S. HRG. 108–692

NATIONAL HERITAGE AREAS

HEARING

BEFORE THE

SUBCOMMITTEE ON NATIONAL PARKS

OF THE

COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

ONE HUNDRED EIGHTH CONGRESS

SECOND SESSION

ON

S. 2543

TO ESTABLISH A PROGRAM AND CRITERIA FOR NATIONAL HERITAGE AREAS IN THE UNITED STATES, AND FOR OTHER PURPOSES

JUNE 24, 2004

Printed for the use of the
Committee on Energy and Natural Resources

U.S. GOVERNMENT PRINTING OFFICE

96–736 PDF WASHINGTON : 2004

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2250 Mail: Stop SSOP, Washington, DC 20402–0001

COMMITTEE ON ENERGY AND NATURAL RESOURCES

PETE V. DOMENICI, New Mexico, *Chairman*

DON NICKLES, Oklahoma
LARRY E. CRAIG, Idaho
BEN NIGHTHORSE CAMPBELL, Colorado
CRAIG THOMAS, Wyoming
LAMAR ALEXANDER, Tennessee
LISA MURKOWSKI, Alaska
JAMES M. TALENT, Missouri
CONRAD BURNS, Montana
GORDON SMITH, Oregon
JIM BUNNING, Kentucky
JON KYL, Arizona

JEFF BINGAMAN, New Mexico
DANIEL K. AKAKA, Hawaii
BYRON L. DORGAN, North Dakota
BOB GRAHAM, Florida
RON WYDEN, Oregon
TIM JOHNSON, South Dakota
MARY L. LANDRIEU, Louisiana
EVAN BAYH, Indiana
DIANNE FEINSTEIN, California
CHARLES E. SCHUMER, New York
MARIA CANTWELL, Washington

ALEX FLINT, *Staff Director*
JUDITH K. PENSABENE, *Chief Counsel*
ROBERT M. SIMON, *Democratic Staff Director*
SAM E. FOWLER, *Democratic Chief Counsel*

SUBCOMMITTEE ON NATIONAL PARKS

CRAIG THOMAS, Wyoming *Chairman*
DON NICKLES, Oklahoma *Vice Chairman*

BEN NIGHTHORSE CAMPBELL, Colorado
LAMAR ALEXANDER, Tennessee
CONRAD BURNS, Montana
GORDON SMITH, Oregon
JON KYL, Arizona

DANIEL K. AKAKA, Hawaii
BYRON L. DORGAN, North Carolina
BOB GRAHAM, Florida
MARY L. LANDRIEU, Louisiana
EVAN BAYH, Indiana
CHARLES E. SCHUMER, New York

PETE V. DOMENICI and JEFF BINGAMAN are Ex Officio Members of the Subcommittee

THOMAS LILLIE, *Professional Staff Member*
DAVID BROOKS, *Democratic Senior Counsel*

CONTENTS

STATEMENTS

	Page
Akaka, Hon. Daniel K., U.S. Senator from Hawaii	2
Hill, Barry T., Director, Natural Resources and Environment, General Accounting Office	7
Jones, A. Durand, Deputy Director, National Park Service, Department of the Interior	3
Obey, Craig D., Vice President for Governmental Affairs, National Parks Conservation Association	30
Rice, Daniel, President and Chief Executive Officer, Ohio and Erie Canalway Coalition, Akron, OH	18
Smith, Robert J., Director, Center for Private Conservation, Washington, DC	23
Thomas, Hon. Craig, U.S. Senator from Wyoming	1

APPENDIXES

APPENDIX I

Responses to additional questions	41

APPENDIX II

Additional material submitted for the record	47

NATIONAL HERITAGE AREAS

THURSDAY, JUNE 24, 2004

U.S. SENATE,
SUBCOMMITTEE ON NATIONAL PARKS,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:35 p.m. in room SD–366, Dirksen Senate Office Building, Hon. Craig Thomas presiding.

OPENING STATEMENT OF HON. CRAIG THOMAS, U.S. SENATOR FROM WYOMING

Senator THOMAS. The committee will come to order. Good afternoon.

I want to welcome the Deputy Director of the National Park Service, the representative from the General Accounting Office, and witnesses to today's National Parks Subcommittee hearing.

Our purpose today is to receive testimony on S. 2543, a bill to establish a program and criteria for the national heritage areas in the United States and for other purposes.

Since March of last year, this subcommittee has had two oversight hearings and the General Accounting office has conducted a thorough review of the national heritage areas. The most apparent and consistent finding has been that criteria are needed to establish control over a program with unlimited potential for growth.

Twenty-four national heritage areas currently exist, and this subcommittee has received legislation requesting more than 20 new heritage areas. The potential for growth seems unlimited, based on the fact that heritage areas can be as narrow as the River of Steel or as broad as the entire State of Tennessee. The State of Pennsylvania alone has five national heritage areas, and they are requesting a sixth. Each request for a new area is accompanied by a request for a million dollars per year for 15 years.

I do believe there are unique places in the country where it's appropriate to provide Federal assistance before a State or a local organization is able to assume responsibility for protecting a designated resource. However, I am concerned about the total number of heritage areas that we are establishing, the lack of a clear definition and criteria, which I think troubles me more than anything—What does "national heritage" mean?—and the apparent inability to sunset the Federal role of established national heritage areas.

So it's time to define a consistent policy regarding the Federal role. S. 2543 does just that. The bill establishes specific criteria for

designating new national heritage areas. Chief among them is national significance, of course, which is not always totally clear. It also requires strict accounting for Federal funds, and sets a limit of 15 million per year for the national heritage area programs.

So let me thank the witnesses for coming today. We look forward to the testimony, and pleased to have you here.

Senator.

STATEMENT OF HON. DANIEL K. AKAKA, U.S. SENATOR FROM HAWAII

Senator AKAKA. Thank you very much, Mr. Chairman.

If I may, I'd like to welcome a group here from Hawaii, that's visiting. In particular, this group comes from the Hawaii Volcanoes National Park, and they are called the Kapuna Consultation Group, which advises the park. So I'm delighted to have them here. I want to say aloha and welcome to them. And also with them is Cindy Olando, who is the superintendent at Hawaii Volcanoes National Park. So, to all of you, welcome to Washington, DC, and to this hearing.

As you know, in recent years we have seen increasing demand for national heritage area designations. In addition to the two dozen areas that have already been designated by Congress, there are currently 16 different heritage area bills pending in the Senate. Given the interest, it's especially timely, Mr. Chairman, for this hearing on—and let me stress the word, "on your bill," S. 2543, the National Heritage Partnership Act. I commend you on your efforts to ensure consistent standards for the consideration of these new areas.

In general, I believe that most of the requirements in your bill are consistent with criteria that the committee has been following with respect to approving heritage area bills in recent years. Our larger challenge is the ability to control the growth of new heritage areas so that supporters of an area that has already been designated have a reasonable expectation that the area will be able to receive sufficient funding to allow for a successful national heritage area. We also need to ensure that the heritage area program doesn't become so expensive that it becomes a significant drain on other Park Service resources.

Many of the areas proposed for designation in this Congress were also considered by this committee during the previous Congress, and most appeared to meet the general standards for an appropriate heritage area. The difficult question we face is how we allow for an ordered addition of new heritage areas without overwhelming the system.

Today's hearing is a good first step to explore these issues, and I look forward, Mr. Chairman, to hearing the testimony from our invited witnesses.

Thank you very much, Mr. Chairman.

Senator THOMAS. Thank you very much. And to your visitors from Hawaii, aloha.

[Group response, "Aloha."]

Senator THOMAS. That's what we say in Wyoming all the time.

[Laughter.]

Senator THOMAS. Well, welcome to the panel. As I mentioned before, we have Mr. Durand Jones, Deputy Director, National Park Service, Department of the Interior; Mr. Barry Hill, Director, Natural Resources and Environment, U.S. General Accounting Office.

So thank you, gentlemen. Your full statements will be made part of the record, and we look forward to your comments.

Mr. Jones.

STATEMENT OF A. DURAND JONES, DEPUTY DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. JONES. Yes, thank you, Mr. Chairman. And I'll be happy just to highlight my testimony.

Mr. Chairman and members of the subcommittee, it's my pleasure to appear before you today to testify on behalf of the Department of the Interior on S. 2543, the National Heritage Partnership Act. The Department strongly supports this bill, and we have just a few minor suggestions for clarification.

The Department strongly supports the legislation to establish a national heritage area program. I especially want to thank you, Mr. Chairman, for your leadership and your commitment over the last several years to bringing focus to this debate and consideration for this legislation through the various seminars and the oversight hearings you've held in leading up to this proposed legislation. We think it's been a very productive process and has provided a lot of important information that has led to this proposal.

S. 2543 provides a much-needed framework for evaluating proposed national heritage area designations, offers guidelines for successful planning, clarifies the roles and responsibilities of all parties, and standardizes timeframes and funding for designated areas. The Department supports the national heritage area approach to resource conservation through partnerships with communities. National heritage areas are locally driven, initiated, and managed by the people who live there, and do not impose Federal zoning or land-use controls, nor do they require land acquisition.

S. 2543 supports a conservation strategy that recognizes that the people who live in a heritage area are uniquely qualified to preserve it. And the role of the Federal Government is to help in the beginning phases of a heritage area, providing advice, consultation, with some funding support, with the ultimate goal that the area should graduate from the program and move on with total local control.

Being designated as a national heritage area can benefit visitors, community residents, existing national park units located within the area, and other Federal lands by expanding the opportunity to interpret and protect resources over a larger landscape.

There are three provisions in the bill that we wish to discuss in more detail and offer a few suggestions for improvements. The standards for evaluating heritage areas proposed for national designation are an essential element in establishing a program. While many places in the Nation have special meaning to the people that live there, for many places designation as a State or a local heritage area may be most appropriate. The National Park Service should be a partner only when the resources within the proposed area are of national importance.

The Department has some concerns about the term "national significance" and the definition as provided in the bill. We recommend replacing the word "national significance" with the term "national importance" to avoid confusion. The National Park Service specifically uses the term "national significance" in suitability and feasibility studies for new units in the National Park System. And, as you know, Mr. Chairman, the very premise of heritage areas is that these are areas that should not be units of the National Park System, and so we think some slightly different language may be appropriate.

The Department believes that a study should be required of every proposed national heritage area, and that the study should be evaluated against legislatively established criteria before designation. S. 2543 requires that such a study be prepared that demonstrates evidence of place-based resources that tell a nationally significant story and has the support and involvement of the local community. The Department recommends a modification to the terminology used for studies. In order to be consistent with terminology used in past study and designated bills for national heritage area, we recommend that the studies be called "feasibility studies" instead of "suitability/feasibility studies." Again, this is a very technical issue that also seeks to avoid confusion with studies that are done for potential units of the National Park System, as opposed to just for heritage area designation.

When the first national heritage corridors were designated, 20 years ago, the national heritage corridor area was conceived as a less expensive alternative to the acquisition and operation costs of creating a new unit of the National Park System. These areas were originally authorized for 5 years, with specific year extensions. Over time, the corridors have been reauthorized for additional periods.

For the 18 national heritage areas established after 1995, the National Park Service encouraged management with greater involvement by local entities as a more cost-effective use of Federal resources. Most of these new areas are managed by a nonprofit entity or a State government that includes a funding formula of not more than $10 million over a 15-year period. Our legislative proposal recommends codifying this approach for the first time, and, for the first time, requires that a business plan be developed as part of the management planning for a proposed new area. The business plan, we think, is an important element of a study, because it would allow the local entity, from the very beginning, to begin the thought process of graduating from the program and eventually not having to rely on Federal dollars.

The Department is concerned with a new provision in section 9 of S. 2543 that caps the heritage areas at a program of $15 million a year. The administration did not propose a cap on the program because we believe it is more appropriate to cap the amount of appropriations each specific area is authorized to receive, and to limit the authorized period for appropriations.

In conclusion, recent studies and our own experience have shown that the national heritage area approach links people and place, nature and culture, and the present with the past. The heritage areas capitalize on the unique local role communities play in pre-

serving their heritage and telling their stories. S. 2543 represents these principles, it assigns the appropriate roles and responsibilities to the key partners that must work together to make the program successful. We look forward to working with the committee to enact this very important piece of legislation.

This concludes my remarks, Mr. Chairman. I'd be happy to answer any questions.

[The prepared statement of Mr. Jones follows:]

PREPARED STATEMENT OF A. DURAND JONES, DEPUTY DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman and members of the subcommittee, it is my pleasure to appear before you today to testify on behalf of the Department of the Interior on S. 2543, the National Heritage Partnership Act. The Department strongly supports this bill, but has a few concerns about some of the provisions.

The Department strongly supports legislation to establish a national heritage areas program. We would like to thank Chairman Thomas for his leadership over the last year in evaluating programmatic issues, identifying areas for legislative action, and introducing this bill based on the Administration's legislative proposal. This legislation was developed through a year-long process of Congressional oversight hearings, outside evaluations of the program (such as the March 2004 report by the General Accounting Office) and meetings among many of the groups interested in this issue.

S. 2543 provides a much-needed framework for evaluating proposed national heritage area designations, offers guidelines for successful planning, clarifies the roles and responsibilities of all parties, and standardizes timeframes and funding for designated areas.

The Department supports the national heritage areas approach to resource conservation through partnerships with communities. National heritage areas are intended to preserve nationally important natural, cultural, historic, and recreational resources through the creation of partnerships among Federal, State and local entities. National heritage areas are locally driven, initiated and managed by the people who live there and do not impose Federal zoning, land use controls nor do they require land acquisition. At its best, the collaborative approach of this program embodies Secretary of the Interior Gale Norton's "Four Cs"—Communication, Consultation and Cooperation, all in the service of Conservation.

S. 2543 supports a conservation strategy that recognizes that the people who live in a heritage area are uniquely qualified to preserve it. Being designated as a national heritage area can benefit visitors, community residents, existing National Park units located in the area, and other Federal lands by expanding the opportunity to interpret and protect resources over a larger landscape and by telling our shared national story.

There are three provisions in S. 2543 that we wish to discuss in more detail and to offer suggestions for improvements.

CRITERIA FOR EVALUATION

The standards for evaluating areas proposed for national designation are an essential element in establishing a national heritage areas program. While many places in this nation have special meaning to the people that live there, for many places designation as a State or local heritage area may be most appropriate. The National Park Service should be the lead partner only when the resources within a proposed heritage area are of national importance.

The Department has some concerns about the use of the term "national significance" and the definition provided in S. 2543. We recommend replacing the term "national significance" with the term "national importance" to avoid confusion. The National Park Service specifically uses the term "national significance" in suitability and feasibility studies for new National Park System units. For this reason, the term "national importance" has been informally used by the National Park Service to describe the assessment of national heritage area resources.

In addition, having a concise, appropriate, and practical definition for "national significance" or "national importance" is critical. We would suggest a revised definition as applied in practice to existing and proposed national heritage areas:

> The term "National Importance" is ascribed to a proposed heritage area that illustrates major historic, cultural, natural or social themes important to the

history of the United States and contains resources that are outstanding examples of natural and cultural features that contribute to the theme, and which possess a high degree of integrity, and are compatible with continued community development, public enjoyment, and use.

SUITABILITY/FEASIBILITY STUDY

The Department believes that a study should be required for every proposed national heritage area and the study should be evaluated against legislatively established criteria before designation. S. 2543 requires that such a study be prepared that demonstrates evidence of place-based resources that tell a nationally significant story, which has the support and involvement of the local community. This requirement has been field-tested and has been shown to increase the future success of the heritage area.

The Department recommends a modification to the terminology used for studies. In order to be consistent with terminology used in past study and designation bills for national heritage areas, we recommend that the studies be called "feasibility studies" instead of "suitability/feasibility studies." This would also lessen any confusion with studies for new units of the National Park System that are called suitability and feasibility studies. We recommend that this change in terminology be used throughout the bill when referring to these studies.

FUNDING AND TIMEFRAMES

When the first national heritage corridors were designated twenty years ago, a Federal commission provided management for the areas and the National Park Service provided most of the staff. The national heritage corridor or area was conceived as a less expensive alternative to the acquisition and operation costs of creating a new unit of the National Park System. These areas were originally authorized for five years with a five-year extension; over time, the corridors have been reauthorized for additional periods.

For the 18 national heritage areas established after 1995, the National Park Service encouraged management with greater involvement by local entities as a more cost-effective use of Federal resources. Most of these newer areas are managed by a nonprofit entity or a State government and include a funding formula of not more than $10 million Federal dollars over a fifteen-year period. Our legislative proposal recommends codifying this approach and for the first time requires that a business plan be developed as part of the management planning for proposed new areas. This would ensure that from the beginning, national heritage areas are working towards and have an established plan for self-sufficiency. So far, no existing area has "graduated" from the program, even after 20 years and in some cases, and nearly $100 million invested overall. For this reason, we recognize the need to work with existing areas to assist them in a transition strategy as they reach the end of their funding authorization. As areas become self-sufficient, available resources could be reallocated to newly designated areas or other priorities.

The Department is concerned with the new provision in section 9 of S. 2543 that caps the heritage areas program at $15 million per year. The Administration did not propose a cap on the program because we believe it is more appropriate to cap the amount of appropriations each area is authorized to receive, and to limit the authorized period for appropriations. Currently, there are 15 new national heritage areas pending for designation in Congress. In addition, there are 24 designated national heritage areas, many of which are authorized to receive appropriations of $1 million per year. However, we would expect to allocate funding among these areas within the levels of funds appropriated, which might require providing less than the individual authorized ceilings in some instances.

CONCLUSION

Recent studies and our own experiences have shown that the national heritage area approach links people and place, nature and culture, and the present with the past. National heritage areas capitalize on the unique role local communities play in preserving their heritage and telling their stories. S. 2543 respects these principles. It assigns the appropriate roles and responsibilities to the key partners that must work together to make the program successful. It also recognizes the need to target our assistance to those areas where there is a national interest and where the local partners meet established criteria for success. We look forward to working with the committee to enact this important legislation.

This concludes my prepared remarks and I will be pleased to answer any questions you or other members of the subcommittee may have.

Senator THOMAS. Okay, fine. Thank you very much.
Mr. Hill.

STATEMENT OF BARRY T. HILL, DIRECTOR, NATURAL RESOURCES AND ENVIRONMENT, GENERAL ACCOUNTING OFFICE

Mr. HILL. Thank you, Mr. Chairman and members of the subcommittee.

I'm pleased to be here today to discuss provisions of S. 2543, the National Heritage Partnership Act, which proposes, among other things, to establish a Federal program and criteria for designating national heritage areas. As you've mentioned, the Congress has established or designated 24 national heritage areas to recognize the value of their local traditions, history, and resources to the Nation's heritage. These areas, including public and private lands, receive funds and assistance through cooperative agreements with the National Park Service, which has no formal program for them. They also receive funds from other agencies and non-Federal sources, and are managed by local entities.

Growing interest in new areas has raised concerns about rising Federal costs and the risks of limits on private land use. In this context, my testimony today addresses the effects that provisions of S. 2543 might have on issues we identified in our testimony last March before this subcommittee—specifically, the processes for designating heritage areas, determining the amount of Federal funding for these areas, overseeing areas' activities and use of Federal funds, and determining the effects, if any, they have on private property rights.

Let me start by discussing the process for designating heritage areas.

S. 2543 would establish a systematic process for identifying and designating national heritage areas, addressing many of the concerns we identified in our March testimony. At that time, we reported that no such systematic process exists, noting that the Congress has, in some instances, designated heritage areas before the Park Service has fully evaluated them.

The bill contains provisions that would require that a suitability study be completed and the Park Service determine that the area meets certain criteria before the Congress designates a heritage area. While the bill defines "heritage areas" more specifically in terms of their national significance, the criteria outlined in S. 2543 will benefit from implementing guidance that the Park Service has recently developed to guide the application of these criteria.

S. 2543 also limits the amount of Federal funds that can be provided to heritage areas through the Park Service's budget. In March, we testified that, from fiscal years 1997 through 2002, about half of heritage areas' funding came from the Federal Government. Specifically for 22 of the 24 areas where data were available, $156 million of the areas' $310 million in total funding came from the Federal Government. Of this, over $50 million came from the Park Service funds dedicated for this purpose. The bill would restrict annual dedicated Park Service funding for heritage areas to $15 million, with individual areas not receiving more than $1 million in a given fiscal year and $10 million over 15 years.

Furthermore, S. 2543 includes a number of provisions to enhance the Park Service's ability to hold heritage areas accountable for their use of Federal funds. In this regard, the bill establishes a program that would provide the Park Service with the direction and funding needed to manage the agencies and the heritage areas' activities, establishes a schedule and criteria for reviewing and approving heritage areas' management plans, identifies criteria for use in reviewing area plans, requires that the plans include information on, among other things, performance goals and the roles and functions of partners, and requires the areas to submit an annual report specifying, among other things, performance goals and accomplishments, expenses and income, and amounts and sources of funds. We believe these provisions provide a sound foundation for establishing accountability in this program. I will shortly mention, however, two amendments to the bill that we believe would further enhance the oversight and accountability mechanisms in this program.

Finally, S. 2543 also includes provisions that address some of the concerns we previously identified with regard to heritage areas' potential restrictions on property-owners' rights and land use. For example, the bill allows property owners to refrain from participating in any planned project or activity within the heritage area. Furthermore, the bill does not require any owner to permit public access to property, and does not alter any existing land-use regulation, approved land-use plan, or other regulatory authority.

In conclusion, we believe there are a number of provisions in S. 2543 that would represent positive steps toward addressing the concerns we raise in our March testimony; in particular, with regard to the need for a more systematic approach for establishing heritage areas, and greater accountability. However, to ensure greater accountability for use of Federal funds, the Congress may wish to consider amending S. 2543 by adding provisions directing the Secretary to review heritage areas' annual financial reports to ensure the agency has a full accounting of heritage area funds from all Federal sources, and to develop results-oriented performance goals and measures for the agency's own heritage area activities.

Mr. Chairman, this concludes my statement. I'd be happy to answer any questions that you or members of the subcommittee may have.

[The prepared statement of Mr. Hill follows:]

PREPARED STATEMENT OF BARRY T. HILL, DIRECTOR, NATURAL RESOURCES AND ENVIRONMENT, GENERAL ACCOUNTING OFFICE

WHAT GAO FOUND

Provisions of S. 2543 would establish a systematic process for identifying and designating national heritage areas, addressing many of the concerns identified in GAO's March 2004 testimony. At that time, GAO reported that no such systematic process exists, noting that the Congress has, in some instances, designated heritage areas before the Park Service has fully evaluated them. S. 2543 contains provisions that would require that a suitability study be completed and the Park Service determine the area meets certain criteria before the Congress designates a heritage area While the bill defines heritage areas more specifically in terms of their national significance, the criteria outlined in S. 2543 will benefit from guidance that the Park Service has recently developed to guide the application of the criteria. This guidance will improve the designation process.

Provisions of S. 2543 would limit the amount of federal funds that can be provided to heritage areas through the Park Service's budget. In March 2004, GAO testified that from fiscal years 1997 through 2002 about half of heritage areas' funding came from the federal government. Specifically, for 22 of the 24 heritage areas where data were available, $156 million of the areas' $310 million in total funding came from the federal government. Of this, over $50 million came from Park Service funds dedicated for this purpose, $44 million from other Park Service programs, and about $61 million from 11 other federal sources. S. 2543 would restrict annual dedicated Park Service funding for heritage areas to $15 million. Individual areas may not receive more than $1 million in a given fiscal year and $10 million over 15 years.

Furthermore, S. 2543 includes provisions that could enhance the Park Service's ability to hold heritage areas accountable for their use of federal funds. In this regard, S. 2543 (1) establishes a program that would provide the Park Service with the direction and funding needed to manage the agency's and the heritage areas' activities; (2) establishes a schedule and criteria for reviewing and approving heritage areas' management plans; (3) identifies criteria for use in reviewing areas' plans; (4) requires that the plans include information on, among other things, performance goals and the roles and functions of partners; and (5) requires areas to submit annual reports specifying, among other things, performance goals and accomplishments, expenses and income, and amounts and sources of funds. GAO has identified potential amendments to S. 2543 that would further enhance areas' accountability.

S. 2543 includes provisions that address some of the concerns GAO identified in March with regard to heritage areas' potential restrictions on property owners' rights and land use. For example, S. 2543 allows property owners to refrain from participating in any planned project or activity within the heritage area. Furthermore, the bill does not require any owner to permit public access to property and does not alter any existing land use regulation, approved land use plan, or other regulatory authority.

Mr. Chairman and Members of the Subcommittee: I am pleased to be here today to discuss provisions of S. 2543, the National Heritage Partnership Act, which proposes, among other things, to establish a federal program and criteria for designating national heritage areas. Over the past two decades, the Congress has established, or "designated," 24 national heritage areas and provided them with millions of dollars in financial assistance through the National Park Service. Furthermore, the number of bills introduced to study or designate new areas has grown considerably in recent years. In the 108th Congress alone, as of early March 2004, over 30 bills had been introduced to either study or designate new areas. This growing interest in creating new heritage areas has raised concerns that their numbers may expand rapidly and significantly increase the amount of federal funds supporting them. In addition, private property rights advocates are concerned that heritage area designations could increase the risk that federal controls or other limits will be placed on private land use.

Currently, heritage areas receive funding through the National Park Service's budget, although the agency has no formal heritage area program. The Park Service provides technical assistance to the areas through cooperative agreements, and the Congress appropriates to the agency limited funds for these activities.[1] Funds provided to heritage areas are considered to be "seed" money to assist them in becoming sufficiently established to develop partnerships with state and local governments, businesses, and other nonfederal organizations as their principal funding sources. Heritage areas also receive funds from other federal agencies through a variety of programs, primarily the Department of Transportation for road and infrastructure improvements. On March 30, 2004, my testimony before this Subcommittee identified a number of issues that need to be addressed to improve the effectiveness of the heritage area initiative.[2]

Through several provisions of S. 2543, the Congress is now considering whether it should establish a permanent program that would provide direction and funding for the Park Service's heritage area activities. Central to the debate is the absence of a systematic process and specific criteria for identifying and designating national heritage areas that would ensure that only the most qualified sites become heritage

---

[1] Although no heritage area program exists within the Park Service, the Congress has provided the Park Service an annual appropriation for administering its heritage area activities. The agency has allocated these amounts to fund a national coordinator position in the Park Service's headquarters, which directs and monitors the agency's heritage area activities.

[2] U.S. General Accounting Office, *National Park Service: A More Systematic Process for Establishing National Heritage Areas and Actions to Improve Their Accountability Are Needed*, GAO-04-593T, (Washington, D.C.: March 30, 2004).

areas and the implications for the federal budget. In this regard, my testimony today focuses on how S. 2543's provisions may affect the process for (1) designating heritage areas, (2) determining the amount of federal funding to these areas, (3) overseeing areas' activities and use of federal funds, and (4) determining the effects, if any, they have on private property rights.

My testimony today is based on the work conducted for our March testimony, which was performed in accordance with generally accepted government auditing standards.

In summary:

- S. 2543 contains provisions that would establish a systematic process for determining the suitability of proposed sites as national heritage areas and for designating those areas found to be qualified. In our March 2004 testimony, we stated that no such systematic process currently exists. In this regard, we noted that, while the Congress generally has made designation decisions with the advice of the Park Service, it has, in some instances, designated heritage areas before the agency has fully evaluated them. S. 2543, however, would require that a suitability/feasibility study be completed and that the Secretary determine the area meets certain criteria before the Congress designates a heritage area. While the bill defines heritage areas more specifically in terms of their national significance, the criteria outlined in S. 2543 for determining an area's qualifications as a heritage area are similar to those currently used by the Park Service and would benefit from supplementary implementing guidance. The Park Service has recently developed guidance for applying its criteria, which will supplement the criteria identified in S. 2543 and improve the process for identifying and designating heritage areas.
- Provisions of S. 2543 would limit the amount of federal funds that can be provided to national heritage areas through the National Park Service's budget. In our March 2004 testimony, we stated that from fiscal years 1997 through 2002 about half of heritage areas' funding came from the federal government. According to data from 22 of the 24 heritage areas, the areas received about $310 million in total funding. Of this total, about $154 million came from state and local governments and private sources and another $156 million came from the federal government. Over $50 million was dedicated heritage area funds provided through the Park Service, with another $44 million coming from other Park Service programs and about $61 million from 11 other federal sources. S. 2543 would restrict the funding for heritage areas that is allocated through the Park Service's budget to $15 million for each fiscal year. Of this amount, an individual area could receive not more than $1 million in a given fiscal year and not more than $10 million over 15 years. While this provision would restrict the amount of federal funds passing from the Park Service—the largest provider of federal funds—to the heritage areas, these areas can obtain funding from other federal agencies as well.
- S. 2543 includes a number of provisions that could enhance the Park Service's ability to hold national heritage areas accountable for their use of federal funds. In March, we stated that the agency had not always reviewed areas' financial audit reports, developed consistent standards for reviewing areas' management plans, and developed results-oriented goals and measures for the agency's heritage area activities, or required the areas to adopt a similar approach. Park Service officials said that the agency has not taken these actions because, without a program, it lacks adequate direction and funding. In this regard, provisions of S. 2543 (1) establish a program that would provide the Park Service with the direction and funding agency officials believe they need to more effectively manage their own and the heritage areas' activities; (2) establish a schedule and criteria for reviewing and approving or disapproving heritage areas' management plans; (3) identify criteria for determining whether to approve an area's plan; (4) require that the plans include information on, among other things, performance goals, the roles and functions of partners, and specific commitments by the partners to accomplish the activities outlined in the plan; and (5) require each area to submit an annual report specifying, among other things, performance goals and accomplishments, expenses and income, amounts and sources of matching funds and leveraged federal funds, and grants made to any other entity. The Congress may wish to consider specific amendments to S. 2543 that would further enhance the Park Service's ability to hold areas accountable.
- S. 2543 includes provisions that address some of the concerns we identified in March with regard to potential restrictions that the national heritage areas may place on property owners' rights and land use. Among other assurances, S. 2543 provides property owners the right to refrain from participating in any planned

project or activity conducted within the national heritage area. Furthermore, it does not require any property owner to permit public access or modify public access under any other federal, state, or local law or alter any adopted land use regulation, approved land use plan, or other regulatory authority of any federal, state, or local authority.

We believe that several of the provisions of S. 2543 would represent positive steps towards addressing the concerns we raised in March, in particular with regard to the need for a more systematic approach for establishing heritage areas and greater accountability.

BACKGROUND

To date, the Congress has designated 24 national heritage areas, primarily in the eastern half of the country. Generally, national heritage areas focus on local efforts to preserve and interpret the role that certain sites, events, and resources have played in local history and their significance in the broader national context. Heritage areas share many similarities—such as recreational resources and historic sites—with national parks and other park system units but lack the stature and national significance to qualify them as these units.

The process of becoming a national heritage area usually begins when local residents, businesses, and governments ask the Park Service, within the Department of the Interior, or the Congress for help in preserving their local heritage and resources. In response, although the Park Service currently has no program governing these activities, the agency provides technical assistance, such as conducting or reviewing studies to determine an area's eligibility for heritage area status. The Congress then may designate the site as a national heritage area and set up a management entity for it. This entity could be a state or local governmental agency, an independent federal commission, or a private nonprofit corporation. Usually within 3 years of designation, the area is required to develop a management plan, which is to detail, among other things, the area's goals and its plans for achieving those goals. The Park Service then reviews these plans, which must be approved by the Secretary of the Interior.

After the Congress designates a heritage area, the Park Service enters into a cooperative agreement with the area's management entity to assist the local community in organizing and planning the area. Each area can receive funding—generally limited to not more than $1 million a year for 10 or 15 years—through the Park Service's budget. The agency allocates the funds to the area through the cooperative agreement.

S. 2543 WOULD ESTABLISH A SYSTEMATIC PROCESS FOR IDENTIFYING AND DESIGNATING PROPOSED NATIONAL HERITAGE AREAS

As proposed, S. 2543 would establish a systematic process for determining the suitability of proposed sites as national heritage areas and for designating those areas found to be qualified. In our March 2004 testimony, we stated that no systematic process exists for identifying qualified candidate sites and designating them as national heritage areas. We noted that, while the Congress generally has made designation decisions with the advice of the Park Service, it has, in some instances, designated heritage areas before the agency has fully evaluated them. Specifically, the Congress designated 10 of the 24 existing heritage areas without a thorough Park Service review of their qualifications and, in 6 of the 10 cases, the agency had recommended deferring action. S. 2543, however, would create a more systematic process that would make the Congress' designation of a heritage area contingent on the prior completion of a suitability/feasibility study and the Secretary's determination that the area meets certain criteria. In addition, under S. 2543, the Secretary could recommend against designation of a proposed heritage area based on the potential budgetary impact of the designation or other factors.

Provisions in S. 2543 identify a number of criteria for the Secretary to use in determining a site's suitability and feasibility as a national heritage area, including its national significance to the nation's heritage and whether it provides outstanding recreational or educational opportunities. S. 2543 defines a heritage area as an area designated by the Congress that is nationally significant to the heritage of the United States and meets the other criteria specified in the bill. Further, S. 2543 defines national significance as possessing unique natural, historical, and other resources of exceptional value or quality and a high degree of integrity of location, setting, or association in illustrating or interpreting the heritage of the United States. Despite these very specific definitions, however, the criteria outlined in S. 2543 for determining an area's suitability are very similar to those currently used by the Park Service. Our March 2004 testimony pointed out that these criteria are not spe-

cific enough to determine areas' suitability. For example, one criterion states that a proposed area should reflect "traditions, customs, beliefs, and folk life that are a valuable part of the national story." These criteria are open to interpretation and, using them, the agency has eliminated few sites as prospective heritage areas. As we stated in March, officials in the Park Service's Northeast region, for example, believe the criteria are inadequate for screening purposes. The Park Service's heritage area national coordinator believes, however, that the criteria are valuable but that the regions need additional guidance to apply them more consistently. The Park Service has recently developed guidance for applying these criteria, which will help to clarify how both the existing criteria and the criteria proposed in S. 2543 could be applied to better determine the suitability of a prospective heritage area.

PROVISIONS IN S. 2543 WOULD LIMIT THE AMOUNT OF FEDERAL FUNDS DEDICATED TO NATIONAL HERITAGE AREAS

S. 2543 would impose some limits on the amount of federal funds that can be provided to national heritage areas through the National Park Service's budget. In our March 2004 testimony, we stated that from fiscal years 1997 through 2002 about half of heritage areas' funding came from the federal government. According to data from 22 of the 24 heritage areas, the areas received about $310 million in total funding. Of this total, about $154 million came from state and local governments and private sources and another $156 million came from the federal government. Over $50 million was dedicated heritage area funds provided through the Park Service, with another $44 million coming from other Park Service programs and about $61 million from 11 other federal sources. We also pointed out that the federal government's total funding to these heritage areas increased from about $14 million in fiscal year 1997 to about $28 million in fiscal year 2002, peaking at over $34 million in fiscal year 2000. Table 1 shows the areas' funding sources from fiscal years 1997 through 2002.

S. 2543 restricts the funding for heritage areas that is allocated through the Park Service's budget to $15 million for each fiscal year. Of this amount, not more than $1 million may be provided to an individual area in a given fiscal year and not more than $10 million over 15 years. For any fiscal year, the costs for oversight and administrative purposes cannot exceed more than 5 percent of the total funds. While this provision restricts the amount of federal funds passing from the Park Service—the largest provider of federal funds—to the heritage areas, these areas can obtain funding from other federal agencies as well.

In March, we also pointed out that, generally, each area's designating legislation imposes sunset provisions to limit the amount of federal funds provided to each heritage area. However, since 1984, five areas that reached their sunset dates had their funding extended. S. 2543 establishes a fixed time frame after which no additional funding, except for technical assistance and administrative oversight, will be provided. Specifically, it states that the Secretary of the Interior can no longer provide financial assistance after 15 years from the date that the local coordinating, or management, entity first received assistance.

S. 2543 INCLUDES A NUMBER OF PROVISIONS TO ENHANCE THE PARK SERVICE'S ABILITY TO HOLD NATIONAL HERITAGE AREAS ACCOUNTABLE FOR THEIR USE OF FEDERAL FUNDS

S. 2543 includes a number of provisions that could enhance the Park Service's ability to hold national heritage areas accountable for their use of federal funds. In March, we stated that the Park Service oversees heritage areas' activities by monitoring their implementation of the terms set forth in cooperative agreements. These terms, however, did not include several key management controls. That is, the agency had not (1) always reviewed areas' financial audit reports, (2) developed consistent standards for reviewing areas' management plans, and (3) developed results-oriented goals and measures for the agency's heritage area activities, or required the areas to adopt a similar approach. Park Service officials said that the agency has not taken these actions because, without a program, it lacks adequate direction and funding. We recommended that, in the absence of a formal heritage area program within the Park Service, the Secretary of the Interior direct the Park Service to develop well-defined, consistent standards and processes for regional staff to use in reviewing and approving heritage areas' management plans; require regional heritage area managers to regularly and consistently review heritage areas' annual financial reports to ensure that the agency has a full accounting of their use of funds from all federal sources; develop results-oriented performance goals and measures for the agency's heritage area activities, and require, in the cooperative agreements, that heritage areas adopt such a results-oriented management approach as well.

TABLE 1.—NATIONAL HERITAGE AREA FUNDING FROM ALL SOURCES, FISCAL YEARS 1997-2002.

Source	Amount	Percentage
Total Park Service funds	$95,393,506	30.8
Dedicated heritage area funds[1]	50,922,562	16.5
Other Park Service support funds[2]	44,470,944	14.3
Total other federal funds	60,545,816	19.5
Department of Transportation	55,852,269	18.0
Department of Education	2,000,000	0.6
Department of Agriculture	547,009	0.2
Department of Housing and Urban Development	420,183	0.1
Environmental Protection Agency	400,000	0.1
Army Corps of Engineers	266,000	0.1
Department of Commerce	96,555	0.0
National Railroad Passenger Corporation	23,800	0.0
National Endowment for the Arts	5,000	0.0
Federal earmarks and awards[3]	935,000	0.3
Total nonfederal funds	154,078,203	49.7
State governments	61,404,323	19.8
Local governments	46,612,624	15.0
Nonprofit organizations	7,255,416	2.3
Private foundations	14,515,996	4.7
Corporate sponsors	2,126,870	0.7
Other nonfederal funding sources	22,163,473	7.2
Total	$310,017,525	100.0

Source: GAO analysis of data obtained from 22 of the 24 heritage areas.

[1] These funds were provided through the Park Service's Heritage Partnership Program and Statutory and Contractual Aid budget line items. The Heritage Partnership Program promotes the conservation of natural, historic, scenic, and cultural resources. Statutory and Contractual Aid provides financial assistance in the planning, development, or operation of natural, historical, cultural, or recreation areas that are not managed by the Park Service.

[2] These are funds from other Park Service budget line items—including the Land and Water Conservation Fund; Operation of the National Park Service, and the Construction Fund—that are not typically reported as part of heritage area funding, but include funding for specific projects undertake by heritage areas.

[3] These funds earmarked for Federal Government Pass-Through Awards ($610,000) and Hugh Moore Historical Park & Museums, Inc. ($325,000).

S. 2543 takes several steps that will enhance accountability. In this regard, S. 2543 establishes a formal program for national heritage areas to be administered by the Secretary of the Interior. By establishing this program, the bill would provide the Park Service with the direction and funding that agency officials believe they need to impose management controls on their own and heritage areas' activities. Furthermore, S. 2543 includes a number of provisions that address the concerns we raised in March. First, the bill establishes a schedule and criteria for reviewing and approving or disapproving heritage areas' management plans. The Secretary must approve or disapprove the management plan within 180 days of receiving it. If disapproved, the Secretary must advise the local coordinating entity in writing of the reason for disapproval and may make recommendations for revision. After receiving a revised management plan, the Secretary must approve or disapprove the revised plan within 180 days. In addition, the bill identifies criteria that the Secretary is to use in determining whether to approve an area's plan. This is a positive step towards establishing the well-defined, consistent standards and processes for reviewing and approving areas' management plans that we recommended in March.

S. 2543 also requires that the management plans include information on, among others, performance goals, the roles and functions of partners, and specific commitments by the partners to accomplish the activities outlined in the management plan. Furthermore, to ensure better accountability, the local coordinating entity must submit an annual report to the Secretary for each fiscal year for which the entity receives federal funds. This report must specify, among other things, the local coordi-

nating entity's performance goals and accomplishments, expenses and income, amount and sources of matching funds, amounts and sources of leveraged federal funds, and grants made to any other entity during the fiscal year.

While provisions contained in S. 2543 address some of the issues we raised in our March testimony, they do not require that the Park Service consistently review areas' financial audit reports or develop results-oriented goals and measures for the agency's heritage area activities as we recommended in March. We continue to believe that these are important management controls that are necessary to ensure effective oversight and accountability.

S. 2543 PROVIDES SOME MEASURES FOR ENSURING THAT OWNERS' USE OF THEIR PROPERTY IS NOT RESTRICTED BY THE ESTABLISHMENT OF HERITAGE AREAS

S. 2543 includes provisions to ensure that property owners' rights and land use are not restricted by the establishment of national heritage areas. In our March testimony, we stated that national heritage areas do not appear to have affected property owners' rights. In fact, the designating legislation of 13 areas and the management plans of at least 6 provide assurances that such rights will be protected. However, property rights advocates are concerned about the effects of provisions in some management plans that encourage local governments to implement land use policies that are consistent with the heritage areas' plans. Some advocates are concerned that these provisions may allow the heritage areas to indirectly influence zoning and land use planning in ways that could restrict owners' use of their property.

S. 2543 provides property owners the right to refrain from participating in any planned project or activity conducted within the national heritage area. Furthermore, it does not require any property owner to permit public access, nor does it modify public access under any other federal, state, or local law. It also does not alter any adopted land use regulation, approved land use plan, or other regulatory authority of any federal, state, or local authority.

CONCLUSIONS

The growing interest in creating new heritage areas has raised concerns that their numbers may expand rapidly and significantly increase the amount of federal funds supporting them. A significant increase in new areas would put increasing pressure on the Park Service's resources. Therefore, it is important to ensure that only those sites that are most qualified are designated as heritage areas. However, as we noted in March, no systematic process for designating these areas exists, and the Park Service does not have well-defined criteria for assessing sites' qualifications or provide effective oversight of the areas' use of federal funds and adherence to their management plans. As a result, the Congress and the public cannot be assured that future sites will have the necessary resources and local support needed to be viable or that federal funds supporting them will be well spent. Park Service officials pointed to the absence of a formal program as a significant obstacle to effective management of the agency's heritage area efforts and oversight of the areas' activities. As a result, the Park Service is constrained in its ability to determine both the agency's and areas' accomplishments, whether the agency's resources are being employed efficiently and effectively, and if federal funds could be better utilized to accomplish its goals.

Several of the provisions in S. 2543 represent positive steps towards addressing the concerns we raised in March. In particular, by establishing a formal program, the bill would remove the obstacle to effective management and oversight identified by agency officials. Furthermore, by establishing a more systematic process for designating heritage areas, S. 2543's provisions can help to ensure that only the most qualified sites become heritage areas. In addition, by placing a $15 million per year cap on funding to the heritage areas through the Park Service, the bill limits the federal government's funding commitment to these areas. Finally, provisions in S. 2543 would enhance the Park Service's ability to oversee and hold areas accountable for their use of federal funds by establishing criteria for reviewing and approving areas' management plans and by requiring heritage areas to annually report on performance goals and accomplishments.

MATTERS FOR CONGRESSIONAL CONSIDERATION

To ensure greater accountability for the use of federal funds, the Congress may wish to consider amending S. 2543 by adding provisions directing the Secretary to (1) review heritage areas' annual financial reports to ensure that the agency has a full accounting of heritage area funds from all federal sources, and (2) develop results-oriented performance goals and measures for the Park Service's overall heritage area program.

Mr. Chairman, this concludes my prepared statement. I would be happy to respond to any questions that you or other Members of the Subcommittee may have.

Senator THOMAS. Okay, thank you. Thank you both. I appreciate that very much. Certainly, this draft has been predicated, to a large extent, on the study that was done by GAO, as well as in consultation with the Park Service.

So, Mr. Jones, you have some concern about the "significance," as opposed to "important" or using—"importance" doesn't seem very important, where "significance" seems to me, sort of, defines the fact that it should be set aside because it is significant. Why do you think that's a problem?

Mr. JONES. The exact words to be used, I think, are less important than our generic concern. the terms of "suitability studies" and "determinations of national significance" is a formal process that is currently in law, which leads to establishing units of the National Park System. Our concern is that we do not imply any confusion that these studies are studies for additions to the National Park System, when they are studies for heritage areas. And we thought it might be easier if slightly different phraseology were used.

Senator THOMAS. I see. I guess one of the basic reasons for this whole effort is that things become important in the community, whether it's economic development or whether it's to do something with the Main Street, and this and that. So, again, you define words a little differently, but I think what we're trying to do is say that it has to have national significance.

Mr. JONES. I totally agree with you on that, because certainly areas that are of local interest or of interest to Statewide proceedings are clearly best managed by the States and the local governments, without a role for us. So there certainly needs to be a national level of—be it "interest" or "importance" or "significance"—we're certainly willing to work with the committee as to what is the best terminology to use.

Senator THOMAS. I think one of the real issues before us, is, there are areas that have local significance that we hope are set aside, but they should be set aside by the local or the State, and we shouldn't have a program where local areas are set aside by Federal money.

So I understand what you're saying.

Mr. JONES. And we agree with you, Senator.

Senator THOMAS. Now, currently, heritage areas, does that designation disappear after awhile, or is it always—after the funding's over, is it continued to be a national heritage area?

Mr. JONES. We believe it does, and we think the legislation should allow that to happen. But what changes is the role of the Federal Government in the area, because certainly a lot of entities and organizations interested in heritage areas are interested in the plaque and the name, be it for marketing, for tourism or for whatever interest they might have. And we don't see any problems with that. The main thing that we feel definitely should have a cap is the eventual termination of the Federal funding that supports an area, and that an area should graduate from the program and become self sufficient on their own and continue on their own.

Senator THOMAS. If it still is designated as a national heritage, then the Park Service would no longer have any input or oversight or involvement, is that correct?

Mr. JONES. It would be greatly reduced involvement. To the extent that we are providing annual reports to the Congress, for example, or updates on the programs, we're assuming that as long as an area carries that title, there would be interest for us to continue to know what's going on there, but our role would be greatly diminished.

Senator THOMAS. I see.

Mr. Hill, you suggested annual audits or at least some sort of oversight on spending. As we get more and more of these, is that likely to be something the Department would be able to do?

Mr. HILL. Well, the current cap you have of $15 million on the program, with no more than 5 percent being spent on administrative expenses, that does put a limit on the extent of effort the Park Service could provide. So, yes, as you add more heritage areas to this program, it's going to start taxing and stressing already thin resources that the Park Service has to oversee.

Senator THOMAS. Yes.

Mr. HILL. So that's why I do think you need to consider some type of controls over limiting the number or the size of this program.

Senator THOMAS. I agree with you. I think there ought to be some oversight on any sort of funding by the Federal Government and so on. I think it could possibly be made simpler than it sometimes is, just to sort of get an idea of what's happened.

Mr. HILL. Well, the bill does provide some really nice mechanisms for reporting. The heritage areas do have to submit these annual reports as long as they're receiving Federal funds. That should make the Park Service's job a lot easier, because not only will they be getting a better handle on the funds that they're expending—as well as what other Federal agencies are also providing through the program—but it'll all be provided in one document that they can easily review.

Senator THOMAS. That's a good idea.

Senator Akaka.

Senator AKAKA. Thank you very much, Mr. Chairman.

As I mentioned in my opening statement, Mr. Jones, one of the general concerns with the heritage area program is rapid growth in the number of areas proposed for designation. As you noted in your testimony, there are already two dozen designated areas, with an additional 15 proposed for designation during this Congress. Based on the increasing interest in this program, I suspect that there will be many more areas that will be proposed for designation in the near future.

If so many areas are potentially suitable for designation, my question is, How do we make sure that the heritage area program isn't overwhelmed by too many designations? In addition to determining the suitability of the proposed area, does it make sense to establish some sort of priority ranking?

Mr. JONES. Well, I think the basic answer to your question is one of the reasons why this bill is before the committee, because this bill, we think, addressed a lot of the issues that you've just raised,

because it does provide, we think, some consistency in approach in evaluation, and hopefully from that would come some information that would be useful to this committee, as well as our—as we develop our own recommendations as to what areas have the most merit for designation and consideration.

The study process has been evolving over the last decade based on our experience in heritage areas, and what this bill is trying to do, I think, is bring that wealth of experience together into a unified approach looking to the future.

Senator AKAKA. Senator Thomas' bill would establish in law several requirements that must be met before an area could be designated as a national heritage area. It appears to me that many of the criteria, such as the requirement for a study and evidence of a significant local commitment to the proposed heritage area are consistent with requirements that have already been applied informally by this committee and by your agency in assessing previous heritage area proposals. If this bill is enacted, do you expect that any of the proposed areas that are now considered appropriate candidates for designation will no longer be eligible for designation, or will it slow the number of future proposals?

Mr. JONES. Well, I'm not personally familiar with all of the areas that have been proposed that are pending before the committee, and it's also certainly not appropriate for me to prejudge what our position would be, without clear testimony, obviously. But I am aware that there are some of the areas that have been introduced, for example, that do not have a study that has existed. They call for just direct designation. And certainly, in the past, we have opposed those types of designations without a formal study, without the identification of a good local partner and its proven capability to assume their role in a heritage area. And I would be surprised if our position would change on that.

So I think the answer is yes, that there are likely some areas that have been proposed that would not meet this criteria.

Senator AKAKA. Mr. Jones, this bill proposes an annual appropriations of—a limit of $15 million for the entire program, regardless of the number of heritage areas. You oppose this provision in your testimony, preferring to rely on the appropriations limitations applicable to each individual heritage area. If there isn't an overall funding ceiling for the heritage area program, how do you ensure that it doesn't become so large that it diverts significant funding resources away from other National Park Service priorities?

Mr. JONES. A couple of answers to that. Our concern on the ceiling is that, at any given time, it's presumed that there will be a different number of heritage areas eligible for funding, and we think that having a $15 million cap on the program may, at some times, provide ample funding for all the active areas; at other times, may restrict the funding.

On the question as to what extent it would impact other park operations, unfortunately my crystal ball does not allow me to speculate—that if funding for any one program is not there, that it would automatically be available for park operations. One could hope as much, but it's hard to predict what either OMB or the appropriations committees might decide to do. So I really don't have a specific answer for that question.

Senator AKAKA. Thank you very much for your response.

Mr. Chairman, I don't have any further questions for this panel.

Senator THOMAS. Thank you very much, Senator.

Now, the limitation is an interesting question that we need to deal with. I read in the paper almost daily that the parks are inadequately funded, and they aren't doing enough upkeep on the backlog, and all that sort of thing, and so it makes you wonder.

Gentlemen, thank you very much. Appreciate. And we want to continue to work with you as we go forward.

Now, our second panel, Mr. Dan Rice, Ohio and Erie Canal Coalition, Akron, Ohio; Mr. Craig Obey, vice president for government affairs, National Parks Conservation Association; and Mr. R.J. Smith, director, Center for Private Conservation, here in Washington.

Welcome, gentlemen. We look forward to your points of view and appreciate your being here to share them with us.

Mr. Rice, would you like to begin? As I have mentioned to the previous panel, your total comments will be put into the record, and if you want to summarize them in 5 minutes, why, that would be great.

Thank you.

STATEMENT OF DANIEL RICE, PRESIDENT AND CHIEF EXECUTIVE OFFICER, OHIO AND ERIE CANALWAY COALITION, AKRON, OH

Mr. RICE. Thank you very much, Mr. Chairman.

And, again, I'd like to thank you, Mr. Chairman and distinguished members of the committee, for inviting me here today to provide testimony regarding the National Heritage Area Partnership Act.

I am here in my capacity as the president and CEO of the Ohio and Erie Canalway Coalition, working on the Ohio and Erie Canalway Project in Northeast Ohio, as well as the chairman of the Advocacy Committee for the Alliance of National Heritage Areas.

First and foremost, I'd like to thank the committee, and you specifically, Mr. Chairman, for your legislation. This legislation represents a major improvement from the National Park Service legislation that was submitted about a month ago. And we believe that this legislation accurately reflects the issues and concerns of the Alliance of National Heritage Areas, and we appreciate you taking that into account in the development of this legislation.

We also believe, Mr. Chairman, that there are a couple of areas of common ground we have agreement on; first and foremost, the issue of national significance. We believe that all national heritage areas should have national significance. Second, we also agree that national heritage areas should have a framework for regional collaboration and cooperation, which this legislation outlines. Third, and probably most importantly, this legislation also provides clear direction regarding the development of suitability and feasibility studies, as well as the management plans.

With our proposed recommendations, we believe this legislation has the potential to create a successful national heritage area program that exports the National Park Service ethic of resource conservation to millions of Americans while leveraging significant

amounts of private, local, State, and Federal resources, and truly creating a legacy for future generations.

Specifically, I am respectfully requesting the following seven proposals:

First, national heritage area designation must come after planning. Through a comprehensive planning process, working in partnership with our local, State, and Federal partners, the most appropriate framework and regional strategies for the conservation of these resources will be identified. Completing the entire planning process in advance provides Congress and the Secretary of the Interior with all the information possible regarding—in order to make a decision regarding potential Federal involvement.

Second, national heritage area designation must come from Congress. This legislation basically outlines the fact that a national heritage area may meet all the requirements for national significance and designation; however, the Secretary of the Interior may veto the designation. We suggest that rather than creating a new process for the designation of national heritage areas that—simply use the same process for designation of units of the National Park System.

Third, we believe that the review and approval of management plans needs to be much quicker. All the partners are involved in the planning process—local, private, State, and Federal. We believe that taking 180 days to review a plan, which is approximately 6 months, slows down the process and has the potential to limit the momentum of the development of a heritage area. We believe and respectfully request a review process of 90 days.

Four, staffing for heritage areas. This legislation specifically outlines certain staff members for the development of a heritage area. We agree with some of the recommendations; however, we think it would be helpful if the wording was added "and other staff as deemed necessary," because as each national heritage area may have unique requirements for staffing, the legislation should provide language that permits the hiring of staff consistent in order to implement the management plan. It doesn't mean there's unlimited staffing, Mr. Chairman; however, we just want to make sure the management entity has the tools necessary to fulfill their management plan.

Fifth, authorization of appropriations. We agree that there are issues regarding funding, and that that always is an issue; however, our concern is, if we establish a $15 million cap for the program, this, unfortunately, could develop a unfunded mandate for our local partners. They could basically get the national designation, and not be able to fulfill their obligations under the management plan. We recommend, respectfully, that Congress consider, each year, the collective funding needs of the national heritage areas.

Sixth, national heritage areas must be able to be reauthorized. And, to be direct, Mr. Chairman, partnerships take a long time to develop. Congress should provide for itself, at the end of each national heritage area, when it comes up for reauthorization, to basically review the national heritage area in order to determine whether it's appropriate for the Federal partner to be involved in

the future development and resource conservation in the heritage area.

Seventh, and finally, the national heritage area should be made affiliated units of the National Park Service.

In closing, Mr. Chairman, we really applaud you for all of your efforts in the development of this legislation. We really believe that it does accurately reflect our issues and concerns. If we can be of further assistance, we look forward to working with you on the development of this successful legislation.

With your continued leadership, we have the opportunity to establish a national and international model for resource conservation that truly leverages significant amounts of local, private, and state resources, but, probably more importantly, creates a legacy for future generations.

Mr. Chairman, I want to thank you for the opportunity to testify, and I am more than happy to answer any questions that either you or any of the other members of the committee may have.

Thank you, sir.

[The prepared statement of Mr. Rice follows:]

PREPARED STATEMENT OF DANIEL M. RICE, PRESIDENT & CHIEF EXECUTIVE OFFICER, OHIO & ERIE CANALWAY COALITION, OHIO & ERIE NATIONAL HERITAGE CANALWAY, AKRON, OH, AND CHAIRMAN OF THE ADVOCACY COMMITTEE, ALLIANCE OF NATIONAL HERITAGE AREAS

Mr. Chairman and distinguished members of the Committee, my name is Daniel M. Rice. I am the President and Chief Executive Officer of the Ohio & Erie Canalway Coalition, a private non-profit regional organization working on the development of the Ohio & Erie National Heritage Canalway from Cleveland to New Philadelphia in northeast Ohio. I am also here today testifying in my capacity as Chairman of the Advocacy Committee with the Alliance of National Heritage Areas, an organization whose membership includes, among others, the 24 congressionally designated NHAs. I appreciate the opportunity to appear before the Committee today to discuss the "National Heritage Partnership Act", the future of the National Heritage Area movement.

On behalf of the Alliance of National Heritage Areas and its members, I want to thank the Committee and all of the National Park Service staff, who have worked over the past months to develop this proposed legislation. We believe that the "National Heritage Partnership Act" represents a major improvement from the draft offered by the National Park Service. The proposed legislation accurately reflects the concerns and issues of the Alliance of National Heritage Areas and we believe this legislation is on the right path.

We share with the Committee the belief that a successful National Heritage Area program must include a test of national significance. If there is not a nationally significant theme or collection of resources, the heritage area should not be designated as a *National* Heritage Area. This proposed legislation also creates a framework for regional collaboration and cooperation among private, local, state and federal partners that is the cornerstone of the Heritage Development movement. Finally, this proposed legislation provides clear direction regarding the development of the Suitability/Feasibility studies and the Management Plan process. Through this study process, Heritage Initiatives will be able to define the most appropriate framework and regional strategies for the conservation, interpretation and development of their unique natural, historical and recreational resources.

With our proposed recommendations, this legislation has the potential to create a successful National Heritage Area program that exports the National Park Service ethic of resource conservation to millions of Americans, leverage significant amounts of private, local, state and federal resources while creating a legacy for future generations.

Specifically, I am respectfully requesting that this Committee and the Congress consider the following recommendations for a National Heritage Area program:

1. National Heritage Area designation must come after planning

Recently, the process of designating NHAs has occurred in reverse, with the designation by Congress first, and then the necessary inventories, themes and other

planning developed after. Placing designation in advance of the plan often will redirect most, if not all of the NPS appropriations to planning, instead of the investment in the resource conservation and development. Congress could designate heritage areas as "planning areas" first and provide a small amount of funding to help seed the planning process, then, when the feasibility and management plans were complete, Congress, with the completed plans and recommendations, would have a more thorough assessment of the proposed NHA.

Through a comprehensive planning process, Heritage Initiatives will develop the most appropriate framework and regional strategies for the conservation, interpretation and development of the unique natural, historical and recreational resources. It may be determined that the most appropriate framework is through local designation, state designation, a Scenic Byway, or possibly no designation may be necessary. Completing the entire planning process prior to designation provides Congress and the National Park Service with all the information necessary to make a decision regarding potential federal involvement.

2. National Heritage Area designation must come from Congress

Despite Congress's approval of a National Heritage Area designation, the Secretary of Interior would retain veto power over the congressional action by disapproving and National Heritage Area's proposed management plan, and subsequent amendments for correction/modification—essentially keeping a National Heritage Area approved by Congress from going into operation. All final authority upon which areas would ultimately function as a National Heritage Area would rest in the hands of the Secretary, stripping Congress of its legislative responsibilities to designate.

The Secretary of Interior should make a recommendation to Congress regarding the designation of a Heritage Area. The Secretary of Interior should not have veto power regarding the designation of Heritage Areas. That authority rests with the Congress of the United States.

Finally, why not use the same process for the designation of units of the National Park System? The Secretary of the Interior reviews the studies and reports and makes a recommendation to Congress regarding designation as a unit of the National Park System. Why not use the same process for units of the National Park System and treat Heritage Areas in the same manner?

3. Review and Approval of Management Plans needs to be quicker

Since all partners, private, local, state and federal organizations, are involved in the development of the Management Plan, all parties should be well informed about the contents of the Management Plan. Consequently, there is no reason why it should take 180 days, or six months, to review and provide comment on a Management Plan. One of the key factors in the development of successful Heritage Areas is their availability to respond to issues in a timely manner.

Since the Heritage Initiative cannot continue until the review and approval of the Management Plan, the regional initiative comes to a grinding halt due to the requirements of one of the partners. It is unreasonable to assume that one of the partners will dominate and exercise control over the regional project. In some cases, this approach will essentially discourage and eliminate local support for the Heritage Area. The Alliance of National Heritage Areas recommends a review and approval or disapproval process, and Amendment process of 90 days to maintain the momentum of the Heritage Area.

4. Staffing for Heritage Areas

National Heritage Areas are as different and unique as the regions of the country that they work within. This legislation that we are discussing today, makes a significant attempt at recognizing the levels and types of professional staff that might be necessary to successfully manage a National Heritage Area. The legislation, however, would be more helpful if the words, "or other staff as deemed necessary" were inserted in Section 6 (b) (3) under hire and compensate staff. While most National Heritage Areas may find it necessary to hire individuals with expertise in natural, historical, cultural, educational, scenic, recreational resource conservation, economic and community development and heritage planning, others might find need for promotion or marketing professionals, or development staff to help raise match money. Simply stated, each National Heritage Area may have unique requirements for staffing, and the legislation should provide language that permits the hiring of staff consistent with the implementation of the Management Plan.

5. Authorization of Appropriations

I fully understand and acknowledge that Congress has very difficult budget considerations on an annual basis regarding the funding of many worthwhile programs.

Considering the return on investment that National Heritage Areas have demonstrated, and as substantiated by the General Accounting Office and Congressional Research Service, it would seem to me that Congress would want to continue to fund programs that are able to take the federal funding and leverage significant amounts of private, local, and state investment. By proposing this legislation, Congress recognizes the accomplishments and importance of National Heritage Areas. However, at the same time, Congress is limiting the appropriations and the ability of the National Heritage Areas to fulfill their mission by arbitrarily capping the program. If the resource protection that is being achieved today under the National Heritage Area program were left solely to the National Park Service, there is no doubt that the cost of the program would be substantially larger.

Raising funds for any project becomes more difficult if one of the key partner(s) withdraws or withholds funding. National Park Service funding provides a level of credibility to the National Heritage Area and assists in bringing other funding to the table. If our private, local and state partners took the same approach as the proposed $15 million cap for the program, the National Heritage Area would struggle.

Establishing a $15 million cap for the Heritage Area Program could become an unfunded mandate for the National Heritage Areas. Heritage Areas could achieve National designation with no assurances of participation and/or assistance from the National Park Service to fulfill the requirements of the Management Plan. Consequently, the National Heritage designation could become a burden on private, local, and state partners as well as their sole responsibility.

Finally, the funding cap of $15 million dollars does not take into account inflationary issues, nor does it take into account future National Heritage Areas being designated by Congress. Under the proposed scenario, the average amount per National Heritage Area would be considerably less than the current appropriation for almost all of the existing National Heritage Areas. This funding cap would irreparably harm the National Heritage Areas and their programs.

For these reasons, we respectfully recommend that the Authorization of Appropriations not be capped. We recommend that Congress consider each year the collective funding needs of National Heritage Areas. This will ensure a successful National Heritage Area program that exports the National Park Service ethic of resource conservation while managing the federal investment in a responsible manner.

6. NHAs must be able to be reauthorized

Some proposals for creating an NHA program have suggested limiting the NHA to only 10 years of authorization and funding, after which the NPS appropriations will be cut off. The astounding ratio of match money to the NPS appropriations is, in part, a result of the federal government's willingness to invest in the heritage projects first. This seed money helps the NHA attract other investors, both public and private. If the other investors know the NPS funding will cease at the end of the authorization, it will be difficult, if not impossible, to convince the other public and private funders that the project is worth the investment. Additionally, if the NPS authorization ends, the designation of "national" will continue, creating confusion in the public's mind of the relationship of the heritage area to the National Park Service. Finally, NHAs projects could continue long after the 10-year authorization. Congress should provide for itself the opportunity to review each NHAs work at the end of each authorization period for an NHA and then, with a new plan from the NHA for the next 10 years, make a determination if the NHA should be reauthorized to continue its work in the community.

7. NHAs should be made, at least, affiliated units of the NPS

Currently NHAs exist as orphans within the National Park Service. Despite all of the technical assistance and support from the regional and Washington offices, . NHAs are left with inconsistent policies to follow, varying between regional offices. Under the current system, for example, NHAs cannot use the NPS Arrowhead without permission of the NPS, and release of the annual appropriations to each NHA is inconsistent. More importantly, budgeting for NHAs within the NPS is often an afterthought, as evidenced by the Fiscal Year 2005 budget that requests only $2.5 million overall for the 24 NHAs.

CONCLUSION

In closing, Mr. Chairman, I believe that National Heritage Areas represent an innovative approach to resource conservation that works in partnership with our private, local, state and federal partners to conserve, interpret and develop our unique natural, historical and recreational resource. As I stated earlier, with our proposed recommendations this legislation offers the opportunity to create a successful Na-

tional Heritage Area program that exports the National Park Service ethic of resource conservation to millions of Americans, while leveraging significant amounts of private, local, state and federal resources. If I can be of further assistance, I would like to extend an offer to work with you and the sub-committee staff on the development of this important piece of legislation.

On behalf of the Alliance of National Heritage Areas, I want to express our thanks to you for your leadership and support regarding National Heritage Areas. With your leadership, we will create a model for resource conservation for 21St Century, just as President Roosevelt did with his creation of Yellowstone National Park in 1872. We greatly appreciate both your strong interest and support for National Heritage Areas and our efforts to celebrate our unique heritage while creating a legacy for future generations.

Again, Mr. Chairman, I want to thank you for the opportunity to testify before your Committee, and I am happy to answer any questions that you, or other members of the Committee, might have.

Senator THOMAS. Okay, thank you.

Mr. Smith.

STATEMENT OF ROBERT J. SMITH, DIRECTOR, CENTER FOR PRIVATE CONSERVATION

Mr. SMITH. Mr. Chairman and members of the committee, thank you for inviting me here to testify on this bill.

I'm R.J. Smith, with the Center for Private Conservation, an organization that documents the good efforts of private groups and private landowners to protect the environment, and with the Competitive Enterprise Institute, a private-property rights, limited-government think tank in Washington, as well as with former Senator Malcolm Wallop's Frontiers of Freedom Organization, another property-rights organization.

Mr. Chairman, I sit here today with a heavy heart and a genuine feeling of sadness. It's a quarter of a century since Ronald Reagan was elected and sent a telegram—they still had them in those days—to the couple thousand people gathered from all over the Nation in Salt Lake City for the National Sagebrush Rebellion Conference. That was an effort by workers, landowners, State and national legislatures, even a Governor or two, to begin to take back the American land from the iron grip of the Federal Government and its land-control agencies. They wanted the Federal lands returned to the States, the counties, local communities, and the people. Everyone recognized what a lousy landlord and an incompetent land manager the Federal Government was. Reagan's message to the movement was—as the man himself, brief, direct, and to the point—he said, "Count me in. I'm a sagebrush rebel, too."

He came to Washington from a State where the government already owned over half the land, and he had seen its mismanagement. He said, "Enough. The government owns too much land, and can't take care of what it owns." He said, "The government has to prove it can take care of what it already has." He heroically stopped the Federal land grab, he zero-budgeted the Land and Water Conservation Fund and more land acquisition, and made an effort to begin to use the National Park Service's budget to take care of the parks, not to expand the parks.

Even a quarter of a century ago, there was a mind-boggling, multi-billion-dollar backlog in deferred maintenance and repair, not only of the parks' infrastructure—decaying historic lodges, buildings, undriveable roads, unsafe bridges—but even the parks' national resources and assets—unsafe drinking water, polluted

streams, dying trees, unbalanced wildlife populations, et cetera—ending with the crown jewel of the Park Service, Yellowstone, burning down in the summer of 1988, when Reagan then ordered the Park Service to terminate their misguided policy of natural regulation.

And a decade ago, when Republicans gained control of both the House and the Senate and promised reform of environmental legislation used to achieve cost-free national land-use control rather than to protect the environment, and finally recognizing the significance of the Constitution's Fifth Amendment, "Nor shall private property be taken for public use without just compensation," there was great hope amongst the property-rights movement across the Nation.

There was a promise to enact Federal legislation protecting private-property rights and mandating Federal agencies to pay compensation to landowners for outright takings, partial takings, and for the myth of regulatory takings, where the Government simply says, "You can't use your land, but we don't have to pay you since we didn't take it from you."

There were hearings here, actually in December 1995, in this very room, to testify on a half dozen national heritage corridor bills, all of which were less onerous, less far-reaching, and less dangerous, less expansive, and less expensive than we feel S. 2543 is, which will create an organic act for the national heritage area program to become an integral part, an entirely new bureau within the National Park Service.

Interestingly, it appears that the Government, to some degree, took the concerns for property-rights advocates more seriously a decade ago, when there were at least three representatives from property-rights groups testifying here in this room. There was standing-room only with property-rights people. Perhaps rather than flipping Interior's poor buffalo from left to right to left, Interior should replace them with a Federal steamroller, flattening the rights of a free people.

Mr. Chairman, the definition of a heritage area to come under the purview of the National Park Service, as any national significance to the heritage to the U.S. possessing, quote, "unique natural, historical, cultural, educational, scenic or recreational resources of exceptional value or quality," we believe is so vast, so all-encompassing, so expansive, so wide as to permit the designation of almost any plot of land in the Nation as a national heritage area. Civil War aficionados must be rubbing their hands in glee, because no piece of hallowed ground, from the cornfields of Gettysburg, Pennsylvania, to the heights of Georgia's Stone Mountain, from the walls of Fort Sumter, South Carolina, to the bluffs of Vicksburg on the Mississippi River, will be safe from possible designation as a new area controlled by the Park Service.

Senator, we do not believe that the mere 23 lines of protections in this bill are adequate to protect private property rights, regardless of what is prohibited in them. We have seen this happen time after time after time. The prohibitions on land-use acquisition or of outright land acquisition with Federal money on the 24 existing heritage areas—in one area, that has already passed by. And in the Shenandoah National Heritage Area, they have acquired land with

Federal moneys. Also, the National Coal Heritage Area is already calling for zoning to protect the areas. The Rivers of Steel Heritage Area is calling for its being turned into an actual national park.

There are a couple of very important examples of what has happened in the past, where there have been the strictest regulations and restrictions put in by Congress. In 1972, the creation of the Buffalo National River in the Ozarks, it was prohibited expressly of any land acquisition or forcing landowners off the land. At that time, there were 1,108 landowners out there. Today, there are only eight left. In 1971, when the Cuyahoga National Recreation Area was created, there were, again, restrictions—no land-taking, no acquisition. They had to protect things with conservation easements. And, nevertheless, this Park Service program led to hundreds of homes and businesses being bulldozed and burned.

Mr. Chairman, I think the only way to adequately protect private property rights if we want to save certain areas and set them aside is not to create this program, to privatize heritage areas now, and make all such programs totally private and totally voluntary. I think it's time for the land trusts, the chambers of commerce, the tourist bureaus, and so on, to step up and stop taking private property, and protect these areas the old-fashioned way, doing it by buying them.

In conclusion, Mr. Chairman, I think one issue that we need—somebody needs to address in this country is, What is the vision of the future? What is the legacy we're going to leave for America and for our children? This is a free country built on the whole concept of private property rights; and without property rights, there are no other freedoms. The Government, at all levels—Federal, State, county, municipal—has been adding land, acquiring land, on a never-ending process. Probably over 44 percent of all the land surface in the United States is now owned by government at one level or another. There is no country on the face of the Earth now, with the U.S.S.R. and China gone, that has a more socialistic land-based system than the United States. I think we need a vision of the country that finds ways to tap the ingenuity and the voluntary associations of private landowners and private associations to protect areas privately.

Thank you, Mr. Chairman, and I'll be happy to entertain any questions. And I have some additional comments I would like to submit with my testimony.

[The prepared statement of Mr. Smith follows:]

PREPARED STATEMENT OF ROBERT J. SMITH, ADJUNCT ENVIRONMENTAL SCHOLAR, COMPETITIVE ENTERPRISE INSTITUTE, AND DIRECTOR, CENTER FOR PRIVATE CONSERVATION

Thank you, Mr. Chairman and members of the committee, for the opportunity to present testimony to the National Parks Subcommittee of the Senate Committee on Energy and Natural Resources.

My name is R.J. Smith. I am adjunct environmental scholar at the Competitive Enterprise Institute in Washington, D.C. CEI is a nonprofit, nonpartisan research and advocacy institute dedicated to the principles of private property, free enterprise and limited government. I am also director of the Center for Private Conservation, a nonprofit organization that documents and publicizes information on the history of private stewardship and conservation carried out by private landowners and private associations. And I am director of environmental studies at former U.S. Senator Malcolm Wallop's Frontiers of Freedom Foundation. I am also representing the concerns and interests of hundreds of property rights organizations, wise-use and

multiple-use organizations, and small landowners who have been opposing such legislation for over a decade.

S. 2543, the "National Heritage Partnership Act' represents an unfortunate shift to an even worse bill that previous such legislation. It goes beyond the rather informal efforts to bring Federal recognition to the existing heritage areas and heritage corridors created by individual policy bills, to the creation of an organic act for the establishment of a National Heritage Area program within the Department of the Interior and specifically the National Park Service. In effect, this bill will create an entirely new Federal land management program.

The National Park Service and Congress will be involved in creation of the "local coordinating entity", an organizing group which is often composed of elitists with a preservationist, environmentalist, conservationist agenda—which can be widely different form the day-to-day concerns of many, if not most, of the people who actually live on the land.

The National Park Service will provide assistance and funding the creation of the management plan for the proposed National Heritage Area. Once officially designated by the Secretary of Interior, the National Park Service will provide operating funding of up to $1 million per year per National Heritage Area, with an upper maximum limit of $10 million dollars for any individual heritage area. Also, each local coordinating entity must obtain an equal amount of matching funds from non-federal sources.

At every stage there will be Federal direction, Federal assistance and Federal funding. At a time of growing concern about out of control Federal spending and Federal deficits, the funding provided in S. 2543 has been increased by 50 percent over earlier bills from $10 million per year to $15 million per year. Certainly a very disturbing sign.

Mr. Chairman, what is the urgent need for a new national parks land management and spending program? For decades we have known about the deplorable fact that the National Park Service was far more interested in following a path of ever more land acquisition, and that caring for the lands they had was at best an afterthought. The administration of President Ronald Reagan and Interior Secretary James Watt attempted, mainly unsuccessfully, to stop additional land acquisition until the Government could demonstrate that it could be a good steward of the lands it already owned.

Less than a year ago, President George Bush and Interior Secretary Gale Norton announced that at long last this administration would begin the long-overdue effort to eliminate the backlog of some $6 billion in deferred maintenance and protection of the parks and their resources and physical infrastructure. Now, unfortunately, with the ink hardly dry on those planning documents, we see an entire new National Park Service program about to be launched.

What is especially disturbing about this bill is the combining of National Park Service direction, control and funding with the criteria for creation of a National Heritage Area.

A National Heritage Area is an area "nationally significant" to the heritage of the U.S. and possesses "unique natural, historical, cultural, educational, scenic, or recreational resources of exceptional value or quality."

This definition (in section 2, paragraph 3 and 4-a) is so broad, so wide-scale and so all-encompassing that it could include almost any area in the entire nation. Essentially, proponents of the National Park Service would be able to create new park controlled and directed lands almost anywhere in the country. One can only wonder what possible vision of America the supporters of such a program could have and where it fits within an earlier vision of America as a free society based upon private ownership of lands.

Far more disturbing are the management plans, specifically sections 5-a-1 and 5-a-2. The Interior Department and National Park Service guided and approved management plan must include "comprehensive policies, goals, strategies, and recommendations . . . encouraging long-term resource protection, enhancement, interpretation, funding, management, and development of the National Heritage Area."

Further, the management plan must "include a description of the actions and commitments that governments, private organizations, and citizens will take to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area."

Those two paragraphs are nothing less than a mandate for Federal Government land-use control—period. This belies all suggestions, all wording elsewhere, purporting to provide protections for private property rights and private landowners.

This is the appropriate place to note that former National Park Service employee and senior staff member of the House Resources Committee's Subcommittee on Na-

tional Parks, Recreation and Public Lands, Steve Hodapp, who was a longtime avid promoter of National Heritage Area legislation, suggested such "problems" in his response to efforts by property rights advocates to build in protections for private property.

A proposal suggested by many people was to provide "opt-out" language in the legislation to permit private landowners to make their intentions known that they did not want to be included with the heritage area and that they were opting out.

As Steve Hodapp correctly noted, no one can opt out of a National Heritage Area. It is a physical and geographical impossibility. One is either inside the boundaries of a National Heritage Area or outside the boundaries. And if one is within the boundaries, and there is a management plan that prescribes, indeed mandates, programs and activities to protect, enhance, and manage natural and scenic values within the National Heritage Area—in one way or another private landowners are not going to be allowed to convert their cornfield to a pig farm or to paint their silo purple with yellow stripes.

Mr. Chairman, if there are so many areas of scenic, historic and tourist importance, where is the justification for these areas to become part of the National Park Service? Whatever happened to the concept of private activities, voluntary association, the activities of nonprofit organizations? If it is so important to protect and obtain visitation for the ruins of historic Spanish churches along the lower Rio Grande valley, why must this be done by the Government? It would be far more consistent with the spirit of the Nation to have the local chamber of commerce erect a billboard on each end of the town, saying visit our quaint, scenic, historic, educational Spanish ruins while you are in town. It would be much cheaper. And it would be far less of a threat to private property rights.

Mr. Chairman, in spite of assurances and wording to the contrary, we view this as nothing more than a continued attack on the very institution of private property, which is the underpinning of our unique free and prosperous society. All of our freedom is built upon the right of private property, and without private property right no other rights or freedoms are possible—they are merely illusory. Our founding fathers based our Nation and our freedom on the rights of life, liberty and property. Men as different in their thinking as Thomas Jefferson and Alexander Hamilton all agreed on the need for wide devolution of the Federal lands to ensure a Nation of free and productive men and women.

Yet we now have a Nation where at least 42 percent of all the land is owned by government at one level or another, including Federal lands, State lands, county lands, local and community lands, and native trust lands. The totals for governmental land ownership are so large and complex that it is even difficult to obtain exact figures on the total amounts of land ownership by each level of government and the various agencies within those governments. One would think there would be some serious effort at inventorying what government already owns before setting out on a massive permanent program of endless additional governmental acquisitions of private lands.

It is important to stop and consider the significance of the fact that government at all levels in America already owns over 42 percent of the Nation's land. This is a staggeringly high percentage of government ownership of land and resources in a free society, supposedly based upon the beliefs of the founding fathers that the cornerstone of all our freedom depends upon the widest possible distribution of private ownership of property. In a most interesting observation, the liberal economist John Kenneth Galbraith wrote: "The public lands of the United States exceed the combined areas of Germany, France, Italy, Belgium, Holland, Switzerland, Denmark and Albania. When socialized ownership of land is concerned, only the U.S.S.R. and China can claim company with the United States."

Galbraith made those observations prior to the collapse of Communism, the breakup of the Soviet Union and the termination of the collective farms across China. Thus it would appear that, and is probably likely that, the United States of America probably has the most socialistic land ownership system in the world. One would hope that this would give the Republican-controlled Congress some second thoughts before they become engaged in an aggressive program to extend the tentacles of government, land management and land ownership still further and to destroy still more of the underlying private property that ensures the freedom of our people.

It is way past time for some true vision on the part of our Government and its leaders. It is time to halt the never-ending trend to more and more government land-use control and land acquisition. If we are to maintain a free and prosperous society, it is well past time to first say: No more land acquisition and no more land-use control. We need someone to step forward with a true legacy with a national program and mandate of first no net loss of private land. And then someone to actu-

ally undertake a government land devolution, returning the land to the private ownership and stewardship envisioned by the founding fathers and rediscovering the unique tradition of Tocquevillian private action and voluntary association.

Private landowners in every part of the country who have seen their land or their neighbors' taken through Government regulation have every reason to be deeply suspicious of any new Federal program, particularly one based in the Department of the Interior, and even more importantly a program emanating from the National Park Service. Even if this new program will purportedly do little more than designate National Heritage Areas, and then only create a system of federal designation and funding.

Mr. Chairman, there is a considerable litany of innocuous-sounding, well-meaning, Department of Interior programs which were created by the Congress with clear directions that the National Park Service was to preserve the local communities and culture and was not to condemn or acquire private lands.

Yet these programs went drastically awry and offer no hope that this new program would turn out any better.

Briefly, in 1972 the Buffalo National River was created near the Ozarks in Arkansas. The area's people, community and especially culture were so unique that they were featured in a major story in the National Geographic. The people, their homes, and culture were supposed to be preserved. When the area was created in 1972 there were 1,108 landowners along the river. When NBC aired a major news program on the Buffalo National River on its fifteenth anniversary in 1987 during a debate over how the National Park Service treated landowners—there were only eight (8) landowners remaining. Despite the clear intent and mandate of the Congress, the Federal bulldozer removed the people, their homes, communities and their unique culture.

When the Cuyahoga National Recreation area was created in Ohio in 1971, the Congress again called for the preservation of the community, rejected condemnation and acquisition and called for the use of easements. By the early 1980's hundreds of homes had been bulldozed and burned as people lost their ancestral homes and small businesses and the few remaining homes in the recreation area belonged to a handful of people who were wealthy and sophisticated enough, and with sufficient connections and competent legal advice to hold out from the Federal bulldozers. Among that handful were Congressman John Siberling and the editor of the Akron Beacon-Journal. Once again the plain people lost everything to a harmless program, created to preserve their communities, homes and cultures—and with no power to take their private lands. And yet they lost everything.

That is why the twenty-three (23) lines of subsection (h), Private Property Protection, offers little meaningful protection over the long-run to any landowners who may find themselves and their homes and property within the boundaries of a federally-designated National Heritage Area or National Heritage Corridor.

PRIVATE ALTERNATIVES TO THE NATIONAL HERITAGE PARTNERSHIP ACT

This proposed legislation completely overlooks and neglects America's long and unique heritage of private conservation and private stewardship. America has a long and successful tradition of private land trusts which have voluntarily and privately acquired land to protect a wide range of environmental, historic and scenic values. This tradition dates back to at least 1891 with the creation of the Trustees of Reservations in Massachusetts. The creation of an entirely new system of local or county heritage parks, corridors, recreation areas and trails fits far better into such a system of private action than into one funded by Federal taxpayers. Everything from local garden clubs finding voluntary ways to preserve a wet woods with the county's last stand of rare orchids, to horseback riders and snowmobilers creating voluntary right-of-way for non-intrusive public trails across private lands, to private funding to restore historic sites, have repeatedly been accomplished easily and without conflict because they were all voluntary and did not entail the heavy hand of the Federal Government—and especially of the National Park Service.

If this program is truly to be the non-regulatory program that many of its proponents have asserted, then achieving its goals through private action is the way to prove it.

America has a long and exceptionally successful history of private stewardship of environmental amenities. In fact the first private land trust in the world was the Trustees of Reservations (TTOR) which was created in Massachusetts in 1891 as a nonprofit, charitable corporation for conservation purposes to protect the countryside of Massachusetts and especially to preserve for the public its "beautiful and historical places and tracts of land."

This was the first independent, private, nongovernmental organization in the United States established for the purpose of land preservation. Its purpose was to preserve in perpetuity areas with unique natural importance, scenic beauty, and historic value. Charles Eliot, son of the then president of Harvard College, deserves much of the credit for developing the idea of "promoting conservation through voluntary agencies." In February 1890 he wrote to *Garden and Forest* magazine, urging the protection of the countryside throughout Massachusetts. He expressed concern that "several bits of scenery which possess uncommon beauty and unusual refreshing power are in daily danger of destruction." He further urged the establishment of "an incorporated association composed of citizens of [Massachusetts] and empowered by the State to hold small and well-distributed parcels of land free of taxes, just as the public library holds books and the art museum pictures for the use and enjoyment of the public. Its 1891 rules and regulations called for it to hold and maintain for the public "beautiful and historical place and tracts of land within this commonwealth."

Over the years the Trustees of Reservations have acquired and are custodians for nearly 100 properties from Western Berkshire County to Cape Cod and Nantucket. These lands have been acquired in fee, through gift, bequest, and purchase with funds raised privately for their acquisition. Additional areas are protected through conservation easements and restrictions or are otherwise indirectly protected.

TTOR served as the model for the creation of similar land trusts throughout the world, beginning in 1894 with the National Trust in England.

The private land trust movement has been one of the fastest growing areas of land conservation in America. There are probably over 2000 such land trusts operating today, protecting everything from open space and prime agricultural land to the restoration, protection and conservation of old barns.

Indeed, there are so many private land trusts, working in so many different areas of private conservation and preservation, that they have a national umbrella organization, the Land Trust Alliance, which was formed in 1982.

It would seem that all of the legitimate preservation, conservation and recreation goals of the National Heritage Partnership Act could easily and legitimately be undertaken by private land trusts. Considering that the environmental movement raises hundreds of millions of dollars every year, and some estimates place the annual total receipts of all the Nation's environmental and conservation organizations as high as $3 billion each year, it should require little more than dedication and determination to raise the $15 million requested for the National Heritage Partnership Act.

A series of voluntary heritage area trusts would be fully in keeping with the Nation's long history of voluntary association and private conservation activities, and since all relationships between the various trusts and private landowners would necessarily be voluntary and contractual—there would be no threat to private property rights, there would be far less opposition to the program, and it would be consistent with the national efforts to reduce the size and cost of government.

NATIONAL HERITAGE PARTNERSHIP ACT AS A THREAT TO WILDLIFE

One of the most disturbing ironies of this act is that it may very likely lead to serious environmental harm, pitting the recreationist wing of the environmental movement against the conservationist wing, with little public awareness of this fact.

Many, if not most, of the 110 or so proposed National Heritage Areas and National Heritage Corridors, as well as some of the few that are operational today, are located along or adjacent to rivers, streams, lakes and wetlands. This is where most of the proponents of these heritage areas would like to have parks, recreation areas, and especially trails and paths. Almost all of these corridors will encompass some sort of trail system: greenways, bikeways, scenic trails, national trails, snowmobile trails, jogging paths, rails-to-trails, canoe trails with put-in and take-out areas, campgrounds, picnic sites, picnic tables, etc. and that is not an exhaustive list.

Unfortunately all of these recreational/tourist trails and corridors will be cutting a swath through—i.e., fragmenting—some of the last remaining vital riparian habitat in the United States. For years the conservationists and proponents of ecosystem protection and biodiversity protection have warned of the accelerated loss of riparian habitat. They have identified this as some of the most important and critical habitat in the nation, as well as being one of the most rapidly disappearing ecosystems.

Part of its importance, aside form its function in protecting streams and wetlands, is as breeding habitat for a substantial number of wildlife species, especially birds, which are easily subject to disturbance and which are not well adapted to new threats. Of particular concern are those neotropical migrants, the birds breeding in the U.S. and Canada which winter in Central and South America. The U.S. Fish

and Wildlife Service, other Federal and State agencies, and most conservation groups have expressed extreme concern about the growing and dire plight of a great many of these birds. It is argued that the major reason their populations are declining so rapidly is because of the fragmentation of their breeding habitat in this country and loss of their wintering habitat south of the border.

While there is relatively little that can be done quickly on their winter grounds, there have been calls from all quarters to immediately limit and reduce fragmentation of their breeding habitat. Whenever a housing subdivision is proposed, or a new sports arena out in the countryside, or when a landowner proposes to cut a road through his brush-covered hillside to allow his cattle to move from one pasture to another, or when a timber company proposes even a modest clear-cut—warnings regarding the consequences of any additional habitat fragmentation are quickly sounded.

Constructing trails and recreation corridors through the remaining narrow remnants of riparian habitat along most of the rivers and streams likely to be proposed for National Heritage Areas will almost totally fragment these habitats, leaving little protection for nesting neotropical migrant birds. A path down the middle of a riparian forest opens up both sides to substantially increased predation by brown-headed cowbirds, which are nest parasites on these species. They lay their eggs in the nests of smaller species, which end up raising only a cowbird, and none of their own young. Cowbirds follow even the narrowest of paths deep into the woods, searching for nests to parasitize.

Additionally, jays, grackles and crows follow these trails and find access to the eggs and young of many songbirds. Also raccoons, opossums, feral dogs, feral cats and free-roaming house cats and barnyard cats use these trails and corridors with their human scents and food scraps and waste as little more that a buffet line.

With all of the attention given to the complaints of environmentalists concerning the harm from habitat fragmentation resulting from highway construction, home building, timber harvest or even firebreak construction, it is disturbing that little if any attention is being given to fragmentation of perhaps the most endangered type of habitat—the riparian zones being turned into recreational trails, corridors and greenways. It seems that some environmentalists oppose anything that fragments habitat except those things that benefit themselves and their constituents.

If the National Heritage Partnership Act does become law, it should at the very least be subject to all the NEPA requirements and the necessity of preparing a detailed EIS regarding the impact of each and every National Heritage Area and National Heritage Corridor on riparian habitat, wetlands habitat, and especially upon the neotropical songbirds which utilize the areas.

In conclusion, Mr. Chairman, this is not the sort of program the Federal Government should be undertaking at this time. The program should be undertaken voluntarily by private citizens' groups, conservation organizations, chambers of commerce, and tourism boards on a local level, by local people, spending their own money, not other people's money.

Senator THOMAS. Okay, fine. Thank you.

Mr. Obey.

STATEMENT OF CRAIG D. OBEY, VICE PRESIDENT FOR GOVERNMENT AFFAIRS, NATIONAL PARKS CONSERVATION ASSOCIATION

Mr. OBEY. Thank you, Mr. Chairman.

Mr. Chairman, Senator Akaka, my name's Craig Obey, vice president for Government Affairs at the National Parks Conservation Association. On behalf of our 300,000 members, I'd like to thank you for the opportunity to testify today on S. 2543.

I also want to begin by thanking both of you for the leadership that you've demonstrated in pushing Congress and the administration to fund the operating needs annually of the national parks. Your help has been indispensable, and we greatly appreciate the work you're doing there.

National heritage areas are not units of the National Park System; however, they can and do play an important role in commemorating, protecting, and interpreting important facets of our nation's

natural, cultural, historic, and recreational resources through locally driven efforts.

As the subcommittee knows, national heritage areas are gaining popularity with many communities and members of Congress. So far during the 108th Congress, 38 bills have been introduced to designate or study 21 areas, bringing into stark relief the need to develop consistent standards. It is our hope that S. 2543 will help produce the highest-possible quality decisions and legislation related to national heritage areas.

We also believe that the analysis now being undertaken by the National Park System Advisory Board will provide useful perspective on the questions with which the subcommittee is grappling on the role, place and future of national heritage areas.

We appreciate and applaud the chairman's effort to better define the national heritage area program within the Park Service. NPCA has a strong history of supporting standards for the consideration of new units of the National Park System, standards that play an essential role in maintaining the degree of integrity that exists in the National Park System today. We believe that the national heritage areas program can benefit from a similar effort to define standards.

We applaud your effort as part of S. 2543 to require that national heritage areas have national significance—maybe "importance," as the Park Service determined; I'm not sure which way to go there—and define the mechanisms through which such significance is determined. The standards you set forth, if implemented, can help ensure that a national heritage areas program has the highest-possible degree of integrity. Of course, their ultimate application will depend, to a very large degree, on the political will of Congress to adhere to them. As a practical matter, it's instructive that the only heritage area enacted during the 108th Congress so far was enacted as part of the fiscal year 2004 appropriations bill, something authorizers love.

We agree with the need for discipline with regard to funding the national heritage areas. Unlike the Federal commitment with regard to the National Park System, virtually all legislation creating national heritage areas contemplates the eventual sunset for Federal funding after either 10 or 15 years. If a national heritage area cannot wean itself from these modest Federal funds within a 15-year timeframe, as the chairman's legislation contemplates, then we would tend to question the degree of stakeholder support that such an area legitimately can claim.

S. 2543 contemplates capping the annual funding authorization for all national heritage areas at $15 million, with a $750,000 annual cap for funding suitability studies. We believe a cap may be worthy of exploration, but that the $15 million cap is unrealistic, given current funding levels. As the subcommittee may know, the Interior appropriations measure recently passed by the House proposes $15.1 million this year for national heritage areas, so that would already break the cap that's in your bill.

We appreciate the chairman's desire to ensure that the national heritage areas, given their rapidly growing popularity, do not become a significant drain on the National Park Service budget. NPCA is extremely concerned, as you know, about the shortfall of

more than $600 million in the Park Service's annual budget, and about the impact that is having on the Park Service's ability to protect our national treasures and serve those who visit them.

As the subcommittee knows, the parks are experiencing a variety of service cutbacks this summer because of the cumulative failure over the years by Congress and the executive branch in meeting the parks' annual needs. In the last 3 years alone, the national parks have had to absorb $170 million in new unfunded costs, including the cost of unfunded homeland security demands, unfunded cost-of-living adjustments, and unreimbursed damage or other impacts from natural disasters.

Part of ensuring that the parks receive the resources they need involves ensuring that the flow of reliable information about park needs, and the submission of realistic budgets that reflect those needs, occurs. In this year's proposed budget, for example, the administration requested $2.5 million for heritage areas, compared to the fiscal year enacted amount of 14.3 million. The same lowballing occurred with regard to the employee cost-of-living increases on homeland security needs. Over time, such unrealistic estimates take their toll, and we are seeing the results of that in many national parks this summer.

Congress has had its part in this mess, as well. For example, across-the-board cuts in the Interior bill in the last couple of years have cost the Park Service's annual budget roughly $20 million, nearly $5 million more than the annual budget for national heritage areas.

The point of raising this is simply to illustrate the need to set realistic targets that can contribute to enforcing discipline in a way that's sustainable. In this regard, we would question whether a $15 million cap is realistic, as I stated earlier. We would, however, suggest a way to help focus coordinating entities under the bill on the fact that their funding should ultimately phaseout. We suggest that section 6 of the bill be amended to require that, as part of the annual report required for each national heritage area, the coordinating entity also specify specific performance goals related to making the heritage area self-sustaining upon the expiration of Federal funding, as well as progress toward those goals.

My written testimony includes suggestions with regard to several other specific aspects of the bill. I'd welcome the opportunity to talk further with the subcommittee about these and a handful of other minor issues.

In conclusion, although we've had a limited time to review S. 2543, our initial analysis makes us pleased to support the chairman's legislation, with some modest adjustments that can help its effectiveness and clarify its intent.

Thank you for the opportunity to testify, and I'm pleased to answer any questions.

[The prepared statement of Mr. Obey follows:]

PREPARED STATEMENT OF CRAIG D. OBEY, VICE PRESIDENT FOR GOVERNMENT AFFAIRS, NATIONAL PARKS CONSERVATION ASSOCIATION

Mr. Chairman and members of the subcommittee, I am Craig Obey, Vice President for Government Affairs for the National Parks Conservation Association. On behalf of the 300,000 members of NPCA, I thank you for the opportunity to testify today regarding S. 2543, the *National Heritage Partnership Act.*

Mr. Chairman, I want to begin by thanking you for your leadership in pushing Congress and the administration to provide the national parks with the operating resources they need to protect our national treasures and to serve the American people. Your help, along with that of Senator Akaka and many other members of this subcommittee, is absolutely essential and we greatly appreciate your efforts.

NATIONAL HERITAGE AREAS

National Heritage Areas are not units of the National Park System. However, they can and do play an important role in commemorating, protecting, and interpreting important facets of our nation's natural, cultural, historic and recreational resources. They are locally driven and bring together a broad range of stakeholders at the federal, state and local levels in efforts to preserve important aspects of our shared heritage.

NPCA has supported the creation of some National Heritage Areas in the past, including the Shenandoah Valley Battlefields National Heritage Corridor, the Erie Canalway National Heritage Corridor, and the Illinois and Michigan Canal National Heritage Corridor. We supported these areas because they provided an important, community-driven means to preserve nationally significant historical and cultural areas at relatively low cost, while facilitating the interpretation of significant aspects of our cultural heritage.

As the subcommittee knows, National Heritage Areas are gaining popularity with many communities and members of Congress, for reasons ranging from the desire to preserve and protect "cultural landscapes" to efforts to foster economic development and heritage tourism. So far during the 108th Congress, members of the Senate and House have introduced 26 designation bills related to 15 areas, and another 8 study bills on 6 areas. The implications of that popularity on the relative meaning of a designation as a National Heritage Area and on the federal resources devoted to these various areas brings into stark relief the need to develop consistent standards for them. Understandably, the lack of standards or a systematic approach to designating National Heritage Areas over the last two decades has resulted in inconsistent criteria and a variety of components and charges being included in authorizing legislation for the 24 existing areas.

Perhaps the issue that has most impacted recent attempts to designate new areas has been the need to develop standards. It is noteworthy, particularly as the subcommittee examines how and whether to enact a measure like S. 2543, that the only National Heritage Area enacted into law so far during the 108th Congress was designated as part of the FY 2004 Interior appropriations bill. Despite efforts such as S. 2543, political pressure undoubtedly will continue to affect the designation, or lack thereof, of various National Heritage Areas. It is our hope that standard criteria, mechanisms and processes for studying and designating new areas will help produce the highest possible quality decisions and legislation related to National Heritage Areas. Toward this end, the National Park System Advisory Board has also been looking into the role of National Heritage Areas as they relate to the National Park Service's mission, as well as the appropriate level of assistance and management that the Park Service should provide, among other issues. We expect this examination to provide a useful perspective on the questions with which the subcommittee is grappling on the role, place, and future of National Heritage Areas.

STANDARDS

We appreciate and applaud the Chairman's effort to better define the National Heritage Area "program" within the Park Service. In fact, the 2001 report by the National Park System Advisory Board, entitled *Rethinking the National Parks for the 21st Century*, recommended that a formal Heritage. Areas program be established "to support partnerships among communities, so that the full scope of the American experience is revealed." A host of others have also raised the need to define standard criteria.

NPCA has a long history of supporting standards for the consideration of new units of the National Park System. Standards have played an essential role in maintaining the degree of integrity that exists in the National Park System today. We believe that the National Heritage Areas program can benefit from a similar effort to define standards.

We applaud your effort as part of S. 2543 to require that National Heritage Areas have *national* significance, and to define the mechanism through which such significance is determined. The standards you set forth, if implemented, can help ensure that a National Heritage Areas program has the highest possible degree of integrity. However, as the subcommittee knows, such standards ultimately will be only as effective as Congress has the political will to allow them. National Heritage Areas al-

ready include portions of 114 congressional districts, and include formal and informal relationships between the Park Service and roughly 3,500 partners. These numbers of constituents will continue to grow as new heritage areas are created, making it doubly important to set expectations up front with regard to the resources that the areas can expect to receive from the National Park Service.

FUNDING

We agree with the need for discipline with regard to the funding provided to National Heritage Areas. Unlike the federal commitment with regard to National Park System units, virtually all existing legislation creating National Heritage Areas contemplates the eventual sunset of federal funding. The funds provided through those bills are generally envisioned as seed money to enable the areas to get up and running and leverage additional local, state, and regional dollars. Consequently, it is important that National Heritage Areas not become overly dependent on federal seed funds. The authorizing legislation for individual areas typically has included federal funding sunsets after either 10 or 15 years. If a National Heritage Area cannot wean itself from these modest federal funds within a 15-year timeframe, as the Chairman's legislation contemplates, then we would tend to question the degree of stakeholder support that such an area legitimately can claim.

It is important to note, however, that a very small number of existing areas have a somewhat different purpose than the vast majority of existing National Heritage Areas. Shenandoah Valley Battlefields, for example, is actually charged with preserving 10 Civil War battlefields in the historic Shenandoah Valley, and uses easements and fee purchases to do so. This model is relatively unique, and plays an important role in preserving resources that otherwise could very well disappear. Such an option should not necessarily be foreclosed in the future.

S. 2543 contemplates capping the annual funding authorization for all National Heritage Areas at $15 million, with a $750,000 annual cap for funding "suitability-feasibility" studies. We believe a cap is worthy of exploration, but that the $15 million cap is unrealistic given current funding levels. As the subcommittee may know, the Interior appropriations measure recently passed by the House proposes $15.1 million in fiscal year 2005 for Heritage Partnership Programs. Given that fact, we question whether a $15 million cap would be sustainable at this point.

We appreciate the Chairman's desire to ensure that National Heritage Areas, given their rapidly growing popularity, do not become a significant drain on the National Park Service budget. NPCA is extremely concerned about the shortfall of more than $600 million in the Park Service's annual operating budget, and about the impact that is having on the Park Service's ability to protect our national treasures and serve those who visit them. As the subcommittee knows, the parks are experiencing a variety of service cutbacks this summer because of the cumulative failure over the years by Congress and the executive branch in meeting the parks' annual needs.

In the last three years, alone, the national parks have had to absorb $170 million in new, unfunded costs, including the costs of unfunded homeland security demands, unfunded cost of living adjustments, and unreimbursed damage or other impacts from natural disasters.

Part of ensuring that the national parks receive the resources they need involves ensuring the flow of reliable information about park needs and the submission of realistic budgets that reflect those needs. In this year's proposed budget, for example, the administration requested $2.5 million for National Heritage Areas, compared to the FY 2004 enacted amount of $14.3 million. The same "lowballing" occurred with regard to employee cost of living increases and homeland security needs. Over time, such unrealistic estimates take their toll, and we are seeing the results of that in many national parks this summer.

Congress has had its part in this mess as well. For example, across-the-board cuts in the Interior appropriations bill last year, alone, cost the Park Service's operating budget roughly $20 million—nearly $5 million more than the total amount of the budget for National Heritage Areas.

The point of raising this is to illustrate the need to set realistic targets that can contribute to enforcing discipline in a way that is sustainable. In this regard, we would question whether a $15 million cap is realistic, as the Appropriations Committee may very well exceed it this year. In addition, we suggest that section 6 of the bill be amended to require that, as part of the annual report required for each National Heritage Area, the coordinating entity also specify specific performance goals related to making the heritage area self-sustaining upon the expiration of federal funding, as well as progress toward those goals.

ADDITIONAL ISSUES

Another way to help ensure sustained discipline is to ensure that the process developed is perceived as effective and fair. We believe the bill does a relatively good job in this regard. However, depending on how section 4(d)(2) is implemented, it could frustrate proponents of both worthy and unworthy designation proposals in a manner that defeats the purpose of the criteria in the bill. Section 4(d)(2) reserves the option for the Secretary to recommend against designation of a proposed area based on budgetary impact or "any other factor unrelated to the criteria" set forth in the bill. We believe that the worthiness of a particular proposal should be clearly separated from the political position of any administration regarding whether it should be designated. We are not convinced that the language in section 4(d)(2) adequately accomplishes this end.

With regard to section 6(c), the prohibition on acquisition of real property, the language appears to be sufficiently narrowly crafted that we have no objection, based on our preliminary examination. For example, we assume this would not impact the potential acquisition by national park units that reside within the borders of a National Heritage Area and that it would not impact the continued ability of an area like Shenandoah Valley Battlefield to meet its mandates related to land acquisition.

In addition, we interpret the bill as providing prospective, not retrospective standards, and as not generally applying to areas already designated, with the exception of the authorization of funds. However, this is an issue that may merit clarification in order to minimize unnecessary confusion. For example, the authorizations of appropriations in section 9 appear to be directed at existing and new areas, while the remainder of the bill is directed at areas yet to be designated. The subcommittee may want to add a savings clause to clarify this issue.

We would welcome the opportunity to talk further with the subcommittee about these and a handful of other minor issues as you proceed with consideration of the bill.

CONCLUSION

In summary, although we have had limited time in which to review S. 2543, our initial analysis makes us pleased to support the Chairman's legislation, with some modest adjustments that can help its effectiveness and clarify its intent. Part of the value of National Heritage Areas is as a low-cost partnership tool to preserve threatened pieces of America's culture, history and scenery that may not be readily susceptible to other traditional designations or forms of protection. Properly executed, National Heritage Areas can empower local communities and other stakeholders to protect nationally important aspects of local culture and history they cherish and build strong community support for their preservation and interpretation. It is important that the National Heritage Area program facilitate that support in a manner that maximizes the likelihood of success. Part of that success requires that these programs ultimately be self-sustaining. We believe that S. 2543, with some relatively modest changes, has the potential to be quite helpful in this regard.

Thank you for the opportunity to testify.

Senator THOMAS. Fine. Well, thank you, gentlemen. We appreciate it very much.

Mr. Rice, you mentioned—and I guess I'm a little unclear about it—the Secretary having veto power. Now, I don't quite understand that. It seems to me there's two things. One is the Interior Department can make a recommendation, but the Congress decides, don't they?

Mr. RICE. You are correct, sir. And I don't have the specific section of the bill in front of me. But when I read over the bill, there is a section in there that basically says if the national heritage area meets all the criteria for national significance, the Secretary, due to any—quite frankly, any reason, including budgetary reasons, can withhold providing that designation. And we just feel, Mr. Chairman, that that should be your purview, as opposed to the Secretary of the Interior's.

Senator THOMAS. I agree with that, and I think that's our intention. It may not be the way it is, but that's the intention that we have, I guess.

Now, you mentioned that there shouldn't be any limitation on the definition of the hiring and the personnel.

Mr. RICE. I believe—actually, the language I was recommending, Mr. Chairman, is to basically allow for other definitions that may be appropriate to fulfill the management plan.

Senator THOMAS. I see.

Mr. RICE. I mean, for instance, some management plans may need to hire a development director to actually go out and actually raise the money. They may need the assistance of a marketing individual to actually go out and market the different resources. Those two positions, in particular, were not included in the list of definitions. And, you know, we're not saying that it has to be limited to that, and we're also not suggesting that it should have unlimited staff. Our particular heritage area, for instance, Mr. Chairman, we have six staff members. And actually we have two regional existing nonprofits already in existence, so we didn't actually go out and hire new staff; we just basically picked up a lot of the workload that was already there. And of our Federal appropriations, we use about 10 percent—10 to 15 percent of our Federal appropriation for administrative purposes; most of that goes right into the projects, into the communities. And it's intentionally set up that way so that, quite frankly, we're not dependent on the Federal funding. At the same time, however, we want to be able to leverage those dollars and get them in the communities where they belong, Mr. Chairman.

Senator THOMAS. I see.

Mr. Smith, we do have a heritage program.

Mr. SMITH. I know, sir.

Senator THOMAS. So this effort is to make it work better. It isn't a matter of whether you're going to have one or not, as much as you—I guess that's your point of view, we shouldn't have any. And it doesn't require any purchase of Federal land or—I agree with you, I think there ought to be a limit on the amount of Federal land we have for purposes. But this does not require ownership of land, does it?

Mr. SMITH. The stated purpose does not, although it does say that heritage areas may go out and acquire land. Supposedly, they're supposed to do it with private funds. But, as we've already seen, the Shenandoah Valley Heritage Area has used Federal funds for land acquisition. And the main thing that we're worried about is, all of these other areas—some of the wild and scenic rivers, some of the recreation areas—with even more explicit restrictions on what can be done to landowners. Landowners have ultimately lost their land, through one manner or another.

I mean, our fears here is that this is not going to lead to fewer areas, or better; it's going to lead to more areas, because, as Deputy Director Jones said, people want the plaque and want the name, and so there are going to be more people queuing up as this is now an official program of the National Park Service. And I think quickly it will be out of control and continue to grow.

One of the problems that we have is that the real problem of people who are inside a designated heritage area, and there is essentially nothing they can do about it. A lot of the property-rights community have believed in something called "opt out," the ability to

opt out. But, in some of the heated hearings that we have, very confrontational hearings that we had on the House over many years, Mr. Steve Hodapp, who is probably the point person on the House Resources Committee and formerly worked with the Park Service to create this program, pointed out to the property-rights people that opt-out sections are simply meaningless, a will-o'-the-wisp. You're either inside the geographical boundaries of an area, or you're not inside it. You're either inside or outside. And if you're inside, since it was created to protect some sort of values, whether scenic or cultural or historic or whatever, then if you decide that you, as a private landowner, are going to put in a pig farm or paint your silo purple with yellow stripes, somebody somewhere is going to find a way to regulate you and control you in there.

Senator THOMAS. Do you know any examples of that in heritage?

Mr. SMITH. I will submit some examples to you in writing, sir.

Senator THOMAS. The Shenandoah one that you used had specific area and language for that, which this is not the same language as the Shenandoah. So, you know, we're trying to keep—as I said, I agree with you. On the other hand, I have to tell you, where I grew up, right outside of Yellowstone, our ranch was on the border of the Shoshone Forest. Now I go out there, and all below that is full of houses and so on. I'm kind of glad that we set that aside. So your broad statement that it all ought to be privately owned, I think you'd have to take another look at that if you got out and looked at some of those areas.

Mr. SMITH. May I make one additional comment?

Senator THOMAS. Absolutely.

Mr. SMITH. One of the things we have had, even in areas like this—I mean, part of the genius of the American people—Tocqueville's observations about America's use of voluntary associations, private actions going back to 1891, the first land trust in the world was created by the son of the president of Harvard University, in Massachusetts, called the Trustees of Reservations. This was over a hundred years ago. And he was worried, at that time, the private sector, about urban sprawl. He set up the Trustees of Reservations to acquire lands that were disappearing all around the State—historic areas, a house where a treaty was signed, a field where the Indians had a meeting, things that were disappearing, old houses and so on—to create what he called a "living landscape" of the State of Massachusetts to be managed in perpetuity for the people, just like a library or an art museum. And that has worked fantastically successfully. I would like to see more efforts——

Senator THOMAS. There's a lot of those around just like that, aren't there?

Mr. SMITH. Right. There are something like 2,000 land trusts and 3,000 chambers of commerce, and I would like to see them do more of this, instead of the government.

Senator THOMAS. Yes.

Mr. SMITH. I just don't trust the Government not to eventually do something bad to private landowners.

Senator THOMAS. I see. All right.

Mr. SMITH. I don't mean you, sir, but the Government, per se.

Senator THOMAS. I understand your point of view. Let's see, my time's out.

Senator?

Senator AKAKA. Thank you.

Mr. Rice, the first point in your testimony is that national heritage area designation must come after planning. You have proposed seven proposals. Under Senator Thomas' bill, designation of a heritage area must be preceded by the completion of a feasibility study by the National Park Service. To follow up on your point, would it make sense to require the designated management entity to have its management plan for the area completed before formal designation as a national heritage area?

Mr. RICE. Senator, we believe it would. Because, as I indicated, a comprehensive planning process in which you basically examine all of the issues—the suitability and feasibility addresses some of the issues, but a management plan is a comprehensive plan, an interpretation, a business plan. It is a very comprehensive plan. And what we are suggesting, Senator, is that you may discover that, through that comprehensive planning process, a couple of things—one, we may get to this answer, in terms of how many heritage areas should be designated by Congress as a national significance, because we haven't had a process in the past. They've been designated through a lot of different process. This actually gives us a structure.

For instance, we may find out, through this comprehensive planning process, it doesn't need to have Federal involvement, it's better managed best through local or State involvement. Also, it may be best managed through a scenic byways program, a State program. There are hundreds of programs and opportunities out there, but by completing a thorough management-plan process, we'll get to that answer.

Senator AKAKA. Mr. Obey, Mr. Rice has suggested that heritage areas should be able to have their authorization extended beyond the current 10- or 15-year period, and that heritage areas should be made at least, quote, "affiliated areas," unquote, of the National Park System. Do you agree with Mr. Rice's recommendations?

Mr. OBEY. Well, we see the value in having a sunset. We think that the program itself, over time—that's been part of the bargain. And one of the ways, I think, to get local buy-in, frankly, is to persuade folks that they really need to be supporting these areas locally, going out, beating the bushes for funding, and that type of thing, over time. I think 15 years, hopefully, will provide ample time for most heritage areas to do that. So we think it's reasonable to contemplate a sunset.

Senator AKAKA. Thank you very much, Mr. Chairman.

Senator THOMAS. Okay. Well, let's see, I had one here. I've forgotten whether——

Mr. Obey, you mentioned, your testimony, that the NPCA supported the creation of the Erie Canal Heritage Corridor, Illinois and Michigan Canal Corridor, and Shenandoah Valley Heritage Corridor—Battlefield Heritage Corridor. Has your group opposed any national heritage area designations? And if so, why?

Mr. OBEY. To my knowledge, we haven't opposed them, but we haven't necessarily actively supported a number of them. I pointed

those out specifically because those are some of them we actually were active in supporting. I'd be glad to find out if anyone else has an answer.

Senator THOMAS. Well, I was just wondering if you have had any criteria in your group that, sort of, you know——

Mr. OBEY. Kind of like the Federal Government, we haven't had criteria on that one.

[Laughter.]

Senator THOMAS. Whatever. Okay.

Well, gentlemen, we appreciate it. Certainly, there are different points of view about how we do this. The fact is, of course, that we're into heritage areas, and we can either not have any at all, or we can continue to do it the way we are, or we can hopefully make it a better and more effective program, which is what we're seeking to do here. And, obviously, we appreciate your suggestions, and we'll go back and take a look at this and see if we can do something a little more.

So if there's nothing further, gentlemen, we appreciate it. The Committee is adjourned.

[Whereupon, at 3:35 p.m., the hearing was adjourned.]

APPENDIXES

APPENDIX I

Responses to Additional Questions

NATIONAL PARKS CONSERVATION ASSOCIATION,
Washington, DC, July 16, 2004.

Hon. CRAIG THOMAS,
Chairman, Subcommittee on National Parks, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR CHAIRMAN THOMAS: Thank you again for the opportunity to testify before the Subcommittee on National Parks on June 24, 2004, regarding S. 2543. I am writing in response to the questions included in your follow-up letter of June 30. My responses to your questions are attached.

I hope you find this information useful, and I thank you again for the opportunity to testify. Please don't hesitate to let me know if I may be of further assistance to the subcommittee.

Best regards,

CRAIG D. OBEY,
Vice President for Government Affairs.

[Enclosure.]

QUESTIONS FROM SENATOR THOMAS

Question 1. The National Parks Conservation Association has been a vocal opponent of programs that take funding away from park expansions and park maintenance.

Part 1. Can you provide specific examples of National Park Service funding requirements that draw funding away from traditional park programs such as enforcement, interpretation and maintenance?

Answer. As you know, NPCA's primary priority with regard to park funding has been base operations for the national parks. In March of this year, we released our report, *Endangered Rangers*, which illustrates the service cutbacks that are occurring in the national parks this summer by virtue of the $600 million shortfall that exists in park base operations. This annual funding backlog is every bit as significant as the widely publicized maintenance backlog, if not more so, in terms of the impact it has on the Park Service's ability to protect our national parks for future generations. I am attaching a copy of the report for the subcommittee.

One example of funding requirements of the National Park Service that draw funding away from traditional park programs such as enforcement, interpretation and maintenance is the increased and unbudgeted homeland security requirements placed on the national parks since September 11, 2001. The Park Service has had to spend millions of dollars on added security in our nation's icon and border parks, and has even sent personnel to guard Bureau of Reclamation dams—assistance for which their parks have not been reimbursed. These new requirements have placed significant pressures on an already strained budget for the parks, and Congress should make the parks eligible to receive homeland security funding.

In addition, unbudgeted mandatory cost of living increases also draw funding away from traditional park programs. Although such COLA's are important, when the administration's budget submissions fail to account for the full cost of likely salary increases that Congress mandates, core programs of the national parks suffer—particularly operations.

Finally, a specific program that draws funding away from traditional park programs such as enforcement, interpretation and maintenance is the Department of

the Interior's Cooperative Conservation Initiative. Initiatives like CCI, whether worthy or not, do not constitute core programs that keep the parks up and running, serving the public, and protecting our national legacy. The consequent failure to provide the parks with sufficient resources means they can lack sufficient staff to carry out the types of goals that programs like CCI promote. The House Interior Appropriations Subcommittee cut funding for such add-on programs in their proposal for FY 2005 in order to increase funding for base operations of the parks. This is a trade-off with which we agree.

Part 2. Would you include National Heritage Areas in that same category?

Answer. We believe you are right to focus on getting control over the Heritage Areas program, in order to ensure that any designated areas are truly worthy of designation. However, we would not put the National Heritage Areas in the same category as a program like the CCI. The primary reason is that designation as a National Heritage Area can, in certain circumstances, actually provide a fiscal benefit to the National Park System. One of the reasons the National Heritage Area Program was created was to provide a low-cost form of recognition that provides for the preservation of nationally important resources that may not quite exceed the bar necessary for designation as a national park. If the program did not exist, there. would be much more political pressure to create national parks out of some of these areas—a cost to the park system both in terms of operations funding and in terms of its integrity and quality. National parks should be the most superlative examples of America's natural and cultural heritage. That does not mean, however, that other parts of our heritage, including those commemorated by National Heritage Areas, are not worthy of preservation or the relatively modest funds that the heritage areas receive.

Question 2. You mentioned in your testimony that NPCA supported the creation of The Erie Canal Heritage Corridor, Illinois and Michigan Canal Corridor, and Shenandoah Battlefields Heritage Corridor. Has NPCA opposed any National Heritage Area designations? If so, which ones and why? Why has NPCA chosen not to support the remaining National Heritage Areas?

Answer. NPCA has not formally opposed any National Heritage Area designations, nor have we expressed our formal support for very many. An absence of expression of opinion by NPCA about a particular proposal should not be taken as either support for or opposition to it. As I stated during the hearing, NPCA, not unlike the Congress, has not established any formalized criteria with regard to whether an area should or should not be designated as a National Heritage Area. More often than not, our focus has been on whether proposed national park units or expansions of units are suitable as additions to our National Park System, as we are the NATIONAL PARKS Conservation Association, and heritage areas are not units of the National Park System.

However, the Heritage Areas that we have supported in the past all had something basic in common—all were, in our judgment, areas of particularly high value and sufficient national importance that we felt they merited special recognition and protection, although not necessarily national park status. The areas cited in my testimony—Shenandoah Valley Battlefields, Erie Canalway, and the Illinois and Michigan Canal—also tend to be resource-based National Heritage Areas, as opposed to other areas that would be more properly described as tourist districts.

Question 3. Your testimony states that NPCA applauds the requirement that National Heritage Areas have "National Significance" to achieve designation. How would it change interpretation of the bill if the term "National Importance" was used in place of "National Significance" as the National Park Service has suggested?

Answer. We believe the most important guide is the definition you choose to associate with the term you use in the legislation, whether "national importance" or "national significance". The fact is, a federally designated National Heritage Area should have national significance. If the term "national importance" is preferred by the Park Service to avoid confusion, a desire we can understand, then we encourage you to define national importance in a manner sufficient to provide a sufficient measure of quality and distinctiveness. We would not suggest that the subcommittee use the same definition of national significance as is used for national parks, as that would mean a National Heritage Area would essentially have the same significance and place in American society as a national park.

For the benefit of the subcommittee, I am attaching copies of three fact sheets to help shed further light on the analysis NPCA has done with regard to the few National Heritage Areas on which we have focused significant attention. Two of the fact sheets describe areas cited in my testimony that have already been designated—Shenandoah Valley Battlefields and Erie Canalway—and the third refers to the meritorious potential designation of a National Heritage Area to commemorate Gullah/Geetchee culture. We believe each of these three to have significant na-

tional importance. If the word "significance" provides an added measure of comfort, the subcommittee might want to use the term "significant national importance".

Question 4. Your testimony questioned the legitimacy of a heritage area that is not able to "wean" itself from Federal funding within 15 years. Are you recommending that National Heritage Areas that do not develop an adequate level of stakeholder support should loose their national designation?

Answer. No. Although we believe an area that does not achieve independent funding within 15 years should not necessarily continue to receive federal funds, we believe actual designation should be considered independently.

DEPARTMENT OF THE INTERIOR,
OFFICE OF LEGISLATIVE AND CONGRESSIONAL AFFAIRS,
Washington, DC, September 8, 2004.

Hon. CRAIG THOMAS,
Chairman, Subcommittee on National Parks, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR CHAIRMAN THOMAS: Enclosed are the answers to the follow-up questions from the hearing held by the Subcommittee on National Parks on June 24, 2004, on S. 2543, the National Heritage Partnership Act. These responses have been prepared by the National Park Service.

Thank you for giving us the opportunity to respond to you on this matter. We apologize for the delay in our response.

Sincerely,

JANE M. LYDER,
Legislative Counsel.

[Enclosure.]

QUESTIONS FROM SENATOR THOMAS

Question 1A. Twenty-four National Heritage Areas and several hundred state heritage areas currently exist. The potential for growth in the number of national areas is unlimited.

Do you agree that criteria are needed to control the growth in National Heritage Areas?

Answer. Yes. The National Park Service has been applying criteria, outlined in previous testimonies, to evaluate potential new National Heritage Areas for many years now. We agree that it would be extremely valuable for Congress to provide direction on what criteria should be applied to assure that only the most important stories and places are recognized as National Heritage Areas.

Question 1B. Will the criteria included in S. 2543 improve the National Heritage Area program?

Answer. The National Park Service strongly supports the adoption of criteria for the evaluation of proposed National Heritage Areas. The criteria in S. 2543 require that proposed National Heritage Areas demonstrate evidence of place-based resources that tell a nationally important story with the involvement and commitment of the local community and its leaders. This analysis is a strong predictor of the future success of a heritage proposal.

Question 2A. S. 2543 defines National Significance and requires that new National Heritage Area designations be Nationally Significant. In your testimony, you suggest using the term National Importance in place of National Significance to avoid confusion with the process for designating units of the National Park System.

Wouldn't it be best to use the same terminology for selecting sites where the National Park Service is involved in funding and guidance? They are receiving national recognition and Federal funding, is it too much to ask that they be nationally significant?

Answer. National heritage areas are not units of the National Park System. The land is not owned or managed by National Park Service (except in cases where park units exist within the boundaries of national heritage areas). They are locally driven, initiated and managed by the people who live there and tend to be larger living landscapes than units of the National Park System. There are many types of programs where the National Park Service provides recognition and funding, from affiliated areas to the National Register of Historic Places to Wild and Scenic Rivers. Each program is different and thus, different sets of criteria are applied depending on our level of involvement and assistance. We do agree that National Heritage Areas need to be nationally important and illustrate major historic, cultural, natural or social themes important to the history of the United States and that the re-

sources have integrity and are outstanding examples of features that relate to the theme.

Question 2B. How is the term national significance applied to units of the National Park System?

Answer. The National Park Service Management Policies, updated in 2001, state that to be eligible for consideration as a unit of the National Park System, an area must possess nationally significant natural or cultural resources. An area must meet all of the following standards:

- It is an outstanding example of a particular type of resource.
- It possesses exceptional value of quality illustrating or interpreting the natural or cultural themes of our Nation's heritage.
- It offers superlative opportunities for public use and enjoyment, or for scientific study.
- It retains a high degree of integrity as a true, accurate, and relatively unspoiled example of the resource.

Question 2C. Could you explain the difference between national importance and national significance?

Answer. The definition of "national significance" as used by the National Park Service to evaluate new national park units is described above. In S. 2543, "national significance" is a requirement for National Heritage Area designation and is defined as, possession of ". . . unique natural, historical, cultural, educational, scenic, or recreational resources of exceptional value or quality; and . . . a high degree of integrity of location, setting, or association in illustrating or interpreting the heritage of the United States." In comparing the definition of "national significance" in S. 2543 and the Department's proposed definition of "national importance", we find that both definitions acknowledge that for an area to be designated as a National Heritage Area, it needs to illustrate major themes important to our nation's history and have the resources to support these themes. The biggest difference between the definitions is that under S. 2543, the resources would have to be "unique" to be contained within a National Heritage Area. Because National Heritage Areas are living landscapes that arise from patterns of human activity, they contain old factories, stores, houses, and most importantly, people living their lives. There is no goal of preserving resources unimpaired for future generations because heritage areas are always evolving and changing based on the people who live and work there; nor are the resources "unique".

Question 3. S. 2543 states that sites will retain the title "National Heritage Area" after the sunset provision has kicked in. The intent is to create self-sustaining, nationally recognized programs, with Federal start-up funding. Is it appropriate to allow the title to be retained after Federal funding is discontinued?

Answer. The designation of a "National Heritage Area" tells visitors and locals alike that this area has met a high standard of national importance. The Federal matching funds a National Heritage Area receives are intended to help the local management entity get established in conserving and interpreting the area's nationally important resources and stories in a sustainable manner. It is appropriate to retain the National Heritage Area designation so long as the standard for designation continues to be met.

Question 4A. If the Heritage Area Program is successful there will be many nationally designated areas which will appear to be under the auspices of the National Park Service—but in reality—the Agency will have little, if any, management control.

What will be the role of the National Park Service once a Heritage Area becomes self sustaining?

Answer. Even after National Park Service funds are no longer available to a National Heritage Area, the NPS may provide technical assistance to these areas and work with them to protect natural, cultural, scenic and historic resources. NPS will also monitor the areas to ensure they continue to meet the criteria. In addition, the partners in these areas will be able to apply for funding and other assistance programs offered by the National Park Service. For example, communities will be able to apply for assistance from the Rivers and Trails Program, owners of national historic landmarks can apply for Save America's Treasures grants, and battlefield conservation organizations can apply for assistance from the American Battlefield Protection Program. Finally, as long as the area retains its national designation, it will be treated as a partner by the National Park Service and listed in our brochures and-publications, which will highlight its national importance.

Question 4B. Is the National Park Service concerned about maintaining a level of site integrity once Federal funding is discontinued?

Answer. National heritage areas are large living landscapes that will continue to change and adapt to new conditions. The integrity of any individual site within the larger National Heritage Area or region is not essential as long as the overall nationally important theme is preserved along with resources to illustrate the theme, an involved and aware citizenry and the local capacity to plan and implement steps to preserve and interpret the resources. As long as a representative selection of nationally important sites or other resources are still available to interpret the theme of the area, the area will retain its importance. If the region has developed the capacity to prepare a locally supported management plan and has created a stewardship ethic within the community, there should be an appreciation of the significance of region's resources and the need to care for them.

Question 4C. How would the National Park Service handle a Heritage Area that did not maintain minimum program standards or requirements after reaching its sunset date?

Answer. The criteria offered in S. 2543, if adopted and followed by Congress, will go a long way to ensuring that only areas with the strongest local coordinating entities are designated in the first place. The criteria would require, among other things, local coordinating entities to demonstrate during the designation process a strong commitment to the heritage area through many years of planning and organizing. If the leadership and community residents in a designated National Heritage Area did lose interest in providing stewardship for the nationally important resources in an area or stopped caring for and interpreting the resources, the National Park Service could offer technical assistance, as feasible. Ultimately, however, it would be up to Congress. Since heritage areas are designated by statute, only Congress could remove a heritage area designation.

Question 5. S. 2543 requires the National Park Service to submit annual reports to Congress regarding use of funds by National Heritage Areas. Does the park service currently conduct any audits of National Heritage Areas to ensure funds are being used for the intended purpose?

Answer. All National Heritage Areas currently receiving National Park Service funding are required by their cooperative agreements to undertake an annual audit and provide them to the NPS regional office with oversight of the area. In the future, the agency will incorporate the findings from these audits into an annual expenditure report to Congress.

Question 6. How does the process for Heritage Area designation in S. 2543 compare with the designation process for units of the national park system?

Answer. To be designated a unit of the National Park System, an area must be evaluated and meet specified criteria for national significance, suitability, and feasibility. In addition, various management options are also weighed. The professional staff of the agency carries out this evaluation, known as a special resource study. Under the process established by the National Parks Omnibus Management Act of 1998, any study for inclusion of an area in the National Park System must be authorized by a specific act of Congress.

Under the framework provided by S. 2543 for evaluating National Heritage Areas, a study would be required to assess whether a proposed area meets the specified criteria. This study can be conducted by the National Park Service if authorized by Congress or conducted by one or more interested parties and reviewed by the Secretary to ensure the area meets the criteria for Congressional designation.

Question 7. S. 2543 sets a funding cap of $15 million annually for the National Heritage area program. Your testimony states that a funding cap should not be established in legislation. However, on many occasions the Administration has testified that new funding should be deferred until the maintenance backlog has been addressed. How can you object to a funding cap for National Heritage Areas while advocating that new efforts be deferred until the maintenance backlog is addressed? It looks as though you are trying to have it both ways.

Answer. The Department does not support unlimited funding for heritage areas, but believes that it is more appropriate to cap the amount each area is authorized to receive and limit the time during which they can receive it, instead of imposing a cap on the entire program. There are currently 24 designated National Heritage Areas, many of which are authorized to receive appropriations of $1 million per year. We would expect to use the appropriations process to allocate funds among these areas, which could provide less than the individual authorized ceilings.

The Department's position on individual heritage study and designation bills has evolved through the years. During the 107th Congress, the Department testified in support of individual National Heritage Areas but decided to recommend focusing all available resources on the maintenance backlog. During the 108th Congress, the Department testified in support of the National Heritage Areas program, but recommended deferring action until heritage program legislation was enacted.

Question 8. The NPS currently employs one full time individual to manage the National Heritage Area Program. Do you anticipate a need to increase the number of NPS personnel working on the National Heritage Area Program if S. 2543 becomes law?

Answer. While the National Park Service allocates funding for only one FTE, staff in the Regional offices and in the Washington office are already providing oversight and assistance to the program as collateral duty. Under S. 2543, up to five percent of the funds made available to heritage areas could be used for technical assistance, administrative, and oversight duties by the National Park Service.

APPENDIX II

Additional Material Submitted for the Record

STATEMENT OF PEYTON KNIGHT, EXECUTIVE DIRECTOR, AMERICAN POLICY CENTER

Chairman Thomas and members of the subcommittee, thank you for the opportunity to submit the following testimony on the behalf of property rights advocates across the country who are concerned with the impact of National Heritage Areas (NHAs), and the "National Heritage Partnership Act" (S. 2543) in particular, on land use, private property rights and local communities.

National Heritage Areas undoubtedly lead to restrictive federal zoning and land use planning. Funding and technical assistance for Heritage Areas is administered through the National Park Service (NPS), a federal agency with a long history of hostility toward private landowners. The recipient of these funds and NPS direction is a management entity, which typically consists of strictly ideological special interest groups and local government officials. This public/private juggernaut then imposes its narrow vision of land use planning on unsuspecting landowners within a Heritage Area's boundaries. The result is a top-down approach to local zoning, with little or no involvement from the local citizenry.

Heritage Areas are not innocuous designations bestowed upon local communities simply for the purpose of national recognition. Rather, they are land use mandates foisted upon property owners in the name of preservation. Quite simply: Heritage Areas have boundaries, and those boundaries have consequences for property owners unfortunate enough to reside within them. Incredibly, proponents of Heritage Areas argue that despite their mission of "preservation," Heritage Areas do not influence zoning or land use planning. Yet by definition this is precisely what they do.

According to S. 2543, a NHA is an area that has "an assemblage of natural, historic, cultural, educational, scenic, or recreational resources" that are "nationally significant to the heritage of the United States." The legislation goes on to dictate that a NHA "provides outstanding opportunities to conserve natural, historical, cultural, or scenic features." As for the absurdly arbitrary term "national significance," it is defined in the bill as "possession of unique natural, historical, cultural, educational, scenic, or recreational resources of exceptional value or quality."

This sweeping definition ensures that every single square inch of land in the United States can arguably qualify as a National Heritage Area-and therefore be eligible for millions of taxpayer dollars, federal protection, federal oversight, and federal land use restrictions. No wonder when the first incarnation of S. 2543 (the "American Heritage Areas Partnership Program") first surfaced ten years ago, the late Representative Gerald Solomon (R-NY) strongly warned his colleagues against the scheme. In a letter dated September 19, 1994, Solomon wrote:

> I urge you to defend property rights and strongly oppose the American Heritage Area Participation Program . . . The environmentalists advocating this bill have FEDERAL LAND USE CONTROL as their primary objective.
>
> The bill wastes tax dollars that could be more appropriately spent on maintaining our national parks . . . Property rights defenders have legitimate concerns about the provision in the bill requiring localities to obtain approval by the Secretary of Interior or land use plans . . .
>
> WHY SPEND $35 MILLION ON NON-FEDERAL HERITAGE AREAS WHEN OUR NATIONAL PARKS DESPERATELY NEED FUNDS FOR MAINTENANCE AND REPAIR?
>
> Again, I ask you to defend property rights and oppose this bill.
>
> (*The emphasis is Rep. Soloman's—not mine.*)

Little has changed in the ten years since Gerald Solomon warned his congressional colleagues about the foolishness and danger of a National Heritage Areas pro-

gram. The advocates of NHA program still have federal land use control as their primary objective. The bill still wastes tax dollars that would be better spent on a Park Service maintenance backlog that now numbers in the billions of dollars. And the Secretary of Interior still has the ultimate say over the management and land use plans that govern a National Heritage Area, as is stated in section 5(b) of S. 2543. Again, a National Heritage Areas program is nothing less than federal land use policy.

Also on September 19, 1994, Rep. Bob Smith (R-OR) penned a letter to fellow Congressman Richard Pombo, warning him about the inherent dangers of a National Heritage Area program:

> DEAR RICHARD: On Tuesday, the House will consider legislation that I consider to be the most significant threat to private property rights I have seen during my twelve years in Congress.
>
> This legislation . . . will threaten private property by authorizing a broad new program of federal land use controls, extending from coast to coast. There are nearly 100 Heritage Areas currently under consideration and it's likely that your constituents will be impacted by these incredible restrictions on private property.
>
> This program is based on the existing Columbia Gorge Scenic Area in Oregon and Washington. The management plan for the Gorge regulates nearly every detail of private property use, including the color landowners can paint their homes and the species of trees they can plant in their own yard. Your constituents, like mine, will be outraged at this gross abuse of government over-regulation if this bill is enacted. Believe me, you do not want to be part of a town hall meeting after masses of your constituents learn the federal government has the final say over what they can do on their own property.

Two NHAs that recently passed the House Resources Committee illustrate this federal encroachment on local land use policy. Both the National Aviation and the Arabia Mountain National Heritage Area Acts specifically direct the management entity to "encourage local governments to adopt land use policies consistent with the management of the Heritage Area and the goals of the Management Plan." This can be construed as nothing less than a top-down, federal zoning mandate.

In the Oil Region National Heritage Area Act, section 5(b)5 calls for creating an "inventory of the resources contained in the Heritage Area, including a list of any property in the Heritage Area that is related to the themes of the Heritage Area and that should be preserved, restored, managed, developed, or maintained because of its natural, cultural, historic, recreational, or scenic significance." Thus, landowners are subject to the whimsical interpretations of the preservation-driven management entity. Should their property be deemed "significant" in any way to the Heritage Area, you can bet that its use will be strictly curtailed. Again, this is a federal zoning mandate.

S. 2543 is no different than these examples above, as it too calls for the creation of an "inventory" of property to be set aside for "resource protection" (read: land use restrictions and lost property rights).

The National Heritage Partnership Act establishes a program whereby federal funds are dangled as a carrot in front of local authorities, environmental organizations, and preservation societies, while the stick of federal zoning and land use mandates are firmly applied. For example, when the Augusta Canal National Heritage Area in Georgia was in its developmental stages in 1994, NPS Associate Director of Planning and Development Denis P. Galvin refused to accept the management plan put forth by the planning committee until they succumbed to the Park Service's vision of zoning and land use. Specifically, the Park Service testified that the Augusta Heritage Area needed to submit "evidence of commitment to modify zoning regulations, and evidence of commitment to create a State Park." Of course, S. 2543 provides the same opportunity for the Park Service to make heavy-handed dictates.

Property rights and limited government advocates are also concerned that National Heritage Areas will effectively become a feeder program for a ravenous national parks program. These fears are well founded.

The Rivers of Steel National Heritage Area in southwestern Pennsylvania states boldly on its website:

> Rivers of Steel is spearheading a drive to create a national park on 38 acres of original mill site . . . Bills have been introduced before the U.S. Congress to make this urban national park a reality.

Thus, here is an example of a National Heritage Area, funded and guided by the National Park Service, taking the initiative in lobbying Congress for land acquisi-

tion authority and the creation of yet another national park. It hardly appears that Heritage Areas and National Parks are strictly dichotomous.

Given the adverse impacts that Heritage Areas can have on property owners, it is absolutely appalling that S. 2543 does not provide for landowner notification prior to an NHA designation. It is morally imperative that each and every property owner within the boundaries of a proposed National Heritage Area be notified on an individual basis (i.e. a simple, one-page letter sent via U.S. Postal Service), and given the opportunity to opt-in to the designation. This is far more than a common courtesy to landowners. It is the only way to truly gauge whether or not the local population is supportive of the designation. Advocates of S. 2543 claim that local support is a prerequisite for the creation of a National Heritage Area. However, they refuse to document this so-called support, and when common-sense mechanisms to gauge support are suggested, they stonewall them at every turn. In reality, input from the local citizenry is shunned by NHA proponents as they prefer to steamroll these designations into existence and spring them on unsuspecting landowners.

In conclusion, the National Heritage Partnership Act is a worse idea now than it was ten years ago. Experience shows that it will not only become a funding albatross, as more and more special interest groups and local governments gather around the federal trough, but also a program that quashes property rights and local economies through restrictive federal zoning practices. The real beneficiaries of a National Heritage Areas program are conservation groups, preservation societies, land trusts and the National Park Service-essentially, organizations that are in constant pursuit of federal dollars, land acquisition, and restrictions on property rights.

The National Heritage Partnership Act represents federal policy making at its worst. Should it become law, S. 2543 will quickly build a legacy of wasted tax dollars, lost property rights, and local communities swallowed by federal land use restrictions.

STATEMENT OF CAROL W. LAGRASSE, PRESIDENT,
PROPERTY RIGHTS FOUNDATION OF AMERICA

I had the honor of testifying in opposition to National Heritage Areas before the hearing of the Energy and Natural Resources Committee conducted by Senator Craig Thomas on March 30, 2004, which was followed by the Senator's request in a letter dated April 5, 2004 for additional answers to four sets of questions on National Heritage Areas. My reply to these questions is extremely relevant to S. 2543, the National Heritage Partnership Act, which presents a grave threat to private property ownership and private property rights. During the past fifteen years, I have devoted a great deal of time to raising questions and opposition to National Heritage Areas and various federal and state preservationist land designations. Because of this, Rep. Jerry Solomon, then Ranking Member of the House Rules Committee, arranged that I be 'invited to present the first opposition testimony to any Heritage Area in a hearing on July 28, 1994 held by the House Resources Committee, Subcommittee on National Parks, Forests, and Public Lands. This hearing precipitated Rep. Solomon's vociferous, visible opposition to National Heritage Areas. My work against National Heritage Areas has continued all these years. The answers below were presented in my reply to the April 5, 2004 letter. I'd like to request that this statement be appended in full to the record of the hearing held on June 24, 2004 by the Senate Energy and Resources Committee.

Question 1. The GAO did not find any adverse impact to private property. Do you have any specific examples of private property being adversely affected by a heritage area? What could GAO have done differently to better address private property impacts?

Answer. As I explained in my testimony, the system of partnerships, compacts, carrots and sticks, and the like to establish these greenway programs involves precipitating local, multi-jurisdictional and regional land use control enactments, land acquisition programs, and trails that adversely impact private property rights without putting the onus on the heritage area commissions or National Park Service to carry out the on-the-ground impositions on private property owners. My testimony cited clear-cut policy statements by the Park Service, management plans and formative thinking in the greenway advocacy world that show how the greenway system is designed to carry out its goal of landscape preservation.

As I explained on the telephone during the adversarial interview by Preston Hurd and other members of the staff of the General Accounting Office during August 2003, the careful distancing of the official federal agencies from local land use jurisdiction makes it impossible for an organization of this modest capacity to investigate

the impact of a National Heritage Area on private property rights. The investigator would have to follow a chain of events, from the creation of the management plan; the establishment of the heritage area commission; to the partnerships, compacts, many meetings of a public and less public nature; documents promulgated during implementation of the management plan and the like; resultant local, multi-jurisdictional, and regional enactments; enforcements by such non-federal agencies; and litigation. The investigator would have to do interviews and studies of affected property owners and studies of tax impacts. Such studies would have to be conducted over a reasonable period of time from establishment of a heritage area, perhaps in the neighborhood of a decade. Separate study of trails being created in connection with heritage areas would be essential and probably more quickly fruitful, because it appears that there is yet no way to establish trails through private property through legislation that leaves property owners entirely bamboozled about the taking of their rights, and once the trails are being created or are in existence, at least a few of the property owners take their time from compelling their day-to-day affairs to forcefully complain of infringements.

With respect to trails, which are unfailingly associated with heritage areas, it is relatively easy, when a complaint arrives here at PRFA to see a connection with a larger motivating entity, such as the National Park Service, whose behind-the-scenes responsibility for an innocent appearing segment of a relatively long trail in a particular locality can be brought to light. However, as with almost all examples of private property rights infringements that come to the attention of PRFA, examples of these trail infringements on private property rights come to the attention of PRFA by pure happenstance, e.g., someone e-mails or telephones for help, mails a clipping, or the like.

Examples of threatened and executed condemnations, or threatened forced sales, for trails associated with heritage areas that have recently come to the attention of PRFA are:

a. The City of Schenectady, N.Y., threatened condemnation of the property belonging to Janice Revella for the 500-plus mile cross-state *National Park Service Erie Canalway Trail* within the *Erie Canal National Heritage Area*. (David Riley, "Tour de Schenectady—Local resident fights City Hall's attempt to put a bike path in her backyard"—*Metroland*, Albany, N.Y., Nov. 7, 2002)

b. The Town of Wawarsing, N.Y., initiated condemnation proceedings for the historic Port Ben railroad station owned by Herter Diener for the National Park Service-instigated cross-state Delaware and Hudson Canalway Trail within the Delaware and Hudson Heritage Corridor. (Dianne Wiebe, "Negotiations off track in drawn-out dispute over train station," *Daily Freeman.com*, Kingston, N.Y., 12/17/2002, referenced 8/7/03). This heritage corridor involves the Delaware and Hudson Heritage Corridor Alliance, but is not yet a National Park Service National Heritage Area.

c. Farmer Ed Richardson, whose land is located near the Saratoga National Historical Park in Stillwater, N.Y., complained about being approached to allow the trail through his property by representatives for the Champlain Canalway Trail, which is the northern spur to Lake Champlain from the Erie Canalway Trail in the Erie Canal National Heritage Area (according to a reports and an article in the *Saratogian*, Saratoga Springs, N.Y.). Ironically, no newspaper article or other public information about this trail appeared until this reporter for the *Saratogian* read my article about the secrecy involved in the trail in the *New York Property Rights Clearinghouse* ("Saratoga County Canalway Trail Shrouded in Secrecy," Property Rights Foundation of America, Fall 2002).

d. Considering the National Parks typically have property rights impacts, anew 38-acre Homestead Words National Park being advocated by the Rivers of Steel National Heritage Area for the formerly 400-acre Homestead Works site may have property rights impacts if private land is contemplated for acquisition.

(Ref.: *http://www.riversofsteel.com/ros.aspx?id=23&h=80&sn=95* Apr. 15, 2004)

The GAO could have should addressed property rights impacts more deliberately. When interviewing this property rights advocate, the GAO interviewers should have taken an interest made, instead of arguing about whether to hang up in disgust at this interviewee's remarks. With the viewpoint presented that the property rights impacts happen through the programs established through the Heritage Area, rather than directly, the GAO should have attempted to address that viewpoint. The report simply cites the concerns of property rights advocates and GAO interviews of officials involved with Heritage Areas and leading property rights advocates. This amounts to study by interview.

> ". . . However, property rights advocates fear the effects of provisions in some management plans. These provisions encourage local governments to im-

plement land use policies that are consistent with the heritage areas' plans, which may allow the heritage areas to indirectly influence zoning and land use planning in ways that could restrict owners' use of their property. Nevertheless, heritage area officials, Park Service headquarters and regional staff, and representatives of national property rights groups that we contacted were unable to provide us with any examples of a heritage area directly affecting—positively or negatively—private property values or use."

(Excerpts from "What GAO Found," GAO Testimony Before the Committee on Energy and Natural Resources, U.S. Senate, March 30, 2004, on the page before page 1)

To study the impacts on private property rights, studies could consider:

- a comparison of the level of zoning before and after implementation of a Heritage Area, including a study of factors influencing changes in zoning with a mind to ascertaining how Heritage Area designation was involved;
- the change in land ownership patterns (e.g., government and non-profit as compared to private) after establishment of a Heritage Area;
- the change in property values, as compared to similarly situated properties outside during the same time period;
- census statistics showing changes in population age groups and ethnic constituency, income levels as after establishment of the Heritage Area (See Toni Thayer, "National Heritage Area: Water or Historical Preservation?" September 2003;
- real estate tax impacts, possibly caused by the reduction of availability of developable land and the high prices paid for land by government and non profits; increase in litigation following from zoning enacted after establishment of Heritage Area;
- study of treatment of property owners whose land is used for trails, involving interviews of every owner to consider the land acquisition or easement acquisition process, modeled after Bo Thott's study of National Park Service acquisitions of land from property owners ("Willing Seller Willing Buyer," Bo W. Thott, Washington County Alliance, Cutler, Maine, 1993, posted on PRFA web site at *http://www.prfamerica.org/WillingSeller/WillingBuyer.html*)
- surveys of land owners along trailways as to information made available as opposed to segmented development and concealed agenda;
- study of experience of trail easement property owners and neighboring property owners with liability and intrusions, as well as reverse harassment of property owners; and
- inventory of new or enlarged local and state parks, National Parks, Scenic Byways, All-American Roads, Wild and Scenic Rivers, National Historic Register designation of Sites or Districts, and similar government land acquisition and regulatory structures in Heritage Areas. Studies of affected property owners.

Question 2. Over 45 million people live within the boundaries of existing heritage areas Do you think it would be feasible and even possible to implement a system for allowing each property owner to opt in or opt out?

Answer. This response is directed to the query about whether it would be feasible to implement a notification system for the opt in or opt out concept.

Yes, it would be feasible. Each individual Heritage Area would be, of course, tackled individually. The number of private property owners would be somewhat less than the population, considering household size and the fact that individual property owners hold multiple properties, and own rental properties.

In each real estate taxing jurisdiction, notices are routinely sent to every property owner for the taxes due on each property. All of this information is computerized today. Therefore, the name and address of every property owner are readily available in a form that is readily usable for mailing purposes to conduct an opt out or opt in survey.

In addition, it is common for jurisdictions to have access to GIS (Geographic Information Systems), whereby coordinate-based computerization of tax assessment maps can be utilized to select properties fitting almost any description, such as one-mile from a given watercourse.

Today, this can be done automatically and all the names and addresses of these geographically selected property owners) even if the boundaries of the Heritage Area are not a municipal jurisdictional boundary) spewed out of the computer for a mailing for any purpose.

The opt in or opt out provisions would have importance even though they would not eliminate the property from within the bounds of the Heritage Area and its concomitant increase in land use restrictions and other pressures on property owners. The opt in or opt out provisions would afford property owners a notification process

that the Heritage Area is in the works and be an even-handed notification that would encourage public participation from all sectors, not just the select few who are advocates for greenways and trails and those individuals who act as advocates for private property rights by attempting to assiduously monitor these programs.

Question 3. What sort of discussion have you had with representatives from the National Park Service or managers of any specific Heritage Areas regarding your concerns?

Answer. I have engaged in discussions with representatives of the National Park Service and managers of specific Heritage Areas on numerous occasions over the past decade and longer. With rare exceptions, the officials expressed their offense at my presence and questions by their contemptuous manner and refusal to straightforwardly answer my inquiries or to answer the inquiries at all. Park Service officials have attempted and to marginalize me, insult me, they have treated me in a consistently demeaning manner, attempting to convey publicly that I and others concerned about property rights were ignoramuses, fanatics, and disrupters. Most interesting of all, except for one official whose work I complimented a number of years ago in the very respect that the higher officials were in the process of reversing, they have never taken any of my comments seriously or allowed any of my comments to have any impact on the direction of their programs, except for their becoming more secretive and evasive about the programs.

For purposes of this reply, I'll refer to only one or two specifics at four relatively recent discussions.

- Champlain Valley National Heritage Corridor: Meeting at the canal park in Whitehall on September 19, 2001, presided over by Bill Howland, Executive Director of the lake Champlain Basin Program. This program involves New York, Vermont and Quebec, and is especially hard to get a handle on. It also goes by the name of the Champlain-Richelieu Valley Heritage Corridor. In the viewpoint of its many critics, this Heritage Corridor keeps metamorphosing. At present, after vociferous objections to the heritage corridor, the Lakes to Locks Scenic Byway appears to be an early implementation phase. At the meeting, I advocated that the continuous trail be eliminated. This comment was ignored. I asked Mr. Howland to divulge the federal funding to date. After some diversion tactics, he divulged the funding for that year: I noted his reply of $1.5 million from the EPA, $150,000 from USDA, $350,000 from National Park Service for heritage. (The latter caveat probably related to the fact the Park Service also funds the Lake Champlain Basin Program, along with other agencies.) The funding to date, which I requested, was not available.

Champlain Valley National Heritage Corridor: Meeting at City Hall, Plattsburgh, N.Y., November 19, 2001. The corridor name was referred to as the Champlain-Richelieu Valley Heritage Area. Bill Howland, Champlain Basin Program, presided. Many opposition concerns were voiced from the floor. Opposition was dismissed as concerns because of the Adirondack Park. We were referred to as "the property rights people," by the person assisting him and, after objection, an apology was proffered to us for this. Mr. Howland said that the area would have no boundary. Jack Vitvitsky wanted to know the boundary that would be affected, but the lack of a boundary meant that no answer was given. I complained that the local lifestyle does not fit with tourism, because it may not necessarily fit the appealing formulas being prescribed, and that the program goals would present a fundamental problem for the ordinary local people. Mr. Howland asked for this comment to be stated in writing. Susan Allen asked, "Why are you writing the bill?" [and not us] No response to this. Mr. Howland claimed that there were no regulations contemplated, only grants, but the many people at the meeting who had not come to request grants did not believe him, because nothing of substance was offered to back up this statement, and the promotional aspect of the slides indicated a contrary scenic preservation goal. Concern was expressed about a federal Lakes to Locks Scenic Byway, which was formerly the state Champlain Valley Scenic Byway, but this topic was evaded. Mr. Howland claimed that he had refocused the program to economics on account of property rights. He said that he was considering an opt in—opt out method. However, he did not have any credibility, especially when he said that they had already entered into a contract with Quebec Labrador Foundation, an organization that no one concerned with property rights knew anything about. He said that funding was brought to the program by the National Park Service.

Champlain Canalway Trail: Cozy meeting in public school cafeteria, Schuylerville, October 9, 2002. Attending were officials from the National Park Service, New York State Canal Corporation, consultant from the New York Parks and Conservation Association and perhaps two private individuals, totaling six individuals, plus my husband and I. My husband and I were not invited to this small meeting, as the public

was not noticed. After sitting through the planning session to form a "local" "Friends" group and obtain a first grant, I attempted to obtain funding information, but was totally denied, and charged with being disruptive for persisting in my questions.

Erie Canalway National Heritage Corridor: Public meeting, The Hyde Museum, December 9, 2003. The official greeting attendees said that questions would be answered from the floor throughout the meeting, but no one called on me when I repeatedly raised my hand. I had to call my questions out. I asked for funding amounts, and was given partial information after repeating my question several times. During the section on recreation, I asked how the Erie Canalway Trail eminent domain "partnerships" with local municipalities worked, and pointed out Janice Revella in the audience, whose property was threatened by condemnation. I received no answer, and finally was told that eminent domain was not on the agenda. During the section on economic development partnerships, I asked how the partnerships worked that a single developer was sold all the development rights to the entire 500-plus mile canal for a mere $30,000 (Michelle Breidenbach, "Man pays $30K for canal rights, *Syracuse Post-Standard*, article published in *Post-Star*, Glens Falls, N.Y. September 15, 2003), and was told that this was the Canal Corporation, which was entirely separate. However, a few minutes later, the presiding officer introduced a representative of the Canal Corporation in the audience, as though he were an honored guest.

Question 4. Heritage areas are here to stay, but we have an opportunity to make improvements as new heritage Areas are proposed. What recommendations would you make for protecting—private property rights in current and future Heritage Areas?

Answer. The following recommendations would allow the preservation of the nation's heritage to receive federal support while eliminating the greenway potential of Heritage Areas and the infringements on property rights that are designed into the Heritage Area program.

Respect and promote living historic heritage

Where a specific heritage is to be preserved, such as an industrial heritage, the heritage program should feature the importance of industry to the heritage of the area up to the present time. For instance, the Congress should require a certain proportion of funding to involve a promotion of awareness of the importance of modern factories and industrial production, and the heritage program proffered in the management plan could also promote tours of modern operating factories and industrial facilities. Factory tours have rebounded in popularity, and this could be promoted with the heritage program. For example, in New York's Hudson Valley, tours of the large shorefront facilities of the cement industry should be facilitated with federal funding.

Where the heritage is lumber production, typical landscape preservation consultants who produce falsified history should be avoided, and qualified historians who retain an interest in the present used. An example in upstate New York where a Scenic Byway kiosk system was put in place, this focus on preserving the living heritage would change the policy so that the role of government land acquisition in reducing timber production would be factually presented, rather than blaming industrial factors. Tours of present-day logging operations could be promoted. In Corinth, N.Y., a historic paper mill operated by International Paper Company on the Hudson River recently closed. Federal investment for living historic preservation might make a difference in the maintenance of such living heritage typical to a geographic region.

Establish a fair granting process

Where Heritage Areas and trails are being promoted, the granting process is preordained by the relationships that already exist between the National Park Service and its "partners" consultants. The application process should be publicly and widely advertised and all comers should be able to apply for the lucrative grants that become available. Consultants such as the New York Parks and Conservation Association should not be routinely selected, but should have to compete in the open arena. Subcontracts through consultants should be accessible to freedom of information law where government funds are involved. A variety of "heritage" projects should be open to competition, including those that benefit private property owners rather than nonprofits and government entities.

Establish Procedures for Public Scrutiny of Budget at the Local Level

Open up to public scrutiny the budget of the entire heritage process, including all funding from "partner" agencies at federal, state, regional and local level. Publicly maintain financial statements and audits of the origin and routing of all funding

from appropriation to on-the ground expenditures for actual work. Where funding is contemplated that affects a particular area, advertise publicly for public comment on that expenditure.

Eliminate geographic delineation of Heritage Areas

Heritage programs should not be geographically delineated because this works toward the greenway goal and landscape preservation that has been central to National Heritage Areas from inception. With the realization that Heritage Areas are not about historic preservation or any but the most narrow sphere of economic development, comes the necessity of a single measure that would stymie their purpose of landscape preservation. Instead of geographically delineated Heritage program, direct the program to block grants allocated state-by-state by an agency that is not geared to landscape preservation, such as Housing and Urban Development, the Department of Commerce, or a new bureau in the National Park Service that is not oriented to landscape preservation, but is instead expert in all spheres of national heritage, especially the living industrial heritage and the continuing multifaceted independent rural lifestyle with its scruffy way of living that is not designed to fit into an elite subdivision.

Instead of attempting to restore the quaint past by regulation, where the product is only empty shells of dead villages that lonely city dwellers visit transiently, let's celebrate the past along with the constant evolution of new traditions in the context of our evolving heritage.

Instead of implementing harsh landscape preservation where ordinary rural people will be displaced, get the federal government our of sophisticated advocacy for land use control, and let the chips fall where they may with local people controlling their future with the degree of planning regulation that they freely choose without heavy pressure from the "experts."

Prohibit all the partnerships and the Park Service's self-promotion

Prohibit the Park Service from promotional work for its policies at the local level, and from studies of historical or regional areas. Prohibit the Park Service from working with nonprofit agencies. This can be accomplished by opening up the procurement process to bidding. This change can be assisted by ceasing to write any specific non-profit into Congressional legislation.

Take the Park Service out of trail development

With its terrible record of treatment of private property owners, and its one-sided agenda of promoting landscape preservation to the detriment of the maintenance of existing National Parks, it is essential to get the Park Service's spidery reach out of private property all across the country. An important and easy way to accomplish this is to prohibit the Park Service and its personnel from participating in the studies and development of trails, or developing support organizations. All trails should be publicly laid out in their full length, width and other aspects, such as style of ownership and access, desired viewsheds, from the proposal stage, and all potentially affected property owners individually notified. If trails are developed, the development should be administered by the Department of Transportation and the eminent domain protection protections under the federal highway law applied.

Inventory government-owned land

No additional Heritage Areas should be established and no further development of trails should take place until a full inventory of lands owned by the federal and state government, and of federal areas such as National Heritage Areas and trails, is completed.

Conduct environmental impact analysis of Heritage Areas including land ownership impact studies

In some federal areas under consideration in Congress, major changes of land ownership patterns are underway. Consider the Highlands Area proposed for Northern New Jersey, Southeastern New York, eastern Pennsylvania, and western Connecticut. In New York, the State government, the Open Space Institute, other land trusts, and other agencies are cutting into the base of private landownership without any land ownership impact studies being conducted. Tax impacts are becoming profound, while future economic potential is being narrowed. If an area is to be designated, contrary to the recommendation above, when it is proposed, the specific area should be studies for land ownership trends and these should be projected, with the concomitant taxation and economic and social impacts, in an environmental impact study I accordance with NEPA.

My goal in this examination of the National Heritage Area program is to offer information, viewpoints and specific proposals that are worthwhile and practical to

help preserve our heritage in its great diversity while promoting private property rights to their fullest extent as guaranteed in the United States Constitution. This analysis of the National Heritage Area program leads to the conclusion that the S. 2543, the National Heritage Partnership Act, presents serious threats to private property and private property rights, and should be withdrawn. A bill that would preserve our constitutional heritage of private property ownership and private property rights would have fundamental differences from the bill before the Committee.

○