areas
Background Brief, July 1995, 2 pp free

Building & Zoning Codes
(Positions on Property May-Dec. 1996, 32pp) .. \$6.00 p. pd.

Single copies priced as listed. Please enquire for multiple copies.

For up to 10 additional copies of Dangers of Designations at no charge, and additional information contact:
 The Property Rights Foundation of America, Inc.
 P.O. Box 75, Stony Creek, NY 12878 (518) 696-5748

The Property Rights Foundation of America, Inc. is a national, New York-based not-profit organization dedicated to the right to own and use private property guaranteed in the United States Constitution.

The Foundation publishes *Positions on Property* (\$25.⁰⁰ yearly), a quarterly journal of information, analysis and ideas on private property rights, and the *New York Property Rights Clearinghouse* (\$25.⁰⁰ yearly), a quarterly newsletter of current information on property rights across New York and the Northeast.



DAVID L. BRIGHT SR.

MR. CHAIRMAN, I WANT TO THANK YOU AND THIS COMMITTEE FOR HOLDING THESE VERY IMPORTANT HEARINGS.

MY NAME IS DAVID BRIGHT. I AM AN ARKANSAS REAL ESTATE BROKER AND I RESIDE IN NEWTON COUNTY, ARKANSAS. NEWTON COUNTY IS HOME TO THE HEADWATERS OF THE BUFFALO RIVER, AMERICA'S FIRST NATIONAL RIVER.

MR. CHAIRMAN, THE FEASIBILITY STUDY FOR AN OZARK MAN AND THE BIOSPHERE STATED ON PAGE 71, "...THE NATIONAL PARK SERVICE CONDEMNED LAND AND FORCED PEOPLE FROM THEIR HOMES MORE RECENTLY THAN OTHER AGENCIES. CONSIDERABLE ILL WILL PERSISTS AROUND THIS ISSUE". I CAN HONESTLY SAY THAT IN THE COMMUNITY OF ERBIE WHERE I GREW UP NO ONE HAS ANY SUCH "ILL WILL". INDEED, MR. CHAIRMAN, NO ONE LIVES IN MY COMMUNITY. MY NEIGHBORS WERE FORCED OFF OF THEIR PROPERTY AND OUT OF THEIR HOMES. HOMES, BARNS AND IMPROVEMENTS WERE BURNED, DOZED OR HAULED OFF. THIS HAPPENED TO DOZENS OF COMMUNITIES UP AND DOWN THE BUFFALO RIVER.

THE TRUTH IS, MR. CHAIRMAN, WE DO BELIEVE IN AND SUPPORT THE GOVERNMENT OUR FOUNDING FATHERS ENVISIONED. IN FACT, THE CONSTITUTION IS THE ONLY HOPE OF MINORITIES SUCH AS THE HILL PEOPLE OF THE OZARKS. WE BELIEVE THAT THE MAIN ROLE OF GOVERNMENTS IS TO PROTECT THOSE UNALIENABLE RIGHTS PROMISED IN THE CONSTITUTION, CHIEF OF WHICH IS THE RIGHT TO OWN PROPERTY WITHOUT THE FEAR OF LOSING THAT RIGHT, SIMPLY BECAUSE SOME INDIVIDUAL OR GROUP DESIRES YOUR LAND. CONDEMNATION SHOULD BE A NEED, NOT A WANT.

MR. CHAIRMAN, THE PEOPLE OF MY AREA ARE SIMPLE PEOPLE. SOME HAVE SAID WE'RE JUST A BUNCH OF HILLBILLIES. IT IS TRUE THAT A LOT OF US DO NOT HAVE, AS THEY SAY AT HOME, A "LOT OF BOOK LEARNING" BUT WE SURE ARE HIGH ON COMMON SENSE. WE UNDERSTAND EMINETE DOMAIN AND SUPPORT ITS RIGHTFUL USE FOR HONEST COMPELLING PUBLIC NEED. THAT'S COMMON SENSE. NO ONE WANTS TO SEE A SUPER HIGHWAY JOG AROUND SOMEONE'S FORTY, NOR SEE POWER LINES STOP AT AN UNWILLING PROPERTY OWNERS LAND. WE DO NOT BELIEVE THAT IT IS A COMPELLING PUBLIC NEED NOR SHOULD PEOPLE LOSE THEIR HOME BECAUSE THE PUBLIC WANTS TO CAMP IN THEIR HAY FIELD. WE THOUGHT THAT COMMON SENSE WOULD PREVAIL. IT NEVER DID.

EVERY YEAR IT SEEMS AMERICA FACES A DISASTER OF ONE FORM OR THE OTHER TORNADOES, EARTHQUAKES, HURRICANES AND THIS YEAR IT WAS THE FLOODS OF THE UPPER MID WEST. STATE AND FEDERAL AGENCIES SWUNG INTO ACTION. THE NATIONAL MEDIA REPORTED DAILY THE FIGHT TO SAVE THE HOMES AND PROPERTY OF THOSE PEOPLE. CITIZENS FROM ALL OVER THE COUNTRY WORKED DAY AND NIGHT, SIDE BY SIDE, TO FILL AND PLACE SAND BAGS TO KEEP THE RIVER AT BAY AND SAVE THOSE HOMES AND BUSINESSES.

BY THE SAME TOKEN, MR. CHAIRMAN, AMERICA FIGHTS IN FOREIGN ARENAS LIKE KOREA, BOSNIA, SOMALIA, KUWAIT AND OTHERS TO INSURE THAT THE

CITIZENS OF THOSE COUNTRIES ARE SECURE IN PERSON AND PROPERTY. AMERICANS AGONIZE AS THE NATIONAL MEDIA SHOWS PICTURES OF THOSE MADE HOMELESS BY THEIR GOVERNMENTS INABILITY TO PROTECT THEIR HOMES. AMERICAN AID, AND IN MANY CASES AMERICAN TROOPS, ARE SURE TO FOLLOW, AND RIGHTFULLY SO. WE ALL REMEMBER KUWAIT. LIKE A MOVIE WITH A CAST OF THOUSANDS, WE ALL CHEERED WHEN THE BAD GUYS WERE DEFEATED AND THE RIGHTFUL OWNERS IN KUWAIT WERE ALLOWED TO ONCE AGAIN RECLAIM THEIR HOMES AND LAND.

HOW SENSITIVE WE ARE AS A NATION TO THE PLIGHT OF PEOPLE LOSING THEIR HOMES AND PROPERTY. THE EXCEPTION, MR. CHAIRMAN, IS THE SEEMINGLY TOTAL LACK OF CONCERN FOR OUR OWN PEOPLE IF THEY SHOULD HAPPEN TO OWN ANYTHING THE PUBLIC DESIRES OR AN ANIMAL MIGHT WANT TO USE. AS AN AMERICAN CITIZEN YOU MUST BE ALERT IF YOU OWN WATER, BEAUTIFUL WOODS OR VIEWS, LAND WITH UNIQUE OR UNUSUAL PHYSICAL CHARACTERISTICS, OR IF YOU OWN ANYTHING THE PUBLIC WANTS TO USE. IN AMERICA, WE HAVE EXTENDED THAT RIGHT OF USE TO ANYTHING THAT CREEPS, CRAWLS, HOPS OR WIGGLES ACROSS THE EARTH. AS AN AMERICAN PROPERTY OWNER YOU COULD FACE ARREST FOR SIMPLY TRYING TO PROTECT YOUR FAMILY'S HOME. THE CRIME; PLOWING A FIRE BREAK AROUND YOUR PROPERTY THAT MIGHT KILL OR DESTROY THE HABITAT OF A RAT. SHOULD A REDHEADED BIRD WANT TO NEST IN YOUR WOOD'S YOU COULD LOSE EVERY BENEFIT OF PROPERTY OWNERSHIP. IN SHORT, MR. CHAIRMAN, WHILE WE CAN PROTECT PEOPLE HOMES AND LANDS AROUND THE WORLD FROM BOMBS, AND THUGS WITH GUNS, WE CANNOT PROTECT OUR OWN PEOPLE'S HOMES AND LAND FROM PUBLIC DESIRE, OR EVEN FROM BIRDS, RATS, AND BUGS.

MR. CHAIRMAN, NO ONE CARED WHEN THE PEOPLE OF THE BUFFALO RIVER LOST THEIR HOMES. THERE WERE NO TROOPS, NO GREAT AMERICAN SHOW OF SYMPATHY, NO FEDERAL GOVERNMENT SPRINGING INTO ACTION TO ASSURE THAT A SIMPLE UNSOPHISTICATED PEOPLE'S PROPERTY WAS PROTECTED. ON THE CONTRARY, FEDERAL AGENTS BULLIED, THREATENED AND INTIMIDATED TO ACCOMPLISH THEIR AGENDA. THAT AGENDA WAS REMOVING ALL PEOPLE FROM THE LAND THAT WAS TO BECOME THE BUFFALO NATIONAL RIVER. AMERICA PROBABLY SPENT LESS PER FAMILY ON ACQUISITION OF THE BUFFALO RIVER THAN IS REQUIRED TO GET RELIEF TO A FAMILY IN NORTH KOREA.

WE HAD NEWTON COUNTY BOYS WHO GAVE THEIR LIVES TO PROTECT THE HOMES AND PROPERTY OF THE PEOPLE OF SOUTH KOREA AGAINST THE COMMUNIST GOVERNMENT OF NORTH KOREA. THEY PROBABLY COULD NOT IMAGINE THEIR GOVERNMENT HAVING SO LITTLE SYMPATHY IN FORCING THEIR FAMILIES FROM THEIR HOMES, AND YET A GOVERNMENT WHO'S HEART COULD STILL REACH OUT TO THE NEEDS OF THE PEOPLE OF NORTH KOREA. FRANKLY MR. CHAIRMAN, NEITHER DO I. I UNDERSTAND THE NEED OF THE LATTER, HELPING THE PEOPLE OF NORTH KOREA. I DON'T UNDERSTAND THE FORMER.

NOBODY SHOWED UP TO PROTEST OR MARCH ON THE CAPITOL FOR THE CIVIL RIGHTS THAT WERE BEING TAKEN FROM THE FOLKS OF THE BUFFALO RIVER. EXCEPT FOR OUR LOCAL PAPER, WHAT MEDIA REPORTING THERE WAS TOUTED

HOW WONDERFUL THAT OUR AREA WOULD BE AS A NATIONAL PARK AND THE RIVER WOULD NOW BE PROTECTED AND ENJOYED BY "FUTURE GENERATIONS". ONLY OUR LOCAL PAPER TOLD THE STORIES LIKE THAT OF MRS. VILLINES.

MRS. VILLINES HAD LIVED ALL HER LIFE ON THE PLACE THE PARK SERVICE TOOK FROM HER. IT WAS HER FATHER'S PLACE AND THE PLACE OF HER BIRTH. WHEN SHE MARRIED, THE NEW COUPLE BUILT A HOUSE ON THAT LAND. ALL OF THEIR FAMILY WAS BORN AND RAISED ON THAT LAND. THE DAY THEY MOVED MRS. VILLINES OUT SHE SET ON THE FIREPLACE HEARTH AND WEPT ALL DAY. MRS. VILLINES WAS TO MOVE TO A NEW HOUSE BUILT FOR HER BY HER SON. MRS. VILLINES ASKED HER SON IF SHE HAD TO MOVE INTO THE NEW HOUSE. HE ASSURED HER SHE DIDN'T HAVE TO UNTIL SHE WAS READY. SHE NEVER DID MOVE INTO THAT NEW HOUSE. MRS. VILLINES DIED WITHIN JUST A FEW MONTHS OF BEING FORCED FROM HER HOME ON THE BUFFALO RIVER. MRS. VILLINES LOST MUCH MORE THAN LAND. SHE LOST HER'S AND HER CHILDREN'S ANCESTRAL HOME, HER CULTURE AND THE RICH HERITAGE OF THE VILLINES FAMILY; A HERITAGE THAT HAD ALWAYS BEEN TIED TO THE BUFFALO RIVER. HER DOCTOR STATED HER DEATH WAS STRESS RELATED. I SAY IT WAS FROM A BROKEN HEART. THE FEASIBILITY STUDY FOR AN OZARK MAN AND BIOSPHERE STATES ON PAGE 48 "THEIR (OZARK PEOPLES) SOCIAL SYSTEM OF CLOSE RELATIONSHIPS WITH FAMILY AND FRIENDS IS VERY MUCH A PART OF THEIR WAY OF LIFE. THEY DEPEND ON AND HELP ONE ANOTHER. THEY SHARE JOYS, SORROWS, FOOD, CHORES AND SERVICES. THERE ARE STRONG EMOTIONAL TIES AND A STRONG SENSE OF SECURITY AND BELONGING." THE FEASIBILITY STUDY CONTAINS VERY FEW TRUTHS. THIS IS ONE OF THEM. PLEASE REMEMBER THAT MRS. VILLINES DID NOT HAVE TO LOSE HER HOME FOR PEOPLE TO FLOAT, FISH, OR ENJOY THE BUFFALO RIVER.

MR. CHAIRMAN, IF KUWAIT, BOSNIA, NORTH KOREA AND OTHERS CAN CALL AND COUNT ON THE U.S. GOVERNMENT FOR HELP, SHOULDN'T A SMALL SEGMENT OF AMERICAN CITIZENS BE ABLE TO? WHO DO WE TURN TO FOR HELP WHEN WE ARE BEING FORCED FROM OUR HOMES OR OUR PROPERTY IS THREATENED? IF AMERICA CAN PROTECT WITH VIGOR, PEOPLES PROPERTY WORLD WIDE, SHOULDN'T EVERY AMERICAN GO TO BED AT NIGHT SECURE THAT THEIR PROPERTY IS SAFE. MY FAMILY AND I DON'T. WE LIVE HALF A MILE FROM THE PARK BOUNDARY IN THE BUFFALO RIVER WATERSHED. WE LIVE ON LAND THAT HAS BEEN IN MY WIFE'S FAMILY SINCE THE GOVERNMENT PATENTED IT TO HER GREAT GRANDFATHER. WE REMEMBER THE BUFFALO NATIONAL RIVER TAKING, AND ALWAYS FEEL UNEASY ABOUT OUR OWN HOME. IT IS SAD TO ME THAT ANY CITIZEN OF THE GREATEST, MOST SECURE NATION ON EARTH, SHOULD HAVE TO WORRY ABOUT THE SECURITY OF THEIR OWN HOMES AND LANDS.

MR. CHAIRMAN, MY HOPE IS THAT BY TELLING THIS COMMITTEE HOW A FEDERAL RIVER HAS WORKED FOR THOSE COUNTIES AND PEOPLE ALONG THE BUFFALO RIVER WE MIGHT SAVE SOME OTHER COMMUNITY OR PEOPLE THE HEARTACHES THAT COME FROM LOSING THE HOMES AND LAND THAT THEY AND THEIR FATHERS WORKED SO HARD TO PRESERVE, OR EVEN LOSING THE RIGHT TO FREELY CHOOSE HOW BEST TO UTILIZE THAT LAND. FREEDOM AFTER ALL IS ABOUT CHOICES; INDIVIDUAL CHOICES, NOT GROUP CHOICES.

THE ERBIE CHURCH HOUSE WAS ALWAYS THE CENTER OF ALL ACTIVITY FOR OUR COMMUNITY. WE WORSHIPPED THERE, MARRIED THERE, DEDICATED OUR CHILDREN TO OUR GOD THERE, HELD MONTHLY COMMUNITY DINNERS THERE AND SAID OUR FINAL GOOD-BYES TO THE ONES WE LOVED THERE. THE COMMUNITY WITNESSED MY WIFE'S AND MY MARRIAGE AT ERBIE CHURCH MORE THAN 30 YEARS AGO AND CELEBRATED WITH US THE BIRTH OF EACH OF OUR CHILDREN. THEY WERE THERE ALSO WITH LOVE AND SUPPORT AS MY WIFE AND I SAID GOOD-BYE TO OUR OWN BABY DAUGHTER. THE COMMUNITY WENT WITH US AS WE BURIED OUR DAUGHTER IN CHERRY GROVE CEMETERY JUST ACROSS THE RIVER FROM OUR CHURCH.

BOTH THE CHURCH AND THE CEMETERY ARE NOW INSIDE THE PARK BOUNDARIES AND BOTH ARE ALSO AN ECO-TOUR DESTINATION, THE CEMETERY FOR THE CIVIL WAR ERA GRAVES IT CONTAINS. NEWTON COUNTY PEOPLE HAD LIVED, LOVED, PROTECTED AND FOUGHT TO PRESERVE THE BUFFALO RIVER FOR MORE THAN 150 YEARS. THE CHURCH HOUSE IS A TOUR DESTINATION. I SUPPOSE BECAUSE PEOPLE ARE CURIOUS WHERE A HILLBILLY WORSHIPPED HIS GOD. ERBIE WAS A CLOSE COMMUNITY FILLED WITH FAMILY, AND FRIENDS WE LOVED AS MUCH AS FAMILY. THEY SAY YOU CAN NEVER GO HOME AND FOR ME AND MY FAMILY WE TRULY NEVER WILL BE ABLE TO.

THE FIRST PARK RANGERS I EVER SAW WERE THE TWO WHO CAME TO ERBIE CHURCH HOUSE IN THE EARLY SEVENTIES. THEY WERE WELL DRESSED, WELL EDUCATED, SOFT SPOKEN, AND FRIENDLY. IN SHORT MR. CHAIRMAN, THEY WERE REAL NICE AND COULD HAVE STARRED IN A DISNEY DOCUMENTARY. THEY MADE US ALL BELIEVE THAT THEY WERE OUR LONG LOST BUDDIES.

THEY SAID THEY WERE THERE TO ANSWER QUESTIONS CONCERNING THE RUMORS RUNNING RAMPANT ABOUT THE TAKING OF OUR RIVER. TIME HAS PROVEN THEY WERE REALLY THERE TO SAY ANYTHING TO KEEP US FROM RAISING A FUSS UNTIL THE LEGISLATION PASSED AND THE FUNDING WAS APPROVED THAT WOULD COST MY NEIGHBOR'S THEIR LAND, HOMES AND HERITAGE, AND ME AND MY NEIGHBORS, OUR COMMUNITY, AND OUR RIVER CUSTOMS AND CULTURE. ERBIE NOW IS JUST A PARK SIGN AT A CAMPGROUND LOCATED ON LAWRENCE WEBB'S AND GRADEN HICKMAN'S BOTTOMLAND HAY MEADOW. THE CAMPGROUND IS MORE THAN A MILE FROM ERBIE CHURCH HOUSE. PLEASE REMEMBER, WE DID NOT NEED TO LOOSE OUR COMMUNITY FOR PEOPLE TO FLOAT, FISH OR ENJOY THE BUFFALO RIVER.

MR. CHAIRMAN, IT IS A GREAT FAILING OF SIMPLE, HONEST PEOPLE TO BELIEVE THAT ALL PEOPLE ARE HONEST. WE BELIEVED 100% OF WHAT THE RANGERS TOLD US. WE WERE WRONG 95% OF THE TIME. IN RETROSPECT, I AM SURE THAT WE REACHED WHAT BUREAUCRATS NOW LOVE TO CALL A CONSENSUS AT THAT ONE AND ONLY MEETING THE RANGER HELD IN MY COMMUNITY.

WE WERE MOST CONCERNED ABOUT OUR OLD FOLKS LOSING LAND THAT HAD BEEN IN THEIR FAMILIES FOR GENERATIONS. THE RANGERS TOLD US THAT NO ONE WOULD BE FORCED OFF OF THEIR LAND. THEY EXPLAINED

THAT THE GOVERNMENT DID NOT DIE AND THEREFORE HAD TIME TO WAIT UNTIL OUR OLD FOLKS DIED BEFORE TAKING POSSESSION OF THEIR LAND. WE THOUGHT THAT AT LEAST OUR OLD FOLKS WOULDN'T BE UPROOTED. THEY SAID THEY UNDERSTOOD OUR CONCERNS AND WOULD WORK WITH THE COMMUNITY TO ASSURE THAT NO ONE WAS UNDULY HARMED. THEY CLAIMED THAT THE PARK SERVICE WAS ESPECIALLY SENSITIVE TO PEOPLE WHOSE FAMILIES HAD OWNED THE LAND FOR GENERATIONS. ONE OF THE RANGERS EVEN MADE A STATEMENT ABOUT HIS OLD HOME PLACE STILL BEING OCCUPIED BY HIS FAMILY AND HE SURE WOULDN'T SUPPORT ANYTHING THAT WOULD TAKE PEOPLES OLD HOME PLACES. WE LOVED EVERYTHING THEY WERE SAYING. IT MADE SENSE.

THE RANGERS LIED. THE OLD FOLKS WERE MOVED OUT IN SHORT ORDER BY PARK SERVICE RANGERS THAT SHOWED NO CONCERN FOR ANYBODY OR ANYTHING. NONE OF OUR OLD FOLKS DIED ON THEIR LAND. IN SOME CASES THEY WERE MOVED BY GUN TOTING FEDERAL MARSHALS. WE FELT THEN, AND STILL DO, THAT WE HAD BEEN OVERRUN AND OCCUPIED BY A GOVERNMENT WE DID NOT KNOW.

THE RANGERS TOLD US THAT EXCEPT FOR A FEW EXCEPTIONS FOR CAMP GROUNDS AND OTHER NEEDED FACILITIES THEY ONLY WANTED THE RIVER, AND WOULD BE TAKING A MERE 50 FEET ABOVE THE HIGH WATER MARK FOR THE NATIONAL RIVER. THAT WOULD HAVE AFFECTED NO ONE'S HOME IN MY COMMUNITY. EVERYBODY AGREED THAT THEY WOULD BE WILLING TO GIVE UP 50 FEET OF LAND FOR A PARK. WE AGREED IT MADE COMMON SENSE.

THE RANGERS LIED. I AM NOT AWARE OF ANY PLACE THAT THE PARK SERVICE LINES ARE ONLY 50 FEET FROM THE RIVER. INDEED, ERBIE CHURCH WAS A HALF MILE FROM THE RIVER. THE PARK BOUNDARIES ARE 3 TO 5 MILES WIDE IN THAT AREA.

THE RANGER SAID THAT WE LIVED IN A BEAUTIFUL, SPECIAL PLACE THAT SHOULD BE MADE ACCESSIBLE FOR ALL PEOPLE TO ENJOY, AND PROTECTED FOR FUTURE GENERATIONS. WELL, MR. CHAIRMAN, WE COULDN'T HAVE AGREED MORE. WE DID LIVE IN A SPECIAL, BEAUTIFUL PLACE ON EARTH. WE SURE DIDN'T MIND IF THEY MADE IT MORE ACCESSIBLE. OUR OLD DIRT ROADS WERE LOUSEY. BESIDES, NOBODY HAD EVER STOPPED ANYONE FROM FLOATING OR FISHING ON THE BUFFALO.

THERE WERE NO FENCES ACROSS THE RIVER. ALL OF THE FENCES WERE WELL ABOVE THE HIGH WATER MARK. NO ONE HAD EVER PUT UP A NO TRESPASSING SIGN. MOST HOMES DIDN'T EVEN HAVE DOORS THAT HAD LOCKS, AND IF THEY DID NO ONE LOCKED THEM. MORE CONSENSUS, BY WHAT THE RANGERS WERE TELLING US. WE JUST DID NOT SEE HOW IT WOULD AFFECT OUR DAY-TO-DAY LIFE. IN OUR CULTURE WE SURE DIDN'T MIND SHARING WHAT WE HAD, INCLUDING THE BUFFALO RIVER.

I AM ASHAMED NOW AT HOW NAIVE AND GULLIBLE WE WERE IN THE FACE OF THOSE NICE TALKING RANGERS, WILLING TO DECEIVE A TRUSTING PEOPLE. FRANKLY, IN OUR CULTURE IT IS INCONCEIVABLE THAT PEOPLE WOULD LIE IN GOD'S HOUSE. GROWING UP IN A COMMUNITY WHERE NO ONE

HAD MUCH EXCEPT HIS REPUTATION, A MAN WOULD RATHER LOSE HIS RIGHT ARM THAN BE CONSIDERED A LIAR BY HIS NEIGHBOR. THE ONLY DEFENSE AGAINST A LIAR IS TO KNOW THE TRUTH. ERBIE COMMUNITY HAD NO DEFENSE AGAINST THE RANGERS. THE PARK SERVICE DID NOT NEED TO LIE FOR FOLKS TO FISH, FLOAT OR ENJOY THE BUFFALO RIVER.

THE PARK HAS NOT MADE BETTER ACCESS. IN FACT, THE PARK SERVICE HAS LIMITED ACCESS BY BLOCKING MANY OF OUR COUNTY ROADS, SOME WITH BOULDERS, SOME WITH CABLES AND LOCKS SO THAT THE PARK SERVICE CAN USE OUR ROADS BUT THE PEOPLE OF THE COUNTY WHO PAID TO CONSTRUCT THEM CANNOT. THEY NOW CALL THESE ROADS PARK SERVICE ROADS. HOW DID THESE ROADS BECOME THEIR'S? NEWTON COUNTY DID NOT DEED THEM TO THE PARK SERVICE. NEITHER THE COUNTY NOR THE PEOPLE ABANDONED THEM. WE WERE TOLD, HOWEVER, THAT WE WOULD BE BREAKING FEDERAL LAW AND WOULD FEEL THE FULL WRATH OF THE FEDERAL GOVERNMENT IF WE ATTEMPTED TO RECLAIM THESE COUNTY ROADS. NOT EVEN OUR SHERIFF, COUNTY JUDGE, OR OUR MEDICAL EMERGENCY CREWS CAN USE THESE ROADS. AS A POOR COUNTY OUR LOCAL GOVERNMENT HAS BEEN AFRAID TO BUCK THE FEDERAL GOVERNMENT TO GAIN BACK CONTROL OF SOMETHING THAT WAS OURS ALREADY. THE PARK SERVICE DID NOT NEED TO STEAL OUR ROADS FOR FOLKS TO FISH, FLOAT OR ENJOY THE BUFFALO RIVER.

I DIDN'T UNDERSTAND THEN AND DON'T YET THE TERM "PROTECT FOR FUTURE GENERATIONS". WHO'S FUTURE GENERATIONS? CERTAINLY NOT JAMES FARMER'S FUTURE GENERATIONS. JAMES FARMER WAS AN OLD MAN WHEN I WAS JUST A KID. EVEN OUR PARENTS OUT OF RESPECT CALLED HIM GRANDPAW FARMER. HE OWNED SEVERAL HUNDRED ACRES THAT STRADDLED THE RIVER. GRANDPAW FARMER HAD NEVER LIVED ANY PLACE ELSE. GRANDPAW, HIS SON TILTON, AND TILTON'S FAMILY ALL LIVED IN THE OLD HOME PLACE WHERE THEIR FAMILY HAD LIVED AND WORKED FOR AS LONG AS ANYONE COULD REMEMBER. GRANDPAW FARMER NOW HAS FOUR GENERATIONS LIVING. WHY DIDN'T GRANDPAW FARMER'S FUTURE GENERATIONS COUNT? ROY KEETON'S FAMILY ALSO NUMBERS FOUR GENERATIONS, AND COUNTLESS OTHERS COULD TELL SIMILAR STORIES, NONE OF WHOSE FUTURE GENERATIONS COUNTED. MR. CHAIRMAN, JUST WHOSE FUTURE GENERATIONS DO COUNT?

MR. CHAIRMAN, WE LOST OUR HIGHEST ASSESSABLE LAND, OUR CHOICE FARMS, AND LITERALLY THE GUTS OF OUR COUNTY FOR A PARK. WE WERE TOLD THAT TOURIST DOLLARS WOULD MAKE UP FOR ANY LOSS OF JOBS OR INCOME. ALSO A PARK SERVICE LIE. OUR BEST BOTTOMLAND FARMS LAY IDLE AND GENERATE A MERE .75 CENTS AN ACRE FOR MY COUNTY'S COFFERS. PLEASE COME LOOK AROUND MY COUNTY, SEE IF YOU CAN FIND ANY NEW BUSINESSES PURCHASED BY TOURIST DOLLARS THAT WOULD OFFSET THE LOSS OF THE FARMS, HOMES, AND FAMILIES ALONG THE BUFFALO RIVER. AFTER 25 YEARS OF PARK SERVICE INFLUENCE AND USING MY COUNTY AS SOME KIND OF EXPERIMENT ON TOURIST JOBS VERSUS REAL YEAR-ROUND HARD JOBS, WE SURRENDER. WE'RE BROKE. WE NOW HAVE YEARS THAT WE LAY OFF OUR COUNTY ROAD CREWS SEVERAL MONTHS FOR LACK OF FUNDS.

MR. CHAIRMAN, MAYBE WE WOULD HAVE FELT BETTER ABOUT WHAT HAPPENED TO OUR COMMUNITY IF WE COULD HAVE AT LEAST DEALT WITH AN AGENCY THAT HAD A LITTLE COMMON SENSE. AN AGENCY WHOSE PEOPLE WEREN'T SUCH ARROGANT, SUPERIOR ACTING LIARS. WERE THEN; ARE NOW.

THE FIRST BOUNDARY CORNERS FOR THE PARK WERE FLOWN IN. THEY WERE TOTALLY OFF AND SURELY NOT LEGAL CORNERS. THE OLD LAND CORNERS WERE THERE. THE LOCALS TRIED TO TELL THE PARK SERVICE THAT, AND SHOW THEM THE OLD CORNERS. YOU CAN'T TELL THE PARK SERVICE ANYTHING. THE PARK SERVICE PUT STAKES ACROSS PEOPLE'S HAY MEADOWS AND THROUGH THEIR WOODS. THE PARK INFORMED THE LOCALS THAT IF THEY USED THEIR OWN LAND THAT THE PARK SERVICE NOW CLAIMED, THEY WOULD BE DESTROYING GOVERNMENT PROPERTY, AND WOULD BE PROSECUTED TO THE FULL EXTENT OF THE LAW.

IN THE EARLY EIGHTIES, THE PARK SERVICE FINALLY CONTRACTED FOR A LAND SURVEY. IT WAS NO BETTER THAN THE FLOWN-IN CORNERS. WE WERE THEN FORCED TO ACCEPT AND SURVEY FROM THE NEW GOVERNMENT MARKERS. WE DID SO FOR MORE THAN TEN YEARS. OUR LINES CHANGED AGAIN.

IN THE EARLY NINETIES THE BLM SURVEY CREWS CAME IN. THEY TOLD ME THAT THE PARK SERVICE'S ACCEPTANCE OF THE PREVIOUS SURVEY DID NOT MEET THE PARK SERVICE'S OWN CRITERIA AND SHOULD HAVE NEVER BEEN ACCEPTED OR PAID FOR. THE BLM DID FIND MANY OF THE OLD CORNERS AND WE FEEL PRETTY CONFIDENT IN THEIR SURVEY. UNFORTUNATELY IN SOME CASES IT DISAGREES WITH THE CORNERS WE HAD BEEN FORCED TO USE, BY HUNDREDS OF FEET. WE NOW HAVE HOUSES AND FENCES THAT DO NOT SIT ON THE LAND WHERE THEY BELONG, THANKS IN FULL TO THE ARROGANCE OF THE PARK SERVICE. MAYBE ITS BEST SAID BY DEUTERONOMY 27: 17 "CURSED BE HE THAT REMOVETH HIS NEIGHBOR'S LANDMARK. AND ALL THE PEOPLE SHALL SAY, AMEN". THE PARK SERVICE SHOULD BE CURSED AT LEAST THREE TIMES. COMMON SENSE WOULD HAVE PREVENTED THIS FIASCO. THE PARK SERVICE IS DEVOID OF COMMON SENSE. THE PARK SERVICE DID NOT HAVE TO IGNORE OUR OLD RECOGNIZED CORNERS FOR FOLKS TO FISH, FLOAT, OR ENJOY THE BUFFALO RIVER.

MR. CHAIRMAN, WEBSTER DEFINES STEALING AS TAKING SOMETHING BY DECEIT OR FORCE FROM IT'S RIGHTFUL OWNERS. MANY OF US BELIEVE THAT THE BUFFALO RIVER WAS STOLEN. MANY WILL NOT AGREE. WE SHOULD ALL BE ABLE TO AGREE HOWEVER, THAT OUR COUNTY ROADS WERE STOLEN AND REMAIN IN THE POSSESSION OF THE THIEVES TO THIS DAY.

THE ROADS THAT THE PARK SERVICE CONFISCATED ARE PARTICULARLY EGREGIOUS TO THE LOCAL RESIDENTS. IT HAS LEFT THE COUNTY UNABLE TO INSURE THE CITIZENS SAFETY AND WELFARE AND HAS CAUSED OUR OWN ELECTED OFFICIALS TO BREAK OUR STATE LAWS. ARKANSAS LAW SAYS THAT THE COUNTY JUDGE (OUR HIGHEST ELECTED COUNTY OFFICIAL) WILL MAINTAIN AUTOMOBILE ACCESS TO ALL CEMETERIES. MANY OF THOSE ROADS ARE NOW BLOCKED BY THE PARK SERVICE. THE PARK SERVICE DID NOT NEED TO RESTRICT ACCESS TO OUR CEMETERIES FOR FOLKS TO FISH,

FLOAT, OR ENJOY THE BUFFALO RIVER. NO COMMON SENSE.

THIS SPRING A ROCK CLIMBER FELL FROM A BLUFF AND WAS CRITICALLY INJURED. ONE OF THE LOCAL FIRST RESPONDERS TOLD ME IT TOOK THREE HOURS TO CARRY THE MAN TO MEDICAL HELP. HE ALSO TOLD ME THAT THE FALL HAPPENED WITHIN 100 YARDS OF A COUNTY ROAD WE CALL CENTER POINT ROAD. THAT ROAD IS SHUT OFF FROM USE BY THE PARK SERVICE BY A CABLE AND LOCK. THE PARK SERVICE DID OPEN THAT ROAD SO THAT MACHINERY COULD HAUL OUT A HORSE THAT DIED IN THAT AREA. THE PARK SERVICE DID NOT NEED TO PUT OUR PEOPLE OR VISITORS AT RISK FOR FOLKS TO FISH, FLOAT OR ENJOY THE BUFFALO RIVER. NO COMMON SENSE.

YES, MR. CHAIRMAN, WE HAVE HAD LOTS OF EXPERIENCE THE PAST 25 YEARS DEALING WITH OUR NEIGHBORS, THE PARK SERVICE. IN A PARTNERSHIP WITH THE ARKANSAS GAME AND FISH THEY RELEASED ELK ON THE BUFFALO RIVER. THEY DO NOT BUILD OR HELP FIX FENCES. THEY WANT THE ELK TO ROAM FREE. THEY DO ROAM FREE, THROUGH OUR FENCES, GARDENS, HAY FIELDS AND YARDS. SHOULD YOU BE UNFORTUNATE ENOUGH TO KILL ONE OF THESE ELK, NO MATTER WHAT THEY ARE DESTROYING, YOU WILL BE BREAKING STATE AND FEDERAL LAW AND WILL BE PROSECUTED TO THE FULL EXTENT THEREOF. SHOULD THE ELK TEAR DOWN YOUR FENCES, AND YOUR COWS GET ON PARK LAND, YOU WILL BE FINED. THE ARKANSAS DEMOCRAT SAYS THAT WOLVES WILL NOW BE RELEASED ON PARK SERVICE LAND. IF RELEASING AN ENDANGERED SPECIES WAS NOT SUCH A SERIOUS THREAT TO PRIVATE PROPERTY IT WOULD ALMOST BE FUNNY. THE PARK SERVICE WILL LITERALLY BE DOING WHAT THEIR MANAGEMENT PRACTICES HAVE DONE FIGURATIVELY FOR 25 YEARS: PUT A WOLF AT THE DOOR OF ALL NEWTON COUNTY PEOPLE. WE ALL KNOW THAT RELEASING ENDANGERED SPECIES HAVE ONE MAIN PURPOSE, THE DESTRUCTION OF PRIVATE PROPERTY RIGHTS. THE ARKANSAS GAME AND FISH AND THE PARK SERVICE KNOW THAT, LIKE THE ELK, THE WOLVES WILL NOT STAY ON PARK LAND. THE PEOPLE OF NEWTON COUNTY WILL NOW BE FORCED TO PROVIDE THEIR LAND AS HABITAT, AND THEIR STOCK (AND MAYBE THEIR KIDS) AS FODDER, FOR THE GREATER GOOD OF THE WOLF. THE PARK SERVICE DOES NOT NEED TO RELEASE ENDANGERED SPECIES IN OUR COUNTY FOR FOLKS TO ENJOY THE BUFFALO RIVER. NO COMMON SENSE.

YOU CAN ALSO BE FINED FOR PICKING A WILD FLOWER, PICKING UP A STONE, KILLING A POISONOUS SNAKE OR A REALM OF OTHER SUCH DESTRUCTIVE ACTIVITIES. ARMED PARK SERVICE EMPLOYEES PATROL OUR COUNTY ROADS AND STATE HIGHWAYS WITH COMPLETE POLICE POWER ENFORCING THEIR PARK RULES EVEN WHEN THEY DISAGREE WITH OUR OWN LOCAL AND STATE LAWS. NO COMMON SENSE.

MR. CHAIRMAN, WHERE WE ONCE BELIEVED 100% OF WHAT THE PARK SERVICE TOLD US AND WE WERE WRONG 95% OF THE TIME, WE HAVE GOTTEN SMARTER. WE NOW DON'T BELIEVE ANYTHING THE PARK SERVICE SAYS. WE ARE RIGHT 95% OF THE TIME NOW. WE ALWAYS EXPECT THE WORST FROM THE PARK SERVICE AND ARE SELDOM DISAPPOINTED. NONE OF THE LOCALS WERE TERRIBLY SURPRISED TO LEARN THAT THE PARK SERVICE WAS THE LEAD AGENCY IN TRYING TO NOMINATE THE OZARKS AS AN INTERNATIONAL

BIOSPHERE, OR TO LEARN THAT THEY WOULD BE THE ADMINISTRATIVE AGENCY ON THE LOWER MISSISSIPPI RIVER HERITAGE CORRIDOR SCHEME.

MR. CHAIRMAN, I KINGS: 21, 1-3 TELLS THE STORY OF NABOTH AND KING AHAB. IT STATES: "...NABOTH THE JEAREELITE HAD A VINEYARD..AND AHAB SPAKE UNTO NABOTH, SAYING, GIVE ME THY VINEYARD...AND I WILL GIVE THEE FOR IT A BETTER VINEYARD THAN IT; OR, IF IT SEEM GOOD TO THEE, I WILL GIVE THEE THE WORTH OF IT IN MONEY. AND NABOTH SAID TO AHAB, THE LORD FORBID IT ME, THAT I SHOULD GIVE THE INHERITANCE OF MY FATHERS UNTO THEE." THE OZARK PEOPLE, BEING WELL GROUNDED IN THE FAITH OF THEIR FATHERS, FELT MUCH AS NABOTH DID. THEY WOULD NEVER HAVE SOLD FOR MONEY OR TRADED, EVEN FOR BETTER LAND, THE LAND OF THEIR FATHER'S INHERITANCE. THE KING GAVE THEM NO CHOICE.

I PRAY THAT CONGRESS WOULD INVESTIGATE AND RETURN TO THE PEOPLE THEIR COUNTY ROADS. I PRAY THAT THIS CONGRESS WOULD PUT A BRIDLE ON THE FEDERAL AGENCIES THAT THINK THEY KNOW WHAT IS IN OUR BEST INTEREST, AND ALLOW US TO GOVERN OURSELVES ACCORDING TO OUR OWN CUSTOMS AND OUR OWN CULTURE. WE HAVE LITERALLY BEEN HELPED OUT OF HOUSE AND HOME. PLEASE GET THE ARMED PARK SERVICE AGENTS OFF OF OUR ROADS AND HIGHWAYS AND BACK ON THE PARK'S LAND. WE DO NOT TRUST, OR NEED THEM. WE HAVE A SHERIFF FOR OUR COUNTY ROADS AND THE STATE PATROL FOR OUR HIGHWAYS. UNDER OUR SYSTEM WE HAVE THE ADDED ADVANTAGE OF THROWING OUT ANY SHERIFF THAT ABUSES THEIR AUTHORITY.

MR. CHAIRMAN, THE PEOPLE OF THE OZARKS HAVE GIVEN ENOUGH. TIME TO ACT IS SHORT. IF OUR CULTURE IS TO BE SAVED CONGRESS MUST ACT NOW. WE ARE CURRENTLY UNDER AN ECO-SYSTEM ASSESSMENT BY THE U.S. FOREST SERVICE THAT WE ALL KNOW LEADS TO ECO-SYSTEM MANAGEMENT. WE ARE NO LONGER FOOLED. WHETHER WE LOSE OUR LAND AND THE USE OF IT BY CONDEMNATION, LIKE THE BUFFALO NATIONAL RIVER, OR IT IS REGULATED AWAY IN LITTLE OR LARGE PORTIONS BY BIOSPHERES, ECO-SYSTEMS MANAGEMENT PLANS, WATERSHED PROTECTION, RIVER INITIATIVE, HERITAGE SITES, OR RIVER CORRIDORS, THE OUTCOME IS THE SAME. MR. CHAIRMAN, THOSE THAT PUSH THIS STUFF CLAIM THAT MANY OF THESE DESIGNATIONS ARE "HONORARY". NEWTON COUNTY, FOR ONE, HAS BEEN HONORED SO MANY TIMES WITH WILDERNESS AREAS, WILDLIFE AREAS, SPECIAL PLACES, SENSITIVE PLACES, PARKS, SCENIC TRAILS AND BY-WAYS ETC. WE CAN HARDLY COPE. ALMOST EVERY "HONOR" HAS COST MY COUNTY JOBS AND FAMILIES. IT HAS ALSO DEVASTATED OUR ECONOMY, SCHOOL FUNDING, AND COUNTY REVENUE. AMERICA WITH IT'S UNIQUE FREEDOMS CANNOT SURVIVE IF WE CONTINUE DOWN THE ROAD WE HAVE STARTED ON. THAT ROAD LEADS TO COMPLETE CONTROL OF ALL OF AMERICA'S LAND BY THE FEDERAL BUREAUCRATS.

MY COUNTY WAS ONCE ALMOST ENTIRELY PRIVATELY OWNED. NOW, COUNTING PARK, U.S. FOREST AND STATE OWNERSHIP, HALF OF OUR COUNTY WILL NEVER HAVE AN ASSESSABLE IMPROVEMENT ON IT. HALF OF OUR COUNTY WILL NEVER HAVE A FAMILY LIVING ON IT. HALF OF OUR COUNTY WILL NEVER HAVE A BUSINESS ON IT. MR. CHAIRMAN, I MAY HAVE A

DIFFERENT DEFINITION OF HILLBILLY THAN MOST OF AMERICA. WE ALL MAY LAUGH AT JETHRO, UNCLE JED AND GRANNY, BUT THERE ARE SOME TRUTHS THAT CAN BE GLEANED FROM THEM AS IT RELATES TO THE OZARK PEOPLE AND THEIR CULTURE. THEY ARE HONEST, FAIR, AND LOYAL TO A FAULT. THEY ARE EXTREMELY RESOURCEFUL. CAN ANYONE IMAGINE THEIR COUNTY, OR INDEED ANY COUNTY IN AMERICA, HAVING THE IMPROVEMENTS ON HALF OF IT'S TAX BASE DOZED OFF AND STILL SURVIVE?

THE PARK SERVICE PROVIDES FEW IF ANY JOBS FOR NATIVE NEWTON COUNTY CITIZENS. THEIR LAND IS BASICALLY NON-PRODUCTIVE. THERE IS NO RESOURCE EXTRACTION ON PARK LAND AND FEW TOURIST. THE THEME PARK "DOGPATCH U.S.A." HAS BEEN BANKRUPT SEVERAL TIMES AND HAS BEEN CLOSED FOR SEVERAL YEARS. IT SITS JUST 3 MILES FROM THE PARK. WHERE WERE THE TOURIST'S BIG BUCKS? THERE ARE NUMEROUS GIFT SHOPS AND SMALL BUSINESSES CLOSED IN OUR AREA. WHERE WERE THE TOURIST'S BIG BUCKS? IN OUR COUNTY, TOURISM HAS PROVIDED JOBS AND OPPORTUNITIES TO RELATIVELY FEW PEOPLE.

NEWTON COUNTY HAS 197,000 ACRES OF FOREST SERVICE LAND. WILDERNESS AREAS, SCENIC AND WILD RIVER WAYS, SPECIAL AND SENSITIVE AREAS, MAKE UP 57% OF THESE ACRES AND IS MANAGED BASICALLY AS OLD GROWTH FOREST. THAT LEAVES 43% TO BE MANAGED FOR TIMBER. ON THAT 43% WE GROW APPROXIMATELY 12 MILLION BOARD FEET OF MARKETABLE TIMBER A YEAR. WE SHOULD BE HARVESTING 6 TO 8 MILLION BOARD FEET A YEAR MINIMUM. THE FOREST SERVICE'S OWN FIGURES STATE THAT FOR EVERY MILLION BOARD FEET WE HARVEST IT PROVIDES 23 FULL TIME JOBS AND \$550,000 DOLLARS OF ECONOMIC BENEFIT FOR MY COUNTY. MR. CHAIRMAN, THAT WOULD EQUATE TO 100 TO 200 JOBS AND 3 TO 4 MILLION DOLLARS FOR MY COUNTY.

MR. CHAIRMAN, THIS YEAR TO DATE LESS THAN 300 ACRES HAVE BEEN OFFERED FOR SALE IN NEWTON COUNTY. THAT SALE IS ABOUT 500,000 BOARD FEET AND WILL PROVIDE 13 JOBS AND LESS THAN \$300,000 DOLLARS OF ECONOMIC BENEFIT FOR MY COUNTY. IN AN ERA WHEN WE ARE SUPPOSED TO BE GOING FROM WELFARE TO WORK, DOES THIS MAKE SENSE? SHOULDN'T THE FEDERAL GOVERNMENT, WHO OWNS SO MUCH OF NEWTON COUNTY'S LAND BASE, FEEL OBLIGATED TO USE A PORTION OF THAT LAND TO CREATE JOBS AND OPPORTUNITIES FOR OUR COUNTY'S PEOPLE? IN A COUNTY OF 7,500; 200 JOBS MEANS THE DIFFERENCE BETWEEN GOOD SCHOOLS OR BAD SCHOOLS, FAMILIES LIVING OR JUST EXISTING.

TIMBER HARVESTING HAS BEEN A WAY OF LIFE FOR GENERATIONS TO OUR PEOPLE. THE FOREST SERVICE IS MANDATED TO USE OUR FOREST FOR MULTIPLE USE. UNLESS THE FOREST SERVICE HAS IDENTIFIED 600 USES, HARVESTING 300 ACRES CAN HARDLY BE CONSIDERED MULTIPLE USE. AT THAT RATE AN ACORN SPROUTING TODAY WILL HAVE GROWN INTO A 200 YEAR OLD TREE AND FALLEN OVER THREE TIMES BEFORE WE COULD CUT THE FOREST LAND IN NEWTON COUNTY ONCE. IT WOULD TAKE MORE THAN SIX HUNDRED YEARS. IN FACT, THE FOREST SERVICE IS USING NEWTON COUNTY FOREST AS SOME KIND OF GLORIFIED CAMP GROUND. THAT PROVIDES NO JOBS FOR A COUNTY THAT DESPERATELY NEEDS THEM.

MR. CHAIRMAN, I KNOW THAT WE ARE HERE TO TALK ABOUT RIVERS. I WOULD NOT HAVE MENTIONED THE FOREST SERVICE LAND EXCEPT FOR A BILL CALLED H. R. 1376. THAT BILL MENTIONS NEWTON COUNTY AND THE BUFFALO RIVER WATERSHED BY NAME. WE LEARNED LONG AGO THAT WHEN LITTLE OLD NEWTON COUNTY GETS SPECIAL MENTION IN WASHINGTON, WE'RE IN BIG TROUBLE. THIS BILL IS NO EXCEPTION. IT WOULD MAKE ALL FEDERAL FOREST SERVICE LAND IN NEWTON COUNTY A SPECIAL AREA AND WOULD PROHIBIT ALL TIMBER HARVESTING. MR. CHAIRMAN, NEWTON COUNTY ALREADY HAS 153,000 ACRES OF FEDERAL LANDS WHERE WE CANNOT CUT A STICK OF TIMBER. WE FEEL THAT WE HAVE ALREADY GIVEN SO MUCH FOR "SPECIAL AREAS" THAT CONGRESS SHOULD GO TO OTHER COUNTIES IN OUR NATION THAT HAVE SO FAR GIVEN NOTHING BEFORE WE ARE ASKED TO GIVE UP MORE JOBS, MORE FAMILIES, AND MORE SCHOOL FUNDING, BY DESIGNATING MORE NON-PRODUCTIVE LAND IN OUR COUNTY.

MR. CHAIRMAN, MAYBE I AM STILL JUST A NAIVE, GULLIBLE HILLBILLY, BUT I HAVE ALWAYS FELT THAT CHARACTERISTICS ALL AMERICANS SHARE ARE A SENSE OF FAIR PLAY AND COMMON SENSE. I HAVE ALWAYS BELIEVED THAT THE REASON WE HAVE FOUGHT MANY OF OUR WARS WAS BECAUSE THAT SENSE OF FAIR PLAY WAS VIOLATED. PUT SIMPLY, MANY OF US, I BELIEVE, STILL ADHERE TO THE "GOLDEN RULE". THAT'S WHY I CAME TO WASHINGTON. I FELT THAT IF I EXPLAINED TO THIS COMMITTEE, AND THROUGH THEM TO THE CONGRESS, WHAT NEWTON COUNTY HAD ALREADY GIVEN, THE BEST OF THEIR FARMS, THE BEST OF THEIR WATER (IN THE FORM OF THE BUFFALO RIVER, THE PINEY, AND RICHLAND CREEK) MANY ACRES OF THEIR WOODLAND, AND MANY OF THEIR COMMUNITIES, THAT CONGRESS WOULD NOT ASK US TO GIVE MORE OUT OF THEIR AMERICAN SENSE OF FAIR PLAY.

MR. CHAIRMAN, WE HAVE BEEN EXILED IN OUR OWN COUNTY TO LIVING ON THE RIDGE TOPS AND HILLSIDES. WE HAVE PERSISTED AND PREVAILED. WE HAVE LOST OUR HERITAGE, OUR HOMES, OUR LAND, OUR CEMETERIES, OUR NEIGHBORS, OUR COMMUNITIES, AND OUR ROADS. WE HAVE PERSISTED AND PREVAILED. WE CANNOT PREVAIL IF CONGRESS REFUSES TO PROVIDE THE JOBS CREATED BY HARVESTING THE TIMBER ON THE U. S. FOREST LAND. THE ARKANSAS FOREST COMMISSION AND THE U.S. FOREST SERVICE IN OUR AREA WILL TELL YOU THAT THE PRIVATE LAND HAS BEEN OVER CUT SINCE THE FOREST SERVICE IN OUR AREA, FOR ALL PRACTICAL PROPOSES, HAS STOPPED MARKETING TIMBER. WE HAVE DONE THAT TO KEEP OUR FRIENDS AND NEIGHBORS WORKING. WE CANNOT KEEP THAT UP. WE SIMPLY DO NOT HAVE ENOUGH PRIVATELY HELD LAND IN NEWTON COUNTY. WE ARE ASKING CONGRESS TO HELP US. WE DO NOT NEED MUCH HELP, JUST A CHANCE TO WORK.

THANK YOU, MR. CHAIRMAN. I WOULD BE GLAD TO ANSWER QUESTIONS.



Dan Blomquist, President
 P.O. Box 3050
 Columbia Falls, Mt. 59912-3050
 460-755-MFMU fax 406-892-2318
 E-mail: danb@digisvs.net

Sept. 24, 1997

I would like to thank the Honorable Don Young and all members of House Resources Committee for holding a hearing on H.R. 1842, the Honorable Helen Chenoweth's bill to terminate the American Heritage Rivers Initiative.

Montanans For Multiple Use (MFMU) is a nonprofit organization representing approximately 2500 people, in five chapter groups, who live, work, and recreate on public lands across the state of Montana. Our mission is to educate the public on the need for balanced environmental laws and public land use issues, with the goal of enhancing access to public lands for everyone. I'm also privileged to speak on behalf of the Montana Resource Providers Coalition, Women Involved in Farm Economics (WIFE), the Blue Ribbon Coalition, Northwest Mining Association, Montana Matters, Inc., Montana Wood Products Association, Montanans For Private Property Rights, Montana Stockgrowers Association, and a whole bunch of families and individuals who contributed, sometimes as little as \$10, to make it possible for me to be here today.

I am also here today on behalf of the Board of County Commissioners of Flathead and Lincoln Counties Montana. Both counties had representatives at the Western States Coalition meeting in Spokane, Wa. in July, 1997. The commissioners clearly understood Kathleen McGinty to state that, as representatives of local communities, they have the power to stop participation in the American Heritage Rivers Initiative at any time they chose and that their wishes would be honored. Therefore, by letter, they notified the CEQ that their counties would not participate in this program. If nominated, they will not accept or participate. If chosen, they will not acknowledge nor encourage any participation. They have asked me to convey this message to this committee and Congress that they are taking Ms. McGinty at her word and request that Congress, in their best judgement, do what is necessary to end the American Heritage Initiative.

The American Heritage Rivers Initiative (AHRI) appears to be an attempt to set aside and preserve 10 Heritage Rivers by Presidential proclamation. The information on AHRI released by the White House, so far, makes the initiative appear warm, fuzzy and possibly a boon to river communities. However, on closer examination, there are some clues that the AHRI is long on restoration and preservation with little emphasis on economics or protection of private property. The AHRI also contains danger signs of increased federal regulations and control of states water rights. The appointment of a "River Navigator" to administer an entire watershed, all of the federal agencies involved with the river and their ability to sidestep or shorten some of the federal regulations, such as public involvement, NEPA, causes grave concern.

Perhaps the most troubling aspect of the AHRI is that no opportunity for public comment has been allowed after the final design of the initiative has been presented by the President. The initiative is still very short on details and long on good feelings. There is very little information on the rules and regulation governing the initiative and what the enforcement mechanism will be. We are being asked to accept something as a good idea

without knowing what the final rules and regulations will be. Based on this administration's past track record, this is not encouraging.

At the Western States Coalition Summit, in Spokane, WA, Kathleen McGinty, Chair of the Council of Environmental Quality, stated that since there are no new regulations in the AHRI that the NEPA process was not necessary. NEPA is required for any major federal action. If the AHRI, involving 13 federal agencies, is not a major federal action than what are we all doing here and why are you holding this hearing. For Ms. McGinty to not know this, the law that she is charged with administrating, is inexcusable. This disregard, by the Executive branch, for the laws past by this Congress is one of the reasons that folks, living with the land, in the west feel so threaten by the AHRI.

Ms McGinty also promised, at the Spokane meeting, that a provision would be provided in the AHRI to allow a private property owner to "opt out" of the initiative if they so desired. In the final Federal Registry notice this provision was conspicuous by it's absents. Private property rights are offered almost no protection by this initiative. The initiative mentions that "due regard for the protections of private property rights provided by the Fifth Amendment to the United States Constitution." This is fairly thin "protection" as exemplified by the Endangered Species Act where the courts have ruled that as long as the owner still had some, though it may be much less than expected or planned for, use of his land it is not a takings.

In reading through the AHRI I find it to be sometimes vague and contradictory in places. That is a direct violation of NEPA, which calls for clear and concise documents. Under the heading **How do Communities Nominate a River and Who May Apply?** Paragraph 2: *...designate rivers that receive the highest evaluation...* No criteria for "evaluation" is given or cited. Without definition of the criteria for the evaluation we have no way of knowing how the process will occur. Another violation of NEPA. Paragraph 3: *"The second criterion from earlier notices, notable resource qualities, is no longer a criterion because it is primarily descriptive and thus, more difficult to objectively judge. However, it remains a key factor in selection."* In other words, it is not a criterion but we will still use it as part of the criteria to judge the selection process. Under, **3. Describe the community's plan of action.** *...designated river area should not adversely impact neighboring communities. Change should to must so neighboring communities are protected. In the last sentence of this paragraph once again change "should" to must describe how private property rights will be protected, not just respected. Throughout this section I find it very interesting that when describing the federal role the AHRI is full of may's and should's, but when describing the communities role musts and wills are used. This kind of wording indicates that the AHRI may not be as "community based" as the administration would have us believe. Again more reasons that those of us that live with these types of "top down, heavy hand" direction from above fear this Initiative.*

How Will Rivers Be Selected for Designation? *A panel of experts in river revitalization... Experts in what? No definition of revitalization. The Chair of CEQ shall develop procedures.... No definition of procedures. This entire document is vague and lacks definitions of terms. These things are all clear violations of NEPA. Why would Congress allow the Chair of CEQ and the President run roughshod over the laws they have enacted?*

I am aware that the Western Heritage Center in Billings, Mt. is asking that the Yellowstone River be designated an American Heritage River. It is my understanding that the Western Heritage Center is planning a project to increase tourist revenue by highlighting historical areas along the Yellowstone River and creating nice areas for the families and tourists along the river. Sort of a walk down memory lane. When asked about the environmental preservation side of the AHRI, they indicated that was not what they were interested in. This

is an ongoing project and an AHRI designation could be seen as a easier way to obtain federal grant dollars. While I feel that this may be a worthwhile project and grant monies are already available to them, it is not worth another executive order or creating a federal program for a project that will continue without a AHRI designation. The trouble with the AHRI is that there is no ceiling, it's completely open ended. Not being closely related to resource issues, I don't believe the Western Heritage Center sees that side of this Initiative.

Folks in the west, who have to live daily with the rules, regulations, and executive orders handed down from Washington, D.C., have grown tired, and somewhat fearful, of the intrusions of the federal government. Isabelle Fratt, from Kalispell, Mt., phoned me and said "she is so fed up with the governments attempts to control and interfere with every aspect of our lives and that this was such an important issue." Isabelle said "she couldn't do much but wanted to contribute \$10 to help me travel to D.C. to represent her" and "her children would be so proud to hear that her contribution was helping to bring someone from Montana to this hearing to oppose the AHRI." This alone should be proof of how strongly folks feel about this Executive order. People remember The Grand Staircase, Escalante land grab and how it has affected families who live, work, and recreate in Utah. They have good reason to fear this initiative.

When ever I think of the AHRI and the top down potential for control of the lives of everyday people, I can't help but think of some of the other federal programs that sounded like such a good idea at the time. The one that always comes to mind first is the Endangered Species Act. Now nobody wants to see little animals go extinct, but when I realize what it has done to people and how it has ruined some folks lives I can't help but wonder if we are headed down a similar path again. I know when I go out to the woods to enjoy a day with my family or to just renew myself and find that I am no longer wanted or allowed because of a program that sounded so good a the time. I feel for those who may meet the same fate when they go to the river and find a river has been rammed through it.

Thank you

Flathead County
Board of Commissioners
(406) 758-5503

Howard W. Gipe
Robert W. Watson
Dale W. Williams



August 25, 1997

Ms. Kathleen McGinty, Chair
Council on Environmental Quality
360 Old Executive Office Building
Washington, D.C. 20501

RE: American Heritage Rivers Initiative

Dear Ms. McGinty:

We have followed with interest the ongoing debate with respect to the American Heritage Rivers Initiative. We were present at your address to the Western States Coalition in Spokane, Washington. We requested and received all available information concerning the Initiative and would like to comment.

It would appear to us that the Initiative is a top down process which lacks definition. We are now invited to comment on a program which is yet to be defined and as we understand, once defined will "not" be available for comment. Now that simply seems a little backward to us.

We currently have a host of regulations and programs on the books that deal with our rivers, water boundaries, water rights adjudication, water pollutants, water quality and water recreation. We certainly do not need anything further.

We understand, from your comments in Spokane, that we as representatives of our local community have the power to stop our participation at anytime we choose and our wish will be honored.

By this letter, we are notifying you and our Congressional delegation, that Flathead County will not participate in this program, if nominated we will not accept or participate, and if chosen we will not acknowledge nor encourage any participation.

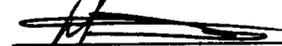
Ms. Kathleen McGinty
August 25, 1997
Page Two

Sincerely,
BOARD OF COMMISSIONERS
FLATHEAD COUNTY, MONTANA



Robert W. Watne, Chairman

Not Available for Signature
Howard W. Give, Member



Dale W. Williams, Member

FCBC:eca

cc: Representative Rick Hill
Senator Conrad Burns
Senator Max Baucus

BOARD OF COUNTY COMMISSIONERS

LINCOLN COUNTY

STATE OF MONTANA

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RITA R. WINDOM

DISTRICT NO. 2 TROY
LAWRENCE A. (LARRY) DOLEZAL
CLERK OF THE BOARD AND COUNTY RECORDER CORAL M. CUMMINGS
512 CALIFORNIA AVENUE
LIBBY, MONTANA 59923

DISTRICT NO. 3 SUREKA
MARIANNE B. ROOSE

August 27, 1997

Honorable Senator Conrad Burns
187 Dirksen Office Building
Washington, D.C. 20510

RE: American Heritage Rivers Initiative

Dear Senator Burns:

We would like to address our position on the above-referenced initiative. The little information available to us leads us to believe that the program is a top down process which lacks definition. Once defined, the initiative will not be available for comment.

The State of Montana, as well as the Federal government, already has a multiplicity of regulations and programs that govern our rivers, water boundaries, water rights adjudication, water pollutants, water quality and water recreation. Further governance would be onerous and unnecessary.

Ms. Kathleen McGinty, Chair of the Council on Environmental Quality addressed the Western States Coalition in Spokane, Washington, in July, 1997. We were present at that meeting. We clearly understood Ms. McGinty to state that we, as representatives of our local community, have the power to stop our participation in the American Heritage Rivers Initiative at any time we choose and that our wish will be honored.

Therefore, by this letter, we are notifying you that Lincoln County will not participate in this program. If nominated, we will not accept or participate. If chosen, we will not acknowledge nor encourage any participation.

Sincerely,

L.A. Dolezal
Lawrence A. Dolezal, Chair

Marianne B. Roose
Marianne B. Roose, Member

Rita R. Windom
Rita R. Windom, Member

Post-It Fax Note	7871	Date	8/27/97
To	Dale Williams	From	Rita Windom
Co./Dept.		Ca.	
Phone #		Phone #	
Fax #		Fax #	258-5824



Montana Stockgrowers Association

Serving Montana's Cattle Industry Since 1884

440 W. California
Post Office Box 1670
Helena, MT 59621
Phone: 406/442-3400
Fax: 406/449-5105

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Dan Bloomquist, President
Montanans for Multiple Use
Box 3050
Columbia Falls, MT 59912-3050

RE: American Heritage Rivers Initiative

Dear Dan:

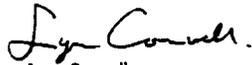
Thank you for the telephone call and your letter expressing concerns with the American Heritage Rivers Initiative (AHRI). We share many of your views on this issue. Our concerns with this program, as proposed by the President's Council on Environmental Quality (CEQ), are much the same as most other western residents or organizations. We feel this program has not been adequately developed with regard to the scope of its potential effects, and it creates an opportunity to inflict unlimited resource management restrictions on western communities under the guise of environmental, social, cultural, or economic revitalization. It proposes to circumvent local planning authority in favor of a White House appointed "River Navigator" who would have special powers or authority that has not been adequately defined. Just how this program is to be funded is also suspect, as many of the federal agencies listed as participants in this program are already facing budget deficits and are having difficulties achieving goals and objectives under existing programs.

The AHRI affords the White House, or other program proponents, the opportunity to develop proposals that side step existing federal regulations, create new policies or regulations without compliance with existing federal laws, and it reduces the opportunity for appropriate public participation in the river designation process. This program will adversely affect state's supremacy on water rights, planning and development issues, and the ownership of the beds and banks of rivers, lakes, and streams.

We feel the authorities developed and granted under the AHRI have not been adequately explored, reviewed, or even discussed. This point is well made by the fact that the CEQ has made several statements during the public comment period about what the program will or could do, and how it will be implemented, but the issues addressed in those comments is mysteriously absent from the final rule as published in the federal register. The public comment period for this initiative was grossly inadequate, and therefore congressional intervention, or oversight, is the only way the American public will have an adequate voice in the development and implementation of this program.

Again we support your efforts to bring badly needed insight to this ominous program through your testimony during the congressional hearing. We also offer our support for your efforts to have this initiative withdrawn until a full congressional review has been completed, and a fully developed program is presented for adequate public comment. We are hopeful your efforts to show Congress the true down side to this ill prepared and developed land control program are successful.

Sincerely,

A handwritten signature in cursive script that reads "Lynn Cornwell".

Lynn Cornwell
President



**HOUSE RESOURCES COMMITTEE HEARING
SEPTEMBER 24, 1997
H.R. 1842
TESTIMONY OF THE BLUE RIBBON COALITION**

The BlueRibbon Coalition is a nationwide organization representing 500,000 motorized recreationists, equestrians, and resource users. We work with land managers to provide recreation opportunities, preserve resources, and promote cooperation with other public land users.

We are strongly opposed to the American Heritage Rivers Initiative (AHRI). The implementation of this "presidential proclamation" usurps the role of Congress in assessing the need for and enacting as law such proposals.

It is an ephemeral proposal subject to misinterpretation and misrepresentation by all sides of the political spectrum. This is Congress' role, to sort out, refine, and spell out what such proposals mean. As such AHRI is a starting point, not an end product ready to have, as has been reported, 10 rivers designated and 13 federal agencies ready to issue further implementing regulations that will plan, manage, and enforce.

Among its more objectionable aspects are:

- A "River Navigator" whose role and authority is unclear, and whose powers are therefore subject to abuse. At the very least, it inserts another unauthorized layer of federal bureaucracy.
- It appears that a designated river may encompass entire watersheds, subjecting massive amounts of land, public and private, to federal control.
- Its relationship to state water laws are unclear and suspect.
- Federal agencies will be granted "flexibility from certain bureaucratic requirements", ostensibly to speed up processes, but to what end? Bureaucrats can act arbitrarily to make rules which citizens must then abide.

Many moderate recreation groups have supported AHRI, as have river communities. They hope for federal funding for needed recreation projects. This support illustrates AHRI's lack of substance that it can be interpreted to promise something to everyone.

We strongly support H.R. 1842, which will terminate any further development and implementation of AHRI. If AHRI is truly a good idea, then it should be put before Congress as proposed legislation. Through public debate, its true merits or deficiencies will be made known.

It is absolutely essential that H.R. 1842 will be passed to prevent the administration from usurping this essential function of Congress.

Submitted by,



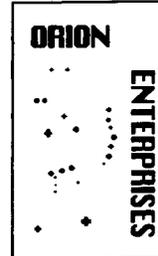
Adena Cook, Public Lands Director
Phone: 208-522-7339; Fax: 208-524-2464

Linda Y. Ellison
3301 West Babcock
Bozeman, MT 59718
(406) 587-4505

September 11, 1997

Dan Blomquist, President,
Montanans For Multiple Use
P.O. Box 3050
Columbia Falls, MT 59912

Re: American Heritage Rivers Initiative



To whom it may concern:

Thank you for the opportunity to present the views of Montana's off-highway vehicle (OHV) recreation community on the issue of the American Heritage Rivers Initiative. As an active member of Montana Trails Association, Montana Trail Vehicle Riders Association, Big Sky Country Trail Preservers, Utah Trail Machine Association, Blue Ribbon Coalition, and Western Environmental Trade Association, and as a consultant to these organizations on OHV matters, I both work and recreate near headwaters streams to several major river systems throughout the nation's northwest region - particularly, the Yellowstone, the Missouri, and the Columbia.

Montana's motorized trail community has a solid reputation for working closely on matters of public land management with many specialists in other fields, both government and private, and shares the concerns evidenced by the presentation today of this testimony by multiple-use spokesperson, Dan Blomquist.

I can tell you from personal experience, watching and working with the National Park Service, on issues from weed control in and around Yellowstone Park, to placement of motorized trails on neighboring national forest lands, that the Yellowstone River, one of our national treasures, needs protection from the Federal Government. Your "let burn" policies in Yellowstone Park have severely degraded water quality for almost a decade. Your policy of non-management has caused devastating impacts from over-grazing Yellowstone Park's summer and winter range from too many bison and elk, causing further range and water degradation problems with the Yellowstone river.

Montana has an excellent record for protecting our waters with existing laws much stricter than federal standards and voluntary practices that have proven to be effective because this is where we live, work, recreate, and raise our families. Before you consider designating the Yellowstone river for your "restoration and protection initiative," consider this, you already have total control of the river through Yellowstone Park and you haven't done a very good job of it. The impacts of this initiative must be heard and evaluated in a democratic fashion rather than simply proclaimed by the President.

Sincerely,


Linda Y. Ellison

RE American Rivers Heritage Initiative
 Montana Women Involved in Farm Economics position paper
 Sharon Kindle, President MI WIFE Box 391 Malta MT 59638 p & f 406-254-1509

Montana Women Involved in Farm Economics (WIFE) has definite policy on such issues as private property rights and infringement upon such through regulation and by obstructing access to our lands.

Our policy clearly states: "The United States of America was founded on the premise of **individual human rights** and the ownership and management of **private property** by those individuals. WIFE therefore, insists all branches of government and all agencies thereof diligently enforce the protection of human rights and private property rights." This statement says it all. We have a government of, by and for the people. The AHRi is a clear example of a government **by** the people [the powers that be].

It is unclear to WIFE how money can be taken from one area, this is what would happen, correct, as there is no actual budget for AHRi, and transferred to another. Congress has allotted the budget for each department. Will the dollars be taken from education, health care, or **agriculture**? It has already been proposed to take dollars from Research and Development [ag budget] for the education of younger Americans on tobacco. Thirty-four million dollars to be exact.

It is also unclear how the term "local control" can be guaranteed when a "River Navigator" will be hired at \$100,000 per year per river and aerial surveillance will be the tool utilized for such. It has been proven throughout the years, a local community can handle a problem better and with less dollars invested than with stringent rules and regulations handed down from the government.

The United States of America has programs in place to deal with issues such as AHRI already, those being the Natural Resource Conservation Service, Conservation Reserve Program, Wet Lands, Farm Service Agency, the Forest Service, to mention a few, to preserve areas such as AHRI, and the benefits would go directly to the landowner.

WIFE has four more statements which fit into this area:

1) Before instituting any new rule affecting farmers, the government should analyze the benefits as compared to jobs lost, food production capacity eliminated, and damage to farmers.

2) WIFE maintains that all branches and levels of government should acknowledge and respect the individual land owner's right of free choice in management practices in water use, development and conservation. WIFE supports programs that encourage landowners/water users to use voluntary best management practices which are efficient, environmentally and economically feasible, to prevent degradation of surface and ground water. Any regulation if imposed, must be based on scientific facts which include recognizing naturally occurring elements.

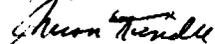
3) WIFE believes agriculture, timber, mining, and oil production are all dependent upon the wise use of our natural resources. These industries are the source of NEW wealth generated in our economy. WIFE opposes the adoption of any action which imposes unnecessary or burdensome obligations on a major industry resulting in the decline of jobs and revenues.

4([perhaps the most important] WIFE supports complete and thorough locally conducted studies of social and economic impacts of proposed changes in the management of sensitive and threatened habitats. Those studies must be conducted in the affected areas, with **PUBLIC COMMENT**, relative to the management changes and prior to consideration by the governing agency. The agency (ies) conducting these studies must address **ALL concerns** raised during public comment.

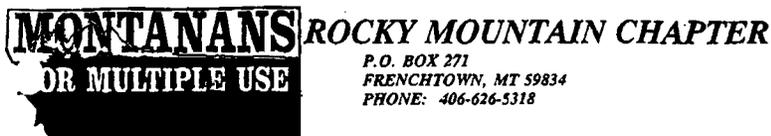
Women Involved in Farm Economics stands opposed to the American Heritage River initiative. No program can have local control with a government official looking over our shoulders at all times **with complete authority over us** and with the rules which have not been clearly written. All this is against our United States of America Constitution.

I thank you for your time.

Sincerely,



Sharon Kindle, president MT WIFE



September 16, 1997

Dear Dan,

We appreciate this opportunity to tell you of our concerns about the American Heritage Rivers initiative, and hope that you will convey these concerns to Congress and the Administration during your upcoming trip to Washington.

The essence of the proposed initiative is that Federal Agencies will be brought together by a "river navigator" to use their existing authority to pursue river enhancement plans that may include the actions encompassing the entire watershed of the river. We in the west have become painfully aware over the last several years just how extensive that existing authority is. For example, we have seen that Federal land management agencies can completely bypass existing laws and rules for mineral exploration and development by simply withdrawing an entire region from the usual procedures for staking mining claims, as was just done at the New World Mining District in Park County, MT. There is nothing in existing law that would prevent a "river navigator" from instigating similar mineral withdrawal proceedings for entire watersheds.

But we are even more concerned about how the "American Heritage Rivers Initiative" might facilitate the Clinton Administration's demonstrated willingness to abuse the "Antiquities Act" to create national monuments. The Initiative contains no language to assure us that this Administration might not declare vast tracts of lands to be "National Monuments" in furtherance of a river enhancement plan.

In conclusion, we are concerned that the "river navigators" may prove to be little more than scouts for Administration efforts to bypass the multiple use doctrine usually governing public lands, and to declare vast tracts of public lands off limits for mining, logging, grazing, and motorized recreation. Unless this flaw in the existing American Heritage Rivers Initiative can be corrected, we would urge its repeal.

If we can be of any further service, please let us know. We do appreciate the work & effort you have put into this project.

Sincerely,

John L. Sims, President

Ted Antoniolli, Vice President

2822

Montana

Avenue

Billings

Montana

59101



Phone

(406) 256-6809

FAX

(406) 256-6850

E-mail

heritage@ywhc.org

Statement of

**Lynda Bourque Moss
Director
Western Heritage Center**

**On H.R., 1842
To Terminate Further Development and Implementation of the
American Heritage River Initiative**

**Before the Committee on Resources
House of Representatives**

September 24, 1997

Good morning Mr. Chairman and members of the committee. My name is Lynda Bourque Moss and I am the Director of the Western Heritage Center, a regional museum located in Billings, Montana. Founded in 1970, the Western Heritage Center is a museum dedicated to interpreting and reflecting Yellowstone River Valley life.

I am here this morning to present the background of a regional project of the Western Heritage Center -- Yellowstone Heritage Partnership -- and to relate our regional interests and support of the American Heritage River Initiative.

Background of the Western Heritage Center

Accredited by the American Association of Museums in 1996, the Western Heritage Center features interpretive exhibits and presents a variety of educational activities such as lectures, workshops and classroom programs for urban and rural schools. The Center cares for a collection of artifacts and archival material and publishes guides to historic sites, pamphlets and books examining aspects of the region's history. Traditionally, the Western Heritage Center has worked closely with many other museums and cultural sites in the Yellowstone Valley.

In 1993, with support from the National Endowment for the Humanities, the Western Heritage Center began an extensive research and outreach project documenting life in the Yellowstone Valley from 1880 to 1940. Titled *Our Place in the West: Places, Pasts and Images of the Yellowstone Valley from 1880 to 1940*. The project resulted in the first long term exhibit for the Center, the publication of *Along the Yellowstone: A Guide to Historic Sites in the Yellowstone Region and Stories From an Open Country: Essays on the Yellowstone Valley*. The project also supported public programs or *Gatherings* which were presented at other cultural and educational institutions in the Yellowstone region over a two year period.

In addition, the Center received funding from the Montana Cultural Trust for a comprehensive oral history and photographic survey: *The Real West: Farming and Ranching Families in the Yellowstone Valley*.

Those two projects enabled the Western Heritage Center to work closely with many other cultural organizations and institutions in the region as well as with people whose family history and livelihoods were based on agriculture. Many individuals involved with these two projects voiced an interest in beginning a regional approach to interpretation, conservation

and education focused on the historic and cultural resources of the Yellowstone Valley. In 1995, the Western Heritage Center became the lead organization for the Yellowstone Heritage Partnership.

Building Support for the Yellowstone Heritage Partnership Through Regional Representation

To begin building support and a process to establish a regional partnership, the Western Heritage Center requested technical assistance from the Rivers, Trails and Conservation Assistance (RTCA) Program of the National Park Service. For the request for technical assistance, the Center obtained over fifty letters of support from a variety of organizations and local governments throughout the region and in February, 1995, the Western Heritage Center was awarded technical assistance from the RTCA Rocky Mountain System Support Office, National Park Service.

In January, 1996, the Western Heritage Center invited those supporting organizations and local government agencies to appoint a representative to serve on a regional Advisory Council. Over 40 people responded and the Advisory Council now includes representatives from federal, state, and local agencies, museums, colleges, Crow and Northern Cheyenne communities, agriculture, recreation and natural resource management organizations in Montana, northern Wyoming and western North Dakota. Three appointees on the Advisory Council represent the Governors of Montana, Wyoming and North Dakota. An addition fifteen individuals volunteered to assist with community meetings and activities.

In February 1997, the Advisory Council formulated a vision statement:

The Yellowstone Heritage Partnership, working together to promote the Yellowstone River Valley as:

- *A place valued for its quality of life,*
- *Communities that respect the region's natural and cultural heritage and consider these in their developmental projects,*
- *A region with a sustainable economy that offers opportunities for growth and employment while managing change*
- *A people that cooperate through the free exchange of ideas and develop consensus.*

As of September, 1997, the data base for the Advisory Council members, volunteers and friends has expanded to 130.

Public Involvement Focused on Community Meetings and Projects

In March, 1996, RTCA provided training for ten volunteers who would be conducting a series of informational meetings for the Yellowstone Heritage Partnership. The Partnership produced public relations materials including a three minute video featuring Montana Cowboy poet Wally McCrae. In April and May, meetings were held in Montana communities of Sidney, Miles City, Billings, Colstrip, Lame Deer, Hardin, Crow Agency, Livingston, Red Lodge, and Joliet. Meetings were also held in Williston, North Dakota and Sheridan, Wyoming.

Citizens attending the meetings were asked to comment on the concept of the Partnership, to help define the region, and to identify strategies and priority projects.

In addition to the work of the volunteers, a participating organization in the Partnership, the Center for Applied Economic Research, affiliated with Montana State University/Billings conducted a series of focus groups in the Yellowstone region. Information gathered from focus groups provided additional insights of residents as to their perceptions of the relationships of cultural, historic, and natural resources to the regional economy.

Based on public input through these methods, the Yellowstone Heritage Partnership identified the following projects and tasks as priorities:

- A traveling exhibit and educational home page about the cultural, historic and natural resources of the region. Packed in a stock trailer and using portable stock fencing, the Western Heritage Center planned and is producing *Explore the Yellowstone!* which will travel to fairs, rodeos, pow-wows, schools and libraries in the Yellowstone region of Montana, northern Wyoming and western North Dakota. *Explore the Yellowstone!* has been funded by the Challenge Cost Share Program of the National Park Service, the Montana Cultural Trust, the C.M. Bair Family Trust and a National Park Service/National Endowment for the Arts Initiative: *Cultural Landscapes and Their Stories*.
- A regional economic study of cultural tourism in the Yellowstone region which would provide accurate, user-friendly data for the

Partnership and would establish a base to track improvements as regional cultural tourism initiatives are identified and implemented. The regional economic study has been funded by a planning grant from the Montana Economic Development Administration, US Department of Commerce.

- Obtaining resources to hire a “circuit rider” for the region. From the perspective of the public as well as from members of the Partnership, there was a consensus that “circuit rider” or someone who could facilitate collaborative projects would enhance the success of the Partnership.
- Further expanding the support base of the Partnership to ensure representation and participation of the agricultural community, recreation groups, natural resource organizations and the private sector.

Announcement of the American Heritage River Initiative and the Yellowstone Heritage Partnership’s Regional Approach to Examining the Initiative

When the American Heritage River Initiative (AHRI) was announced by President Clinton, the Partnership began gathering information about the initiative. Many of the Partnership members saw parallels between the regional initiative and AHRI.

In May, the Advisory Council members reached a consensus to continue to evaluate the initiative while conducting a regional survey to gather information detailing the following:

- Current regional cooperative efforts
- The cultural, historic or natural resources identified in these efforts and the participating organizations
- The proposed outcomes
- The role of a “River Navigator”
- Challenges and opportunities if the Yellowstone River were designated as an American Heritage River

- What federal resources would be helpful to the effort and where would there be the most opportunities for improved program delivery

Comments gathered by the Partnership were submitted to the Council of Environmental Controls in May and in August. The comments shared the concerns voiced by private property rights advocates at Partnership meetings, clarification regarding the National Environmental Policy Act (NEPA) of 1969, and clarification of the role of the "River Navigator".

Preliminary Focus of the Yellowstone Heritage Partnership's Approach to the American Heritage River Initiative

A total of seventeen surveys were submitted and the strongest regional efforts focused on cultural and historic resources such as the Bozeman Trail, the Lewis and Clark Bicentennial, the Nez Pierce National Historic Trail, the Yellowstone River Greenway Master Plan and educational programs focused on the Yellowstone River watershed and a systems approach to understanding the regional economy. A need for a communication network was also a priority as well as improving the social and economic conditions of the region through conservation and development of human and natural resources. The survey also identified a need to protect prime farm lands, bridge the gap between the agricultural sector and development. The invasion of weeds, whirling disease in native cutthroat trout, and brucellosis were mentioned. Universally, the role of the "River Navigator" was perceived as a position which would coordinate, identify and assist with the strategies and implementation of priority projects.

Based on the survey, the Yellowstone Heritage Partnership is preparing a recommendation to be presented to the Advisory Council in October. The recommendation identifies specific projects and scope; a regional focus; an operating structure; and the human and financial resources committed by Partnership members and supporters. The recommendation also identifies a time-line which incorporates two phases, the first identifying accelerated implementation of existing projects and the second focused on strengthening the community's awareness of a systems approach to regional strategies based on the cultural, historic and natural resources, or the common ground, as the underpinnings of sustainable development. In addition, Partnership members are meeting with representatives of agricultural organizations, industry and business to gain additional input into the proposed nomination application for the Yellowstone River.

In conclusion, the grass-roots efforts of the Yellowstone Heritage Partnership mirror many aspects and anticipated outcomes identified in the American Heritage River Initiative. Better management of all our resources is critical to communities throughout the United States. What we are doing in our region is working together to become better stewards of our place by understanding and preserving our past and by becoming pro-active in creating sustainable development in the Yellowstone River Valley. We believe the American Heritage River Initiative has the potential to assist us, as well as citizens in other regions, in achieving visions which are based on one of our most vital resources -- our rivers.

Yellowstone Heritage Partnership**Project Staff:**

Lynda Bourque Moss, *Director*, Western Heritage Center
Ann Cossitt, *Interim Director*, Yellowstone Economic Research Center

Advisory Council:

Michael Finley, *Superintendent of Yellowstone National Park*, Mammoth, WY
Robin Winks, *Chairman of Environmental Studies*, Yale University, New Haven, CT
John Heizer, *Board Member*, Montana Community Foundation, Billings
Michael Malone, *President*, Montana State University, Bozeman
Gerard Baker, *Superintendent*, Little Bighorn Battlefield National Monument, Crow Agency
Dr. Larry D. Swanson, *Associate Professor*, Center for the Rocky Mountain West, Missoula
James E. Sperry, *Superintendent*, State Historical Society of North Dakota, ND Heritage Center, Bismarck
Mike Schaer, *President*, Computers Unlimited, Billings
Dr. Carroll Van West, *Project Coordinator*, Middle Tennessee State University, Center for Historic

Preservation, Murfreesboro, TN
Keith Edgerton, Ph.D., Dept. of History, Montana State University-Billings
Superintendent, Fort Union Trading Post National Historic Site, Williston, ND
Dick Ellis, *Regional Supervisor*, Montana Department of Fish, Wildlife and Parks, Billings
Darrell Cook, *Superintendent*, Bighorn Canyon National Recreation Area, Fort Smith
Bill Gentle, *Director*, Wyoming Division of Tourism, Department of Commerce, Laramie
Matthew T. Cohn, *Director*, Travel Montana, Helena
Burt Williams, *Area Manager*, Bureau of Land Management, Billings
Gary Gangnath, *Financial Consultant*, Merrill Lynch, Billings (WHC board)
Dan Scott, *Padlock Ranch*, Ranchester, WY
Harry Gottwals, *Downtown Billings: Everyone's Neighborhood*, Billings
Steve Maier, *President*, Sheridan College, Sheridan, WY
James Klæssens, *Beartooth Resource Conservation and Development Area, Inc.*, Joliet
Dallas Johannsen, *Director*, Eastern Plains Resource Conservation and Development, Glendive
Ben Pease, *Retired Educator and Crow Representative*, Billings
Zane Spang, *Transition Counselor Dull Knife Memorial College/Northern Cheyenne Representative*, Ashland
Bill Michael, *Sugar Beet Farmer*, Billings
Mike Sample, *Photographer, Publisher*, Falcon Press Publications, Billings
Theodore Wirth, *Landscape Architect*, Wirth Design Associates, Jackson Hole, WY
Joseph M. Marshall, III, *Writer, Film Consultant, Actor, Artist, Lakota Sioux Representative*, Sheridan, WY
Dick Kodeski, *Project Manager, Pompey's Pillar*, Bureau of Land Management, Billings
Betty Waddell, *Musician, Writer, Barber*, MT
Paul Hoffman, *Executive Director, Cody County Chamber of Commerce*, Cody, WY (Governor appointment)
William Mercer, *U.S. Attorney Office*, Billings, MT (Governor appointment)
John M. Sabwei, *Williston High School Principal*, Williston, ND (Governor appointment)

Technical Assistance Staff:

Dwayne Holmes, *Program Leader*, RTCA, National Park Service
Kay Salazar, *RTCA*, National Park Service

Neighborhood Representatives

Walt Bailey, *North Dakota Heritage Center*
Kathy Doeden, *Historic Preservation Officer*, Miles City
Kirk Denny, *Lame Deer*
Brooke Boston, *Western Heritage Center*
Shari Pullar, *Indian Tourism Specialist*, Travel Montana
Mardell Plain Feather, *Little Big Horn College*
Lawrence Flat Lip, *Crow Oral and Cultural Historian*, Western Heritage Center
Janie Delp, *Hardin*
Mary Kay Old Elk, *Hardin*
Ken Oravsky, *Parks Operation Superintendent*, Montana Fish Wildlife and Parks
Patrick Gubbins, *Interpretive Specialist*, Bureau of Land Management
Ruth Towe, *Executive Director*, Moss Mansion, Billings Preservation Association
Ardyce Jensen, *Carbon County Historic Preservation Office*
Edre Maier, *Director*, Uptown Sheridan
Mary Ellen McWilliams, *Frontier Heritage Alliance*



National Trust for Historic Preservation

1785 Massachusetts Avenue, N.W.
Washington, D.C. 20036
(202) 588-6000 / FAX (202) 588-6038 / TTY (202) 588-6200

September 24, 1997

The Honorable Don Young
Chairman
House Resources Committee
1324 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

On behalf of the 265,000 members of the National Trust for Historic Preservation, as well as the 41 organizations that signed the attached letter, I am writing to express my opposition to H.R. 1842, to terminate further development and implementation of the American Heritage Rivers Initiative. The National Trust strongly supports the American Heritage Rivers Initiative. Rivers are an integral part of our country's history and settlement, and the health of our nation's rivers, which the American Heritage Rivers Initiative is designed to assist, is integral to the future of the communities that are located on their shores.

The American Heritage Rivers Initiative promises to provide enhanced services and program delivery to designated rivers and river communities. We particularly commend the conceptual approach to this initiative, which begins from a premise that there exist already myriad federal programs to help communities, and that what is specifically needed are opportunities to access and coordinate that assistance. In our view, linking environmental, preservation, and economic development goals demonstrates a forward thinking approach to coordinating federal assistance which is often not readily accessible.

The National Trust is principally concerned with assisting communities in utilizing their historic resources to advance community revitalization goals. Given the overall aim of the American Heritage Rivers Initiative to promote revitalization of river communities, it is our hope and expectation that the Initiative will provide coordinated assistance that will support—not direct—those communities' plans for their future. The National Trust's experience with our National Main Street Program, our Community Partners Program, and other service delivery programs teaches that most successful communities develop an understanding of their unique strengths and comparative benefits, and have committed to economic development strategies that capitalize on those distinctive attributes. The Initiative is designed to assist precisely this kind of work.

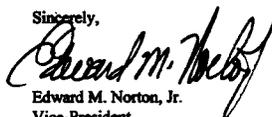
The mission of the National Trust for Historic Preservation is to foster an appreciation of the diverse character and meaning of our American cultural heritage and to preserve and revitalize the livability of our communities by leading the nation in saving America's historic environments.

The potential benefits of convenient support and assistance, provided to communities that are directing their own path for development, has struck a chord across America. Participation in this initiative is entirely voluntary and will necessarily require the support of elected officials, citizens, and industry alike. Disinterested communities need not apply. It is unreasonable for Congress to deny help to those communities, many of whom have signed the attached letter and others like it, who wish to take advantage of the American Heritage Rivers Initiative.

Thank you for your consideration of my views.

With best wishes.

Sincerely,



Edward M. Norton, Jr.
Vice-President
Law and Public Policy

July 14, 1997

Dear Representative:

We urge you to support the American Heritage Rivers Initiative, and to oppose H.R. 1842, introduced by Representative Chenoweth (R-ID) to terminate the Initiative. The American Heritage Rivers Initiative enjoys the support of a broad coalition of state and local officials, business and civic groups, river activists, as well as the historic preservation and community revitalization groups listed below. The American Heritage Rivers Initiative is a positive step that promises to provide more efficient and effective federal programs and services to community-led conservation initiatives throughout the nation. It also celebrates the important role that rivers played in our nation's history and continue to play in our culture. River revitalization efforts invariably enhance the economic development efforts of the surrounding communities, and as well as benefiting historic areas which are the legacy of early settlements along our nation's rivers.

The American Heritage Rivers Initiative would refocus programs, grants, and technical assistance in a number of departments to provide special support to American Heritage Rivers. Each community will be given resources to enhance locally-driven work on behalf of restoration and revitalization of rivers and waterfronts. This initiative will be a partnership between the federal government and the people who enjoy the many values of rivers. It will not impose new regulations, standards, or requirements on communities. This entirely voluntary initiative very much reflects the bipartisan view that the federal government should efficiently and effectively assist communities in meeting local objectives for river revitalization and stewardship.

We urge you to support the American Heritage Rivers Initiative and to oppose any efforts to limit or terminate this timely, well-targeted proposal.

Sincerely,

The Undersigned Organizations

July 14, 1997

page two

National Trust for Historic Preservation
National Conference of State Historic Preservation Officers
Preservation Action
Society for American Archaeology
The Countryside Institute, Cold Spring, NY
Conservation, Environment and Historic Preservation (CEHP)
Downtown Gadsden, Inc., AL
City of Denver, CO
City of St. Petersburg, FL
Main Street Corning, IA
Idaho Historic Preservation Council, Boise, ID
Galesburg Downtown Council, IL
Noblesville Main Street, Inc., IN
Historic Landmarks Foundation of Indiana, Indianapolis, IN
Boone County Kentucky Historic Preservation Review Board, Burlington, KY
Flemingsburg Main Street, KY
City of Newport, KY
Monmouth Street Commission, Newport, KY
City of New Orleans, LA
Louisiana Preservation Alliance, Baton Rouge, LA
Historic Massachusetts, Inc., Boston, MA
Preservation Maryland, Baltimore, MD
Preservation Alliance of Minnesota, Minneapolis, MN
Albemarle Downtown Development Organization, Albemarle, NC
New Bern, North Carolina Historic Preservation Commission
Manchester, New Hampshire Enterprise Community
New Jersey Historic Trust, Trenton, NJ
Bernalillo Main Street, NM
Ohio Preservation Alliance, Inc., Columbus, OH
Ohio Department of Development, Division of Travel and Tourism, Columbus, OH
Historic Preservation League of Oregon, Portland, OR
City of Harrisburg, PA
Johnstown Area Heritage Association, Johnstown, PA
Pennsylvania Environmental Council, Philadelphia, PA
Preservation Alliance for Greater Philadelphia, PA
Preservation Pennsylvania, Harrisburg, PA
The Providence Plan, Providence, RI
Association for the Preservation of Tennessee Antiquities, Nashville, TN
Shelbyville Historic Zoning Commission, Shelbyville, TN
Bryan Main Street Project, Bryan, TX
City of Irving, Preservation and Redevelopment Program, Irving, TX
American Cultural Resources Association (ACRA), Salt Lake City, UT
City of Woodstock, VT
Preservation Alliance of West Virginia, Charleston, WV

105TH CONGRESS
1ST SESSION

H. R. 1842

To terminate further development and implementation of the American
Heritage Rivers Initiative.

IN THE HOUSE OF REPRESENTATIVES

JUNE 10, 1997

Mrs. CHENOWETH (for herself, Mr. POMBO, Mr. DOOLITTLE, Mr. SMITH of Oregon, Mr. RADANOVICH, Mr. BOB SCHAFFER of Colorado, Mr. GIBBONS, Mr. HERGER, Mr. HILLEARY, Mr. HASTINGS of Washington, Mr. SMITH of Texas, and Mr. METCALF) introduced the following bill; which was referred to the Committee on Resources

A BILL

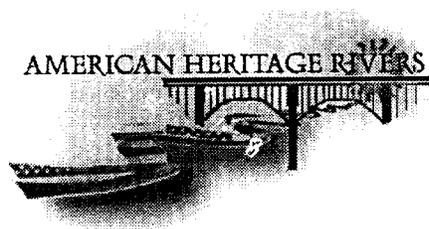
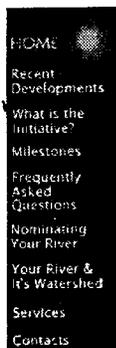
To terminate further development and implementation of the
American Heritage Rivers Initiative.

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. TERMINATION OF AMERICAN HERITAGE RIV-**
4 **ERS INITIATIVE.**

5 None of the funds appropriated or otherwise made
6 available to a Federal agency (including the Council on
7 Environmental Quality, the Environmental Protection
8 Agency, and the Department of the Interior) may be used
9 to develop, implement, or carry out the American Heritage

1 Rivers Initiative, as described in the proposal of the Coun-
2 cil on Environmental Quality published in the Federal
3 Register on May 19, 1997 (62 Fed. Reg. 27253), or any
4 similar initiative.



COUNCIL ON ENVIRONMENTAL QUALITY American Heritage Rivers Initiative

DESCRIPTION OF AMERICAN HERITAGE RIVERS INITIATIVE AND INFORMATION ON HOW COMMUNITIES NOMINATE THEIR RIVERS

CONTENTS:

The major sections of this document include:

**Summary
Deadline
Availability of Nomination Packets and
Supplementary Information
Background
Summary of Comments Received from the
Federal Register Notices of May 19 and June
20
Overall Program Design
Benefits of Designation
Benefits to Applicants who Submit Complete
Nomination Packages
Improved Services Available to All
Communities
Clarifications
Appendices**

SUMMARY

In the State of the Union Address on February 4, 1997, President Clinton announced an initiative supporting community-led efforts relating to rivers that spur economic revitalization, protect natural resources and the environment, and preserve historic and cultural heritage. President Clinton has since issued Executive Order 13061 directing agencies to establish and implement the initiative. This notice summarizes the initiative developed to implement the

President's directive.

The federal government plays two critical roles in supporting river-related projects. First, it offers federal agency services to organizations and governments conducting community-based work. Second, it creates a national information and communications network to encourage communities to provide useful information to communities, including sharing success stories.

The American Heritage Rivers initiative is voluntary and locally driven; communities choose to participate and can terminate their participation at any time. In implementing the American Heritage Rivers initiative, federal departments and agencies shall act with due regard for the protections of private property provided by the Fifth Amendment to the United States Constitution.

The American Heritage Rivers initiative will create no new regulatory requirements or rules for property owners or state, tribal, or local governments. The American Heritage Rivers initiative will use existing federal resources more effectively to assist communities.

To enhance federal assistance to community-based projects, the federal government will solicit nominations from communities wishing to designate their rivers as American Heritage Rivers. The nomination process is described in this notice. The President will designate 10 American Heritage Rivers in early 1998. The communities surrounding designated rivers will receive a number of benefits, including special recognition; focused support from existing federal programs; a person (the River Navigator) to serve as a liaison between the community and the federal government; improved delivery of assistance from agencies throughout the federal government; and a good neighbor policy. The federal government will work to integrate and streamline its approach to providing existing federal services in designated American Heritage River communities in partnership with local leadership. These partnerships will give the federal government an opportunity to study and improve how it provides assistance to communities across the nation.

Additionally, the federal government will provide a new information center on the World Wide Web for community-based projects in economic revitalization, natural resources and the environment, and historic and cultural preservation. These Web pages will include information about services that can assist community projects and provide opportunities for dialogue between communities.

The federal government will also provide this information to people without access to the Internet.

The American Heritage Rivers initiative was developed by an interagency task force convened by the White House.

The President's Executive Order creates a new committee, called the American Heritage Rivers Interagency Committee (Committee) that will be responsible for the implementation of the American Heritage Rivers initiative. The Committee will be composed of the following members or their designees at the Assistant Secretary level or equivalent:

- The Secretary of Defense;
- The Attorney General;
- The Secretary of the Interior;
- The Secretary of Agriculture;
- The Secretary of Commerce;
- The Secretary of Housing and Urban Development;
- The Secretary of Transportation;
- The Secretary of Energy;
- The Administrator of the Environmental Protection Agency;
- The Chair of the Advisory Council on Historic Preservation;
- The Chairperson of the National Endowment for the Arts;
- The Chairperson of the National Endowment for the Humanities.

The Executive Order shall apply to any agency on the Committee and such other agencies as designated by the President.

Each of these departments and agencies oversees programs and services, authorized by Congress, that can benefit citizens in riverfront communities. By engaging many of these departments and agencies in the creation of the American Heritage Rivers initiative, the Administration has tried to ensure that the initiative is founded on their various missions they are mandated to address, economic revitalization, natural resources and environmental protection, and historic and cultural preservation, and is directed at improving the coordination and delivery of related services.

The American Heritage Rivers initiative embodies the Administration's effort to reinvent government in accordance with the National Performance Review. The National Performance Review, directed by Vice President Gore, seeks

to create a government that works better and costs less through focusing on customer service, developing partnerships, and delegating power to the front lines.

AVAILABILITY OF NOMINATION PACKETS AND SUPPLEMENTARY INFORMATION

Deadline:

Nominations must be received by 7:00 p.m., EST, on December 10, 1997. No nomination packets will be accepted after this time.

Availability of Nomination Packets:

Nominations packets are available by request:

1. To call for nomination packets: 1-888-40RIVER and leave a message to request a nomination packet.
2. To request nomination packets by mail, write to:
Karen Hobbs, Agency Representative, Executive Office of the President, Old Executive Office Building, Room 360, Washington, D.C. 20503.
3. To request nomination packets by Internet, access the American Heritage Rivers homepage at <http://www.epa.gov/rivers>.

Address:

Nomination packets will be accepted in three ways:

1. To mail nomination packets: Executive Office of the President, Old Executive Office Building, Room 360, Washington, D.C. 20502.
2. To fax nomination packets: 202-456-6546.
3. To e-mail nomination packets, see instructions on the American Heritage Rivers home page, <http://www.epa.gov/rivers>.

All applicants will receive a postcard notification that their nomination packet has been received.

For Further Information:

You can request additional information about American Heritage Rivers in the following ways:

1. To receive an information packet or ask a specific question: Call 1-888-40RIVER and leave a message with your name, address and daytime telephone number. Please be as specific as possible in your information request.

2. Federal field staff have been identified in each state to answer questions. You can obtain a list of the federal field staff by calling 1-888-40RIVER, or by accessing the American Heritage Rivers home page at: <http://www.epa.gov/rivers>. A list of the agency staff in Washington, D.C. is also available via these two methods.
3. The latest information is available on the American Heritage Rivers home page at <http://www.epa.gov/rivers>.

Supplementary Information:

This notice is available on the American Heritage Rivers home page at: <http://www.epa.gov/rivers>.

BACKGROUND

Why this Initiative?

Rivers are an integral part of our Nation's history. They often define the distinctive character of communities, providing avenues for trade, opportunities for commerce, agriculture and forestry, routes for exploration and discovery, inspiration for ideas and culture, means of recreation, and habitat for wildlife.

Communities across America are working to revitalize their waterfronts and to enhance the historic, cultural, recreational, agricultural, economic, public health, and environmental values of their rivers. At the same time, many people have called for better, smarter, and more coordinated ways to work with the federal government. President Clinton instructed the Cabinet to work with communities in the design of this initiative to support community-led efforts that spur economic revitalization, protect natural resources and the environment, and preserve our historic and cultural heritage.

The American Heritage Rivers initiative is consistent with the existing authorities articulated by Congress in the National Environmental Policy Act (NEPA) of 1969, as well as other authorities granted to agencies (the National Historic Preservation Act, the Housing and Community Development Act, the Clean Water Act and the Intermodal Surface Transportation Efficiency Act, to name a few). NEPA, for example, instructs federal agencies to seek to create and maintain conditions under which man and nature can exist in productive harmony, while preserving important historic,

cultural, and natural aspects of our national heritage. The American Heritage Rivers initiative seeks to coordinate these existing authorities in a more efficient and complementary manner.

How Was the Initiative Was Developed?

President Clinton announced the initiative during the State of the Union Address on February 4, 1997. An interagency task force was formed to develop the initiative and was charged to report to the President within 90 days. The task force was chaired by the Council on Environmental Quality, and participating agencies included the Departments of Agriculture, Commerce, Defense, Energy, Housing and Urban Development, Justice, Interior, Transportation, the Environmental Protection Agency, the Advisory Council on Historic Preservation, the National Endowment for the Arts, the National Endowment for the Humanities, and the Smithsonian Institution.

On February 10, 1997, a home page on the World Wide Web was established to share ongoing information with the public and to encourage their input on all components of the initiative (<http://www.epa.gov/rivers>). The home page is updated on a regular basis. In addition, a hotline was established for citizen comments and questions (1-888-40RIVER).

During April and May, meetings were held across the country to solicit input on the criteria and selection process and to identify the particular federal resources sought most by communities. Staff members from the U.S. Congress authorizing and appropriating committees, along with a varied group of stakeholders, were invited to the two Washington, D.C. meetings. Meetings have also been held in Albuquerque, New Mexico; Boston, Massachusetts; Philadelphia, Pennsylvania; Atlanta, Georgia; Chicago, Illinois; San Francisco, California; Los Angeles, California; Seattle, Washington; Asheville, North Carolina; and Denver, Colorado. In addition, members of the interagency task force were invited to meetings in El Paso (organized by Congressman Silvestre Reyes) and Laredo, Texas (convened by Mayor Saul N. Ramirez, Jr. and Webb County Judge Mercurio Martinez, Jr.)

Participants in these meetings offered many excellent suggestions on the overall initiative design and the needs of communities across the country engaged in river revitalization efforts. As a result, a draft notice of the initiative was published in the Federal Register on May 19.

The Federal Register notice specifically asked for comments on the proposed overall design of the initiative, the qualifying and selection criteria, and the nomination and selection process. It also solicited advice regarding the specific types of federal assistance communities would find most helpful.

The comment period was originally scheduled to end June 9, 1997, but was extended until August 20, 1997 at the request of individuals and organizations and to encourage additional public comment.

Following the Federal Register notice, members of the interagency task force were invited to attend a number of meetings, including those in Minneapolis, Minnesota (organized by St. Paul Mayor Norm Coleman and attended by some 20 mayors along the Upper Mississippi River); the Fox River, Wisconsin (at the request of Congressman Jay Johnson); and the cities of Dubuque, Iowa; Jefferson City, Missouri; and Austin, Texas (at the invitation of representatives from the agriculture community); Denver, Colorado (at the invitation of the Upper Arkansas Watershed Council); West Virginia (at the request of the Hardy County Commissioners); and Frederick, Maryland (at the request of the Frederick County Board of Commissioners).

SUMMARY OF COMMENTS RECEIVED FROM THE COMMENT PERIOD (May 19 to August 20, 1997)

The Federal Register notice comment period ran from May 19 to August 20, 1997, for a total of 90 days. The Administration is appreciative to all those who took the time to express their views and ideas on the initiative.

More than 1,700 comments were received. Many respondents wrote in favor of the initiative, citing increased coordination of federal services, the attention to environmental, economic and cultural/historic values in the design of the initiative, the integrated method to river restoration and revitalization, and the community-driven approach. Many appreciated the fact that no new regulations would be imposed as a result of the initiative.

Many of the respondents wrote in opposition to the initiative. Many were opposed to federal involvement of any kind in restoring and revitalizing rivers and often expressed concern about property rights and the role of the United Nations along designated rivers.

Efforts were made to address all comments received. Special effort was made to clarify and refine the following areas:

- overall initiative design;
- need for the initiative;
- qualifying and selection criteria;
- role of the federal government;
- Congressional, state, and local roles;
- benefits to non-designated rivers;
- role of the River Navigator;
- private property concerns;
- nomination and selection process
- public involvement in the design of the initiative.

A summary of the comments received, and how each was addressed, appears in Appendix 2 of this Notice.

OVERALL PROGRAM DESIGN

The American Heritage Rivers initiative will be driven by the needs and desires of communities that wish to participate. The federal government will focus the delivery of resources to support community-led efforts that spur economic revitalization, protect natural resources and the environment, and preserve our historic and cultural heritage. The initiative will also pinpoint and recognize outstanding models of community-based development, conservation, and other efforts, and will, through an information clearinghouse, share the lessons learned in these communities with all who are interested.

How do Communities Nominate a River and Who May Apply?

The nomination process begins in the local community. People representing all the different interests who live and work in the area should come together to develop the nomination. After meeting to share information, identify common goals for their river, and set strategies to achieve those goals, they should ask one of their members to submit a nomination on their behalf.

The nomination package must include a completed American Heritage Rivers Cover Sheet (printed at the end of this notice in appendix 1) and responses to items 1-4, listed below. Responses to items 3 and 4 constitute the primary basis for evaluating nominations. Items 1 and 2 will be used to put responses to items 3 and 4 in context, but will not be used to assess the merits of the nomination. The President will designate rivers that receive the highest evaluation from

items 3 and 4 and have substantively answered items 1 and 2. The President will also seek rivers representing the geographical and resource diversity of the nation (for a complete discussion of additional factors used in the selection process, please see "How Will Rivers Be Selected for Designation?", below).

These four items reflect changes made to the initiative as a result of public comment. In the May 19 and June 20 Federal Register notices, five criteria were listed: 1) broad community support; 2) notable resource qualities; 3) local and regional partnership agreements; 4) strategies that lead to action; and 5) measurable results. In this final notice, two criteria from the earlier notices, 1) broad community support and 3) local and regional partnership agreements, have been combined into one item: "illustrate support for the nomination and plan of action." The second criterion from earlier notices, notable resource qualities, is no longer a criterion because it is primarily descriptive and thus, more difficult to objectively judge. However, it remains a key factor in selection. The two criteria from the earlier notices, 4) strategies that lead to action and 5) measurable results, have been combined into one item: "describe the community's plan of action," which includes measures of performance as one of the components of the plan of action.

The four items to be addressed in the nomination packet are:

1. Describe the proposed American Heritage River area.

Define the proposed area and describe its natural qualities and current uses, for example, economic activities, population patterns, and topography. The size may vary from a short stretch to the whole length of the river. It can cover land immediately adjacent to the river, such as the waterfront and stream side areas, or span the entire watershed. It may cross jurisdictional boundaries. The scope of the area, however, should be sufficient to achieve the community's goals.

2. Describe the notable resource qualities in the area.

Explain how the natural, economic, agricultural, scenic, historic, cultural, and/or recreational resources are distinctive or unique.

3. Describe the community's plan of action.

Demonstrate that the community has in hand, or is developing, a clearly defined plan of action to achieve its vision for the river area. Applicants are expected to address all three American Heritage Rivers objectives -- economic revitalization, natural resource and environmental protection, and historic and cultural preservation -- either through planned actions or past accomplishments. Any actions planned on the designated river area should not adversely impact neighboring communities. The community may describe both long-term plans and short-term actions. It should also describe how private property rights will be respected.

At a minimum, the plan of action should address:

- Community vision
- Products and projects, including project maintenance
- Resources, both committed and anticipated, including means of generating additional support from both private and public sources
- Expected federal role
- Schedule or timeline
- Citizen involvement
- Public education
- Logistical support, operating procedures and policies
- Prior accomplishments, if relevant, and relationship to existing plans and projects in the area
- Challenges to community action
- Measures of performance.

Illustrate who supports the nomination and plan of action.

Demonstrate that a range of citizens and organizations support the nomination and plan of action. Provide evidence that members of the community have had an opportunity to comment on and discuss the nomination and plan of action.

- Supporters should reflect the diversity of the community. As appropriate, they should include farmers, ranchers, landowners, businesses and industries, educational and arts organizations, youth groups, community leaders, developers and community development organizations, historical societies, environmental groups and other nonprofit organizations, elected officials, and state, tribal, and local governments. Supporters should include minority and low income individuals and groups. Those who rely on the resources but live outside the area should also be included in discussions about the plan of

action, but may not submit a nomination.

- Describe the nature and scope of the supporters' roles. Demonstrate that they come from all affected jurisdictions.
- As appropriate, describe how past and continuing partnerships/agreements support the nomination proposal. If relevant, describe partnerships/agreements forged and commitments made specifically to support the American Heritage Rivers nomination proposal.
- Letters of endorsement and support are highly recommended, especially those from elected officials and appropriate state, tribal and local governments. Letters from federal agencies will not be accepted.

Nominations must be limited to 15 pages of 10-point text or larger, using one-inch margins. Letters of endorsement should include names, addresses, and phone numbers of the supporters and will not count toward the 15-page limit. Letters of endorsement should also indicate the level of support to be given to the American Heritage River plan of action by the individual or organization writing the letter. Letters of endorsement must be included in the nomination packet; letters of endorsement sent separately will not be considered. Due to constraints on the review and selection process, additional materials, such as videos, photographs, and plans, will not be accepted; however, photographs may be embedded in the text if the total length does not exceed 15 pages.

As part of a nomination packet, communities must identify projects they wish to undertake. Communities seeking designation do not have to agree on every aspect of the river's use; they must only agree to support the plan of action for the river they identify in their nomination package. Of course, any projects identified in the nomination packet must still undergo applicable state and local review processes.

The most successful applicants will show evidence of broad community support and a clearly defined plan of action. A single nomination for the same river, river stretch or river confluence will indicate, in part, this broad community support. One nomination per river, river stretch or river confluence is recommended. Multiple nominations will be ranked and scored separately.

The scope of the nomination does not have to include contiguous segments of the river. While it is desirable to

apply for designation of contiguous river segments, nominations for two or more noncontiguous segments will be accepted and considered. It is conceivable that two communities will choose to nominate noncontiguous segments of the same river. Although this is acceptable, actions proposed should not adversely affect neighboring communities or have a negative impact on such things as cultural or natural resources, the environment, river access, water quantity or quality, agriculture, navigation, or flood plain management.

After a designation is made, some communities may wish to add stretches of river as part of their designated river. The same process used by the community to seek designation should be used to augment the designated river area. The community should notify the American Heritage Rivers Interagency Committee (hereafter referred to as the Committee) of this augmentation (see "Coordinated Delivery of Federal Services" below). The Committee will then make such recommendations to the President on behalf of the community.

Foreign governments and their international organizations are ineligible to nominate rivers. Foreign governments and their international organizations will have no authority granted to them as a result of an American Heritage Rivers designation.

Nominations are welcomed from community-led efforts that are well underway, as well as from new efforts that are not yet being implemented.

How Will Rivers Be Selected for Designation?

A panel of experts in river revitalization will review nominations and recommend rivers to the President for designation. The panel will be composed of a number of interests, such as representatives of natural, cultural and historic resources concerns; scenic, environmental and recreation interests; tourism, transportation, and economic development interests; and industries such as agriculture, hydropower, manufacturing, mining, forest management and others.

The Chair of the Council on Environmental Quality shall develop procedures for selecting the members of the panel and directing its activities.

In preparation for review by the panel, agency staff will score individual nominations based on community responses to

items 1-4 explained in detail above and summarized as follows:

1. Description of the proposed American Heritage River area.
2. Description of the notable resource qualities in the area.
3. Description of the community's plan of action.
4. Illustration of who supports the nomination and plan of action.

Responses to items 3 and 4 constitute the primary basis for evaluating nominations and will be given equal weight in the scoring process. Items 1 and 2 will be used to put responses to items 3 and 4 in context, but will not be used to assess the merits of the nomination.

From among those nominations that are considered to be qualified, the reviewing panel will also seek to recommend rivers for designation that represent a range and variety of kinds of rivers, including those that:

- as a group and individually, represent the natural, historic, cultural, social, economic and agricultural diversity of American rivers.
- showcase a variety of stream sizes and an assortment of urban, rural, and mixed settings from around the country. The Committee may recommend both relatively pristine and degraded rivers.
- highlight a variety of innovative programs in such areas as historic preservation, wildlife management, fisheries restoration, recreation, community revitalization, agricultural practices, public health and drinking water source protection, and flood plain and watershed management.
- includes community partnerships in an early stage of development, as well as those that are more well established.
- stands to benefit from requested federal assistance.

Number of Designations

The President will designate ten rivers in early 1998. Additional designations in subsequent years will be guided by experience gained from the designated rivers and the level of community support for the initiative.

Terms of Designation

American Heritage Rivers designation is intended to enhance

the partnership between a community along a designated river and the federal government. Although the term of focused, active assistance will be limited to five years, it may be impossible to achieve measurable results from a community's plan of action in that time. Federal agencies may continue to provide appropriate services as part of their ongoing activities after this time.

The community, with the support of the federal government, will work together to implement the plan of action. Designation will generally be considered indefinite or until and unless termination of designation is sought.

The Committee will develop a process by which any community that nominates and has its river designated may have this designation terminated at its request.

Upon a determination by the Chair of the CEQ that a community has failed to implement its plan, the Chair may recommend to the President that a designation be revoked. The Chair shall notify the community at least 30 days prior to making such a recommendation to the President. Based on that recommendation, the President may revoke the designation.

The federal government may also find it necessary to terminate designation because a community has failed to pursue its plan of action. The procedures for such an action will accompany the designation of American Heritage Rivers. Regardless of whether the community or the federal government has requested termination of designation, the other party shall be entitled to know the rationale for the other party's action.

BENEFITS OF DESIGNATION

Presidential Recognition

Designated American Heritage Rivers will be selected by the President of the United States as rivers which deserve special recognition due to their distinctive qualities and community support.

Coordinated Delivery of Federal Services

Programs exist in numerous federal agencies to support river restoration, historic and cultural resource preservation, and community and economic revitalization, especially the agencies that have participated in the development of American Heritage Rivers.

All assistance from the federal government under the auspices of the American Heritage Rivers initiative will come at the request of the community. However, once a river is designated, a preliminary team of federal agency representatives will be available to help the community determine the role for federal assistance. A River Navigator, formerly referred to as a "caseworker" in public meetings and earlier documents (see "River Navigator" below, for a full description of this position) will be made available for each community. The Committee may also assist in overcoming obstacles that arise as the many federal services are provided.

Examples of the federal assistance a community might receive include: information and maps to help communities identify and evaluate historic, environmental and economic resources; capacity building, planning and community outreach assistance to ensure a well-defined action strategy and a broad base of support; training in the use of soil and water quality information as a basis for decision-making and against which to measure progress; training and assistance with environmental monitoring to help communities develop a report card on river conditions and trends; research assistance to identify events and trends in local history; interpretive assistance to develop a framework for communicating the importance of the community's river heritage; technical and financial assistance to implement restoration and pollution prevention activities; and economic modeling to help communities assess benefits and costs of proposed projects.

Within 90 days of designation, the community and the federal agency team should agree on a framework document to identify their proposed roles. The community and the federal team should agree upon one sponsoring federal agency to lead the coordination of federal resources. Methods for simplifying and expediting individual program services will be investigated, and, recommendations made, as appropriate, for improving the scope and substance of federal tools.

The federal teams will function in partnership with each community, state, local, tribal governments, non-governmental organizations, and others, as appropriate.

The Committee will oversee the federal responsibilities under the initiative. Based on the lessons learned from each designated river, the Committee will look for opportunities to reduce bureaucracy, streamline services, and overcome obstacles.

Finally, federal employees providing assistance to designated American Heritage Rivers will participate in an evaluation of the successes and problems associated with the initiative and make recommendations for improving delivery and accessibility of services and programs.

River Navigator

The community surrounding each designated river will have the opportunity to help select a River Navigator who will assist the community in implementing its plan of action. The River Navigator will serve as a liaison between the community and the appropriate federal programs; assist the community, if requested, in engaging the assistance of state, tribal, and local governments and private sector interests; provide information services; offer technical advice; and perform other duties as the community may request, consistent with the goals of the American Heritage Rivers initiative.

The community, rather than the River Navigator, will be responsible for implementation of the community's plans. The River Navigator will have no authority to adjudicate and may not engage in the following: lobbying, leadership of the community partnership or any of its endeavors, or sponsoring organizations; or serve as an officer or voting member of the partnership or any sponsoring organization.

In order to ensure clear communication, the federal government will request that the community identify a single person point of contact as its representative to work closely with the River Navigator. Of course, all members of the community may speak with the River Navigator and other appropriate federal officials assisting American Heritage Rivers.

The framework document, drafted by the federal agencies and the community within 90 days of designation, should include a position description for the River Navigator tailored to the unique needs of the community. The federal agencies and the community should develop performance measures for the River Navigator once she or he is identified. These performance measures must reflect the role of the River Navigator as defined in this Federal Register notice.

The River Navigator will be selected by the sponsoring federal agency with input from the community (see "Coordinated Delivery of Federal Services" above), and will be filled for a period no longer than five years beginning no later than 120 days after the date of designation. Because

each community will have different needs, the sponsoring federal agency will identify several candidates for the River Navigator position from existing staff and provide an opportunity for the community to interview these candidates and provide input to the selection process. The River Navigator will have maximum latitude to work with the community, while also having direct access to principal staff of the sponsoring agency, including the agency representative on the Council (see "Coordinated Delivery of Federal Services" above) as well as other agencies.

The River Navigator position will be fully federally funded, unless the community volunteers non-federal funds to support the position. There is no requirement that a community accept a federal employee as their River Navigator. If the community chooses not to take advantage of the benefit of having a River Navigator, the federal government will provide a point of contact on the Council to call upon as needed.

"Good Neighbor" Policy

Regarding those sites designated as American Heritage Rivers, the federal government intends to act as a good neighbor in planning and making decisions that affect economic development, natural resources and environmental protection, and historic and cultural preservation. The assistance provided by federal agencies is intended to enhance and complement local community goals. In coordinating with state, tribal and local governments, federal agencies will strive to minimize inconsistency, and to reduce or eliminate conflicting policies and programs operating on and around designated rivers. Through early coordination and public involvement, federal agencies will be in a better position to accommodate the local community plans for designated rivers when planning proposed federal actions. The Good Neighbor policy will add no new layers of review or approval to federal actions -- it will simply facilitate those coordination policies and review processes already in place, and encourage the consolidation and streamlining of existing review processes, where possible.

Federal agencies will be encouraged to work in partnership to assist positively communities. Local federal facilities will be encouraged to provide public access, physical space, technical assistance, and other support for which they have authority and resources.

Private Sector Opportunities

The Administration will look for opportunities to help communities access resources from the private sector to enhance economic opportunities that will revitalize communities, improve living standards, provide incentives, create jobs and similarly achieve environmental goals.

BENEFITS TO APPLICANTS WHO SUBMIT COMPLETE NOMINATION PACKAGES

Communities that invest their time to complete the American Heritage Rivers nomination package have already taken important steps to revitalize their communities and improve their rivers. In recognition of these efforts, those who submit complete nomination packages will receive:

- An invitation to a national or regional symposium on partnering with federal, state, tribal and local governments to share information and learn about the tools and resources available from a variety of sources, including community organizations. These symposia will also provide community members an opportunity to give important feedback to federal program managers.
- Relevant site-specific data and computer software, including environmental information, geological maps, community planning software and economic modeling tools. This information will be tailored to meet the community's needs as identified in their nomination.

IMPROVED SERVICES AVAILABLE TO ALL COMMUNITIES

All communities will benefit from improved federal services. American Heritage Rivers Services consolidates existing information from many organizations in one, easy-to-use World Wide Web site. Those who do not have Internet access can call 1-888-40RIVER to request information.

Services, tools and products related to these three primary objectives of American Heritage Rivers are referenced in the web site. Users may choose from categories such as:

- Information Centers, Publications, Maps and Databases
- Calendars, Discussion Groups, and Contacts
- Hands On Assistance and Talent Banks
- Laws and Regulations
- Financial Assistance

- Community Outreach Tools, Curricula, and Professional Training
- Data Collection and Evaluation Techniques
- Planning and Management Tools
- Research and Development

Each entry describes the services and provides contacts for further information, including Internet links (where possible).

American Heritage Rivers Services also provides information organized geographically. Using familiar prompts, such as a river or city name, users can locate information on flood events, population change, road networks, the condition of the water resources, and the partnerships already at work in their area. They can construct customized maps and download them, use economic and environmental assessment models, find information on relevant educational programs, link their own information, or enter a dialogue with others.

CLARIFICATIONS

What is the Role of the Federal Agencies?

The role of the federal agencies in this initiative is to listen to community concerns and needs; to work with communities engaged in conservation and development activities; to overcome obstacles in the delivery of federal services to identified local priorities; and to play a coordination role in helping communities and government agencies learn from each other and compile the best practices, standards, and models for emulation throughout the country.

The greater coordination of federal agencies involved in the American Heritage Rivers initiative may result in more efficient review of federal actions taken in conjunction with implementation of the community's plan of action.

While federal agencies will not endorse individual nominations for designation as an American Heritage River, they will be able to answer questions about the nomination process and continue to work with local government and nongovernmental organizations, some of which may be pursuing designation.

All activities proposed under the American Heritage Rivers initiative must comply with and be consistent with any applicable federal, state, tribal and local laws, be voluntary, and be helpful to local governments. There is nothing in the American Heritage Rivers initiative that will alter any obligation of the federal government to comply with NEPA

or any other statutory or regulatory requirements. Nothing herein shall create or alter any rights, duties, obligations, causes of action or defenses, implied or otherwise, of any person or entity. American Heritage Rivers is a commitment by the federal government to try to provide those programs and resources, identified by the community and paid for by taxpayers, in the most efficient and effective manner possible.

Protection for Private Property and Other Rights

The Administration is committed to ensuring that private property, water, and other rights are fully respected and protected under the American Heritage Rivers initiative.

- The American Heritage Rivers initiative will work in coordination with laws and regulations that seek to reduce pollution, improve water quality, protect drinking water, manage floodplains, promote economic development, facilitate interstate commerce, promote agriculture, protect wetlands and endangered species, preserve important historic and archaeological sites, and address other concerns.
- The American Heritage Rivers initiative will not conflict with matters of state and local government jurisdiction, such as water rights, land use planning and water quality standards, nor will it change interstate water compacts, Indian tribal treaty rights, flood damage reduction, or other existing rights. By achieving greater coordination between programs and local needs, American Heritage Rivers will work to build mutual understanding and better solutions to existing and future problems. It will provide a forum in which federal officials, community organizations, and other stakeholders can examine how the range of regulations are implemented locally.
- Employees of the federal government, including the River Navigator, may not as a result of the American Heritage Rivers initiative infringe on the existing authority of local governments to plan or control land use, or provide or transfer authority over such land use; nor may the initiative affect any existing limitations on or create any new authorities for the participation of federal employees, including River Navigators, in local zoning or land management decisions involving private property.
- The initiative will not supersede, abrogate, or otherwise impair the authority of each state to allocate quantities of water within its jurisdiction; and any proposal relating to water rights in a community's plan must comport with all applicable laws and interstate

compacts. Nothing in this initiative is meant to preclude any holder of a state water right from exercising that right in a manner consistent with state law.

- In implementing the American Heritage Rivers initiative, federal departments and agencies shall act with due regard for the protections of private property provided by the Fifth Amendment to the United States Constitution.

What is the Role of State, Tribal, and Local Governments?

State, tribal, and local governments play critical roles in the American Heritage Rivers initiative. The initiative is designed to complement the work already taking place at the state, tribal and local levels. Local agencies in particular bring a unique and valuable perspective. The American Heritage Rivers initiative can serve as a catalyst to bring these stakeholders together, including neighboring localities and states that share rivers.

Through partnerships, the American Heritage Rivers initiative will bring federal, state, tribal and local resources together to improve the ten designated rivers and provide more efficient services to communities. The greater efficiency achieved through greater coordination of federal services will translate into easier access to federal services by state, tribal, and local governments.

Projects identified through the nomination process for American Heritage Rivers will undergo appropriate state and local review processes. The identification of projects in the nomination process should not circumvent local, regional, and/or state planning forums, especially those involving public review process. Indeed, as appropriate, such processes should complement public outreach efforts and can serve as public forums on proposed projects to be undertaken as part of designation as an American Heritage River. Designation should not impact existing timetables for projects already identified by the community. In many cases, designation could accelerate completion of common objectives.

Many of the federal agencies already have close working relationships with state, tribal, and local governments. These relationships will continue. The River Navigator may request that state, tribal, and local governments participate in the teams that will be assembled to work with each community to implement its plan of action.

Evidence of state, tribal, and local government support will be a key element in selecting American Heritage Rivers. It is likely that state, tribal, and local governments will submit nominations on behalf of communities who wish to participate.

APPENDICES

- Appendix 1- Nomination Form
 - Appendix 2- Summary of Comments Received and How they Were Used
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Email your suggestions

URL: <http://www.epa.gov/rivera/fedreg2.html>
Revised September 11, 1997

H.R. 1842 - Terminating the American Heritage Rivers Initiative

SUMMARY President Clinton's 1997 State of the Union speech announced he would designate ten American Heritage Rivers annually. Since then, there has been a proposal in the Federal Register regarding the American Heritage Rivers Initiative (AHRI) culminating with a September 11, 1997 Executive Order establishing the program.

Even before the Executive Order, AHRI was controversial because many questioned why and if it was needed; why it was being created administratively thus bypassing Congress; its costs and the role of reprogramming to fund it; impacts on private property rights including water rights to mention a few. These and other issues were discussed at a Full Committee oversight hearing on July 15. Since the Executive Order was issued, more concerns about the AHRI process have arisen.

H.R. 1842, introduced by Rep. Chenoweth and cosponsored by 34 Members, would terminate funding by any federal agency for the AHRI. This hearing will hear from Council on Environmental Quality (CEQ) Chair Katie McGinty, Members of Congress, environmentalists, local elected officials, private landowners, attorneys and advocates for property rights and multiple use groups.

BACKGROUND OF AMERICAN HERITAGE RIVERS INITIATIVE

President Clinton announced the American Heritage Rivers Initiative (AHRI) in his State of the Union speech last February. The Council on Environmental Quality (CEQ) was the promoter of AHRI. It involves nine Cabinet-level departments and three other independent agencies. AHRI, based on Vice President Gore's government reinvention efforts, seeks to improve the access and efficiency of existing federal programs for designated rivers. Each designated river would be assigned a "river navigator" which is a federal caseworker intended to help communities understand current federal programs available to their river.

During April and May of 1997, federal agencies held meetings were held in 15 major cities throughout the nation to promote AHRI. Less than 1000 people attended these meetings. Some were concerned that these meetings were not properly noticed and open to all and thus did not comply with the Administrative Procedures Act and the National Environmental Policy Act.

CEQ published a four page notice in the Federal Register on May 19, 1997 briefly describing AHRI and allowing an unusually short 21 day public comment period. The Resources Committee requested a 90 day extension to this public comment period and was granted a 60 day extension until August 20, 1997. CEQ, at the Committee's request, briefed congressional staff on June 6, 1997. Because this briefing raised more questions than it answered, the Committee decided to hold an oversight hearing on July 15, 1997.

Witnesses at this hearing were CEQ Chair Katie McGinty, Secretaries Babbitt, Glickman and various support staff. The Administration tried to assure the Committee that AHRI was honorary, 100 percent voluntary and non-regulatory. Unfortunately, the witnesses would not give firm detailed commitments to back up these vague assurances. For example, Rep. Bob Schaffer patiently asked Ms. McGinty if a requirement could be written into the program whereby private landowners only be included in a designation if they give their written consent to do so. He also asked if a similar safeguard could be written into the program to prohibit river navigators from meddling in local zoning and other decisions that regulate private property. In both cases, Ms. McGinty was unwilling to get any meaningful assurance that these safeguards could be written into the program.

Because this hearing failed to answer the concerns of Mr. Schaffer and many other Members, it was determined that a September hearing involving witnesses from outside the Beltway was needed. This fact, along with the intense opposition to AHRI throughout the country, resulted in 55 Members of the House sending a August 14, 1997 letter to CEQ requesting a 60 day extension in the public comment period. Surprisingly, this request was denied completely and the public comment period ended on August 20 as previously announced.

EXECUTIVE ORDER 13061

At a September 11, 1997 White House press conference with Vice President Gore, President Clinton issued a four page executive order (see attachment) to implement AHRI. He cited authority under the National Environmental Policy Act as his legal basis. Later a 21 page description of AHRI was published in the Federal Register. Highlights of these announcements are:

American Heritage Interagency Committee This new Committee is responsible for implementing AHRI and is composed of the Secretaries of Defense, Interior, Agriculture, Commerce, Housing and Urban Development, Transportation and Energy. The Attorney General, EPA Administrator and Chairmen of the National Endowment for the Arts, National Endowment for the Humanities and the Advisory Council on Historic Preservation are also included.

Nomination Process

"Local communities," a term never completely explained, have until December 10, 1997 to submit a "nomination packet" for their river to be eligible for AHRI designation. Out of all nominations submitted, the President could select ten. The nomination packet is to include a description of the river area, its notable resource qualities, the communities "plan of action," and a listing of who supports the nomination and what opportunities they had to discuss the nomination and the plan of action.

Actual River Selection

A panel of experts on river issues will review nominations and recommend rivers for the President to designate. The panel is to include a broad range of interests ranging from environmental and cultural to agriculture, labor and mining. It will closely review all nomination packets and make its recommendation to the President who will designate ten rivers early in 1998.

River Navigator

Each designated river will be assigned a river navigator who will serve a liaison between the community and federal programs. This person will be selected by the sponsoring federal agency with input from the community. The position will be completely federally funded unless the community offers non-federal funds.

Private Property Rights and Water Rights

The most recent Federal Register notice has nearly one page on this issue but offers generally vague and nebulous language that AHRI will not conflict with "water rights, land use planning and water quality standards." However, it does not address the issue of how a private landowner can be excluded from a designation.

H.R. 1842

H.R. 1842, introduced by Rep. Chenoweth on June 10 and cosponsored by 34 Members, is quoted below in its entirety:

"None of the funds appropriated or otherwise made available to a Federal agency (including the Council on Environmental Quality, the Environmental Protection Agency, and the Department of Interior) may be used to develop, implement, or carry out the American Heritage Rivers Initiative, as described in the proposal of the Council on Environmental Quality published in the Federal Register on May 19, 1997 (62 Fed. Reg. 27252), or any similar initiative."

RECENT SENATE ACTION

Last week the Senate voted 57-42 to defeat an amendment by Sen. Tim Hutchinson (R-AR) to H.R. 2107, the FY Interior Appropriations, regarding AHRI. This amendment would have required that Congress approve any AHRI designations. It also required that all private landowners that abut the affected rivers be notified of the proposed designation.

Staff Contact: Kurt Christensen, x67388

White House Executive Order on American Heritage Rivers
U.S. Newswire
11 Sep 13:04

White House Executive Order on American Heritage Rivers
To: National Desk, Environment Writer
Contact: White House Press Office, 202-456-2100

WASHINGTON, Sept. 11 /U.S. Newswire/ -- The following was released today by the White House:

EXECUTIVE ORDER

FEDERAL SUPPORT OF COMMUNITY EFFORTS ALONG AMERICAN HERITAGE RIVERS

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the National Environmental Policy Act of 1969 (Public Law 91-190), and in order to protect and restore rivers and their adjacent communities, it is hereby ordered as follows:

Section 1. Policies.

- (a) The American Heritage Rivers initiative has three objectives: natural resource and environmental protection, economic revitalization, and historic and cultural preservation.
- (b) Executive agencies ("agencies"), to the extent permitted by law and consistent with their missions and resources, shall coordinate Federal plans, functions, programs, and resources to preserve, protect, and restore rivers and their associated resources important to our history, culture, and natural heritage.
- (c) Agencies shall develop plans to bring increased efficiencies to existing and authorized programs with goals that are supportive of protection and restoration of communities along rivers.
- (d) In accordance with Executive Order 12630, agencies shall act with due regard for the protection of private property provided for by the Fifth Amendment to the United States Constitution. No new regulatory authority is created as a result of the American Heritage Rivers initiative. This initiative will not interfere with matters of State, local, and tribal government jurisdiction.
- (e) In furtherance of these policies, the President will designate rivers that meet certain criteria as "American Heritage Rivers."
- (f) It is the policy of the Federal Government that communities shall nominate rivers as American Heritage Rivers and the Federal role will be solely to support community-based efforts to preserve, protect, and restore these rivers and their communities.
- (g) Agencies should, to the extent practicable, help identify resources in the private and nonprofit sectors to aid revitalization efforts.
- (h) Agencies are encouraged, to the extent permitted by law, to develop partnerships with State, local, and tribal governments and community and nongovernmental organizations. Agencies will be responsive to the diverse needs of different kinds of communities from the core of our cities to remote rural more areas and shall seek to ensure that the role played by the Federal Government is complementary to the plans and work being carried out by State, local, and tribal governments. To the extent possible, Federal resources will be strategically directed to complement resources being spent by these governments.
- (i) Agencies shall establish a method for field offices to assess the success of the American Heritage River initiative and provide a means to recommend changes that will improve the delivery and

accessibility of Federal services and programs. Agencies are directed, where appropriate, to reduce and make more flexible procedural requirements and paperwork related to providing assistance to communities along designated rivers.

(j) Agencies shall commit to a policy under which they will seek to ensure that their actions have a positive effect on the natural, historic, economic, and cultural resources of American Heritage River communities. The policy will require agencies to consult with American Heritage River communities early in the planning stages of Federal actions, take into account the communities' goals and objectives and ensure that actions are compatible with the overall character of these communities. Agencies shall seek to ensure that their help for one community does not adversely affect neighboring communities. Additionally, agencies are encouraged to develop formal and informal partnerships to assist communities. Local Federal facilities, to the extent permitted by law and consistent with the agencies' missions and resources, should provide public access, physical space, technical assistance, and other support for American Heritage River communities.

(k) In addition to providing support to designated rivers, agencies will work together to provide information and services to all communities seeking support.

Sec. 2. Process for Nominating an American Heritage River.

(a) Nomination. Communities, in coordination with their State, local, or tribal governments, can nominate their river, river stretch, or river confluence for designation as an American Heritage River. When several communities are involved in the nomination of the same river, nominations will detail the coordination among the interested communities and the role each will play in the process. Individuals living outside the community may not nominate a river.

(b) Selection Criteria. Nominations will be judged based on the following:

(1) the characteristics of the natural, economic, agricultural, scenic, historic, cultural, or recreational resources of the river that render it distinctive or unique;

(2) the effectiveness with which the community has defined its plan of action and the extent to which the plan addresses, either through planned actions or past accomplishments, all three American Heritage Rivers objectives, which are set forth in section 1(a) of this order;

(3) the strength and diversity of community support for the nomination as evidenced by letters from elected officials; landowners; private citizens; businesses; and especially State, local, and tribal governments. Broad community support is essential to receiving the American Heritage River designation; and

(4) willingness and capability of the community to forge partnerships and agreements to implement their plan to meet their goals and objectives.

(c) Recommendation Process.

The Chair of the Council on Environmental Quality ("CEQ") shall develop a fair and objective procedure to obtain the views of a diverse group of experts for the purpose of making recommendations to the President as to which rivers shall be designated. These experts shall reflect a variety of viewpoints, such as those representing natural, cultural, and historic resources; scenic, environmental, and recreation interests; tourism, transportation, and economic development interests; and industries such as agriculture, hydropower, manufacturing, mining, and forest management. The Chair of the CEQ will ensure that the rivers recommended represent a variety of stream sizes, diverse geographical locations, and a wide range of settings from urban to rural and ensure that relatively pristine, successful revitalization efforts are considered as well as

degraded rivers in need of restoration.

(d) Designation.

(1) The President will designate certain rivers as American Heritage Rivers. Based on the receipt of a sufficient number of qualified nominations, ten rivers will be designated in the first phase of the initiative.

(2) The Interagency Committee provided for in section 3 of this order shall develop a process by which any community that nominates and has its river designated may have this designation terminated at its request.

(3) Upon a determination by the Chair of the CEQ that a community has failed to implement its plan, the Chair may recommend to the President that a designation be revoked. The Chair shall notify the community at least 30 days prior to making such a recommendation to the President. Based on that recommendation, the President may revoke the designation.

Sec. 3. Establishment of an Interagency Committee. There is hereby established the American Heritage Rivers Interagency Committee ("Committee"). The Committee shall have two co-chairs. The Chair of the CEQ shall be a permanent co-chair. The other co-chair will rotate among the heads of the agencies listed below.

(a) The Committee shall be composed of the following members or their designees at the Assistant Secretary level or equivalent:

- (1) The Secretary of Defense;
- (2) The Attorney General;
- (3) The Secretary of the Interior;
- (4) The Secretary of Agriculture;
- (5) The Secretary of Commerce;
- (6) The Secretary of Housing and Urban Development;
- (7) The Secretary of Transportation;
- (8) The Secretary of Energy;
- (9) The Administrator of the Environmental Protection Agency;
- (10) The Chair of the Advisory Council on Historic Preservation;
- (11) The Chairperson of the National Endowment for the Arts; and
- (12) The Chairperson of the National Endowment for the Humanities.

The Chair of the CEQ may invite to participate in meetings of the Committee, representatives of other agencies, as appropriate.

(b) The Committee shall:

- (1) establish formal guidelines for designation as an American Heritage River;
- (2) periodically review the actions of agencies in support of the American Heritage Rivers;
- (3) report to the President on the progress, accomplishments, and effectiveness of the American Heritage Rivers initiative; and
- (4) perform other duties as directed by the Chair of the CEQ.

Sec. 4. Responsibilities of the Federal Agencies. Consistent with Title I of the National Environmental Policy Act of 1969, agencies shall:

- (a) identify their existing programs and plans that give them the authority to offer assistance to communities involved in river conservation and community health and revitalization;
- (b) to the extent practicable and permitted by law and regulation, refocus programs, grants, and technical assistance to provide support for communities adjacent to American Heritage Rivers;
- (c) identify all technical tools, including those developed for purposes other than river conservation, that can be applied to river protection, restoration, and community revitalization;
- (d) provide access to existing scientific data and information to the extent permitted by law and consistent with the agencies mission and resources;
- (e) cooperate with State, local, and tribal governments and communities with respect to their activities that take place in, or

affect the area around, an American Heritage River;

(f) commit to a policy, as set forth in section 1(j) of this order, in making decisions affecting the quality of an American Heritage River;

(g) provide, once a river is designated an American Heritage River and at the community's request, a single representative called a "River Navigator" with whom communities can communicate goals and needs and who will facilitate community-agency interchange;

(h) allow public access to the river, for agencies with facilities along American Heritage Rivers, to the extent practicable and consistent with their mission; and

(i) cooperate, as appropriate, with communities on projects that protect or preserve stretches of the river that are on Federal property or adjacent to a Federal facility.

Sec. 5. Responsibilities of the Committee and the Council on Environmental Quality. The CEQ shall serve as Executive agent for the Committee, and the CEQ and the Committee shall ensure the implementation of the policies and purposes of this initiative.

Sec. 6. Definition. For the purposes of this order, Executive agency means any agency on the Committee and such other agency as may be designated by the President.

Sec. 7. Judicial Review. This order does not create any right or benefit, substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

WILLIAM J. CLINTON

THE WHITE HOUSE,
September 11, 1997.

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September 12, 1997

The Washington Times

Clinton discloses plan to improve waterways

Foes say move would infringe on property rights

By Paul Bedard
THE WASHINGTON TIMES

President Clinton yesterday brushed aside concerns from wary property rights advocates and announced a national river protection program that will guide development on urban and suburban waterways.

"I think it's very important to remember that many of our greatest cities became what they are because they were built on rivers," Mr. Clinton said before signing an executive order creating the American Heritage Rivers Program.

"If we want them to be even greater as we move into a totally new era and where their economies are changing, we have to make sure that the rivers that run through them are good, clean rivers that offer the potential for young people," added the president, who said 10 rivers initially will win the designation next year.

The program's aim is to cut red tape involved in winning money from federal agencies and help communities improve polluted or damaged rivers more quickly.

Opponents, however, have claimed that the program's goal is to steal property rights from riverbank land owners.

Rep. Helen Chenoweth, Idaho Republican, called Mr. Clinton's move "illegal" and scolded him for ignoring congressional concerns about the program. She has introduced legislation to eliminate funding for the program.

"President Clinton has absolutely ignored the Congress, which has never authorized nor appropriated funds for this project," she said.

The White House, however, said the program would not hamper property owners' land use, and Mr. Clinton inserted a sentence in his statement to cool the anger from property rights activists.

"There will be no federal mandates, no regulations, no restrictions on property holders' rights," he said.

Under the program, a "river navigator" will be assigned to the winning 10 communities to help local officials locate and use existing federal programs and money to improve waterfronts and rivers.

Vice President Al Gore said the rivers will be designated "government reinvention laboratories."

The program is different from the federal Wild and Scenic Rivers program, which limits development on mostly rural rivers.

Most environmental groups backed the new project.

"This program will transform river restoration efforts throughout the country," said Rebecca Wodder, president of American Rivers, an environmental lobby group.

HERITAGE RIVERS

The leading candidates to receive special cleanup and protection under the American Heritage Rivers Program:

- Washington's Anacostia and Potomac rivers
- Michigan's Detroit River
- Pennsylvania's Lehigh and Schuylkill rivers
- Virginia's James River
- Indiana's Maumee River
- South Platt River in Denver
- Los Angeles River
- Illinois River
- Chicago River
- Wyoming's Yellowstone River
- Upper Mississippi River, which flows from northern Minnesota to St. Louis
- Connecticut River
- French Broad River in North Carolina and Tennessee
- Oregon's Willamette River
- New York's Hudson River
- Wisconsin's Fox River

The Washington Times

The program marked the latest effort by the president to join environmentalists, many of whom have forgiven his failure as governor of Arkansas to stop the poultry industry from polluting virtually every tributary of the White River.

The announcement was held in the Old Executive Office Building and was attended by lobbyists for several river communities and states planning to apply for the Heritage River designation.

They have 90 days to apply. Most of the communities planning to apply are urban or suburban areas.

Advocates of the Anacostia and Potomac rivers said they plan to submit an application.

But Mr. Clinton praised the Potomac cleanup efforts started by the Johnson administration.

The president recalled his first memory of the Potomac when he attended Georgetown University in the late 1960s.

"When I came to school here, the river was so polluted that students on the boating teams at Georgetown actually had to get typhoid shots to go out on the water... I was not on crew team; that was my excuse," he said to laughter.



EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
WASHINGTON, D. C. 20503

MEMORANDUM TO DISTRIBUTION

FROM: RAY CLARK, CEQ
WESLEY WARREN, CEQ
KAREN HOBBS, CEQ/AMERICAN HERITAGE RIVERS

RE: AMERICAN HERITAGE RIVERS MEETING

DATE: April 24, 1997

Attached is a draft budget for the American Heritage Rivers Initiative, revised based on the discussion last week. Also attached is the latest schedule of regional meetings.

THE BUDGET WILL BE DISCUSSED AND FINALIZED AT THE THURSDAY, APRIL 24 INTERAGENCY COMMITTEE MEETING, 2:00 TO 3:00 P.M., CEQ, 722 Jackson Place.

INTERAGENCY DISTRIBUTION:

Anne Shields	DOI	208-7351	208-6956
Gary Guzy	EPA	260-7960	260-3684
Dana Minerva	EPA	260-5700	260-5711
Bob Wayland	EPA/OWOW	260-7166	260-6294
Sally Yozell	NOAA	482-3567	482-6318
w. Michael Pittman	USGS	267-0426	267-4085
Eugene Cleckley	DOT	366-0106	366-3409
Janet Anderson	DOE	586-7642	586-5701
Anne Kennedy	USDA	720-3631	690-2119
Jim Lyons	USDA	720-7173	720-4732
John Fowler	ACHP	606-8503	606-8647
John Cruden	DOJ	514-2718	514-0557
Scott Siff	DOJ	514-3426	514-0557
Ron Cogswell	OMB	395-4586	395-1067
Dave Sunding	CEA	395-5040	395-6853
Don Pryor	OSTP	456-6135	456-6025

Kris Balderston	WHCA	456-2572	456-2525
Gary Vest	DOD	703-697-1013	703-693-7011
Mike Davis	ASA(CW)	703-695-1370	703-697-3366
Ed Dickey	USCOE	761-0115	761-0140
Tom Lovejoy	Smithsonian	786-2263	786-2304
Mike Stegman	HUD	708-2713	708-2476
Jim Selvaggi	HUD	708-3773	708-7543
Patti Van Tuyl	NEH	608-8299	606-8588
Debbie Jospin	Americorps	606-5000	
Brian Johnson	CEQ	456-6224	456-2710
Beth Viola	CEQ	456-6224	456-2710
Donna Wieting	NOAA	482-5916	482-1156
George S. Hawkins	NPR	632-0185	632-0390
Peter Boice	ASA(CW)		703-607-4237

WORKING GROUP DISTRIBUTION:

Ray Clark	CEQ	395-5750	456-6546
Wesley Warren	CEQ	456-6224	456-2710
Chris Brown	NPS/DOI	565-1175	565-1204
Louise Wise	EPA/OWOW	260-2007	260-6294
Ron Anzalone	ACHP	606-8523	606-8647
David Rostker	OMB/OIRA	395-3897	395-7285
Chuck Moeslein	Corps	761-8534	761-1972
Brooks Preston	USDA	720-7173	720-4732
Jennifer Pitt	NPS/DOI	565-1182	565-1204
Janet Pawlukiewicz	EPA/OWOW	260-9194	260-2529
Jack Frost	USDA/NRCS	720-9483	690-1462
Valerie Chambers	USDA/USFS	205-1007	205-1271

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Budget Options for American Heritage Rivers
Start-Up/Transitional Phase (May 6 - September 30, 1997)

Task	Staffing	Cost for FTE	Other Costs	Object Class	What Gets Done	Comments
Publication	no FTE	N/A	\$25-45,000K		B&W application kit designed, printed and mailed	
Tool Box a) internet b) hard copy	4 FTE annual (=10 FTE for 0 mos.)	GS 12-147	a) \$10,000 b) \$2,000		a) design web structure, identify info (incl. Program and non-trade); construct yellow pages/talent bank; librarian b) short guide to access info, e.g., annotated biblio w/ sources	Research Contract \$250,000
Blue Ribbon Panel 8/97 meeting			\$75,000-100,000			
Blue Ribbon Panel Support	.8 FTE (= 2FTE for 5 mos.)					\$50,000
Orientation/ Training Videoconference	2 FTE (= .5FTE for 5 mos)		\$10,000 contract		a) help fed staff to work more effectively with each other and communities b) train on tool box and application process	
Application Processing	5 FTE (= 6FTE for 1 month)				-Team of federal staff (non-AHR) to screen and score -AHR staff prepare for Blue Ribbon Panel	\$25,000
AHR Staff Team Building Retreat			\$15,000			
TOTAL	5.5 FTE		\$137-182,000			

ADD: AHR Staff time

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Budget Options for American Heritage Rivers
Implementation Phase (October 1, 1997 and beyond) - FY98

Caseworkers	TED	For 10 rivers \$500,000 to \$1,000,000 federal depending on cost share (person w/significant experience; salary @ \$70K)			Government Estimate 250,000 2.5M
Blue Ribbon Panel		\$150,000-200,000		Two meetings November 98 Summer 98	
AHR HQ Team	3 FTE			Blue Ribbon Panel Support Steering Committee Support Caseworkers Support Corporate Outreach	200,000
Application Processing	1 FTE (= 6FTE for 1 mo x2)			-Team of federal staff (non-AHR) to screen and score	75,000
Orientation/ Training Videoconference (grassroots)	2.5 FTE (= 1FTE for 3 mos)	\$150,000 contract		partnership/facilitation training workshops for agency staff, caseworkers and designated river community members includes travel expenses, lodging, materials for two one-week long sessions (50 people/rivers each time)	
Evaluation					
TOTAL	4.25 FTE	\$800,00-1,350,000			

add: Tool Box Maintenance
 ② Small grant funds for planners
 \$5,000 ?

REGIONAL MEETINGS

Meetings Being Organized by Federal Agencies:

City	Date	Time	Administration Rep.	Staff
Albuquerque, NM	April 16	2-5 p.m.	None	Chuck Moeslein
Asheville, NC	May 1	9 a.m.	Mike Davis, Deputy Asst Secretary, Army (Civil Wks)	Janet Pawlukiewicz
Atlanta, GA	April 28	2-5 p.m.	EPA Administrator Carol Browner	Jennifer Pitt
Boston, MA	April 22	12:30-4 p.m.	Dep. Sec'y Rominger, USDA	Karen Hobbs
Chicago, IL	April 28	9-1:30, EPA	None	Chris Brown
Denver, CO	April 22	1-3:00 p.m.	Secretary Babbitt	
Los Angeles, CA	May 7	Morning	None	Karen Hobbs
Philadelphia, PA	April 29	1-4 p.m.	Under Sec'y Lyons, USDA	Valerie Chambers
	April 25		Fred Hansen, Deputy Adm., EPA	Louise Wise
San Francisco, CA	April 28	1-4, EPA	Under Sec'y Lyons, USDA	Valerie Chambers
Seattle, WA	April 30	12:30-4, REI	Under Sec'y Lyons, USDA	Jack Frost

Meetings Being Organized by Non-Federal Agencies

El Paso, TX	April 21	1-4 p.m.	Juan Mestes, Deputy Chair, NEH	Jennifer Pitt
Laredo, TX	April 28		Kathy Slater, Chair, ACHP	Ray Clark
Minneapolis, MN	May 14		Katie McGinty, Chair, CEQ	

OBTAINED BY RESOURCES COMMITTEE FROM CEQ

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AMERICAN HERITAGE RIVERS INITIATIVE

SELECTION

The Process

Assumptions:

1. We are creating broad criteria to ensure a diversity of applications, so there will be vast differences in the nominations. The selection committee will need major guidance.
2. AHRI staff will conduct first cut of nominations in order to limit work of selection committee.
3. Selection committee will recommend more AHR's than are actually designated, giving someone else (the President?) a further choice. This could ensure that designated AHR's:
 - * serve political purpose
 - * are located where agencies can staff them
 - * are diverse (river, landscape, community, geography, etc)
4. Selection committee members will exempt themselves from review of any application with which they have a connection (e.g. in their state, a member of their organization)
5. It is important for the selection process to be standardized, in order to eliminate the perception of subjectivity.
6. Selection committee will score applications according to many measures.
7. Selection committee process will be based on discussion and consensus about how well nominations meet criteria, with no scoring, in recognition of the diverse nature of the projects.
8. AHR staff or some other panel of experts (agency staff?) will conduct technical review of nominations and score them, before they are passed on to selection committee.
9. Selection committee will consist of people with experience in community-based conservation.
10. Selection committee will consist of high-level, political people who add prestige to AHRI.
11. Selection committee will consist of "just folks" who have relevant experience, in keeping with the grass-roots tone of the AHR initiative.
12. We want selection committee to gain for AHRI state buy-in and citizen support for the process.

★ COMMITTEE ENTHUSIASM ADDED

The Selection Group

1. Purpose: The selection committee will review nominations for AHR designation, and make recommendations.
2. To whom does selection committee report? The President? CEQ? Principals? (Does there need to be a screen between selection group and President?) \
3. legal structure:
 - * limited to gov't (fed, state, local) employees, no FACA group required
 - * FACA group advising an agency, CEQ, President...tough to set up, requires federal employee staffing
 - * other options...e.g. NPS Advisory Board could establish a subcommittee with one of their members and a host of new folks without running into FACA problems -- this subcommittee recommends to NPS Advisory Board, which then recommends to President
4. staff: AHR selection committee will need staff work (e.g. prepare applications for review [administrative], interview individuals from nominating communities [substantive], make a first cut[?]).
5. schedule: 4 meetings in the first year? thereafter?
6. cost: does federal government pay for attendance at selection committee meetings?

draft 3/12 r:\ahri\private.jen

PRIVATE COMPONENT OF THE AHRI

The American Heritage Rivers Initiative, a new initiative to bring restoration to our nation's rivers and sustainable development to our nation's communities, should provide an opportunity for good intentions in the private sector to be paired with innovation in government.

Many individual communities engaged in river restoration and economic revitalization already turn to business for financial and in-kind support as a critical piece of a local partnership, and these efforts should be encouraged to continue. Similarly, local partnerships often include universities, which are able to bring scientific and economic expertise to the table.

AHRI can add to these local partnerships by bringing the donated resources of large corporations and a network of universities to these local partnerships. AHRI's visibility should be used to engage "big players" at the national level with the express intent of delivering donated resources to the local level. For both components discussed here, it will be useful to have high-level administration involvement to interest the "big players."

UNIVERSITY RIVER-LINK

This may in fact be an element of the Talent Bank concept. In the case of universities, AHRI might be used to catalyze a coordinated effort by the academic community to create greater accessibility to basic research and demonstration projects, as well as to encourage AHRI communities to define research projects with which they would like assistance.

Ray has discussed this idea with the Dean of the Duke School of the Environment, who expressed interest. In order to facilitate coordination in the university community, the Administration might convene a conference of interested academicians and administrators, and begin to discuss the possibilities. This might be possible before 5/5. It will be critical to find leadership within the university community, as this is not an effort that can be organized by government.

This is not a suggestion to provide new funding to universities.

PRIVATE SECTOR FINANCIAL SUPPORT

Donors may be attracted by the Presidential patina of this initiative, but they are unlikely to give money until they know where it is going (e.g. NYC because the Hudson is an AHR...and Exxon knows it has some image polishing to do in NYC after the 1990 oil spills in NY harbor). Donors may not be easy to identify until AHR's are designated.

* Thus the paradox: we expect to attract "big donors" with Presidential interest, but know that these "big donors" are not going to give money unless they know where it's going (and believe they have something to gain by doing something good in that place). The AHR fundraising effort, then, must have both the Presidential, it's-good-for-America spin, AND the specificity of a community that will benefit.

* Large donors identified locally in the AHR community might be recognized by President. If each AHR knows it will get a Pres. visit/event at which large donors will get thanked by the Pres., the incentive for donations becomes tangible. (local --> central)

* Someone in DC, with access to the Administration, could pursue donations with corporate leaders, with a list of AHR communities in hand. Donors could be thanked by President at local event or at national event. (central --> local)

Questions about the mechanism:

- * Who solicits? Will it be possible for agency employees or others to send interested private parties to central AHR office to coordinate (ie since agency staff have restrictions on soliciting, will AHR staff be able to handle)?
- * Is it possible to get high level Administration people involved in solicitations for AHR's, or does that pose legal/political problems?
- * There are distinct limitations on how agency staff can engage in fundraising. Several adjunct foundations have been established by the Congress in order to separate agency staff from this task (FWF, NPF, NEETF, etc.). An organization could be identified to work on AHR fundraising. Alternatively, donors attracted (by agency and administration staff) at the national level might give money directly to local AHR organizations or coalitions. This would avoid a layer of bureaucracy and overhead. Will this be effective if it remains an ad hoc process?

I have some ideas about possible donors:

- * Turner Foundation (recently increased pot of money for enviro grants)
- * GATX (rail car company that contacted a local friends of river organization, interested in making a difference nationally)
- * Home Depot (began a conversation with RTCA about sustainable community projects)

* COMMITTEE EMPHASIS ADDED

DRAFT

AMERICAN HERITAGE RIVERS INITIATIVE
RIVER COMMUNITY COORDINATOR

1) FULL-TIME POSITION: The river community coordinator is full-time Federal employee, in permanent or term status, or a non-Federal professional hired into a position paid from Federal funds. In either case, the individual selected to serve as the river community coordinator would be fully dedicated for a period not to exceed five years, beginning 90 days subsequent to the date of designation by the President.

Pro-- Position requires considerable time and commitment. Collateral duties not possible.

Con-- Other programs may suffer, if a person is reassigned to AHR.

2) PAYMENT RESPONSIBILITY: Although the incumbent is selected jointly by the designated river community and the sponsoring Federal agency, the position will be paid from Federal funds. However, if a designated community so desires, voluntary provision of non-Federal funds will be accepted to support the position.

Pro-- Keeps promise from Administration. However, cost-sharing position can build greater local commitment.

Con-- other programs may suffer.

Note: If your agency is not providing an FTE, then cash or other equivalent support will be required.

3) LOCATION: The river community coordinator will be located (i.e., housed) locally, or as close to the designated river community as practicable. If local community housing is unavailable, the sponsoring agency will have responsibility for such costs, including travel, relocation costs, and other associated expenses, as necessary.

Pro-- Potential for stronger community acceptance if local person hired, no relocation costs. Non-local person may be perceived as more neutral.

Con-- If local person, search may become locally politicized, if non-local person, relocation costs.

4) REPORTING REQUIREMENTS: The coordinator will have maximum latitude to work independently with the river community, while also having direct access to principal staff of the sponsoring agency. Reporting requirements would be to the AHR Federal Interagency Team for programmatic purposes, and to the field office supervisor of the sponsoring agency for matters involving logistical support, administrative services, and personnel management. If the coordinator is a non-Federal individual hired into a position using Federal funds, reporting to the sponsoring entity (e.g., university or non-profit organization, etc. which received the Federal funding) for purposes of logistical support, administrative services and personnel management would be required.

Pro-- Easier to resolve work issues if supervisor is nearby.

Con--

5) POSITION: Depending upon the specific goals, objectives and desires of the designated river community, the river community coordinator could include a non-Federal individual, GS 13-15 civil service employee, or equivalent, or political appointee.

Political Appointee:

Pro-- Greater access to Washington, less agency turf-driven, perhaps greater ability to cut through red tape.

Con-- Shorter time spent in community, less agency knowledge, tendency to pursue political expediency, hard to gain trust of community.

Civil Service:

Pro-- More technically knowledgeable, possibly greater trust by community, easier hiring process.

Con-- Tendency for stovepipe thinking, can have less ability to cut through red tape, can lack big-picture perspective.

Notes: Community needs to have a single point of contact.

6) FLEXIBILITY: There is no requirement that a designated river community hire a coordinator. However, if the community waives the opportunity to select a coordinator, funds that would have otherwise been used for the coordinator will not be made available to the community.

Pro-- Unlikely that communities will turn down "free help," but as much latitude as possible upholds the spirit of the initiative.

Con-- Could hamper communities pursuing primarily private sector investment.

7) DUTIES: The river community coordinator will: serve as a liaison between the river community and the appropriate Federal, state and local governments and private sector interests (as identified by the community); provide information services; offer technical advice; serve as community facilitator; and perform other such duties as the river community may negotiate, consistent with the goals of the AHR Initiative.

Pro-- Both skills are indispensable. Two-way communication abilities more important than simple information dissemination (one-way communication).

Con--

8) STRUCTURE: Shortly after designation, and as part of the initial AHR Federal Interagency Team site visit, an agreement will be drafted between the community and the sponsoring agency outlining the responsibilities of the involved parties, including the development of a position description for the river community coordinator.

Pro--

Con--

Note: In the interim before river navigator begins, agency will meet with community to keep momentum going.

9) **AUTHORITY:** The river community coordinator will have no authority to adjudicate, and may not engage in the following: lobbying, political activities; policymaking (at any level of government); leadership of the river community partnership or any of its endeavors or sponsoring organizations; nor serve as an officer or voting member of the partnership or any sponsoring organization.

Pro-

Con-

10) **SELECTION:** Recognizing that each river community will have differing requirements for such aspects as organizational development and community participation; technical planning and program development; and expertise in environmental protection, natural resources management, conservation of historic and cultural resources, or economic development and community revitalization; communities will desire to negotiate for a coordinator with expertise in one or more areas (e.g. technical, communications, interpersonal, etc.). As discussed in paragraph 8, above, a position description for the river community coordinator will be developed between the community and the sponsoring agency during the initial AHR Federal Interagency Team site visit. The position description will form the basis for the community to select the most appropriate individual for their river community coordinator.

Pro-

Con--

draft 7/3/97

A Generic Position Description
for the
RIVER COMMUNITY COORDINATOR

Occupational Series/Grade/Title. eg: GS 301-15 or GS 020-14 or GS 0028-13. River Community Coordinator.

Organizational Location.

This position is located in the (field office) of the U. S. Department of (specify).

I. Introduction. The federal government is providing a community coordinator to work on behalf of each designated American Heritage River Community, for a five year period beginning 90 days after the date of designation.

The coordinator may be a federal employee, in permanent or term status, or a professional hired into a position paid from federal funds. The incumbent is selected jointly by the designated river community and the sponsoring federal agency.

The coordinator will (1) serve as liaison between the river community, the federal government, and state and local governments and private sector interests selected by the river community, (2) provide information services, (3) offer technical advice, (4) serve as a community facilitator, and (5) perform such other duties as the river community may negotiate, consistent with the goals of the AHR Initiative.

The coordinator will (1) have maximum latitude to work independently with the river community, (2) enjoy direct access to principal staff of the sponsoring agency, (3) report to the AHR Federal Interagency Team for programmatic purposes, and (4) report to the field office supervisor in the U.S. Dept. of (specify) for purposes of logistical support, administrative services and personnel management, except that a coordinator who is a non-federal person hired into a position funded by federal funds will report to the sponsoring entity (such as a university or non-profit organization) which received the federal funds, for purposes of logistical support, administrative services and personnel management.

The coordinator may not engage in lobbying, political activity, policymaking at any level of government, or leadership of the river community partnership or any of its endeavors, or of any sponsoring organizations. Nor shall the coordinator serve as an officer or voting member of the partnership or any sponsoring organization.

II. Duties and Responsibilities.

- . provides general liaison between the designated River Community and Federal, state and local governments, and private sector interests, explaining the community's needs, plans, and proposals and seeking governmental and private resources in support of the community's goals.
- . serves as a information specialist, identifying and securing technical and program information to assist the River Community in strategic planning and implementing its projects.
- . serves as a technical advisor, assisting the Community to identify issues, secure working consensus among participants, develop goals and priorities, design and implement projects for preservation and revitalization.
- . serves as a community facilitator, at local request, to help achieve working consensus among the river community partners regarding priorities, goals, plans and projects.
- . additional duties as proposed by the River Community.
- . serves as national advisor to the AHR Federal Interagency Team, recommending changes in AHR policy and procedures, participating in Team meetings to exchange ideas and success stories, and assisting in national/regional workshops for the river communities.
- . if a federal employee, also serves as the Secretary's or Agency's Representative to the river community.

III. Qualifications.

Each river community will have differing requirements for (1) organizational development and community participation, (2) technical planning and program development, and (3) for expertise in environmental protection, natural resource management, conservation of historic and cultural resources, or economic development and community revitalization. Depending on the strength of requirements, each river community will want to negotiate for a coordinator with credentials and experience in one or more of the following areas.

Partial list follows..needs more development.

Technical quals:

. expert knowledge of federal, state, and local programs and resources appropriate for balanced conservation of rivers and revitalization of communities alongside them.

. ability to analyze complex issues involving conservation, preservation and development of rivers and adjacent lands and to recommend appropriate technical, financial and organizational solutions.

Communications quals.

. ability to communicate and work effectively with many kinds of groups in their capacities as community leaders, elected officials, company executives, property owners, river users, preservationists, developers, professional organizations, the media, and federal, state, local and tribal agencies.

. skills in community outreach, group facilitation, consensus building,

Interpersonal quals.

. ability to work with political leadership and senior program managers at all levels of government, and with CEOs in the private sector.

. ability to work in unstructured environments, ability to work independently with minimal guidance or supervision

The River Navigator

A River Navigator will be provided for five years to each River Community that is designated by the President as an American Heritage River (AHR). The River Navigator will be a Federal or Non-Federal employee selected jointly by the River Community and the participating Federal agencies. The River Navigator will work on an independent basis with the River Community but be responsible to the AHR Federal Interagency Team (FIT) in Washington, D.C. The River Communities will provide information to Federal supervisors to consider while evaluating River Navigators.

River Communities will provide their own leaders for their action plans and organizations. The River Navigator will help establish leadership and coordination among local Federal agencies and their associated programs. The River Navigator will not fill the local leadership role for the River Community, the American Heritage River sponsoring organization nor community leaders.

The River Navigator has a National as well as a local role. This is to ensure that program and policy changes, as appropriate, can be made across program lines on a National basis, not just at one location. To be effective, the navigator is to be seen as having a direct line to the White House.

Proposed Duties

1. Liaison between the River Community and Federal, State and local agencies. Serves as a bridge builder between all parties.
2. Familiar with current and developing programs and sources of funding of various Federal, State and local agencies. Serves as a clearing house of information.
3. Works with River Communities to:
 - a. assist in identification or further development of community needs and problems and
 - b. recommend strategies to address identified challenges, objectives and goals.
4. Serves as a catalyst and bridge builder to encourage and facilitate community activities and relationships.
5. Assists in monitoring and evaluating community efforts.
6. Provides progress reports to the River Community and the AHR FIT in Washington, D.C.
7. Attends national meetings and workshops to share ideas, discuss problems, and receive training.

Assumptions

1. EPA, DOI and USDA have authorities to provide FTE/positions for River Coordinators as well as to provide funds to local communities to hire River Navigators.
2. Each River Community will help establish the duties of its River Navigator.
3. The work style and experience of the River Navigator (professional community planner, high level networker, or political) will be based on the needs of the River Community.
4. Each River Community will be allowed to select their River Navigator from three candidates.

River Navigator

A River Navigator will be provided to each River Community that is designated by the President as an American Heritage River. The River Navigator will be either a Federal or Non-Federal employee that will work on an independent basis with the River Community but be responsible to the AHR Federal Interagency Team in Washington, D.C. The duties of the River Navigator will encompass the following.

1. Liaison between the River Community and Federal, State and local agencies serving as a bridge builder between all parties.
2. Familiar with current and developing programs and sources of funding of various Federal, State and local agencies. Serves as a clearing house of information.
3. Works with River Communities to:
4. assist in identification or further development of community needs, problems
5. recommends strategies to address identified challenges, objectives and goals
6. Serves as a catalyst and bridge builder to encourage and facilitate community activities and relationships.
7. Assists in monitoring and evaluating of community efforts.

2/

Issues: agency program authorities to provide FTE/positions for River Coordinators or to provide funds to local communities to hire River Navigators.

RICHARD G. LUGAR
 SENATOR
 2000 EAST CAPITOL DRIVE SUITE 200
 WASHINGTON, DC 20540
 MD-200-2014

COMMITTEES
 AGRICULTURE, NUTRITION, AND FORESTRY
 CHAIRMAN
 FOREIGN RELATIONS
 SELECT COMMITTEE
 ON INTELLIGENCE

United States Senate

WASHINGTON, DC 20510-1401
 October 8, 1997

Kathleen A. McGinty
 Executive Office of the President
 Council on Environmental Quality
 Old Executive Office Building
 Room 360
 Washington, D.C. 20501

Dear Ms. McGinty:

On Wednesday, October 1, the Wabash River Heritage Corridor Commission voted unanimously to table an application for federal designation of the Wabash River as an American Heritage River.

We understand that this decision was in response to citizen concerns regarding property rights and the vagueness of certain program requirements and that a majority of counties along Wabash River Corridor expressed their opposition to a federal designation by formal resolution.

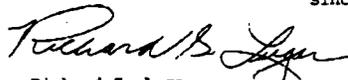
As you know, we voted for the Hutchinson Amendment to the Interior Appropriations bill for FY 98. This amendment would require notification of all landowners adjacent to a proposed American Heritage River and Congressional approval of any federal designation of an American Heritage River.

We believe that all persons who might be affected by a federal designation should be notified so that their views might be heard. We also believe that the views of elected officials should be ascertained as part of the demonstration of broad-based support which is required for any successful application.

We request that you notify us if you receive any applications for American Heritage River designations within our state. We could not support any applications which did not include adequate notification procedures, clarification of property rights issues, and broad-based support from state and local elected officials.

We appreciate your consideration of our views.

Sincerely,



Richard G. Lugar
 United States Senator



Dan Coats
 United States Senator

rgl/jbj

MISSOURI LEVEE AND DRAINAGE DISTRICT ASSOCIATION

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PAUL SEIGFRIED, ATTORNEY
201 EAST MUNKLE
MEXICO, MISSOURI 65266
(573) 581-8888

September 22, 1997

Hon. Don Young
Chairman, House Resources Committee
Washington, D. C.

FAX: Kurt Christiansen (202) 225-6128

Dear Chairman Young,

We support H. R. 1842 (Representative Chenoweth's Bill) "to terminate further development and implementation of the American Heritage Rivers Initiative." In our comments regarding this initiative we made the following suggestions in order that the initiative might be not detrimental to agriculture.

"The phrase "Community Based Program" has possibly been inadvertently used. Surely this is not a program to benefit only the urban sector and omit the rural sector and agricultural sector. Hopefully it is an all inclusive concept seeking to benefit interests of everyone involved. In order to clarify this matter, we suggest that the phrase "community" or its variants as it is used in this proposal be replaced with the phrase "community and rural agricultural areas" or its variants.

The phrase "River Communities" or any variant should be replaced by the phrase "River Communities or rural agricultural areas" or variant

You have stated that no new federal regulations will be needed under this program. We would suggest that the statement regarding federal regulations be broadened to clarify that:

"There will be no extension or broadening of the present application, scope, or the interpretation of the existing federal regulations by reason of this program."

We would suggest that you add a definition for "broad community support" to clarify the fact that each segment of the community or rural agricultural area must be favorable to the project so that the designation will not be made with a significant opposition from any sector or group within the community or rural agricultural area, and further that no area will be so designated if the mayor, or a majority of the city or town council or board or a majority of the county commission, or the governor of the state, or the state legislature, or the U. S. Representative representing the district, or the U. S. Senator is opposed to the designation.

We would suggest that you clarify that not only foreign governments shall not sponsor or benefit from this initiative but also that foreign corporations, partnerships, firms, businesses, or interests or governments shall be prohibited from sponsoring or participating in any fashion in the nomination process and that the said foreign interests shall be prohibited from acquiring any rights or interests as a result of such designation.

You have said that a designation may be terminated but have not indicated how this would be accomplished. We would suggest that upon there being demonstrated substantial opposition to the designation or upon the petition for termination of a designation by 10% of the voters within the designated area which shall not exceed the size of one county or one community within the county or those holding 10% of the lands within the designated area, the designation shall be terminated.

It has been indicated that as the purpose is now established it would be difficult if not impossible to include flood protection within the scope of the designated programs. Those of us familiar with the river strongly believe that if the purpose of this designation program is to fulfill the needs of the river communities and rural agricultural areas flood control needs are essential and it is imperative that the program be so structured so that it will provide the resources so as to make these vital flood protection services available.

To show that this plan is not one conceived to be primarily for urban areas, we would suggest that where the phrase "River Community" is used it be replaced with the phrase "River Community and Rural Agricultural area."

With respect to the scope of the area covered by the nomination, it should provide that any area so designated will not exceed the size of one county or one community within the county in which there has been expressed substantial opposition to the nomination, and significant opposition from any sector or group within the community or rural agricultural area, and further that no area will be so designated if the U. S. Senator or Representative, the mayor, or a majority of the city or town council or board or a majority of the county commission are opposed to such designation or the filing of an objection by 10% of the voters of the designated area or by those holding 10% of the lands within the designated area.

Under the qualifying criteria there should be added to
 "... natural, historic, cultural, social, economic, ecological diversity." flood protection and channel stabilization needs.

To those items which should be showcased there would need to be added to
 "watershed planning, historic preservation, wildlife management, fisheries' restoration, community revitalization, flood plain management" flood protection needs and recreation.

Following the Selection Council there should be added the following paragraph:

Notice of Filing of Application

Upon the filing of an application for listing of a river, there shall be given 90 days notice of the application by a newspaper of general circulation in the county and an opportunity to respond to the application shall be given. Should there be substantial opposition to the application or the filing of an objection by 10% of the voters of the designated area or of those holding 10% of the lands within the designated area, or objection by a U. S. Senator or Representative, the mayor, or a majority of the city or town council or board or a majority of the county commission in such designated area the application for designation shall be denied.

For the purpose of objecting to the designation or for terminating the designation, any designated area may not exceed the size of one county or one community within a county.

In order to alleviate concerns that this program is hostile to agriculture under part I Benefits of Designation and the Designation Process, paragraph 3, Coordinated Delivery of Federal Services after the phrase "Training in soil and water quality testing will help communities develop a baseline against which to measure progress and environmental monitoring will help communities develop a report card on river conditions and trends," there should be added a comment such as "This program is not for the purpose of adversely affecting agriculture and shall not, under any conditions, adversely affect agriculture, livestock, or crop production, channel stabilization and navigation."

We feel that three of the most important items that should be covered in the American Heritage Rivers Initiative are flood control, agriculture and navigation. The river basins have historically been used for agriculture and the 1993, 1995 and 1997 floods have brought to your attention the importance to lives and property of flood control. Without flood control we feel that the initiative would be counterproductive and would result in driving agriculture away from those river basins which receive the American Heritage River designation.

Agriculture has historically been a preferred use of the river flood plains and bottoms and this initiative should not restrict or endanger agriculture in the American Heritage Rivers systems.

Transportation and navigation are important economic factors to agriculture in the Missouri river basin. It must be made clear that this initiative does not have as one of its objectives the restriction or elimination of transportation or navigation in the American Heritage Rivers systems. In order to clarify this matter, we suggest that the following additions be made to the initiative:

To have the purpose of the initiative to help communities:

"restore and protect their river resources in a way that integrates natural resource protection, flood protection, agriculture, transportation, navigation, economic development (including commercial and industrial development zones that utilize river navigation and channel and harbor restoration), and the preservation of historic and cultural values."

To point out in the background that communities across America are working to:

revitalize their waterfronts, enhance the flood protection, historic, cultural, recreational, agricultural, transportation, navigation, economic, public health, and environmental values of their rivers.

To have the coordination of public services to provide:

3. Technical assistance, education, funding an high quality aerial photography and maps will help identify and evaluate historic, flood prevention, agriculture, transportation, navigation, and environmental and economic resources.

That the "Good Neighbor Policy" would have a positive effect on:

the natural, historical, economical, agricultural, flood control, transportation, navigation, and cultural resources of the American Heritage River Communities.

That the measurable benefits to the river community should reflect the communities' goals including, but not limited to:

protection of water resources and/or public health and safety, flood control, transportation, navigation, restoration of rivers (including commercial and industrial development zones that utilize river navigation and channel and harbor restoration), protection and highlighting historic and cultural resources, revitalization of local and regional economies, and/or implementing sustainable agriculture and economic development within the river basin.

We have not been notified that any of these modifications were made. Since the initiative has the potential for such a serious adverse effect on either flood control and agriculture we respectfully request that initiative not be funded.

We request that these comments be entered as testimony for the record.

MISSOURI RIVER LEVEE AND DRAINAGE ASSOCIATION.



Paul W. LePage, Chairman
1003 Rock Hill Road
Jefferson City, Missouri 65101

CRZLR, Inc.
P.O. Box 16 Malden Rock, WI 54750
Tel/FAX 715-448-3213

Working together
along the corridor
to protect:

Agriculture
Agri-business
Industry
Land owners
Local economies
Local government
Recreation
River users
Small businesses
Timbering

as well as

Culture
Flora and fauna
Heritage
Scenic beauty

September 12, 1997

Honorable Don Young, Chairman
House Resources Committee
Room 1324 LHOB
Washington D. C. 20515

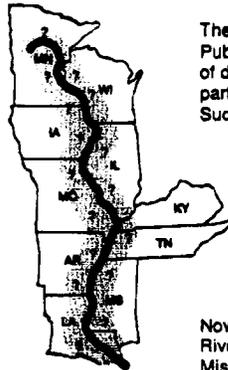
RE: Committee Hearing on On September 24, 1997 regarding
HR1842 to terminate development of the American Heritage
Rivers Initiative.

Dear Representative Young:

**We are submitting the enclosed People's Report and
request it become part of the Public Record for the
Resource Committee hearing on September 24, 1997.**

Though this Report deals specifically with the Mississippi River,
it should be considered in the broader context of the Heritage
Rivers Initiative. Our Report, "...transcends the Mississippi River
Corridor and its people. It speaks to the issue of heritage areas,
wherever they may be proposed. It is a reflection of the deep
feelings people everywhere hold for the sanctity of their land."

MISSISSIPPI RIVER



The Mississippi River Corridor Study Commission was created by
Public Law 101-398 in 1990. It was to determine the "feasibility"
of designation of the River. It also mandated broad public
participation, and public hearings in each of the effected states.
Such participation and public hearings never occurred.

Property owners and businesses along the Mississippi
River found other ways to publically express their
overwhelming opposition to creation of a Mississippi River
Heritage Corridor. Never-the-less, the Study Commission
wrote a report recommending designation of the
Mississippi River. So far, Congress has not acted on
this recommendation.

Now we are faced with a new threat. The American Heritage
Rivers Initiative has resulted in a nomination of the Upper
Mississippi River.

Board of Directors:

Jack E. Brown
Vernon Martin

William Holst III
Francis H. Ogden
Joe Wieser

Dr. Ernest Larson
Frederick Richter

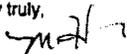
If chosen (which is very likely), it will result in designation of the Mississippi by Executive Order, circumventing Congressional debate, and the will of the majority of the people.

We are sending this People's Report, because we want the Congress to understand how the people feel about this issue. The Report provides the insights and data omitted from the final Feasibility Report, submitted by the Study Commission. It clearly justifies the overwhelming public opposition.

Nomination for heritage status is not driven by massive local support; it is driven by the 'vision' of a relatively few people with special interests who have little to lose and much to gain if they become the 'managers' of land use.

We hope this document will be helpful in convincing your colleagues to support Rep. Chenoweth's bill, HR1842.

Very truly,



Marilyn F. Hayman, President
Citizens for Responsible Zoning and Landowner Rights, Inc.



CITY HALL
207 Lafayette Street
P.O. Box 378
Winona, MN 55987-0378
FAX: 507/457-8212

September 23, 1997

Representative Don Young
Chairman House Natural Resources Committee
U.S. House of Representatives
425 Cannon House Office Building
Washington DC 20515

Attention: Kurt Christiansen

Dear Representative Young:

I am writing this letter in response to a phone conversation yesterday with Kurt Christiansen. At this time the City has not taken a position concerning a nomination for the American Heritage River Designation for the Mississippi River. The City did have a representative at the meeting held in St. Paul, Minnesota, concerning this nomination. We are waiting for the draft copy of the five page summary for the Upper Mississippi River that was to be provided to us before we respond to the nomination.

The City's position is the Mississippi River serves many functions for the Community. Those include commercial navigation, recreational use, and cultural, social and environmental benefits. We believe that all these uses must be maintained and are an integral part of any focus taken on the Mississippi River.

The Mississippi River in Winona played an important and critical part in the development of this community. The River as a "working river" is part of the history of the Winona area and continues to be important to our economic development by providing a vital transportation route to the world economy. Any focus given to the River must include the importance of the River as a major transportation route and must work to maintain this route to the world.

Representative Gutknecht
September 23, 1997
Page 2

Before the City takes a position on the American Heritage River Designation for the Upper Mississippi, we must be comfortable that the focus of the Designation includes the significance of commercial navigation along with the other benefits the River brings to the citizens.

We would ask that this letter be placed on record as part of the testimony on the American Heritage River's Designations.

Sincerely,



Jerry Miller
Mayor



Judith Bodway
Director of Economic Development

August 6, 1997

Mr. Ray Clark
White House Council of Environmental Quality
Old Executive Office Building, Room 360
Washington, D.C. 20501

Dear Mr. Clark,

Thank you for your willingness to travel to Missouri and discuss the proposed American Heritage River Initiative (AHRI). We further appreciate your interest in additional comments on how the AHRI can be improved.

We support the goal of recognizing river communities for their efforts related to economic development and environmental enhancement. However, recent experience with issues such as heritage corridors, biosphere reserves and floodplain management have resulted in legitimate skepticism toward federal and/or state land use initiatives. Therefore, our organizations are opposed to the AHRI in its current form.

Specifically, we are concerned about the following:

1. The absence of a clearly defined reason why a new federal initiative is needed to "force" existing federal agencies to coordinate their actions;
2. The possibility of new local, state or federal regulations;
3. The lack of well-defined geographical boundaries;
4. The absence of definitions for terms such as "well-defined plan" and "broad community support";
5. No clear indication of the Initiative's actual cost; and
6. The absence of landowners or representatives of the agricultural community on the selection committee.

It may be possible to restructure the AHRI to recognize the importance of our nation's rivers and river communities. We have discovered an existing program within the U.S. Department of Education which recognizes outstanding schools. We see no reason why a similar program related to rivers cannot be designed.

The Blue Ribbon Schools Program is designed to provide recognition to outstanding schools while at the same time minimizing the cost to the federal government. The process of Blue Ribbon Schools involves:

1. The completion of a self-assessment report which outlines what the school is doing to improve itself. The self-assessment gives them a chance to present whatever information they desire.
2. The nomination of schools by states for consideration.
3. The examination of applications by the U.S. Department of Education to determine if they meet a very broad set of criteria.
4. Field visits are conducted and reports are provided to the Secretary of Education who then decides which schools to declare as Blue Ribbon Schools. Department of Education officials do not take part in the site visits.

Mr. Ray Clark
Page 2

After a school has been designated they have no further obligation to continue existing programs. However, they are not permitted to reapply to the program unless they prove they have shared with other schools how they can improve.

Again, if recognition is the key to what you are trying to accomplish then no new federal initiative to designate 10 American Heritage Rivers is necessary. Recognition by the President of "Outstanding River Communities" would seem to address the Initiative's stated goals.

The development of standard criteria to encourage voluntary partnerships between river communities and federal agencies could be beneficial. River communities could be recognized for their efforts in a fashion that would assist both tourism and economic development. Furthermore, this designation could be awarded to river communities above and beyond the 10 proposed American Heritage Rivers.

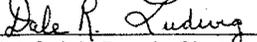
We hope you will re-evaluate the American Heritage River Initiative with the understanding that the American taxpayer does not desire more bureaucracy but is demanding greater efficiency from the federal government.

In closing, we reiterate our opposition to the proposed American Heritage River Initiative and believe that the stated goals can be achieved in a better manner.

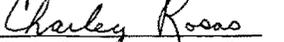
Sincerely,


Charles E. Kruse, President
Missouri Farm Bureau

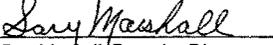

Don Nikodim, Executive Director
Missouri Pork Producers


Dale Ludwig, Executive Director
Missouri Soybean Association

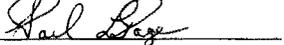

Jay Trutt, Executive Vice President
Missouri Cattlemen's Association


Charley Rosas, Transportation Director
Farmland Industries


Bud Frew, President
MFA, Inc.


Gary Marshall, Executive Director
Missouri Corn Growers


David Drennan, Executive Director
Missouri Dairy Association


Paul LePage, Chairman
Missouri Levee & Drainage Dist. Assn.

cc: Missouri Congressional Delegation



P.O. Box 1209 Alpine, Texas 79831 Telephone: (915) 837-3461 FAX: (915) 837-7425

August 8, 1997

Ms. Karen Hobbs
 Council on Environmental Quality
 360 Old Executive Office Building
 Washington, DC 20501

Dear Ms. McGinty:

The Trans Texas Heritage Association and the Davis Mountains Trans-Pecos and Hill Country Heritage Associations (the Heritage Associations) appreciate the opportunity to comment on the proposed American Heritage Rivers Initiative.

The Heritage Associations represent members who own more than 15.5 million acres of private land in Texas. As organizations dedicated to protecting the rights of Texas property owners who actively manage natural resources, the Associations are compelled to comment on the proposed initiative for several reasons.

First, the program is unnecessary. According to the Federal Register Notice, the initiative is being implemented to "assist these communities through better use of existing programs and resources and coordinating the delivery of those services in a manner designed by the community...." Creating a new initiative -- and another level of bureaucracy -- instead of simply fixing the service distribution problems at the involved agencies is the typical knee-jerk reaction that has spurred the tremendous government growth we've experienced in this country, but it never actually fixes the problem. If people have trouble accessing existing services, our recommendation is that the President hold each agency responsible for simplifying its procedures.

Second, the program is exclusionary. According to the Federal Register Notice, the President will designate 10 American Heritage Rivers and the communities along these rivers will enjoy better access to the existing programs. Why must a new level of bureaucracy be created to efficiently administer existing programs to 10 designees? Why not correct the problems at the existing agency levels and make the resources available to everyone who is interested?

Third, the program creates a new federal nexus that can be used for land control purposes. Although the Federal Register Notice says that there will be no new regulatory authority granted, this initiative will identify historic, cultural and environmental resources suitable for protection and these resources will fall under the jurisdiction of existing laws and regulations. It is

Conserving Land and Resources Through Private Ownership

Page 2
Ms. Hobbs
August 8, 1997

particularly disturbing that the government will be generating maps and quality aerial photographs identifying these resources and making them available regardless of whether or not the resources occur on private lands. Most likely this will be the evidence used when special interest groups start asking for specific actions to protect the Historic Preservation Act, the Endangered Species Act and the Coastal Zone Management Act.

Fourth, the program does not define a river community, but instead allows the community to define itself. This means that the community is not only a single town, but could be as vast as an entire river corridor and its watershed. Furthermore, the notice states that letters of support from affected parties in the community would be nice but not necessary.

The fourth point sets up a disturbing scenario that would allow a small group of vocal advocates to nominate a river bringing with it the new federal nexus and ensuing regulations without the knowledge or support of a majority of the area's citizens and landowners. A published report in a Texas newspaper noted that Texas Land Commissioner Garry Mauro has already nominated the Rio Grande River to be an American Heritage River despite the fact that the program's criteria is not finalized. Therefore, the noted scenario is not idle speculation.

Fifth, the American Heritage River designation is irrevocable. Once a "community" is designated, it remains a part of the program even if local citizens decide to withdraw at a later date. This is particularly troublesome because the mission and implementation of the program could change drastically and the affected communities would have no recourse or escape.

For the aforementioned reasons, the Heritage Associations recommend that the American Heritage River Initiative not be developed; instead we suggest that the involved agencies simplify their procedures and make the appropriate information available to interested citizens without creating another level of bureaucracy to drain away valuable tax dollars.

Very truly yours,



Desmond K. Smith
President

DKS/njk

Page 3
Ms. Hobbs
August 8, 1997

xc: Senator Kay Bailey Hutchison
Senator Phil Gramm
Chairman Don Young, House Resource Committee
Governor George Bush, State of Texas
Congressman Henry Bonilla
Congressman Lamar Smith
Texas Senator Frank Madla
Texas Representative Pete Gallego

CENTRAL ARIZONA PROJECT ASSOCIATION

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Phoenix, Arizona 85014
Telephone (602) 869-2605
FAX: (602) 869-2674

ROBERT S. LYNCH, CHAIRMAN OF THE BOARD
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WILLIAM H. WHEELER, EXECUTIVE DIRECTOR

TELECOPIED AND MAILED

October 8, 1997

Hon. Don Young, Chairman
House Resources Committee
1324 Longworth House Office Building
Washington, D.C. 20515

Re: Lack of legal foundation for the American Heritage Rivers
Initiative; grounds for moving H.R.1842

Dear Mr. Chairman:

Thank you for the opportunity to testify at the Committee's September 24, 1997 hearing on the American Heritage Rivers Initiative and H.R.1842 proposing to terminate further funding for this new "program". I hope our reasons for keeping this spurious adventure out of the Colorado River Basin highlighted the potential for confusion and duplication of effort we see in the Initiative.

I was troubled by the testimony of Kathleen McGinty, Chair of the Council on Environmental Quality. Specifically, I was mystified by her bald statement that Congress had authorized the Initiative in passing the Policy section (42 U.S.C. §4331) of the National Environmental Policy Act (NEPA). My notes reflect that she directly claimed that Section 101(b)(4) of NEPA constituted Congressional authority for the Initiative.

My first reaction was: Why did it take the Executive Branch twenty-seven (27) years to discover this programmatic directive? Since NEPA is written in mandate format, how could this have escaped litigation by environmental groups for so long? Obviously, it couldn't because the authority doesn't exist.

My second reaction was that the Supreme Court had dealt with this issue, making Ms. McGinty's position even more amazing. I did some research and thought I should share the results with you as you consider taking action on H.R.1842.

Arizona's CAP Advocate Since 1946

Hon. Don Young
 October 8, 1997
 Page 2

SECTION 101 OF NEPA NEITHER AUTHORIZES NOR REQUIRES ACTION

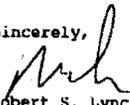
The nature of federal agency obligations under NEPA has been the subject of a number of Supreme Court decisions. In a nutshell, these opinions say that Section 102 (42 U.S.C. §4332) contains the procedural requirements of NEPA, the so-called "action-forcing" provisions, which are the only requirements of NEPA. NEPA contains no substantive law and invoking NEPA does not interfere with the ultimate agency decision if NEPA processes have been correctly conducted.

Beginning at least with Kleppe v. Sierra Club, 427 U.S. 390 (1976), the Supreme Court identified the NEPA "program" as its action-forcing procedural duties under Section 102. Id., 427 U.S. at 409, n.18. Section 101 has been consistently described as a set of national goals. "NEPA does set forth significant substantive goals for the Nation, but its mandate to the agencies is essentially procedural." Vermont Yankee Nuclear Power Corp. v. NRDC, 435 U.S. 519, 558 (1978); accord, Stryker's Bay Neighborhood Council v. Karlan, 444 U.S. 223, 227 (1980). As recently as 1989, the Court has distinguished between Section 101's declaration of "a broad national commitment" and Section 102's "action-forcing procedures". Robertson v. Methow Valley Citizens Council, 490 U.S. 332, 348 (1989).

This being the case, no programmatic authorization can be tortured into NEPA goals. Any such new program must come from Congress.

I hope this analysis is of some utility as you continue to address the Initiative and H.R.1842.

Sincerely,


 Robert S. Lynch
 Chairman of the Board

RSL:psr

cc: Hon. Helen Chenoweth, Member of Congress
 Hon. Jane Dee Hull, Governor of Arizona
 Arizona Congressional Delegation
 CAWCD Board of Directors
 CAPA Board of Directors