S. HRG. 110–514

MISCELLANEOUS NATIONAL PARKS LEGISLATION

HEARING

BEFORE THE

SUBCOMMITTEE ON NATIONAL PARKS

OF THE

COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

ONE HUNDRED TENTH CONGRESS

SECOND SESSION

ON

S. 662
S. 923
S. 2073
S. 2604
H.R. 53
H.R. 1528
S. 827
S. 956
S. 2513
S. 2804
H.R. 1483

APRIL 23, 2008

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MISCELLANEOUS NATIONAL PARKS LEGISLATION

WEDNESDAY, APRIL 23, 2008

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

The subcommittee met, pursuant to notice, at 3:06 p.m. in room SD–366, Dirksen Senate Office Building, Hon. Senator Daniel K. Akaka presiding.

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

Senator AKAKA. The Subcommittee on National Parks will come to order. Good afternoon to all of you and to the subcommittee as well on National Parks. We have received many requests for hearings from sponsors of bills that have been referred to the subcommittee. In an attempt to address as many of these as possible in a timely manner we have another lengthy agenda this afternoon.

Today's hearing will consider the following bills.

S. 662 to authorize the Secretary of the Interior to conduct a study of the Harriet Beecher Stowe House in Brunswick, Maine to determine the suitability and feasibility of establishing the site as a unit of the National Park System.

S. 827, to establish the Freedom's Way National Heritage Area in Massachusetts and New Hampshire.

S. 923 and H.R. 1528, to designate the New England National Scenic Trail.

S. 956, to establish the Land Between the Rivers National Heritage Area in the State of Illinois.

S. 2073, to amend the National Trails System Act relating to the statute of limitations that applies to certain claims.

S. 2513, to modify the boundary of the Minute Man National Historical Park.

S. 2604, to establish the Baltimore National Heritage Area in the State of Maryland.

S. 2804, to adjust the boundary of Everglades National Park.

H.R. 53, to authorize the Secretary of the Interior to enter into a long-term lease with the Government of the United States Virgin Islands to provide land in Virgin Islands National Park for the establishment of a school.

H.R. 1483, to establish certain National Heritage Areas.

Today's agenda includes the remaining heritage area proposals that are in the subcommittee. I hope to use the hearing as a way to evaluate whether these proposals are consistent with the standards the committee has adopted for previously designated areas. While many of the bills we will review today are non-controversial, I understand that a few of the bills do raise more significant policy issues. We'll have the chance to learn more about those this afternoon.

At this time I'd like to recognize Ranking Member Senator Burr of the subcommittee for his opening statement.

Senator Burr.

[The prepared statements of Senators Durbin, Collins, and Shelby follow:]

PREPARED STATEMENT OF HON. RICHARD DURBIN, U.S. SENATOR FROM ILLINOIS

Mr. Chairman and Ranking Member Burr, I thank you for the opportunity to talk about a piece of legislation that Senator Obama and I have introduced to help preserve a culturally rich and environmentally diverse region of our home state of Illinois. S. 956, the Land Between the Rivers Southern Illinois National Heritage Area Act, provides for the management of the seventeen southern-most counties of Illinois as a National Heritage Area.

Natural Heritage Areas are designed to recognize places where, in the words of the National Park Service, "natural, cultural, historic, and recreational resources combine to form a cohesive, nationally distinctive landscape arising from patterns of human activity shaped by geography." Under that definition, it is hard to imagine a region more worthy of becoming a National Heritage Area than the southern tip of Illinois, for it was the shape of the land here that helped shape our nation's history.

Native Americans called this region the "Land Between the Rivers." Bounded by the waters of the Mississippi, Ohio, and Wabash Rivers, the area is unique geographically, environmentally, and historically. The confluence of these mighty American rivers was the backdrop for forces that set the northern border of the United States, opened the West to exploration and settlement, restored a divided nation, and ended slavery once and for all.

Illinois is called the Prairie State. That accurately describes the broad, flat vistas of northern Illinois that were planed smooth by glaciers. The landscape changes radically, though, at the southern tip of the state where glaciers never reached. Here, the rough Illinois Ozark and Shawnee Hills include stone bluffs, canyons, and grand overlooks. The flood plains lie at only 325 feet above sea level, but the elevation rises to 1,064 feet at Williams Hill in Pope County. Southern Illinois is breathtakingly beautiful, representing the intersection of northern hardwood forests, the western plains, and the Ozark Mountains.

Nomads came to southern Illinois 12,000 years ago as the continent emerged from the Ice Age. By the year 1000 a vibrant culture was thriving in the region. Near what is now Collinsville, Illinois, ten to twenty thousand Native Americans built the most impressive mounds in the United States. This was the largest settlement in the Western Hemisphere north of the Mayan and Aztec civilizations. As a consequence, the area is rich in archeology, including petroglyphs at Millstone Bluff and ancient stone walls in Union and Saline Counties.

The French laid claim to Illinois following Marquette and Joliet's journey down the Mississippi in 1673. By 1699 the first French settlement came to southern Illinois. In 1763, though, the land was ceded to the British after the French and Indian War. The British did not stay long, though. In 1778 and 1779, during the Revolutionary War, George Rogers Clarke and a band of 200 men crossed the Ohio River into southern Illinois and systematically forced the British to retreat. The British were permanently forced out of Illinois and Indiana. That set the stage for the 1783 Treaty of Paris, which established the current border between the United States and Canada.

In 1803 President Thomas Jefferson directed his private secretary Meriwether Lewis to lead a mission through the vast unknown territory west of the Mississippi River to the Pacific Ocean. Lewis gathered supplies and men and met up with William Clark in Kentucky. Together they came to southern Illinois.

Lewis and Clark traveled from Metropolis, Illinois, along the Ohio River to Wood River at the confluence of the Missouri and Mississippi Rivers. There they established their winter camp. The following spring their Corps of Discovery departed Camp Dubois and began their historic scientific expedition west. Lewis marked this spot near Wood River, Illinois, as the official "point of departure." Two and a half years later, the team returned to this camp after its remarkable adventure to the Pacific coast.

As the Civil War approached, Illinois was the southern-most Northern State. Southern Illinois, naturally, became center stage for national issues surrounding slavery.

African-Americans first came to the region in 1720 as slaves to the French. Illinois was a free state when statehood was granted in 1818. Nevertheless, Illinois law allowed slavery at southern Illinois salt mines, prohibited assistance to runaway slaves, and allowed indentured servitude. Still, this most southern slavery-free location became a magnet for large numbers of runaway slaves from the south. The return to slavery in the south was a constant threat, but safe routes in Illinois, Indiana, and Ohio constituted the "Underground Railroad" and a gateway to freedom.

The same geographic features that led men and women to find freedom in southern Illinois made this area a strategic launching point for General Grant's Western Campaign into the south. When hostilities began in April 1861, Abraham Lincoln immediately dispatched troops to Cairo to command the confluence of the Ohio and Mississippi Rivers. The Confederates had the same idea, but the Union forces arrived first. Here, Fort Defiance was built and, upon Grant's arrival, the offensive into the South began. Victory was secured by an able U.S. Navy, which was headquartered in Mound City, Illinois.

Today the Land Between the Rivers boasts of growing tourism as families seek to enjoy the natural beauty and important history of southern Illinois. The area includes the 260,000-acre Shawnee National Forest, two National Scenic Byways, and two national wildlife refuges. The State of Illinois manages 22 parks, fish and wildlife areas, and other attractions.

The Land Between the Rivers National Heritage Area will be managed initially by the Southern Illinois University Carbondale, which has consistently ranked as one of America's top universities. The university is well suited to manage the heritage area. From its beginning, SIUC has been committed to addressing social and economic issues in the region.

National Heritage Areas are an economic boon to the communities involved. This can be especially important for rural communities such as the ones in southern Illinois. Increased traffic from tourism can provide a significant economic stimulus to downtowns and service businesses in cities and underserved areas. By integrating communities through a common heritage, more opportunities are available for marketing and tourism.

The Land Between the Rivers initiative will provide an incentive for heritage travelers to spend more time in southern Illinois. That is important, because heritage travelers are known to stay longer and spend more money than other tourist groups.

The Land Between the Rivers Southern Illinois National Heritage Area Act will do much to bring families outdoors to discover important events and geographic locations in the creation of America. The bill celebrates Native American, Colonial American, and African American heritage that were the foundation of southern Illinois today. The bill honors our past and helps preserve important history that is at risk of being forgotten.

PREPARED STATEMENT OF HON. SUSAN M. COLLINS, U.S. SENATOR FROM MAINE

Good afternoon. I want to thank Chairman Akaka and Ranking Member Burr for scheduling this hearing today on Senator Snowe's legislation, which I am pleased to cosponsor, calling for a study of the feasibility of adding the Harriet Beecher Stowe House, in Brunswick, Maine, to the National Park System.

Harriet Beecher Stowe lived in this home from 1850 to 1852, while her husband, Calvin Stowe, taught at Bowdoin College. During this period, she wrote a series of periodicals for an Abolitionist newspaper, the National Era, which were published in book form in 1852 as Uncle Tom's Cabin. To say that Uncle Tom's Cabin was a popular book would be a major understatement—over 300,000 copies of the book were sold in its first year, and ultimately more copies of Uncle Tom's Cabin were sold than any other book in the 19th Century, the Bible excepted.

The popularity of a book is not, of course, reason enough to consider adding the home of its author to the National Park System. But Uncle Tom's Cabin is not simply a book that was once popular, and Harriet Beecher Stowe is not simply an author who was once famous. Writing when she did, just two years after the passage of the Fugitive Slave Act, Harriet Beecher Stowe captured in Uncle Tom's Cabin all of the horrors and injustices of the slave system, and turned the hearts of millions of Americans towards the cause of Abolition. Frederick Douglas, the great orator and champion of freedom—who was himself a former slave—called the book "a work of marvelous depth and power", and said of Harriet Beecher Stowe: "Hers were the words for the hour."

The novel was so influential that Lincoln could famously declare, on meeting Stowe, "So you're the little woman who wrote the book that made this great war!"

Many of us have heard that well-known line, and recognize Stowe's contribution to changing the attitudes of her fellow citizen towards slavery. But few of us recall how important Uncle Tom's Cabin was in tilting foreign opinion against slavery, and ultimately against aiding the Confederacy when war came. The book was greeted enthusiastically in Britain, and crowds followed the author everywhere on her first trip abroad in 1853. Even Queen Victoria was moved to send Mrs. Stowe a note of gratitude for Uncle Tom's Cabin.

The reception given to the book in Great Britain proved essential to the effort to save the Union. Charles Francis Adams, scion of the great Adams family, and son of the U.S. Minister to the Court of St. James during the Civil War, said that the book exerted "a more immediate, considerable and dramatic world-influence than any other book ever printed."

As Adams described it in lectures given at Oxford years after the war, the question of whether Britain or other European powers would side with the South was unsettled for some time. In Britain, Adams pointed out, powerful commercial interests lobbied to have the British Navy lift the Union blockade on Southern ports, so that cotton could reach the textile mills of England. Opposed to this were a few brave Abolitionists, armed with Harriet Beecher Stowe's novel. Ultimately, Adams reported, slavery and secession lost in the court of British public opinion because of the "strong, almost fierce feeling . . . aroused by the reading of Uncle Tom's Cabin."Harriet Beecher Stowe's contribution to the abolition of slavery helped shape the nation in which we live today, and is part of our common American heritage. It is entirely fitting that the idea of adding her home to the National Park System be studied.

Thank you, again, for scheduling this hearing today.

PREPARED STATEMENT OF HON. RICHARD C. SHELBY, U.S. SENATOR FROM ALABAMA

Thank you, Mr. Chairman. I appreciate you allowing me to submit this testimony on H.R. 1483 which designates the Muscle Shoals National Heritage Area in Alabama.

H.R. 1483 designates six counties in North Alabama, Colbert, Franklin, Lauderdale, Lawrence, Limestone, and Morgan, as a national heritage area. This designation would authorize grants through the National Park Service to promote tourism, conserve natural, cultural and historic attributes, as well as preserve the customs and traditions inherent to the Muscle Shoals region.

The Muscle Shoals area in Northwest Alabama is a region rich in natural and cultural history. The area is defined by its distinctive geography, especially the Wilson Dam, a National Historic Landmark. The Tennessee River at Muscle Shoals has helped shape western expansion and cultural development of the United States. It is also the proud birthplace of Helen Keller, a celebrated symbol of inspiration for persons overcoming disabilities, and the home of blues musician W.C. Handy.

The Muscle Shoals region is also the origin of the Tennessee Valley Authority and the first railroad west of the Allegheny Mountains. The region's unique contributions to American history and culture would be better preserved by designating the Muscle Shoals region as a national heritage area.

On December 17, 2002, President Bush signed into law the "Muscle Shoals National Heritage Area Study Act of 2001" (P.L. 107-348) which initiated a feasibility study to establish the northwest region of Alabama as a national heritage area.

The local coordinating entity, the Muscle Shoals Regional Center located at the University of North Alabama, submitted the feasibility study for the Muscle Shoals National Heritage Area to the National Park Service in May 2006, based on the study as authorized under P.L. 107-348.

The feasibility study for the Muscle Shoals National Heritage Area includes plans for cultural heritage programs with themes related to the area of Northwest, Alabama including music and cultural heritage, archives, history, settlement, recreation and hospitality, Native American, African American, commerce, natural and human resources. The Muscle Shoals Regional Center is currently working with the National Park Service on the final details of the feasibility study.

I strongly support H.R. 1483 and the establishment of the Muscle Shoals National Heritage Area.

Thank you.

STATEMENT OF HON. RICHARD BURR, U.S. SENATOR FROM NORTH CAROLINA

Senator BURR. Thank you, Mr. Chairman. Mr. Chairman, you and I have spent way too much time together this week. I think that's either a sign of progress or the fact that he and I are destined to be bored with each other. Let me thank the Chairman for convening this hearing.

It's only been 2 weeks since our last Parks subcommittee hearing, but you wouldn't know it by looking at today's agenda. We have another full slate of 11 bills. Most are fairly straight forward involving boundary adjustments, feasibility studies or National Heritage Areas. Two bills though did catch my attention because they involve topics that we don't often see in front of this subcommittee.

The first is H.R. 53. It's a proposal to authorize the National Park to lease land to the local government at Virgin Islands National Park for the purposes of constructing a school. I fully realize the importance of providing facilities for quality education, but it is unusual to have a school in a National Park. It is unusual for the National Park Service to lease property to a local government. I hope and I believe that we can discuss other options as this debate goes on.

I'm not sure yet that I'm comfortable with this necessarily being a precedent that we set. I at least would like to make sure that we have explored every option of land swaps in our ability to make sure, one, that we build a school. But two, we adhere to the integrity of our park's land.

Second is S. 2073, which would allow property owners in Missouri to settle outstanding claims for the taking of property to create a trail. Property rights are protected by the fifth amendment. Owners are entitled to compensation if taking occurs.

The problem in this case has to do with an interpretation of the statute of limitations. I understand the property owners have been working on a settlement for years, Mr. Chairman. I believe we need to act quickly and bring this matter to a close.

I would like to thank all of our witnesses that are here to testify today. I would like to apologize to them and to the chairman that I've got a very difficult schedule that I'm dealing with and I will not be able to stay for the hearing in its entirety. That might make the chairman happy because it means the hearing will go smoother.

I believe that the other bills are bills that this committee can and should act on. I'm not excluding the two that I highlighted. I think they require a little bit more work or a little bit more creativity.

But I think they can certainly, in the case of the school, be resolved. In the case of the property owners has to be resolved.

I thank the chair and I yield the floor.

Senator AKAKA. Thank you very much, Senator Burr. Our first witness is the Honorable Donna Christensen, Chairwoman of the Subcommittee on Insular Affairs. Congresswoman Christensen is here today to testify on her H.R. 53, her bill authorizing a lease of lands in Virgin Islands National Park. Congresswoman Christensen, welcome to the subcommittee. We look forward to your testimony. Will you please begin?

STATEMENT OF HON. DONNA CHRISTENSEN, DELEGATE TO CONGRESS, U.S. VIRGIN ISLANDS

Ms. CHRISTENSEN. Thank you, Senator Akaka. Good afternoon and on behalf of the people of the Virgin Islands and particularly the residents of St. John, I want to thank you, Chairman Akaka and Ranking Member Burr for holding this hearing on H.R. 53 and for affording the opportunity to the One Campus organization to testify on an issue that they have worked very hard on.

I introduced H.R. 53 on January 4 of last year to authorize the Secretary of the Interior to lease land on the Island of St. John to the government of the Virgin Islands for a public school because the children in St. John attend schools in buildings that are badly in need of repair and for the Julius Sprauve School in Cruz Bay it is in a section of town where there is heavy car and industrial truck traffic as well as a number of rowdy eating and drinking establishments. Despite the hard work and dedication of the administrators and teachers at the school, not only is the environment not conducive to education. But it is extremely unsafe.

In fact I dedicate this bill to Javon Alfred, a second grader who was killed by a heavy duty truck when he was leaving a school Christmas party. A tragedy witnessed by other students. There have been other near and less serious accidents. The one death was too many. So I joined the St. John community in saying no more.

Members know the history of the park so I won't take time to review it here today. Suffice it to say it occupies two-thirds of the Island, a gift from the Rockefeller family. Yes it's far better than a previous proposal to move the native St. Johnians and turn the Island into an enclave for the rich. Yes, the park has been the cornerstone of the St. John economy. But the benefits of that park are spread unevenly.

Today the residents find themselves squeezed between VI National Park which has been enlarged by land gifts and a monument and the villas and other development by wealthy newcomers. In fact the American dream of home ownership is becoming a nightmare for middle and even high middle income families. The situation might have been mitigated by land made available for community purposes by the Jackson Hole Foundation years ago, but all of that land has disappeared into private hands.

On the other hand, since the 1970s public school enrollment on St. John has more than doubled. The two existing public schools, the Julius B. Sprauve and the Guy H. Benjamin elementary school only accommodate children up to the ninth grade. St. Johnian high school students have to travel to St. Thomas, 20 minutes by ferry

over open ocean. The VI government which agrees with the need for the school and supports the bill has testified that they have no land on St. John on which to construct a new school.

Opposition to H.R. 53 has come chiefly to the lease through which the bill proposes the VI government acquire access to the land. The need for and the issue of this school did not begin this year or last year. It is close to 30 years old. Blame for the long delay and failure to reach a land transfer agreement can be placed on both sides, local and Federal.

However, today when St. Johnians feel themselves losing their Island, they are adamantly opposed to a land swap. Their position is that they have no more land left to give. No one here can blame them if you know the history and the current land challenges.

What I would ask is that the members of the subcommittee keep the welfare of the children and the future of the Virgin Islands foremost in your mind as you debate the outcome of H.R. 53. St. John's situation is sufficiently unique that it sets no viable precedent. Further I am sure that during the course of the lease some way will be found to transfer valuable land to the Park which can be counted against this property which by the way, is not part of the original park land.

Already the Park is slated to gain several large tracks at Mao Bay. Another land gift is already under discussion. So the Park is already growing. Will experience a significant net gain even with the loss of this small acreage to be leased.

So I urge you to support the people of St. John by passing H.R. 53. There are always good reasons for us to say no. But let's focus on coming up with a way to say yes for the people and the children of St. John.

Today I am accompanied by Ms. Lorelei Monsanto of the St. John community group One Campus. Along with Kirstin Cox, president, Alvis Christian, who is here with us this afternoon, Ronnie Jones and Steve Black. Lorelei and her colleagues felt it important to form an organization for the sole purpose of finding and implementing a workable solution to the problem of the need for a new school on St. John.

Lorelei is a mother and her daughter is here with her this afternoon. She will present her testimony at the appropriate time. I thank you for the opportunity to make my presentation to the subcommittee.

[The prepared statement of Ms. Christensen follows:]

STATEMENT OF HON. DONNA M. CHRISTENSEN, DELEGATE TO CONGRESS, U.S. VIRGIN ISLANDS

Good afternoon. On behalf of the people of the Virgin Islands and particularly the residents of St. John, thank you Chairman Akaka and Ranking Member Burr for holding this hearing on H.R. 53 and for affording the opportunity to the One Campus organization to testify on this issue they have worked so hard on. Later I will introduce my constituent and St. John resident, Ms. Lorelei Monsanto who is representing the president Kirsten Cox at this hearing.

Mr. Chairman, I introduced HR 53 on January 4th of last year to authorize the Secretary of the Interior to lease land on the island of St. John to the Government of the United States Virgin Islands to build a new public school because the children on St. John attend school in buildings that are badly in need of repair, and the Julius Sprauve School in Cruz Bay, is in a section of town where there is heavy car

and industrial truck traffic as well as a number of rowdy eating and drinking establishments.

Despite the hard work and dedication of the administrators and teachers at the Sprauve School, not only is the environment not conducive to education, but it is extremely unsafe. In fact I dedicate this bill to Javon Alfred, a second grader who was killed by a heavy duty truck when he was leaving the school Christmas party—a tragedy witnessed by other students. There have been many near and other less serious accidents. The one death was one too many. So I join the community in saying no more!

You know the history of the Virgin Islands National Park so I won't take time to review it here today. Suffice it to say that it occupies 2/3rds of the Island of St. John as a result of a gift from the Rockefeller family. Yes, it is far better than a previous proposal to move the Black St. Johnians and turn the Island into an enclave for the rich, and yes the Park has been the cornerstone of the economy on St. John, but the benefits are spread unevenly.

Today St. John residents find themselves squeezed between the VI National Park which has been enlarged by land gifts and a monument, and the Villas and other development by wealthy newcomers. In fact the American dream of homeownership is becoming a nightmare for middle and even high middle income families.

This situation might have been mitigated by land made available for community purposes by the Jackson Hole Foundation, but all of it has disappeared into private hands.

Since the 1970s, public school enrollment on St. John has more than doubled. The two existing public schools, Julius E. Sprauve and the Guy H. Benjamin Elementary School, only accommodate children up to the ninth grade. St. Johnian high school children have to travel to St. Thomas, 20 minutes by ferry over open ocean to complete their secondary education. The VI government which agrees with the need for the school and supports the bill, has testified that they have no land on which to construct a new school

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What I would ask is that members of the Committee keep the welfare of the children and the future of the Virgin Islands foremost in your mind as you debate the outcome of HR. 53. St. John's situation is sufficiently unique that it sets no viable precedent. Further I am sure that during the course of the lease some way will be found to transfer valuable land to the Park which can be counted against this property which is not part of the original Park land.

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I am accompanied today by Ms. Lorelei Monsanto of the St. John community group One Campus. Along with Kirstin Cox, Alvis Christian, Ronnie Jones and Steve Black, Lorelei and her colleagues felt it important to form an organization for the sole purpose of finding and implementing a workable solution to the problem of the need for a new school on St. John. Lorelei is a mother and her daughter who attends school on St. John is here with her today.

I urge you to support the people of St. John by passing H.R. 53.

There are always good reasons for us to say no but let's focus on coming up with a way for us to say yes.

Senator AKAKA. Thank you very much, Congresswoman for your testimony. We look forward to hearing from Lorelei later. Do you have any? Yes, well, thank you very much for being here.

The subcommittee has received statements from several Members of Congress, including Senator Mikulski, Senators McCaskill and Bond, Senator Snowe and Representative Cramer. All of these statements will be included in the hearing record.

[The prepared statements of Senators Mikulski, McCaskill, Bond, Snowe and Representative Cramer follow:]

PREPARED STATEMENT OF HON. BARBARA A. MIKULSKI, U.S. SENATOR FROM MARYLAND

Chairman Akaka and Members of the Subcommittee on National Parks, thank you for considering the Baltimore National Heritage Area Act and inviting me to testify today. I am proud to have introduced this bill with Senator Ben Cardin and my Team Maryland colleagues in the House of Representatives.

Baltimore is one of America's oldest cities and is rich in history. From its heroic defense of Fort McHenry in the War of 1812, to its recognition as the birthplace of American railroading and America's westward expansion, to the site of the first bloodshed of the Civil War, Baltimore has played a vital role in the history and development of our Nation. It is also my hometown.

This bill's National Heritage Area designation will strengthen economic opportunities for Baltimore through cultural heritage tourism. The National Park Service's seal of approval will help Baltimore attain the same recognition for its historic, cultural and natural resources as other east coast cities such as Boston, New York, Philadelphia and Washington D.C. It also will preserve Baltimore's story for future generations.

Baltimore's Mayor Shelia Dixon, Maryland's Governor Martin O'Malley and the majority of Maryland's Congressional Delegation are all very supportive of this effort. I request that you look favorably upon this bill and enthusiastically report it out of Committee.

PREPARED STATEMENT OF HON. CLAIRE MCCASKIL AND HON. CHRISTOPHER BOND, U.S. SENATORS FROM MISSOURI

First, we would like to thank the Chairman and Ranking Member for holding this hearing on S. 2073, the Trails Act Technical Correction Act of 2007. This bill corrects a recent injustice within the Federal Rails to Trails Program preventing landowners from receiving fair compensation for lands taken under the National Trails System Act (Trails Act). Under a recent Federal Circuit Court of Appeals decision in Caldwell v. United States, property owners have been precluded from recovering compensation for federal takings under the Rails to Trails program of the Trails Act. Therefore, S. 2073 simply clarifies Congress's intention at the time of enactment.

It is also important to note that we are strong supporters of the Rails to Trails Program and the Trails Act. Trails from railroad rights of way enhance community enjoyment and public health. To that point, S.2073 does not, in anyway, change or frustrate the purpose of the Trails Act. Instead, it assures the administration of the Trails Act is consistent with Congressional intent and will make the Rails to Trails program more cost-effective.

The National Trails System Act Amendments of 1983 sought to preserve possible future railroad use rights-of-way not currently in service, but also encourage the conversion of these railroad easements to trails for recreational use. Under the Trails Act, railroads and the entity taking possession of the trail are allowed to enter into negotiations in order to reach an agreement that transfers the full responsibility of the trail to a qualified entity and the railroad conveys its interest in the property. The result is that the railroad's easement is abandoned and the property is officially taken from the landowner for use as a trail. The Supreme Court confirmed that this process is deemed a taking under the 5th Amendment of the Constitution and property owners are due just compensation from the federal government.

The Trails Act prescribes a six (6) year statute of limitations from the time the taking occurs in which landowners must file a claim for compensation. Until Caldwell, the practice had been that the statute of limitations would begin to run at the time a trail agreement between the railroad and the qualified entity was finalized. Now, under the Caldwell decision, the statute of limitations begins to run at the time the negotiations between the two entities begin.

This decision not only overturns 20 years of precedent and precludes hundreds of landowners from receiving just compensation, but it starts the clock ticking before landowners are notified. Under the process prescribed by the Trails Act, landowners are rarely notified before an agreement has been reached and a taking is inevitable. Because the negotiation period is often extended several times, these negotiations can last anywhere from six months to several years, sometimes more that 6 years. In about a third of the cases, no agreement is ever reached, thus no taking occurs. Yet, in such cases, Caldwell would require landowners to file a claim, and needlessly incur litigations costs for themselves as well as the federal government. Moreover, because the government pays interest on the taken land from the time of the taking

until final settlement, the government will now pay millions in interest to landowners for the months or years of the negotiation prior to the actual agreement.

We have already seen these issues arise. The Federal Court of Claims is currently reviewing cases where claims are being brought even though no Trail was created, thereby creating an additional burden on the Court, the federal government, and the taxpayers who ultimately pay the litigation costs. In fact, recent estimates put the total costs of the Caldwell decision in excess of $150 million annually. This is not an efficient or effective use of taxpayer dollars.

To that end, S. 2073 simply restores the running of the statute of limitations to the date when an agreement between the railroad and the qualified entity reach an agreement, as was the accepted practice before Caldwell. Thus, the statute of limitations would start to run when the property owner's rights are actually taken by the Federal Government. This legislation will not only save the federal government from engaging in needless litigation, but it will preserve the rights of property owners to just compensation due under the 5th Amendment of the Constitution.

As we stated earlier, this bill does nothing to frustrate the purpose of the Trails Act or the Rails to Trails program. It is a technical correction which will grant landowner's the compensation they deserve for the land that was taken from them.

Thank you again for holding these hearings. We hope you will give this bill due consideration and report it favorably to the full Senate.

PREPARED STATEMENT OF HON. OLYMPIA J. SNOWE, U.S. SENATOR FROM MAINE

Thank you, Mr. Chairman, for holding this hearing today on the Harriet Beecher Stowe House Resource Study Act. I have introduced this legislation with Senator Collins and believe that it would provide an appropriate testament to the life and work of Harriet Beecher Stowe, one of America's most revered authors.

Harriet Beecher Stowe devoted her life to fighting injustice in American society and culture during a pivotal time in our nation's history. Her legacy as a prominent author, humanitarian, and abolitionist primarily focuses on her prolific writings and courageous participation in the Underground Railroad. She lived in the house on 63 Federal Street in Brunswick, Maine, from 1850 to 1852 while her husband taught at nearby Bowdoin College. It was in this house where she completed her seminal work and masterpiece Uncle Tom's Cabin, which perhaps more than any other literary work conveyed the reality of slavery to a public detached from the horrors of this crime.

Harriet Beecher Stowe was moved to action by the "Fugitive Slave Law of 1850"—a law that required that all captured fugitive slaves be returned to their owners. Beyond simply removing the northern states as a sanctuary for runaway slaves, the law placed a sharp exclamation point on the fact that slaves were not people, but property that if lost had to be returned. Before living in Brunswick, Stowe lived in Cincinnati, Ohio, where she saw firsthand the misery of slaves living just across the Ohio River in Kentucky. Stowe built on this personal interaction and began to research slavery by reading and speaking with former slaves and slave owners.

With the help of famed abolitionist William Lloyd Garrison, Stowe distilled this knowledge into a series of short stories, many based on real characters and events, which were published in the abolitionist newspaper, The National Era. These stories proved to be so popular and so profound that in 1852 she published them in a two-volume work called Uncle Tom's Cabin. Within only a week of the book's release it had sold 10,000 copies and after a year the number rose to 300,000. To put this into perspective, only the Bible sold more copies in the 19th century.

Amazingly, by 1854, her work had even been translated into 60 languages, including Yiddish to get it smuggled into Tsarist Russia. These milestones are all the more stunning when one considers that the education and literacy of women was the exception instead of the rule, making Stowe's work not just significant for abolitionists and African Americans, but also for women.

Few other books have demonstrated the potency of literature as Uncle Tom's Cabin. Its reach was so great that when President Lincoln met Harriet Beecher Stowe he reportedly declared, "So you're the little woman who wrote the book that started this Great War!" Frederick Douglass called her work a "work of marvelous depth and power" and said that "hers are words for the hour." Charles Francis Adams, American Ambassador to Great Britain during the Civil War, believed that Uncle Tom's Cabin was crucial in galvanizing British public opinion against lifting the blockade on Confederate ports and maintaining British neutrality during the War, acknowledging that "slavery and secession lost" because of the "strong, almost fierce feeling . . . aroused by the reading of Uncle Tom's Cabin." There is no ques-

tion that the popularity of the book changed the hearts of thousands of Americans, depicted powerfully the horrors of slavery, and strengthened the abolitionist cause.

I couldn't be more proud that this book, which had such a great and profound impact on American history, was written in Brunswick, Maine, a town already steeped in history. For example, the Stowe House is nearby the home of General Joshua Lawrence Chamberlain, the undisputed hero of Little Round Top and the general chosen to receive the confederate surrender at Appomattox. A four-term Maine Governor and President of Bowdoin College, Chamberlain was also a member of Stowe's literary circle. Fittingly, the Stowe House is also near the First Congregational Church, where Stowe was inspired to write Uncle Tom's Cabin. Unmistakably, Brunswick is an integral part of the history of Uncle Tom's Cabin just as this iconic book is a central part of the history of Brunswick.

As a result, my bill would seek to encapsulate the Stowe House as a part of historic Brunswick and to preserve it so that future generations will have an opportunity to experience the place where Harriet Beecher Stowe was able to create something that mobilized American opinion, leaving an indelible legacy. By authorizing a study to consider the feasibility of transferring the House to the National Park System, we will take a significant step toward improving the preservation and management of this site. This effort will have significant benefits for the town of Brunswick, adding to nearby cultural sites such as Bowdoin's Walker Art Building—also on the National Register of Historic Places—as well as the Penobscot Museum and the Joshua Lawrence Chamberlain Museum, to name only a few. The Stowe House deserves to be preserved for posterity and for the education and enjoyment of the public.

More than 150 years after its publication, Uncle Tom's Cabin still stands as a literary landmark and historical turning point in the struggle to end slavery. Its impact went far beyond being an illustration of the misery of slaves, and became something that resolved into a movement, creating thousands of those determined to end the evils that they read about in her work. There are few other books that can claim to have had an impact anywhere near that of Uncle Tom's Cabin. Harriet Beecher Stowe has moved millions in America and around the world to appreciate the capacity of literature to influence the moral fabric of an entire nation. It's time we protected for generations to come all that Harriet Beecher Stowe has accomplished and all that she has come to represent to the nation.

PREPARED STATEMENT OF HON. BUD CRAMER, U.S. REPRESENTATIVE FROM ALABAMA

Chairman Akaka, Ranking Member Burr, and Members of the National Parks Subcommittee, I appreciate the opportunity to share with you my support for legislation to designate the Muscle Shoals National Heritage Area.

I represent Alabama's 5th Congressional District, which is home to the Muscle Shoals—an area named for its strategic location along the Tennessee River and the abundance of mussels found along its riverbanks.

H.R. 1483, the Omnibus Parks legislation, would designate 6 counties in Northwest Alabama including Colbert, Franklin, Lauderdale, Lawrence, Limestone, and Morgan counties, as a National Heritage Area.

This designation would create additional opportunities to promote tourism, conserve natural, cultural and historical attributes, and preserve the customs and traditions inherent to the Muscle Shoals region.

The people of Muscle Shoals have long-realized the area's significance in shaping western expansion and cultural development of the United States, and are proud of its contributions to American history.

One of the best known symbols of this region is the Woodrow Wilson Dam.

Constructed from 1918 until 1927, this Dam is one of the largest mass concrete lock & dam structure ever built in the United States.

It was also the first federal hydroelectric project in the country and was the first successful attempt to manage and utilize the Tennessee River.

In 1933, the Dam's success helped inspire President Franklin Delano Roosevelt to establish the Tennessee Valley Authority (TVA).

The Shoals was also home to the first railroad west of the Allegheny Mountains, which opened up the region to significant economic development.

In addition to our significant landmarks, the Muscle Shoals area is also the birthplace of many notable American icons.

Helen Keller, a celebrated symbol of inspiration for persons overcoming disabilities, was born and grew up in this area.

Her birthplace, Ivy Green, is the ten-acre Keller property in Tuscumbia that is toured by children and adults from all over the world.

In fact, it was at Ivy Green that Helen Keller, with the help of her teacher Anne Sullivan, overcame her blindness and deafness to utter her first word, "water."

This miraculous event is reenacted by the Northwest Alabama community every year at Ivy Green, using the very water pump that inspired Helen's first words.

The region is also notably the home of "W.C." Handy, known as "The Father of the Blues" who has had a lasting influence on American music.

The W.C. Handy Music Festival is celebrated each summer in the City of Florence, Alabama.

Area-native Sam Phillips, with his discovery of Elvis Presley and numerous other legendary musicians, also laid the groundwork for the rock-n-roll sound that has influenced America's musical tastes for more than a half-century.

This led the region to be recognized as the "recording capitol of the world" for its legendary studios and classic recordings throughout the 1960s and 1970s.

Former Congressman and General, Joe Wheeler, the only man to hold the rank of General in both the Confederate and Union armies (Spanish-American and Philippine-American Wars), also called the Shoals home. We are proud to have General Wheeler's likeness represent the State of Alabama in Statuary Hall and I'm pleased that Helen Keller will soon join him.

It is for these and many other reasons that I believe the region's unique contributions to American history and culture would be best preserved by designating the Muscle Shoals region as a national heritage area.

Also submitting testimony in support is Nancy Gonce, Executive Director of the Muscle Shoals Regional Center, located at the University of North Alabama. Dr. William Cale, President of the University of North Alabama will submit testimony in support as well.

The Muscle Shoals Regional Center at UNA is currently working with the National Park Service on the final details of our region's feasibility study, as authorized under the "Muscle Shoals National Heritage Area Study Act of 2001" (P.L. 107-348).

The feasibility study for the Muscle Shoals National Heritage Area includes plans for cultural heritage programs with themes related to the area of Northwest, Alabama including music and cultural heritage, archives, history, settlement, recreation and hospitality, Native American, African American, commerce, natural and human resources.

I thank you for your attention, and ask your support for the designation of the Muscle Shoals Region as a National Heritage Area.

Senator AKAKA. Our next witness is Dan Wenk, the Deputy Director of the National Park Service, who will be testifying on behalf of the Administration on all ten bills. Dan, I understand that today is a special day for you. It's your birthday. So I'd like to wish you a happy birthday.

Senator BURR. Can you do that in your native tongue?

[Laughter.]

Senator AKAKA. Since I was asked to do it I will say, Hau 'oli La Hanau. Hau 'oli means happy. La means day and Hanau means birth. So Hau 'oli La Hanau in Hawaiian.

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

Senator AKAKA. I'm sure that you'd rather be celebrating this afternoon, but we're happy to have you here and look forward to your testimony and want to wish you well.

All of your written statements will be included in the record so please feel free to summarize your remarks. When you have finished with your statements on all of the bills we'll have a round of questions for you. Thank you very much. Will you please proceed, Mr. Wenk?

STATEMENT OF DANIEL N. WENK, DEPUTY DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. WENK. Thank you, Chairman Akaka for this opportunity to appear before the subcommittee to present the Department's views on the ten subjects on today's agenda. I will submit our full state-

ments for the record and summarize the Administration's positions on these bills.

The Department supports the following bills:

S. 662, which would authorize a special resource study of the Harriet Beecher Stowe House in Brunswick, Maine.

S. 923 and H.R. 1528, which would designate the New England National Scenic Trail.

S. 2513, which would modify the boundary of Minute Man National Historical Park to include the homes and surrounding farmland of Colonel James Barrett and the area around the Joshua Brooks house.

S. 2804, which would adjust the boundary of Everglades National Park to authorize the acquisition of property in the Tarpon Basin District.

The reasons for our positions on these bills are explained in detail in our full statement. For some of the bills I just mentioned we are requesting that the Committee make minor amendments to the bill language. Explanations of these requested amendments are also contained in the full statement.

The Department recommends deferring action on the following bills:

S. 827, which would establish the Freedom's Way National Heritage Area in Massachusetts and New Hampshire.

S. 2604, which would establish the Baltimore National Heritage Area in Maryland.

The Department believes that National Heritage Area program legislation should be enacted before moving ahead with designation of these areas.

The Department opposes the following bills and I'll briefly explain our reasons.

S. 956 would establish the Land Between the Rivers National Heritage Area. We believe a comprehensive feasibility study should be completed to evaluate an area before designation is considered. The study undertaken by Southern Illinois University provides a good beginning. However, we cannot support S. 956 until an adequate feasibility study is completed that demonstrates the area meets the criteria for designation. We are prepared to provide advice or assistance in the completion of the feasibility study that meets our professional standards and provides Congress with the necessary information and assessment upon which to base its decision regarding designation in the future.

S. 2073 relates to the statute of limitations that apply to certain claims for rail to trail taking stations. The Department of Justice advises us that S. 2073 has not eliminated Constitutional concerns that the legislation would unnecessarily displace settled, well-reasoned, case law first expressed about similar legislation considered in the 109th Congress. Therefore the Administration opposes this bill.

H.R. 53 authorizes the Department to enter into a long-term lease with the government of the Virgin Islands for the purpose of constructing a local school complex. This use is inconsistent with the purposes for which the park was created. We are concerned about the precedent this would set for other communities adjacent

to National Parks that may want to develop Park Service lands for local, civic purposes. Therefore the Department opposes this bill.

We were also requested to testify on certain sections of H.R. 1483 an Omnibus Heritage Areas Act passed by the House. While I will comment briefly on those specific sections, you should note that we testified in opposition to the sections in Title I that extend the authorization for Federal funding for nine established National Heritage Areas. We recommend that the committee defer action on Title II, Subtitle C which would establish the Muscle Shoals National Heritage Area since we are conducting a feasibility study that is expected to be completed later this year. We also recommend deferring action until a National Heritage Area program legislation is enacted on Title II, Subtitles B and F which would establish the Freedom's Way National Heritage Area and the Santa Cruz Valley National Heritage Area.

The Department supports enactment of Title III, Section 3001 to authorize a feasibility study for the Northern Neck National Heritage Area in Virginia. Title IV, Section 4006, to make several improvements to the operation of the Erie Canalway National Heritage Corridor. Title V, Section 5001 stating the sense of Congress that the Federal Government should not fund a National Heritage Area into perpetuity.

Title VI, Section 6001 requires all land within Heritage Areas designated in this Act to be exclusively governed by relevant state and local laws on hunting, fishing and the pedestrian use of a weapon, trap or net. The Department is concerned that there are Federal lands within National Heritage Areas that do not allow hunting, fishing, trapping or other wildlife harvesting activities. Under Departmental regulations, the National Park Service is already required to consult with the state agencies on certain fish and wildlife management actions within National Park units. We recommend this section be amended to exempt Federal lands within National Heritage Areas from this requirement.

Mr. Chairman, this concludes my statement. I'd be pleased to answer any questions that you or other members may have.

[The prepared statements of Mr. Wenk follow:]

PREPARED STATEMENT OF DANIEL N. WENK, DEPUTY DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

H.R. 53

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to appear before you today to present the views of the Department of the Interior on H.R. 53, a bill to enter into a long-term lease with the Government of the United States Virgin Islands.

The Department opposes H.R. 53 because it would allow the lease of property within a National Park Service unit for a use inconsistent with the purpose for which the park was created. The Department is concerned about the precedent this would set for other communities adjacent to national parks that may want to develop National Park Service lands for a local, civic purpose.

H.R. 53 would authorize the Secretary to lease to the U.S. Virgin Islands real property, including any improvements, for the purposes of constructing a local school complex to serve grades K through 12.

Virgin Islands National Park (subsequently referred to as "park") was authorized by Congress in 1956 and established largely by an initial donation of land on St. John from Laurance Rockefeller through the Jackson Hole Preserve, Incorporated. Congress enlarged the park in 1962 by adding 5,650 acres of submerged lands along the north and south coasts of St. John. In 1978, Congress added approximately 135

acres at Hassel Island in St. Thomas Harbor to the park. The park protects Caribbean forests, coral gardens, beaches and historic ruins, and currently owns 12,917 acres of land and water within its 14,689-acre boundary.

The property identified for this lease is a 10-acre plot within the park that is part of Estate Catherineberg, a historic sugar plantation located near the center of the island, close to Centerline Road. The property is not part of the Rockefeller donation, and is not encumbered by the reversionary clause that restricts the use of the Rockefeller properties to national park purposes. Though no formal survey has been done, the property is believed to contain fewer historic resources than other parts of the Estate.

The lease authority proposed by H.R. 53 would exceed the authority currently granted to the Secretary to lease real property within units of the National Park System. The 1998 National Parks Omnibus Act gives the Secretary the authority to lease buildings and associated property, as long as the lease does not "result in degradation of the purposes and values of the unit."

Public education is not in conflict with the purpose of Virgin Islands National Park. However, the construction of a complex of buildings is in conflict with the direction given by the park's authorizing legislation, which states that the park "shall be administered and preserved by the Secretary of the Interior in its natural state . . ."

The National Historic Preservation Act gives the Secretary of the Interior authority to lease historic property, including historic buildings and historic lands, but only if the lease "will adequately insure the preservation of the historic property." New construction of an education complex would not insure that the historic character of the land in question is preserved.

Finally, the Land and Water Conservation Act authorizes the Secretary of the Interior to convey to a freehold or leasehold interest in lands within the national park system, but this authority does not apply to "property within national parks."

During the past 14 years, the U.S. Virgin Islands and the National Park Service have discussed other proposals that would allow the U.S. Virgin Islands to construct a school on land currently owned by the National Park Service. These proposals have included an administrative land exchange. Though the Secretary of the Interior does have the authority to make minor boundary revisions of a unit of the National Park Service system through a land exchange, the Land and Water Conservation Act stipulates several conditions that must be met before the land is exchanged and the boundary is revised.

First, the land gained in the exchange must be "necessary for . . . the proper preservation, protection, interpretation or management of an area of the national park system." Second, the total value of the land exchanged—the combined value of both the land added and the land deleted from the unit—must be less than $750,000. Though no formal determination has been made, it appears that the Estate land alone is likely to be worth more than $750,000.

The Department understands that the U.S. Virgin Islands would like to build a school in a central location on St. John and that reasonably-priced private land is largely unavailable. However, the Department believes this would set a dangerous precedent for other units of the National Park Service system. Several units of the system are located in areas where reasonably-priced private land is unavailable for civic purposes. The enactment of H.R. 53 might encourage these communities to pursue the use of park lands for purposes other than the national purpose for which they were designated.

This concludes my testimony. I would be happy to answer any questions you or other members of the subcommittee may have.

H.R. 1483

Mr. Chairman, thank you for the opportunity to appear before your committee to present the views of the Department of the Interior on H.R. 1483, as passed by the House, to amend the Omnibus Parks and Public Lands Management Act of 1996 to extend the authorization for certain national heritage areas, and for other purposes. The committee has asked us to only address specific sections contained within Title II through VI in our testimony. We should note, however, that the Department testified on May 15, 2007, in opposition to the sections in Title I that extend the authorization for federal funding for nine established national heritage areas. The Department has also cited concerns or recommended the committee defer action on other provisions included in H.R. 1483.

H.R. 1483, the Celebrating America's Heritage Act as passed by the House, has six titles related to national heritage areas. The Department will present its position

on each of the specific sections within each of the five titles as requested by the committee.

Title II, Subtitle C would establish the Muscle Shoals National Heritage Area in the counties of Colbert, Franklin, Lauderdale, Lawrence, Limestone, and Morgan in northwestern Alabama, and would designate the Muscle Shoals Regional Center as the local coordinating entity responsible for developing and implementing the management plan for the heritage area. The National Park Service is in the process of conducting a feasibility study, authorized by Public Law 107-348, to determine the suitability and feasibility of establishing this region as a national heritage area. We expect to complete the study later this year, at which time we will provide a recommendation on the suitability and feasibility of establishing the Muscle Shoals National Heritage Area. Until the study is completed, it would be premature to state a position on its designation as contained in this subtitle, so we recommend that the committee defer action on this provision.

Title II, Subtitle D would establish the Freedom's Way National Heritage Area that includes 37 Massachusetts and 8 New Hampshire communities northwest of Boston. This is a region that substantively influenced our democratic forms of governance and the development of intellectual traditions that underpin the concepts of American freedom, democracy, conservation, social justice, and ethnic diversity. Its natural and community resources are exceptional examples of the rural beauty of the New England landscape.

A feasibility study and addendum was completed by the proposed management entity, the Freedom's Way Heritage Association, Inc., and reviewed by the National Park Service. The study found that the area met the criteria for designation as a national heritage area. However, the Department recommends that the committee defer action on this area and all other proposed heritage area designations until program legislation is enacted that establishes guidelines and a process for the designation of national heritage areas. In summer 2006, the Administration sent to Congress a legislative proposal to establish such guidelines and a process for designation. The National Heritage Areas Partnership Act, S. 278, was introduced during the 110th Congress and it incorporated the majority of the provisions of the Administration's proposal. We look forward to continuing to work with Congress on this very important issue.

With 37 national heritage areas designated across 27 states, and more heritage area legislative proposals in the pipeline, the Administration believes it is critical at this juncture for Congress to enact national heritage area program legislation. This legislation would provide a much-needed framework for evaluating proposed national heritage areas, offering guidelines for successful planning and management, clarifying the roles and responsibilities of all parties, and standardizing timeframes and funding for designated areas. Program legislation also would clarify the expectation that heritage areas work toward self-sufficiency by outlining the necessary steps, including appropriate planning, to achieve that shared goal.

Title II, Subtitle F would establish the Santa Cruz Valley National Heritage Area in southern Arizona, managed by the Santa Cruz Valley Heritage Alliance Inc. The proposed Santa Cruz Valley National Heritage Area encompasses approximately 3,300 square miles of the upper and middle Santa Cruz River watershed and the upper Sonoran Desert. It includes two units of the National Park System, Tumacacori National Historical Park which preserves a Spanish Colonial Mission, and Saguaro National Park which protects a diverse and picturesque area of the Sonoran Desert. The Juan Baptista de Anza National Historic Trail also crosses the heritage area's boundary. Both the Bureau of Land Management and the U.S. Forest Service manage extensive land within the proposed national heritage area.

A feasibility study was completed by the Center for Desert Archaeology and reviewed by the National Park Service. The study found that the area met the criteria for designation as a national heritage area. However, the Department recommends that the committee defer action on this area and all other proposed heritage area designations until program legislation is enacted that establishes guidelines and a process for the designation of national heritage areas.

Title III, Section 3001 would direct the Secretary of the Interior, in consultation with appropriate State historic preservation officers, State historical societies, and other appropriate organizations, to conduct a study of the suitability and feasibility of establishing the Northern Neck National Heritage Area in the Commonwealth of Virginia to evaluate if it meets the criteria for heritage area designation. The Secretary would be required to submit a report to Congress, no later than three years after funds are made available, on the findings, conclusions, and recommendations of the study. The Department supports enactment of this title, however, we believe that any funding requested should be directed first toward completing previously authorized studies.

Title IV, Section 4006 would amend the Erie Canalway National Heritage Corridor Act (Title VIII of Appendix D of Public Law 106-554) with several changes to improve the operation of the federal commission. The Department supports these amendments.

Title V, Section 5001 states that it is the sense of Congress that the Federal Government should not fund a national heritage area in perpetuity. As outlined in the Administration's legislative proposal, and as included in S. 278 as reported by the Senate Energy and Natural Resources Committee, it is our expectation that heritage areas should work toward self-sufficiency with federal funding through the National Park Service limited to a 15-year period. The Department concurs with this provision.

Title VI, Section 6001 states that all designated and future designated lands within any natural heritage area for which funding is provided under this Act shall be exclusively governed by relevant State and local laws regarding hunting, fishing, and the possession or use of a weapon, trap, or net. Relevant State and local laws already apply to lands within a national heritage area and the majority of recently designated heritage areas include a provision in the authorizing legislation that state that nothing in a heritage area's designation diminishes the authority of the State to manage fish and wildlife including the regulation of fishing and hunting within the heritage area. However, the Department is concerned that there are federal lands within national heritage areas, including units of the National Park System, that do not allow hunting, fishing, trapping, or other wildlife harvesting activities. Under Departmental regulations, the National Park Service is already required to consult with State agencies on certain fish and wildlife management actions within national park units. We would recommend that the section be amended to exempt federal lands within national heritage areas from this requirement and we recommend that the reference be changed to "national" heritage areas to reflect the correct name of these areas.

Finally, we would like to work with the committee on amending this bill to include an additional title that would make a technical amendment to the John H. Chafee Blackstone River Valley National Heritage Corridor Act (Public Law 99-647) to allow ex officio or delegates of commission members to attend commission meetings on behalf of the State officials who sit on the commission. This is a standard provision in most recently established federal commissions, but was not included in the Act establishing the John H. Chafee Blackstone River Valley National Heritage Corridor, and this oversight has hampered the work of the commission.

Mr. Chairman, that concludes my testimony and I am prepared to answer any questions that you or other members of the committee might have at this time.

S. 662

Mr. Chairman, thank you for the opportunity to appear before your committee to present the views of the Department of the Interior on S. 662, a bill to authorize the Secretary of the Interior to conduct a study to evaluate resources at the Harriet Beecher Stowe House in Brunswick, Maine.

The Department supports the enactment of this bill. However, the Department feels that priority should be given to the 29 previously authorized studies for potential units of the National Park System, potential new National Heritage Areas, and potential additions to the National Trails System and National Wild and Scenic River System that have not yet been transmitted to the Congress.

If enacted, the bill would direct the Secretary to conduct a special resource study to evaluate the national significance of the Harriet Beecher Stowe House and surrounding land, and to assess the suitability and feasibility of including the site as a unit of the National Park System. The study, which is to be completed within three years after funds are made available for it, will follow the criteria for potential new areas contained in section 8(c) of Public Law 91-383 (16 U.S.C. 1a-5(c)) which require such studies to address four areas: significance, suitability, feasibility, and management options.

The Harriet Beecher Stowe House, located at 63 Federal Street, Brunswick, Maine, is a National Historic Landmark whose oldest portion, a 2-story wood frame house, dates from 1807. It was the residence from 1850 to 1852 of Harriet Beecher Stowe, author of the influential indictment of slavery, Uncle Tom's Cabin, which was written here. It was designated as a National Historic Landmark in 1962, and is listed by the National Park Service in its Underground Railroad travel guides as a site of interest.

Harriet Elizabeth Beecher (1811-1896) was born in Connecticut and moved with her family to Cincinnati, Ohio in 1832 at the age of 21. There she was a teacher and author, and traveled to Kentucky where she interviewed fugitive slaves and

witnessed the brutality of slavery first-hand. In 1836 she married Calvin Ellis Stowe, who later became a professor at Bowdoin College, prompting her move to Brunswick, Maine. She used her personal experiences to develop Uncle Tom's Cabin, published as a serial in 1851 in an antislavery newspaper, and in book form the following year. An enormous popular success, its antislavery message provoked strong reactions throughout the South. In response to criticism, she wrote A Key to Uncle Tom's Cabin, (1853), a collection of factual material on slavery intended to justify the charges implied in the novel. She continued to lead the life of an active writer, publishing a second anti-slavery novel, poetry, and numerous essays and fictional works about New England social life.

The property at 63 Federal Street was operated as an inn for many years, and was expanded several times to include an attached barn, several ells, and a 54-unit motel. The complex was purchased several years ago by Bowdoin College, which rehabilitated the motel for use as a student dormitory. The main house is not currently in use or open to the public. The college has recently undertaken a study of the historic structure, to identify remaining elements that would have been present during Stowe's era, and to explore various options for preserving it. The college is committed to preserving the building, but is reluctant to undertake the financial burdens of restoring and operating it as a house museum.

The property is one of three former Stowe homes listed on the National Register of Historic Places. The others are houses at 2950 Gilbert Avenue, Cincinnati, Ohio and 73 Forest Street, Hartford, Connecticut, both of which are open to the public as sites honoring Harriet Beecher Stowe. The special resource study would allow National Park Service professionals to build upon the historic structure reports recently prepared for the Bowdoin College house through a grant from the U. S. Department of Housing and Urban Development, and to assist in the preparation of options for long-term preservation of the National Historic Landmark Harriet Beecher Stowe House.

Mr. Chairman, thank you for the opportunity to comment. This concludes my prepared remarks and I will be happy to answer any questions you or other committee members might have.

S. 827

Mr. Chairman and members of the subcommittee, thank you for the opportunity to appear before you today to present the Department's views on S. 827, a bill to establish the Freedom's Way National Heritage Area in the Commonwealth of Massachusetts and the State of New Hampshire.

While the Department recognizes the appropriateness of designating the Freedom's Way National Heritage Area, we recommend that the committee defer action on S. 827 and all other proposed heritage area designations until program legislation is enacted that establishes guidelines and a process for the designation of national heritage areas. In summer 2006, the Administration sent to Congress a legislative proposal to establish such guidelines and a process for designation. Bills were introduced in the 109th Congress (S. 243, H.R. 760 and H.R. 6287) that incorporated the majority of the provisions of the Administration's proposal, and S. 243 passed the Senate. During the 110th Congress, a similar heritage area program bill, S. 278, has been introduced, and we look forward to continuing to work with Congress on this very important issue.

With 37 national heritage areas designated across 27 states, and more heritage area legislative proposals in the pipeline, the Administration believes it is critical at this juncture for Congress to enact national heritage area program legislation. This legislation would provide a much-needed framework for evaluating proposed national heritage areas, offering guidelines for successful planning and management, clarifying the roles and responsibilities of all parties, and standardizing timeframes and funding for designated areas. Program legislation also would clarify the expectation that heritage areas would work toward self-sufficiency by outlining the necessary steps, including appropriate planning, to achieve that shared goal.

The proposed Freedom's Way National Heritage Area includes 37 Massachusetts and 8 New Hampshire communities northwest of Boston. It includes the Minute Man National Historical Park, the Oxbow and Great Meadows National Wildlife Refuges, the Concord, Assabet and Sudbury Wild and Scenic Rivers, as well as National Historic Landmarks and Districts, and many sites listed on the National Register of Historic Places.

This is a region that substantively influenced our democratic forms of governance and the development of intellectual traditions that underpin the concepts of American freedom, democracy, conservation, social justice, and ethnic diversity. Historically prominent leaders in literature and intellectual thought found the region to be

a source of inspiration including Henry David Thoreau, Ralph Waldo Emerson, Nathaniel Hawthorne and Louisa May Alcott. It was also the locale for expressions of religious freedom and social experimentation with the settlements of the Shakers, Millerites and Transcendentalists. Its natural and community resources are exceptional examples of the rural beauty of the New England landscape. The events that occurred here during the American Revolution include the ride of Paul Revere and the engagements at Lexington and Concord, which are known to virtually every elementary school child in the nation.

The concept of a Freedom's Way National Heritage Area was defined in a feasibility study undertaken by the proposed management entity, the Freedom's Way Heritage Association, Inc. Priorities outlined in this study speak to linkages through education and preservation of the region's nationally distinctive natural and cultural resources through partnerships. The region has a strong partnership base among its many cultural institutions, businesses, non-profit organizations, local governments, and citizens. The governors of both states have endorsed the designation of a national heritage area.

The National Park Service reviewed the national heritage area feasibility study undertaken by the proposed management entity in July 1997. Since it did not fully address the interim national heritage area criteria, representatives of our Northeast Region conducted field reconnaissance visits in November 2000. Based on the findings of the reconnaissance team, the Freedom's Way Heritage Association, Inc. submitted an addendum in April 2001 to the 1997 Freedom's Way National Heritage Area Feasibility Study entitled "The Proposed Freedom's Way National Heritage Area and Compliance with the National Park Service Interim Criteria for National Heritage Area Designation." The National Park Service evaluated that addendum, as well as the original feasibility study, and found that the criteria were fully addressed and met.

Since 2001 when the study was amended, both Massachusetts and New Hampshire have enacted legislation establishing state heritage area commissions related to Freedom's Way. Although these state laws are quite similar to each other, and appear to be consistent with the general aims of S. 827, they raise a number of issues. For example, each state is authorized to establish a Freedom's Way Heritage Area Commission, and among other duties "prepare and implement a unified historic preservation and interpretive plan for the area." If S. 827 is enacted, the Freedom's Way Heritage Association, Inc., a nonprofit organization, would be the management entity, and would also be charged with developing a comprehensive management plan for the area. It is unclear how the heritage area would function with three separate management entities charged with similar duties. The Massachusetts law states that if a federal heritage area is designated by act of Congress, the governor may terminate the commission when a federal management entity is appointed, but the New Hampshire law includes no such provision.

It is our understanding that if the heritage area is federally designated, then both state commissions would not be established and the responsibility to prepare the management plan would be the duty of the Freedom's Way Heritage Association, Inc. as the management entity.

Mr. Chairman, while the proposed Freedom's Way National Heritage Area contains significant natural and cultural resources and meets the established criteria for congressional designation, we would again request that the committee defer action until national heritage area program legislation is enacted. However, if the committee chooses to move ahead with this bill, the Department would like to work with them to make some technical corrections to the bill. In addition, the Department would recommend that the bill be amended to include an additional requirement for an evaluation to be conducted by the Secretary, three years prior to the cessation of federal funding under this act. The evaluation would examine the accomplishments of the heritage area in meeting the goals of the management plan; analyze the leveraging and impact of investments to the heritage area; identify the critical components of the management structure and sustainability of the heritage area; and recommend what future role, if any, the National Park Service should have with respect to the heritage area.

Mr. Chairman this completes my testimony. I would be happy to answer any questions that you or any of the members of the subcommittee may have.

S. 923 AND H.R. 1528

Mr. Chairman, thank you for the opportunity to appear before your committee today to discuss the views of the Department of the Interior on S. 923 and H.R.1528, bills to amend the National Trails System Act by designating the New England National Scenic Trail as a component of the National Trails System.

The Department supports enactment of this legislation. At a hearing on May 15, 2007 in the House Subcommittee on National Parks, Forests, and Public Lands, the Department testified in support of H.R. 1528.

S. 923 and H.R. 1528 would designate an approximately 220-mile trail route from Long Island Sound in the Town of Guilford, Connecticut to the New Hampshire-Massachusetts border in the Town of Royalston, Massachusetts as the New England National Scenic Trail. The route includes portions of the existing Mattabesett, Metacomet, and Metacomet-Monadnock trails studied under Public Law 107-338, the Metacomet-Monadnock-Mattabesett Trail Study Act of 2002. The proposed New England National Scenic Trail would be administered by the Secretary of the Interior and managed through partnership agreements with the State of Connecticut and the Commonwealth of Massachusetts, the Connecticut Forest and Park Association, the Appalachian Mountain Club, and other local stakeholders as appropriate. There are no existing federal lands associated with the proposed trail route and no new federal acquisition of lands is anticipated to be necessary to accomplish the purposes of S. 923 and H.R. 1528.

In spring 2006, the National Park Service produced the draft report and environmental assessment for the Metacomet Monadnock Mattabesett National Scenic Trail Feasibility Study. The report, which was recently transmitted to Congress, concludes that the proposed route meets the definition and intent for national scenic trail establishment under the National Trails System Act. The characteristics that make the proposed route worthy of designation include its scenic mountain landscape, historic New England villages, geological resources, and an abundance of endangered and natural communities.

The route traverses the Metacomet, Mt. Tom, and Mt. Holyoke ranges offering some of New England's most outstanding scenery and geologic features. Over 50 National Register Districts abut the trail. There are outstanding views from the trail as well as links to many side trails. The trail offers some of the world's best opportunities to view volcanic, sedimentary, and glacial geology, including columnar basalt, fossils, and dinosaur footprints. Areas along the trail have an outstanding richness of habitat types, natural communities, and rare and endangered species' habitats. In Connecticut, 132 occurrences of rare species or natural communities have been documented within 1,000 feet of the trail.

In addition, one of the most important factors identified in the National Trails System Act for evaluating potential new components of the system is proximity to population centers. Through the Act, Congress recognized the need to serve the nation's population centers with quality recreational opportunities. As such, the proposed New England National Scenic Trail offers a truly extraordinary opportunity, with over 2 million people living within 10 miles of the trail system.

S. 923 and H.R. 1528 would implement the environmentally preferred alternative of the study report and environmental assessment. This alternative was developed through a collaborative process with key trail stakeholders associated with the existing Metacomet Monadnock and Mattabesett trails, including the two states, the Appalachian Mountain Club, the Connecticut Forest and Park Association, and the 39 abutting communities. In addition, GIS mapping was cross-referenced against community land ownership data to build for the first time a database of more than 1,000 landowners on or near the trail route. These landowners and entities were all engaged directly in the study through regular mailings and invitations to information meetings and working sessions. Input from all of these sources was incorporated into the environmentally preferred alternative, which includes the following elements:

First, the "Blueprint for Management" included in the report was developed through input by a full range of study participants to provide the best blueprint for long-term trail viability. The National Park Service and Trail Stewardship Council would base trail management, administration and protection efforts on this document.

Second, the report calls for the creation of a Trail Stewardship Council that would bring trail partners and stakeholders together on a regular basis to discuss trail issues, coordinate management and protection of the trail, and generally guide implementation of the Management Blueprint. The Council would have advisory powers only, and would be non-regulatory in nature.

Third, the study identified no need for direct federal ownership or management of the trail. Thus, the National Park Service's role in implementing the proposed national scenic trail designation would be one of technical and financial assistance to existing trail partners, coordinated through the Trail Stewardship Council.

Fourth, a new unifying name, the New England National Scenic Trail, was suggested for national scenic trail purposes. Traditional trail names would continue to

be used in guidebooks or on trail signs, as appropriate, such as the Mattabesett Trail, part of the New England National Scenic Trail.

Finally, in addition to the proposed extension to Long Island Sound in Guilford, Connecticut, a new route for the national scenic trail is proposed in the Belchertown-Leverett area of Massachusetts. The new route is envisioned to take advantage of substantial state-owned lands that can provide a quality, protected trail route, while avoiding a segment of the Metacomet-Monadnock trail almost completely devoid of protected lands.

The draft report and environmental assessment for the Metacomet Monadnock Mattabesett Trail Study was released for public and agency review in August 2006. An executive summary was mailed to all identified trail landowners and stakeholders, along with invitations to public meetings in Connecticut and Massachusetts. Approximately 60 written responses were received between August and December 2006. The vast majority of these supported the environmentally preferred alternative, and only a few comments were received in opposition to national scenic trail designation.

The Department of Justice has advised us that requiring the Secretary to manage and administer the trail consistent with the Trail Management Blueprint may raise constitutional concerns, and it would like to work with the committee on that provision. In addition, the Department would like to work with the committee on some technical amendments to the Senate version of the bill to reflect the map reference contained in the House-passed version of H.R. 1528.

This concludes my prepared remarks, Mr. Chairman. I will be happy to answer any questions you or other committee members may have regarding this bill.

S. 956

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to appear before you today to present the Department of the Interior's views on S. 956, a bill to authorize the Secretary of the Interior to establish the Land Between the Rivers National Heritage Area in the State of Illinois. The Department does not support enactment of this bill at this time.

Before a national heritage area is designated by Congress, a comprehensive feasibility study should be completed that evaluates an area by applying criteria developed by the Department and Congress. The study undertaken by Southern Illinois University provides a good beginning in identifying the many stories and variety of resources found within the region. However, we believe that S. 956 should not be enacted until an adequate feasibility study is completed that yields the necessary information to demonstrate that the proposed national heritage area meets the criteria for designation. We also believe that individual bills proposing to designate new national heritage areas should be deferred until program legislation is enacted that establishes guidelines and a process for the designation of national heritage areas. In summer 2006, the Administration sent to Congress a legislative proposal to establish such guidelines and a process for designation. Bills were introduced in the 109th Congress (S. 243, H.R. 760 and H.R. 6287) that incorporated the majority of the provisions of the Administration's proposal, and S. 243 passed the Senate. During the 110th Congress, a similar heritage area program bill, S. 278, was introduced, and we look forward to continuing to work with Congress on this very important issue.

S. 956 would establish the Land Between the Rivers National Heritage Area, including Kincaid Mound, Fort de Chartres, Kaskaskia, Fort Massac, Wilkinsonville Contonment, the Lewis and Clark Sculpture, Flat Boat, Cave-in-Rock, the Shawneetown Bank Building, the Iron Furnace, the Crenshaw "Slave House," Roots House, the site of the Lincoln-Douglas debate, certain sites associated with John A. Logan, the Fort Defiance Planning Map, Mound City National Cemetery, and Riverlore Mansion, and any other sites within 17 counties in the State of Illinois that the management entity determines to be appropriate to include. It designates the Southern Illinois University Carbondale as the management entity.

The Department has concerns about the limited scope of the legislation. For example, S. 956 does not make the case that this region is a cohesive, nationally distinctive landscape, unified around one nationally important story that sets it aside from all other areas. The boundaries for the proposed area are not defined. While complete boundaries that encompass the key contributing components of the nationally important story are refined during the development of the management plan, the main region is typically stated within the legislation as a demonstration of where most of the grassroots efforts are taking place.

Also, S. 956 does not define the role and functions of the management entity or direct the management entity to develop and submit a management plan for the

heritage area. The role and functions of a management entity are defined during development of the feasibility study as they require concurrence of the residents. Legislative language for a management plan includes a description of comprehensive policies, goals, strategies, and recommendations for telling the story of the area. It specifies existing and potential sources of funding or economic development strategies to protect, enhance, and interpret the area. The plan also includes a description of actions and commitments that governments, private organizations, and citizens will take to protect, manage, and develop resources of the heritage area. S. 956 does not include any standard legislative language for management planning. The diversity of perspective and goals of any heritage area requires a written agreement on how to proceed. Specific guidelines regarding these issues were provided in the proposed legislation for heritage areas developed and presented to Congress by the Department in 2006.

A final concern is that S. 956 does not authorize any appropriations to provide financial assistance in conducting and carrying out the activities and functions of the heritage area.

The Department has consistently taken the position that proposed national heritage areas follow the proven path of those achieving designation in recent years. We cannot support S. 956 at this time as it does not meet the specific criteria for designation demonstrated by the completion of an adequate feasibility study. We are, however, fully prepared to provide advice or assistance in the completion of a feasibility study that meets our professional standards and provides Congress with the necessary information and assessment upon which to base its decision regarding designation in the future.

Chairman, this concludes my prepared remarks. I would be pleased to answer any questions you or other members of the Subcommittee may have.

S. 2073

Mr. Chairman, thank you for the opportunity to present the views of the Department of the Interior on S. 2073, to amend the National Trails System Act relating to the statute of limitations that applies to certain claims.

On July 13, 2006, the Department of the Interior testified on a similar bill, H.R. 4581, before the House Resources Subcommittee on National Parks. At that time, we were advised by the U.S. Department of Justice that they planned to further evaluate the legislation and would send a report to the Committee that would include a position on the bill. That report was sent to Chairman Devin Nunes in the form of a letter dated August 1, 2006. In that letter the Department of Justice stated that this legislation " . . . would unnecessarily displace settled, well-reasoned case law, as well as raise other concerns, including constitutional ones. We thus note our opposition to the bill." The Department of Justice advises us that S. 2073 has not eliminated these constitutional concerns. The administration therefore opposes this bill.

The National Park Service is aware that there was some confusion created by various court rulings on what date would trigger the Statute of Limitations for rail-to-trail takings cases. We believe this issue was resolved in court rulings issued in 2005 and 2006. In the Caldwell v. United States case concerning a railroad right-of-way in the state of Georgia, the plaintiffs alleged that they were the fee owners of land that was burdened by a railroad easement and that the railbanking and interim trail use of this right-of-way under the Trails Act constituted a taking of their property. Both the U.S. Court of Federal Claims (the trial court) and the U.S. Court of Appeals for the Federal Circuit ruled that the statute of limitations for the Caldwell plaintiffs' Trails Act takings claim had expired. However, the two courts ruled differently for establishing when the statute of limitations started to run. The trial court ruled that two events are necessary for a Trails Act takings claim to accrue: (1) the Surface Transportation Board (STB) must issue its decision (the Notice of Interim Trail Use or "NITU") authorizing railbanking, and (2) the railroad and qualified trail sponsor must reach a trail use agreement pursuant to that authorization. The appeals court found the triggering event to be when the STB issued the NITU because that decision forestalled the abandonment proceedings and precluded any state law reversionary interests from taking effect. In 2006, the Federal Circuit reaffirmed the appeals court determination in the Caldwell case ruling in Barclay v. United States that the issuance of the original NITU triggers the running of the statute of limitations. As a result of the Caldwell and Barclay decisions, no confusion remains in the law regarding accrual of rails-to-trails takings claims.

S. 2073 would amend Section 8(d) of the National Trails System Act to state that the claims for damages shall not begin to accrue before the date on which the State, political subdivision, or qualified private organization enters into an agreement with

the railroad to assume full responsibility for the right-of-way and interim use of that right-of-way under paragraph (1).

In 1983, Congress recognized the continuing need to preserve linear transportation corridors and the demand for trails by amending the National Trails System Act (NTSA) to include a "railbanking" clause. Railbanking is defined as the preservation of a railroad corridor for future rail use. Railbanking is accomplished under the NTSA through provisions that allow a railbanked corridor to be used for interim trail use purposes through a voluntary agreement reached between a railroad and a trail manager. In Section 8(d) of the NTSA, the Secretary of the Interior is asked to encourage state and local groups to develop trails on railroad rights-of-way in order to protect and keep these corridors intact in case they are needed for rail service in the future. Section 8(d) also facilitates the development of rail-trail corridors that provide both high-quality recreational opportunities and serve transportation needs.

In cities, these rail-trail corridors benefit the citizens by serving as transportation corridors, providing safe and easily accessible commuting areas for bikers and walkers, helping to mitigate our urban traffic problems and pollution. The present use of these trails has the additional benefit of attracting tourism dollars to communities that have lost income through the disuse of the railroad. Rail-trail corridors attract people to these areas, who in turn spend money on recreational equipment, food, and lodging as they use these trails.

Rail-trail corridors provide important recreational and energy-efficient transportation opportunities throughout the United States. However, it is important to provide a process that will ensure just compensation is provided to private property owners only when railbanking and interim trail use authorized under the NTSA results in a taking of private property.

That concludes my testimony. I would be happy to answer any questions you or other members of the subcommittee may have.

S. 2513

Mr. Chairman, thank you for the opportunity to appear before your committee to present the views of the Department of the Interior on S. 2513, a bill to modify the boundary of Minute Man National Historical Park to include the home and surrounding farmland of Colonel James Barrett and the area around the Joshua Brooks House.

The Department supports the enactment of this bill.

In December 2006, Congress directed the Secretary of the Interior to conduct a study to evaluate the significance of the Colonel James Barrett Farm and to assess the suitability and feasibility of including the farm in the National Park System as part of the Minute Man National Historical Park. The National Park Service consulted affected property owners, state and local governments, preservation organizations, and the public, and incorporated their views into the findings of the study. The boundary study and environmental assessment, transmitted to Congress in March 2008, concluded that the expansion of the boundary of the park to include the home and surrounding farmland of Colonel James Barrett and the area around the Joshua Brooks House, met the criteria for boundary expansions and that inclusion within the boundary was important to ensure the protection of nationally significant resources and values. There is extensive public support for the boundary expansion.

S. 2513 would permit the inclusion of 67 acres of land within the boundary of the Minute Man National Historical Park, thus adding significant properties to the park that might be cooperatively managed or acquired from willing sellers. The potential boundary expansions were found to meet all National Park Service criteria including the ability to protect significant resources, enhance opportunities for public enjoyment, and improve management capabilities.

The most significant property proposed for inclusion within the revised boundary is the Colonel James Barrett Farm, located at 448 Barrett's Mill Road, Concord, Massachusetts, two miles from the town center and from Minute Man National Historical Park. It includes the home and surrounding farmland of Colonel James Barrett (1710-1779), Revolutionary War patriot and one of the leading figures in the events leading up to the British march on Concord in April 1775. The Barrett Farmhouse and a total of 10 parcels on 64 acres of land that has been farmed continuously since the 18th century would be included in the expanded boundary.

The farm was a major hiding place for the colonists' stores of arms and ammunition. British troops headed there on April 19, 1775 but found nothing, the residents having been alerted by Paul Revere in time to secrete muskets, canons and powder in the fields. The Battles of Lexington and Concord occurred later that day, marking

the start of the Revolutionary War. Minute Man National Historical Park encompasses 967 acres and includes the North Bridge, site of "the shot heard round the world," and the historic Battle Road, where the British both advanced and retreated. Barrett's farm was the impetus for the British advance and the vigorous work of Colonel Barrett and his militia was a key reason for the British retreat.

Considered for inclusion when Minute Man National Historical Park was established in 1959, the farm was then in private ownership and not available for acquisition. The farmhouse is now owned by Save Our Heritage, Inc. a local nonprofit organization, which seeks to preserve it for public use and enjoyment. The group has been working closely with the Town of Concord and has expended over $2 million to acquire the farmhouse and in addition, has raised $770,000 to provide urgently needed stabilization of the building. Much of the surrounding acreage is owned by the Town and is managed as agricultural conservation land, thus preserving the historic agrarian landscape. Owners of the three private parcels have been consulted and have no objection to the boundary change.

The other property included in the proposed boundary expansion abuts the historic Joshua Brooks House, which is owned by the National Park Service. Located at 37 North Great Road (Battle Road), this 3-acre parcel is partially inside the park boundary. Expanding the boundary would ensure protection of the viewshed around the Joshua Brooks House, a key spot on the Battle Road, by permitting acquisition of the property in fee or through a less-than-fee purchase such as a conservation easement.

The estimated increase in annual operations, maintenance and interpretation costs resulting from the acquisition of lands authorized with this proposed boundary expansion would be approximately $65,000.

Of the 67 acres authorized in this boundary expansion, the only land that is envisioned to be acquired by the National Park Service is the 4.5 acres that include the farmhouse and the adjacent farmland. The approximate cost to acquire the 4.5 acres would be $2.1 million. Funding for these costs would be subject to NPS priorities and availability of appropriations. For the remaining 62.5 acres, most of the land (55+ acres) within the potential boundary expansion at Barrett's Farm is owned by the Town of Concord or the Concord School Committee. The park is only authorized to acquire land from a government entity by donation. The rest of the acreage could be protected through conservation easements or management agreements.

Mr. Chairman, thank you for the opportunity to comment. This concludes my prepared remarks and I will be happy to answer any questions you or other committee members might have.

S. 2604

Mr. Chairman, thank you for the opportunity to appear before your committee to present the views of the Department of the Interior on S. 2604, a bill to establish the Baltimore National Heritage Area in the State of Maryland.

We recommend that the committee defer action on S. 2604 and all other proposed heritage area designations until program legislation is enacted that establishes guidelines and a process for the designation of national heritage areas. In summer 2006, the Administration sent to Congress a legislative proposal to establish such guidelines and a process for designation. The National Heritage Areas Partnership Act, S. 278, was introduced during the 110th Congress and it incorporated the majority of the provisions of the Administration's proposal. We look forward to continuing to work with Congress on this very important issue

With 37 national heritage areas designated across 27 states, and more heritage area legislative proposals in the pipeline, the Administration believes it is critical at this juncture for Congress to enact national heritage area program legislation. This legislation would provide a much-needed framework for evaluating proposed national heritage areas, offering guidelines for successful planning and management, clarifying the roles and responsibilities of all parties, and standardizing timeframes and funding for designated areas. Program legislation also would clarify the expectation that heritage areas would work toward self-sufficiency by outlining the necessary steps, including appropriate planning, to achieve that shared goal.

The Baltimore Heritage Area was certified by the Maryland Heritage Areas Authority in 2001 as a state heritage area. The Baltimore Heritage Area is managed by the Baltimore City Heritage Area Association, a 40-member board appointed by the Mayor. The Association has a proved track record as a successful coordinating entity among diverse partners in the Baltimore area. Over the past seven years, the Baltimore Heritage Area has proved to be a successful effort, supporting, facilitating, and leveraging interpretive projects, historic preservation projects, and edu-

cation efforts. The heritage area has strong support from the public and a myriad of state, local, federal, and non-governmental partners throughout the area.

The National Park Service reviewed both the updated management action plan and the feasibility study and concurs that the proposed Baltimore National Heritage Area meets required criteria for congressional designation. In 2006, the Baltimore City Heritage Area Association updated the Baltimore City Heritage Area Management Action Plan that serves as a blueprint for protecting historic, cultural and natural resources through activities and investments within the heritage area. In addition, the Association completed a national heritage area feasibility study, based upon the National Park Service criteria, to determine whether the area met the criteria for national heritage area designation. The study concluded that the region met all of the criteria for designation including the existence of significant levels of public support and local commitments necessary for successful planning and implementation of a heritage area.

The proposed heritage area comprises a large swath of the city of Baltimore, approximately 11,000 acres, and includes 24 National Historic Landmarks, 53,000 buildings listed in 52 National Register of Historic Places historic districts, 8,000 buildings in 30 local historic districts, a system of parks and waterways, five Maryland Scenic Byways, and an All-American Road. In addition to Baltimore's important cultural, natural and recreational resources, the City derives its significance from several key historical events with many opportunities to interpret and provide for public understanding and appreciation of the City's rich history through heritage programming.

First and foremost amongst these is the defense of Baltimore against the British in 1814 by a populace of largely first-generation immigrants and free and enslaved African Americans. The Star-Spangled Banner, our national anthem, and a new sense of national identity were forged in large part out of this experience. This theme of forging a strong, diverse, and complex national identity is very robust in Baltimore and includes the period of the War of 1812, the notorious domestic slave trade, the earliest organized abolition movement in the South, a vital community of free Blacks, and the City's divided loyalties during the Civil War. All were part of the City's national identity and are still represented in the cityscape, historic buildings, and diverse peoples of Baltimore.

Baltimore was home to Frederick Douglass, Isaac Myers, and Thurgood Marshall each of whom, with their individual contributions, helped forge the identity of the nation. Douglass declared: "Going to live at Baltimore laid the foundation, and opened the gateway, to all my subsequent prosperity . . . " The Frederick Douglass-Isaac Myers Maritime Park commemorates the story of these two men and the first African American shipyard. Resources associated with Thurgood Marshall, the first African American to serve as a justice on the Supreme Court of the United States, include Public School 103, the first school Thurgood Marshall attended, and his boyhood home. The Heritage Area has already begun to rehabilitate and interpret the public school.

Other resources representing the theme of national identity include the National Road, the Nation's first federally funded interstate transportation route, that begun in 1811 in Baltimore and headed westward. Themes and resources that are also well-represented in the heritage area include maritime history, immigration, and industrialization. Baltimore was a major shipbuilding center beginning with the famous Baltimore clippers, a major port of entry for new immigrants second only to New York, and the starting point and industrial center of the first long distance railroad into the American frontier.

Mr. Chairman, while the proposed Baltimore National Heritage Area contains nationally distinctive natural and cultural resources and meets the established criteria for congressional designation, we would again request that the committee defer action until national heritage area program legislation is enacted. However, if the committee chooses to move ahead with this bill, the Department would recommend that the bill be amended to include an additional requirement for an evaluation to be conducted by the Secretary, three years prior to the cessation of federal funding under this act. The evaluation would examine the accomplishments of the heritage area in meeting the goals of the management plan; analyze the leveraging and impact of investments to the heritage area; identify the critical components of the management structure and sustainability of the heritage area; and recommend what future role, if any, the National Park Service should have with respect to the heritage area.

Thank you for the opportunity to comment. This concludes my prepared remarks and I would be happy to answer any questions that you or the members of the committee may have.

S. 2804

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to appear before you today to present the views of the Department of the Interior on S. 2804, a bill to adjust the boundary of Everglades National Park and to authorize the Secretary of the Interior to acquire additional property in the Tarpon Basin district.

The Department supports enactment of this bill, with some technical amendments as discussed later in this testimony.

Congress passed legislation in 1934 authorizing the establishment of Everglades National Park through public and private donations of land. Thirteen years later, in 1947, President Harry Truman dedicated Everglades as the first national park to preserve purely biological—not geological—resources. In establishing the park, Congress recognized that South Florida's climate and the abundant flora and fauna present there were unique to the United States and to the world. Specifically, Congress noted the importance of protecting the mangrove swamp, which "teems with aquatic and amphibian life" and provides a sanctuary for numerous wading birds. Congress also recognized the importance of protecting the hardwood hammocks. Oak, mahogany and gumbo-limbo trees grow on these slightly elevated mounds of limestone, providing habitat for birds and other wildlife.

Everglades National Park is located at the interface of a temperate and subtropical environment with a great diversity of resources. It is recognized by the United Nations as an International Biosphere Reserve and as a World Heritage Site. It is also designated a Wetland of International Importance by the international Ramsar Convention treaty.

The purpose of the proposed legislation is to adjust the boundary of Everglades National Park and authorize the acquisition of approximately 600 acres of land and water surrounding Tarpon Basin for inclusion in the park. These changes are relatively minor, as Everglades National Park encompasses approximately 1,509,000 acres. However, the resources that will be acquired are significant and characteristic of those intended by Congress to be protected. The approximate acquisition costs would be $983,000 including cleanup, appraisals and other associated costs. Anticipated costs for operations are estimated to be under $100,000. Funding for these costs will be subject to NPS priorities and availability of appropriations.

The boundary expansion property, located near Key Largo, Florida, contains habitat for the wood stork and the West Indian Manatee, each of which are listed as endangered under the Endangered Species Act of 1973. The property also contains habitat for the roseate spoonbill and the white-crowned pigeon. Both are categorized by the Florida Fish and Wildlife Conservation Commission as threatened species.

The property is comprised of two parcels abutting the northeast and southwest sides of Tarpon Basin. The northeastern parcel, referred to as the Dusenbury Creek peninsula, encompasses slightly more than 59 percent of the total tract and includes predominantly coastal mangrove areas, with some 10 acres of hardwood hammock. This parcel has approximately 900 feet of frontage along the west side of US Highway 1 and is bounded by Tarpon Basin on the south and Blackwater Sound on the north and west. The southwestern parcel, referred to as the Grouper Creek peninsula, consists of approximately 41 percent of the remaining total tract as coastal mangrove. A number of small salt water ponds are located throughout the two parcels. The largest, Lake Donna, is accessible by land. Access to the others is restricted due to dense mangrove stands.

The Dusenbury Creek parcel has a small "hurricane hole," located in the northern end of the property, which can be accessed from the Intracoastal Waterway and from Tarpon Basin. Historically, this area has been used by boaters to moor their sailboats during a hurricane or tropical storm. This legislation provides the Secretary of the Interior with authority to issue permits to the owners of a sailing vessel who, before the date of enactment of this legislation, have used the hurricane hole to secure that sailing vessel during a tropical storm or hurricane.

This legislation will have minimal impact on the park's budget, other than funding for land acquisition. The park will be able to manage any land additions within its existing priorities. No additional personnel will be needed to implement the proposal. The boundary adjustment and acquisition will require the park's Florida Bay District personnel to perform additional water-and land-based patrols. These patrol changes are minor, however.

The department has some technical amendments to S. 2804. First, the land acquisition and administration language in sections 4(b) and 4(d) is confusing as to its intent. We would like to work with the committee to simplify the language in accordance with other park boundary adjustment legislation approved by the committee. We would also like to suggest a couple of technical changes to the language

of section 2 to reflect the correct name of the Florida Fish and Wildlife Conservation Commission and to section 5 to clarify which sailing vessels are eligible for the permits. We will be glad to provide those to the committee.

Mr. Chairman, this concludes my prepared remarks. I would be pleased to answer any questions you or any members of the Subcommittee may have.

Senator AKAKA. Thank you very much, Mr. Wenk. I would like to begin with a few questions to you on the various National Heritage Area proposals.

First of all, apart from the Park Service's recommendation to defer action on all new National Heritage Area bills until programmatic legislation is enacted, is it accurate to say that the Park Service has no specific objections to the Baltimore National Heritage Area, the Freedom's Way National Heritage Area and the Santa Cruz Valley National Heritage Area?

Mr. WENK. That is correct, Mr. Chairman.

Senator AKAKA. My next question concerns S. 956, which would establish a new National Heritage Area in Illinois. Your testimony refers to a study that has been prepared by Southern Illinois University. Do you know if the Park Service has reviewed the study? If so, whether it meets the standards for feasibility studies used by the Park Service for other Heritage Areas?

Mr. WENK. The National Park Service has had the opportunity to review the study. We do believe that it currently does not meet the criteria standards for a study and that we would be happy to assist with any additional work that might be done so we could do a full evaluation and bring that back to the Congress with our recommendation.

Senator AKAKA. My final question related to National Heritage Areas concerns the Muscle Shoals National Heritage Area. I understand that the University of Northern Alabama has been working on a feasibility study with the National Park Service. You mentioned that you expect the study to be completed later this year. Has the Park Service reviewed the draft study? If so, do you believe there will be significant new information in the final version?

Mr. WENK. Mr. Chairman, we have reviewed the draft study. Yes, we believe there will be information as it relates to the environmental assessment and other work that must be done on this provision.

Senator AKAKA. My next question concerns H.R. 53, the proposed long-term lease of land at Virgin Islands National Park. I'm curious about the condition of the property that the bill proposes to lease. Does the site have facilities that are suitable for a school or would new buildings need to be constructed?

Mr. WENK. It's my understanding, Mr. Chairman, that there are some structures on the land, but for the basic school facilities, new facilities would have to be constructed on the land.

Senator AKAKA. Are there any other National Parks where the Park Service leases park land to a local government for use of school or other similar purpose?

Mr. WENK. Not that I am aware of. We do have schools that are located, I know in three of our National Park areas that I can think of off the top of my head, those being Yellowstone, Yosemite and Grand Canyon. But those are not under a lease arrangement. Those are schools that are operated by the National Park Service.

Senator AKAKA. Mr. Wenk, my final question concerns S. 2073, which addresses property claims related to certain trails. I understand that this issue involves Department of Justice as well as the Department of the Interior. So I wanted to let you know that I will be submitting questions on this bill in writing to both agencies.

At this time let me ask our ranking member for any questions he may have for you.

Senator BURR. Thank you, Mr. Chairman. Mr. Wenk, happy birthday.

Mr. WENK. Thank you, sir.

Senator BURR. As it relates to S. 2804 the legislation made a reference to the hurricane hole. Specifically who will be allowed to use it and how long would they be allowed to use it? Are you familiar with this?

Mr. WENK. Those are some of the details that we would absolutely like to work on with the Committee on in terms of clarifying or defining that. But I know in discussions that have been held with the Park staff it's been looked at as only those individuals who have a demonstrated previous use of the area during a hurricane event.

Senator BURR. So the Park Service's intent would be to tighten the legislation so that there's no misunderstanding as to who that applies to.

Mr. WENK. That is correct, sir.

Senator BURR. I thank you. Let me move to H.R. 53, if I can. I might say to my colleague on the other side, I hope that land swap is still a consideration. I think that if we're to look for something that works. I'm almost certain that it would require something. But it was mentioned that there are several pieces of land that may be in the queue to revert over to the National Park Service. Do we have the ability or have we talked to those landholders to see if in fact this can be done in a way that would be as a land swap for some portion of that gifted property?

Mr. WENK. Sir, I believe that we are always actively interested in working with the government of the Virgin Islands to try to resolve this issue. I think that, you know, we will do our best to try to do that. I can't speak specifically to active conversations about individual pieces of land right now. I know it's a high priority for us to help if we can, sir.

Senator BURR. Let me suggest to the Park Service and to the representatives that are here for the school, I think it's important that we reach out to these people who are attempting to give property to the Park Service to see if part of that process might be a portion of it to work as a swap. I think we certainly, probably have property owners that are conscious of the preservation of the Island. Part of preservation is the preservation of the community that's there.

So my hope is that they might see the benefits of some type of condition in that gifting that would serve the purposes of a swap so that you and I can look at each other and say, you know, once again we held to what is an important Park Service standard. Because I believe that, quite honestly, if the Chairman and I, and we may be in different places, but if we agreed to something that set a precedent, I've been here long enough to know the trucks people

will wait outside to drive through that opening when we do it. We will find that we will be inundated with the requests here for communities to have important community pieces located on a National Park because the property just happens to be there. So to eliminate any unintended consequences I would aggressively ask both sides to look at these individuals who are gifting property to see if you can construct something that accommodates both the Park's security of their boundary and the community's need for land that is suitable for the expansion of a school.

Let me ask one additional question on H.R. 53, if I can. A large portion of the Virgin Islands National Park, as I understand, was originally acquired from the Rockefeller family. There were certain restrictions regarding the future use of that property. Is the property that the Virgin Islands is attempting to access for the school part of their original Rockefeller parcel? If so, are there any restrictions?

Mr. WENK. Actually it is not part of that original Rockefeller lands. It was purchased in 1968 as part of the Estate Catherineburg and it's not subjected to the reversionary clause that governs the Rockefeller land.

Senator BURR. Ok. Mr. Chairman, my last statement is not a question, but it is a statement. I understand it's appropriate for the Park Service to come here and say that the issue of rails to trails and the clarification that's needed is not a National Park Service issue. I can appreciate that.

I hope you would take back to the individuals at the Justice Department that made this determination, that I take very seriously of takings. I think that when somebody's land is taken there has to be compensation for that. I'm not an expert on what statute of limitations we've got currently or what triggers the clock starting.

I have always found regardless of what I look at that the Federal Government's clock usually starts well before people on the other side. It's only because we get to interpret. They have to guess.

I truly believe that we have people that were engaged in what they thought was an honest negotiation. If for some reason we found a technical reason to run the clock out, and now the position of the Justice is, oops, so sorry. You missed out on compensation. That's not the American way.

So, you might send a message to the Justice Department. I would advise finding a way to settle this. If not legislatively, we will accommodate the needs of those property owners that have not been compensated. I'm sorry to use you on your birthday as a telegraph to the Justice Department, but I think you can go back and tell the spirit that I gave this to you in much more so than I can.

Mr. WENK. We'll be happy to convey the message, sir.

Senator BURR. Thank you. Thank you, Mr. Chairman.

Senator AKAKA. I want to thank you so much for your testimony and your responses and wish you well on your birthday.

Mr. WENK. Thank you, Mr. Chairman.

Senator AKAKA. Yes, thank you. Let me ask our next panel of witnesses to come forward at this time. Welcome Bill Pencek, the Director of Heritage and Cultural Tourism with the Office of Tourism Development from Baltimore, Maryland. Gale Illig, from Grantwood Village, Missouri and Lorelei Monsanto, the spokes-

person for One Campus Group on the Island of St. John in the Virgin Islands.

I'd like to welcome each of you to the subcommittee. We'll include your complete written statement in the hearing record. So please summarize your testimony. After we have heard all your statements we will see if there are any questions for you.

Will Mr. Pencek, will you please proceed with your statement?

STATEMENT OF WILLIAM J. PENCEK JR., DIRECTOR OF HERITAGE AND CULTURAL TOURISM, OFFICE OF TOURISM DEVELOPMENT, BALTIMORE, MD

Mr. PENCEK. Thank you, Mr. Chairman. Again, I am Bill Pencek, Director of Cultural and Heritage Tourism for the State of Maryland. I'm here today representing the State and the city of Baltimore to urge your favorable consideration of S. 2604.

I want to thank our colleagues at the Park Service for their assistance and favorable consideration of the NHA's feasibility study for the Baltimore National Heritage Area. Thank you, but wanted to take strong exception to the recommendation that designation of Baltimore National Heritage Area wait until a National Heritage Area Program is created. There are a number of reasons of why we should not wait.

First, as outlined in our written testimony, the Baltimore Heritage Area is a strong, experienced, robust partner for the National Park Service, not among proven experiments. Maryland is one of the handful of states with a statewide Heritage Area Program and the Baltimore Heritage Area was certified by the state back in 2001. Tens of millions of dollars have already been spent and leveraged by the Baltimore Heritage Area for resource identification, conservation development and interpretation.

The second reason why we need to act now, Baltimore's National Heritage story framed under the overarching theme of portal to American identity. That is the overarching theme identified in our feasibility study fill big gaps in the American story like the period between the Revolution and the Civil War. The significance of Baltimore in the War of 1812 in defining our national identity, character and position on the world stage.

How African Americans like Baltimore's Frederick Douglass and Thurgood Marshall forged their own freedom, actively defended it and served as national leaders in the struggle for opportunity for all Americans. Highlighting the forces shaping the great wave of immigration of the 19th century and how Baltimore created an industry out of greeting immigrants and sending them along to destinations across the American continent, second only to New York as a port of entry for many years.

Last, celebrating the revitalized urban Chesapeake, the continents largest estuary, a magnificent, fertile, natural resource which provides Baltimore's natural harbor and the setting for the centuries of human activity outlined above. Baltimore is the farthest inland, east coast port closest to the nation's interior. That explains why the significant national events occurred in Baltimore on the shores of the Chesapeake creating a unique world port city, the largest in the six state Chesapeake region.

The third and final reason why we need the partnership now is because of a number of significant national anniversaries staring us in the face coming down on us very quickly. This year is the 100th anniversary of the birth of Thurgood Marshall, architect of the deconstruction of legalized segregation in the United States. Marshall spent his first 26 years in Baltimore. It's where he went to Baltimore City Public Schools and by his own telling learned of the concept of equal protection under the law. It is the rehab of his elementary school where his first experience in a segregated public school system is now underway by the city and state.

2011, just three short years from now, is the 150th anniversary of the first bloodshed of the Civil War on the streets of Baltimore, just 1 week after Fort Sumter, a seminal event in the city which tells the story of a conflicted nation better than any other.

2012, is the 200th anniversary of Congress and President Madison declaring war on England, just 30 years after the close of the Revolution. In an extraordinarily high stakes gamble, Baltimore gave the Nation an incredible reversal of fortune when, against the greatest military power in the world, just after the darkest moment in our national history, when Washington was laid waste. In the process gave us perhaps our most potent national symbol, the flag and an anthem.

Baltimore has a proud tradition of taking care of itself and our nation and of being an attentive steward of our national heritage stories and resources. We have more than 53,000 buildings listed in the National Register of Historic Places. That's vastly more, that's at least twice as much more than any other city in the country.

We are blessed with leaders like Fells Point's Barbara Mikulski, who hails from the same neighborhood that gave us Frederick Douglass and Billy Holiday. The Senator fought in the trenches to protect our national and cultural resources from destructive interstate highway construction back in the 1960 and 1970. To quote from the Senator in a standard stump speech from that time, "the British couldn't take Fells Point, the termites couldn't take Fells Point and the State Roads Commission can't take Fells Point."

But we have finally found our voice to ask you for a Federal partnership through the National Park Service to help us be better stewards of these national resources. We respectfully request you to act favorably, now, because we need not only the financial partnership that NHA designation provides, but the recognition, validation and technical assistance from the Park Service that will come. Baltimore's extraordinary successes in historic preservation, environmental restoration and waterfront and neighborhood revitalization have made tourism our third most important industry after health care and education.

It is a competitive tourism world out there as you know, Senator. The cities of our leisure travel competitive set, Washington, Philadelphia, New York and Boston, have long enjoyed deep partnerships and hundreds of millions of dollars of Federal financial investment through the Park Service. Baltimore has not and the pie chart which is included in our written testimony shows that the dramatic disparity. Those cities do tell important national heritage stories, but so does Baltimore.

In closing, I'd like to quote Frederick Douglass, the most important African American of the 19th century. Douglass was born a slave, owned on Maryland's eastern shore. But brought to Baltimore to work in a Fells Point household and purchased a copy of the Columbian Orator at a Fells Point book store.

He read and imitated the rhetorical strategies of speeches of such figures as Plato and Socrates, Napoleon and George Washington. Literacy was for Douglass a new and special revelation. From the moment he learned to read, he understood the pathway from slavery to freedom.

In his 1845 narrative of the life of Frederick Douglass, an American Slave, he wrote, "I look upon my departure from Colonel Lloyd's plantation as one of the most interesting events of my life. It is possible and even quite probable that but for the mere circumstance of being removed from that plantation to Baltimore, I should have today, instead of being here seated by my own table in the enjoyment of freedom and happiness of home, writing this narrative than confined in the galling chains of slavery. Going to live in Baltimore laid the foundation and opened a gateway to all my subsequent prosperity."

Thank you for the opportunity to present our testimony on why the Baltimore merits NHA designation as soon as possible. I just want to acknowledge the Director of the Baltimore Heritage Area, Jeff Buchheit and one of his workers, Katie Callahan Durkin who are here today. I'd be happy to answer any questions. Thank you.

[The prepared statement of Mr. Pencek follows:]

PREPARED STATEMENT OF WILLIAM J. PENCEK, JR., DIRECTOR OF HERITAGE AND CULTURAL TOURISM, OFFICE OF TOURISM DEVELOPMENT, BALTIMORE, MD

Mr. Chairman and members of the committee, I am Bill Pencek, Director of Cultural and Heritage Tourism for the State of Maryland. Prior to joining the State in 2007, I was Director of the Baltimore Heritage Area, a state-certified heritage area, in the office of Mayor Sheila Dixon, and coordinated efforts to secure National Heritage Area (NHA) designation. I am here today representing the City of Baltimore, the State of Maryland, and the hundreds of partners in Baltimore and Maryland working to recognize, protect, develop and interpret Baltimore's many significant national heritage stories.

You have heard from the National Park Service (NPS) about the extensive effort that has gone into Baltimore's self-funded NHA Feasibility Study, and the August 2007 finding by NPS that the Baltimore Heritage Area meets the ten interim criteria outlined in the 2003 Draft Feasibility Study Guidelines. We are very pleased at the NPS finding after the six years of work that has gone in to articulating our case. But we hope that you will not agree with the NPS recommendation that the designation of a Baltimore NHA wait until NHA Program legislation passes. The time to create the Baltimore NHA is now, not only because of the demonstrated national significance of the resource set, and the strength of the partnerships and investment in the Baltimore NHA, but because of a series of very significant American anniversaries that are upon us, as outlined below.

I would like to focus my comments in two areas—1) to summarize the national significance of the historical, cultural, natural and recreational resources of the proposed Baltimore NHA and the importance of these resources to our lives as Americans, and 2) to give a sense of depth of the commitment of state and local government, and other partners, to the resources of the proposed NHA, and how important this designation is to us.

WHY A BALTIMORE NATIONAL HERITAGE AREA?

Baltimore evidences exemplary national heritage themes with intact historic, cultural and natural resources. With 24 National Historic Landmarks, 53,000 buildings listed in the National Register (vastly more than any other American city), and 12 Chesapeake Bay Gateways, nestled in an unparalleled system of parks and water-

ways, and connected by five Maryland Scenic Byways, and an All-American Road, the aggregate resource set is an NHA.

The cityscape of Baltimore was the stage for pivotal conflicts that forged our national identity. Foremost were the actions of a brave citizenry, comprised largely of first-generation immigrants and free and enslaved African Americans, who defeated the British in 1814 in America's "second war for independence." The defense of the nation by the diverse people of Baltimore, against the greatest military power in the world, gave the nation our iconic flag, the Star-Spangled Banner, our national anthem, and a new sense of identity and destiny. The National Historic Landmark Star-Spangled Banner Flag House, where widow Mary Pickersgill and her household of free and enslaved women sewed the flag in August 1813, is a tangible reminder of that story. Francis Scott Key jubilantly celebrated the sighting of that flag, flying over Fort McHenry National Monument and Historic Shrine, foremost of the many sites in the proposed NHA that bring the story to life. The nation's divided loyalties during the Civil War were evidenced no more intensely than in Baltimore, which witnessed the horrific first bloodshed of the War in the Pratt Street Riots, outside President Street Station. The oldest surviving big city train station in the country, the Station has housed the Baltimore Civil War Museum to tell this national story.

Antebellum Baltimore was a notorious center of the domestic slave trade. Yet the city also produced the earliest organized abolition movement in the South. Although a conflicted city, Baltimore offered greater opportunities to African Americans, enslaved, like Frederick Douglass, or free, than any other in America before the Civil War. After Emancipation, Baltimore nurtured giants of the civil rights movement, like Thurgood Marshall. The life of Douglass in Baltimore, and how he came to declare "Going to live at Baltimore laid the foundation, and opened the gateway, to all my subsequent prosperity," is told at the Frederick Douglass-Isaac Myers Maritime Park, and on the Frederick Douglass Freedom and Heritage Trail, designated National Underground Railroad: Network to Freedom sites. The segregated elementary school attended by Marshall, a landmark in the Old West Baltimore National Register Historic District, is being rehabilitated to tell the story of the architect of the desegregation of America's public schools, and of the nation itself. Baltimore's African Americans forged their own freedom and actively defended it, and served as national leaders in the struggle for opportunity for all Americans.

As a major port of entry, Baltimore developed an industry out of greeting immigrants and sending them on to destinations across America. The National Road, the nation's first federally-funded interstate transportation route begun in 1811, now a designated All-American Road, began its way west in Baltimore. Between 1830 and 1917 roughly two million immigrants landed in Baltimore, second only to New York as a port of entry for many years. The Baltimore Immigration Heritage Park is being constructed to tell those stories. Many chose to settle in Baltimore. They built the world's first long distance railroad into the American frontier, and a massive industrial and manufacturing base that propelled the settlement of the continent. World-class institutions, like the Smithsonian-affiliate B&O Railroad Museum, and the Baltimore Museum of Industry, tell the story of the birthplace of American railroading, industry, and the settlement of the continent.

The waves of explorers, entrepreneurs, inventors, and artists drawn to Baltimore's shores have swelled since John Smith sailed into the Inner Harbor in 1608. Baltimore is the farthest inland east coast port, closest to the nation's interior. The Chesapeake, the continent's largest estuary, is a magnificent, fertile, natural resource. This special mix gave rise to the largest city in the six-state Chesapeake region, with a cultural landscape unique among world port cities. Extraordinary inventions like the National Register-listed Johns Hopkins Hospital, the Mount Vernon Place National Historic Landmark District, waterfront Fells Point, the nation's second National Register Historic District, and a remarkable (largely National Register listed) public park system that includes Leakin Park, one of the largest urban wilderness parks remaining on the East Coast, represent some of the Heritage Area's most distinctive and important creations. From clipper ships, to rowhouse ground rents, from cast-iron architecture to urban waterfront revitalization, the unique cultural landscape of Baltimore and its contributions to the nation and the world rise from the Chesapeake.

This is just a sample of the resources and stories thoroughly inventoried in the Baltimore NHA Feasibility Study, which documents a distinctive cultural landscape and unique national heritage stories which can best be experienced in a Baltimore NHA and nowhere else. A Baltimore NHA is compatible with and complements other current and pending NPS units, initiatives and designations. These include, but are not limited to, the Captain John Smith Chesapeake National Historic Trail, the Chesapeake Bay Gateways Network, the proposed Star-Spangled Banner Na-

tional Historic Trail, and the National Underground Railroad: Network to Freedom. Portions of many large American cities are included in NHA's (e.g. Chicago, Cleveland, Detroit, Philadelphia, Pittsburgh, etc.). A number of urbanized NHA's are of limited geographic size (e.g. Augusta Canal NHA, Wheeling NHA, Essex NHA). Some urbanized areas within the Chesapeake Bay Gateways Network region are also within NHA's (e.g. Scranton-Wilkes Barre, Lackawanna Heritage Valley NHA). Several NHA's are crossed by National Trails (e.g. Appalachian National Scenic Trail crosses Delaware and Lehigh Canal and Shenandoah Valley NHA's; Natchez Trace Parkway and National Scenic Trail cross the Tennessee Civil War NHA).

Designation of a Baltimore NHA would celebrate the unique role of the Chesapeake and Baltimore as natural and historic gateways to the North American continent, and as the unique intersection point of at least four major national heritage stories in the Chesapeake landscape. Two of these significant national themes already intersect in Baltimore through NPS programs and activities—the Star-Spangled Banner National Historic Trail and the Chesapeake Bay Gateways Network. Baltimore has a denser geographic (and thus more readily accessible) concentration of sites on the proposed Star-Spangled Banner Trail and in the Chesapeake Bay Gateway Network than any other jurisdiction. With the presence of such significant anchor attractions as the Reginald F. Lewis Museum (the largest museum of African American cultural heritage on the East Coast and a National Underground Railroad: Network to Freedom site) and the Baltimore and Ohio Railroad Museum (a Smithsonian Affiliate), a Baltimore NHA would also tell national stories of the African American experience and immigration, industrialization, and westward expansion better than anywhere. Set in the context of the Chesapeake's largest city, where more than 53,000 buildings are listed in the National Register of Historic Places, the proposed Baltimore NHA is a remarkable national treasure.

LOCAL COMMITMENT AND THE IMPORTANCE OF NHA DESIGNATION

Tourism is the third largest employer in Baltimore, and growing. Among the key sectors for significant growth potential is cultural heritage leisure travel, which generates markedly greater economic and community revitalization benefits in the historic neighborhoods beyond the Inner Harbor, the locus of Baltimore's tourism industry.

Baltimore will continue to suffer an extreme competitive disadvantage in the cultural heritage tourism marketplace, especially when measured against its leisure travel competitive set—Washington, Philadelphia, New York and Boston—unless deeper partnerships with the NPS are established. Chief among the reasons why those cities are perceived by residents and leisure travelers as offering more opportunities than Baltimore to experience authentic cultural landscapes and heritage of national significance is the decades of investment made within them by the NPS. The pie chart* below provides a window to the disproportionate under-investment in our national cultural and natural heritage assets in Baltimore. Baltimore does possess a distinctively unique cultural landscape and national heritage stories, but until now has neither asked nor sought to make its case for broader partnership with and matching investment by NPS.

NHA designation provides Baltimore's best current opportunity for deeper partnership with NPS. The creation of new or expanded units of the National Park System in Baltimore is not currently feasible. NHA designation could provide up to $1 million per year to support activities Baltimore needs to protect, develop and interpret natural and cultural heritage resources which tell important national stories. It could assist Baltimore prepare for the national observance of the bicentennial of the War of 1812, the Battle of Baltimore, and the writing of the Star-Spangled Banner—just a few years away. The actions of a brave citizenry, comprised largely of first-generation immigrants and free and enslaved African Americans, defeated the greatest military power in the world. In the process, they gave the nation our iconic flag, the Star-Spangled Banner—the most revered object in the collection of the Smithsonian National Museum of American History—our national anthem, and a new sense of identity and destiny. In addition to this anniversary, there is a confluence of anniversaries of significant national heritage stories told best in the proposed NHA, beginning in 2008, some of which are outlined below:

2008

- Thurgood Marshall, architect of the deconstruction of legalized segregation in America, was born (1908, 100th)

* Graph has been retained in subcommittee files.

• Captain John Smith explores the Middle Branch of the Patapsco and the Inner Harbor (1608, 400th)

2011

• The first bloodshed of the Civil War occurs during the Pratt Street Riots one week after the firing on Fort Sumter (1861, 150th)

• Construction begun on the Congressionally authorized National Road (1811, 200th).

2012

• The U.S. declares war against Great Britain (2012, 200th).

2013

• The enslaved Frederick Douglass escapes to freedom (1838, 175th).

2014

• Victory against the British at the Battle of Baltimore inspires the writing of the Star-Spangled Banner (1814, 200th).

Perhaps most important, designation of a Baltimore NHA will provide the seal of approval that partnership with NPS and the use of its logo (one of the most recognized brands in the U.S.) will convey in the cultural heritage tourism marketplace, communicating that Baltimore is a destination of national significance and substance.

Now I would like to focus a bit on the enthusiasm and commitment of the some of the non-federal partners that are dedicated to the stewardship, development and investment in the cultural and natural resources of the proposed Baltimore NHA. Foremost among these is the state-certified Baltimore Heritage Area (BHA), and its management entity the BHA Association, a unit of Baltimore city government. Since certified by the state of Maryland in 2001, the BHA Association has invested more than $10 million in Baltimore's national heritage stories. Of this amount, more than $2 million has come from the State of Maryland's Maryland Heritage Area Authority (MHAA) Financing Fund, to support operations and projects. More than 30 organizations are represented on the BHA Association, the management entity proposed for the Baltimore NHA, which with the City of Baltimore has a remarkable record of investment in Baltimore NHA resources as follows:

- Secured more than $2 million in grants from the MHAA for projects throughout the BCHA. Each $1 of MHAA funds invested in the BCHA leverages $27.35 in annual, ongoing state and local tax revenues[1].
- Awarded $550,000 in grants from the BCHA Small Cap Grant Fund to 43 projects throughout the BCHA, leveraging more than $7 million in non-city investments.
- Completed design and secured over $1,000,000 in Federal, State, City and private funds for construction and operation of the Star-Spangled Trails, and the Inner Harbor Trailhead, to encourage exploration of Baltimore in the Inner Harbor and beyond. Recruited and trained Urban Park Rangers to lead guided tours on Heritage Walk (www.heritagewalk.org), Mount Vernon Cultural Walk, and the Pennsylvania Avenue Heritage Trail.
- Secured more than $120,000 in foundation and other grants to complete the feasibility study for the creation of a Baltimore National Heritage Area, to access Federal financial and technical assistance for cultural heritage resource research, protection, development, and interpretation.
- Created a mini-grant program to assist less well-resourced organizations develop cultural heritage projects.
- Launched Authentic Baltimore, www.authenticbaltimore.org, a program to certify the sites, services and events that authentically convey the heritage of Baltimore to residents and visitors.
- Conducted numerous workshops, the most recent of which was co-sponsored with the Alliance of National Heritage Areas, which attracted more than 75 NHA representatives from around the nation.
- Supported a full-time Heritage Education and Outreach Administrator who coordinated and expanded the activities of the Greater Baltimore History Alliance, a consortium of 50 Baltimore-area history museums, and doubled their membership.

[1] Investing in Our Communities: Maryland's Heritage Areas Program, Maryland Department of Housing and Community Development, November 2003.

- Completed the successful K-12 pilot initiative, "Defense of a Nation: Baltimoreans and Their Role in the War of 1812," involving 50 teachers and 1,400 public school students, and sustained its subsequent annual operation.
- Partnered with the Baltimore City Public School System to design and implement activities funded by Teaching American History, a program of the U.S. Department of Education, to teach American history at Baltimore's history museums, and secured more than $1 million in grant funds to implement the program.
- Secured $130,000 in Federal Highway funding to complete a BHA/Charles Street Scenic Byway interpretive plan.
- Lead efforts to assist development of the Arabber Center (Upton Cultural Visitor Center) using $400,000 in funds in the City's FY '09 capital budget.
- Lead efforts to rehabilitate PS 103 and create a Thurgood Marshall/Baltimore civil rights interpretive center, using $250,000 in Baltimore's FY 2008 capital budget and a $100,000 Preserve America grant.
- Coordinated securing a $2 million bequest for the city-owned H. L. Mencken House and completion of lease agreement for the house with the Society for the Preservation of H.L. Mencken's Legacy.
- Secured funds to hire staff/consultant to coordinate planning for the national observance of the War of 1812 Bicentennial in Baltimore.
- Coordinated the City of Baltimore's $1.4 million contribution to the planning and construction of the new Fort McHenry Visitor Center, an amount matched by the State.

This brief recounting of the contributions and commitment of the City of Baltimore and the State of Maryland to stewardship, development and interpretation of course leaves out the even larger contributions made by the many non-governmental organizations involved with the resources of the proposed NHA—which collectively exceed those of the City of Baltimore and the State of Maryland.

In closing, the merits of a Baltimore NHA are clear. NHA designation would bring significant added value to our collective efforts. Recognition and validation of the significance of Baltimore's national heritage stories by the NHA program would be of great benefit. Designation will bring focus and leadership to new partnerships and collaborations that would otherwise not take place. New and exciting investments and techniques in stewardship, development, and interpretation will result. At the same time, NPS will receive extraordinary leverage for its investment in a Baltimore NHA, that it does not currently enjoy, by partnering with a high-performing state-certified heritage area—whose history and resource set deeply enrich and complement the offerings of our National Heritage Areas. The approaching anniversary period 2008-2014 brings with it the momentum of opportunity for maximum benefit to residents and visitors, and the likelihood of the greatest impact from our investments.

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

Gale Illig, we'll hear from you now.

STATEMENT OF GALE ILLIG, GRANTWOOD VILLAGE, MO

Mr. ILLIG. Mr. Chairman, thank you for inviting me to testify before you this afternoon. I speak for myself and more than 100 of my neighbors. My name is Gale Illig. I live with my wife, Sarah in Grantwood Village, Missouri, which is a small suburb of St. Louis County.

Sarah and I have a small commercial holiday decorating business that we operate out of our home. After a number of years of saving in 1984, we bought our home in Grantwood Village. It is a modest three bedroom home, but one that we love and have worked hard to care for and improve over the years. This home is where we raised our family and now spend our retirement years.

We are not a family of great wealth and the equity in our home represents our most significant asset. When we bought our home we especially liked the quiet and secluded community. A screened-in sun porch in the south side of our home is one of our favorite

rooms. Outside the sun porch and further to the south is a now abandoned Missouri Pacific Railroad right of way.

We own the land over which the abandoned rail line once ran. The tracks themselves were just a single line and they were infrequently used. Between the tracks and our home was a large attractive hedge which gave us privacy.

In 1992, MoPac abandoned the railroad right of way. Because of the Trails Act, the Federal Government gave a trail group this land. This was now—there are now hundreds of people biking and walking through our land where we previously enjoyed a quiet and secluded home.

Now I want to be very clear that we do not oppose trails, paths or recreation trails. To the contrary, we think parks and trails are an important part of our community. It's just that when the Federal Government runs a trail through our private property throughout our—without our consent and we believe that we should be fairly compensated for this taking of our property.

This public trail now runs just several feet from our sun room. We have always understood that the fifth amendment provides a guarantee that if our property were to be taken by the government we would be compensated. The government took our land more than 15 years ago. We spent more than 6 years in a lawsuit with the government seeking to be compensated for the government's taking of our land.

In that lawsuit the Justice Department agreed that the Federal Government had taken 72,000 in value from our home from us. This is a significant portion of the equity in our home which was appraised at having a value of less than 300,000. The Justice Department agreed that they should pay us money and that they were responsible to make this payment a just compensation under the fifth amendment. The Justice Department also agreed to pay us interest because it was now 15 years since our land was taken.

As we get older we face the realistic understanding that we will not be able to live in our home forever. The value that Sarah and I have built up in our home is an asset that we look to provide for our needs when we reach a point where we no longer can care for this home and need to move into other living arrangements. For this reason the 72,000, which may not be much money to the Federal Government is quite literally huge to us.

This is why we are so pleased the case was settled in December 2004. Two days before the hearing to approve this settlement authorizing payment for compensation to us the Court of Appeals decided a Georgia Trails Act case, Caldwell vs. the United States. The government claimed the Caldwell case retroactively changed the law and meant that now the Federal Government no longer had to pay us what they had agreed to pay us for the taking of our land.

Understand that this is not because the government did not take our land. Everyone agrees that the government took our land. Now the Justice Department, because of the Caldwell decision claims they took our land 9 months earlier and therefore should not have to pay us. We received no compensation. The government, of course, gets to keep our land.

A very simple principle is involved. The government has taken our land. The government agreed that they had taken our land. The government agrees how much they owe us for the taking of our land. Including interest and the government is required by the United States Constitution to pay us this just compensation for taking our land.

Then, at literally the last minute, they claimed the law has changed retroactively because the Caldwell case. So they no longer have to pay us. This is just flat wrong. Our neighbors that own land on the same trail run and two miles to the north were paid when the trail was extended over their land, but we have not been paid.

We understand from the dissenting judge in the Caldwell case that the court issued a decision that is contrary to Congress' intentions of how the Federal Trails Act was intended to work. The Caldwell decision means that the government must give property owners when it merely authorizes negotiations that made possibly lead to a trail and not when property is actually taken for a trail. This makes no sense.

Sarah and I have always worked hard, saved our money and paid our taxes. We expected the Federal Government should treat us in the same fair and just manner. We must tell you that we see this effort by the Justice Department to now escape the Federal Government's clear Constitutional obligation to pay us the very fundamental and very substantial injustice. For that reason I am and the other property owners in St. Louis County are extremely grateful toward Senators McCaskill and Bond and Congressman Carnahan, Akin, Clay, Emerson and Graves' efforts to correct this injustice. We are very grateful for this Committee providing this opportunity to hear this important legislation.

S. 2073, the Trails Act Technical Correction Act is narrowly drafted to strengthen the Trails Act, save taxpayers money and make sure that those landowners, such as myself are fairly treated. Mr. Chairman, Sarah and I thank you. We thank Senators McCaskill and Bond, the members of this committee and their staff for your work on this important piece of legislation.

Thank you again for the great honor and privilege of appearing before you today. Thank you.

[The prepared statement of Mr. Illig follows:]

PREPARED STATEMENT OF GALE ILLIG, GRANTWOOD VILLAGE, MO

S. 2073

My name is Gale Illig. I live with my wife Sarah in Grantwood Village, Missouri which is a small suburb in St. Louis County. Sarah and I have a small commercial holiday decorating business that we operate out of our home.

After a number of years of saving, in 1984 we bought our home in Grantwood Village. It is a modest three bedroom, two bathroom, slightly more than 2,000 square foot home but one that we love and have worked hard to care for and improve over the years. This home is where we have raised our family and now spend our retirement years. We are not a family of great wealth and the equity in our home represents our most significant asset.

When we bought our home in 1984, one of the features that appealed to us was the quiet and secluded community and location. A screened-in sun porch on the south side of our home is one of our favorite rooms. Outside the sun porch and further to the south is the now abandoned Missouri Pacific Railroad right-of-way. We own the property over which the MoPac held an easement for this now abandoned

rail line. The tracks themselves were just a single line and they were infrequently used. Between the tracks and our home was a large, attractive hedge which gave us privacy.

In 1992 a not-for-profit organization negotiated with MoPac to acquire this abandoned railroad right-of-way. The federal government gave the trail group the authority to acquire this abandoned railroad right-of-way property and to prevent us from using our property. We understand that the federal Trails Act gave them this ability to take our property even though under Missouri law we owned this land and had the right to use and occupy our land once it was abandoned by MoPac. While the railroad had a full 100 foot wide easement, they only used a very narrow 12 feet that was occupied by the train tracks and, as I mentioned, it was used infrequently before it was abandoned.

The private trail group transferred this trail easement to the St. Louis County Parks Department. The County now claims the legal right to use the full 100 foot width of the original railroad easement, including the right to cut and remove all of the trees and other landscaping on this part of our land. There are now hundreds of people biking and walking through our property where we previously enjoyed a quiet and secluded home. The Trails Act did not just create a trail across our land but also created a new easement across our yard for a railroad or light rail to possibly be built over our property in the future. Under Missouri law we owned this land free of any easement for either a public access trail or a railroad

Now, I want to be very clear that we do not oppose the Trails Act or recreational hiking and biking trails. To the contrary, we think parks and recreational trails are an important part of our community. We support public recreational trails in our community. It is just that when, as in our situation, the federal government runs the trail through our private property without our consent we believe that we should be fairly compensated for this taking of our property. This public access trail now runs just several feet from our sunroom which was our favorite place to relax in our home.

We have always understood that the Fifth Amendment to the U.S. Constitution provided us the guarantee that if our property were to be taken by the government we would be compensated. I mentioned that we are a family of modest means and this is true. This causes us to feel even more painfully the effect that this taking of our property has had upon our own home value.

The government took our property more than 15 years ago. We (and our neighbors) spent more than 6 years in a lawsuit with the government seeking to be compensated for the government's taking of our land. In that lawsuit, the Justice Department agreed that the federal government had taken $72,065 in the value or our home from us. This is a significant portion of the equity in our home which was appraised as having a value of less than $300,000. This amount was determined by not one but two separate appraisers, one of which was hired by the Justice Department. The Justice Department also agreed that they would pay us this money and that they were responsible to make this payment of "just compensation" under the Fifth Amendment of the U.S. Constitution. The Justice Department also agreed to pay us interest on this because it has now been 15 years since our land was taken. The Justice Department's agreement that they would pay us was long overdue but was very welcome.

As we get older we face the realistic understanding that we will not be able to live in our home forever. During the fifteen years since the trail was created, I have suffered both cancer and a multiple heart valve replacement. The value that Sarah and I have built up in our home is an asset that we look to provide for our needs when we reach a point where we can no longer care for this home and need to move into other living arrangements. For this reason the $72,065 plus interest since 1992, while maybe not much money to the federal government, is quite literally huge to us. This is why we were so pleased when the case was settled in December, 2004.

Sarah and I are not alone. There are almost 100 other land owners that the Justice Department agreed to pay for the taking of their property before the Caldwell decision was issued. (I have included copies of a few of my neighbor's letters with this testimony.)* The total amount due all these property owners for the value of their land was agreed by the Justice Department to be $2.3 Million. Again, I understand that this is not a lot of money to the federal government and—if the Caldwell decision is not corrected by this legislation—the federal government will be required to unnecessarily pay many times more money for claims where no property is ever converted to a trail and for interest before the property is ever taken.

Two point three million dollars is, however, a lot of money to the almost 100 homeowners whose home equity was taken. Some of these homeowners have homes

* See Appendix II.

less than 1,000 square feet on lots less than one fifth acre worth $70,000. Yet all of these property owners are families that have worked hard to pay for their home and care about their property and community. All of these families-according to the property values agreed to by the Justice Department—had a significant portion of their home equity taken. For some the property taken had a value of only $1,900 but this is a significant amount of money for these families. Other homeowners have since sold their homes and now live in assisted care facilities. These homeowners are still looking to this (much delayed) compensation for the taking of their home equity that they depend on for their living expenses.

Two days before the hearing with the federal Judge to approve the settlement authorizing payment of compensation to us, the Court of Appeals for the Federal Circuit decided a Georgia Trails Act case—Caldwell v. United States. The government claimed this case changed the law and meant that now the federal government no longer had to pay us what the Justice Department had agreed to pay for the taking of our land. Understand that this was not because the government did not take our property. Everyone agrees that the government took our property. Now the Justice Department—because of the Caldwell decision—claims that they took our property nine months earlier and therefore should not have to pay us. The government, of course, gets to keep our land.

I am not a lawyer so maybe that is why I cannot understand the nuance of this, but, to us, a very simple principle is involved. The government has taken our land, the government agreed that they have taken our land, the government agrees how much they owe us for taking our land, including interest, and the government is required by the U.S. Constitution to pay us this "just compensation" for taking our land. Then, at literally the last minute, they claim the "law has changed" retroactively because of the Caldwell case so they no longer have to pay us. This is just flat wrong! And, no amount of legal nuance can make it right.

Our neighbors that owned the land on the section of the same trail running two miles to the north were paid when the trail was extended over their land. But, we have not been paid.

We understand from the dissenting judge in the Caldwell case and from our own attorneys that the two-judge majority in Caldwell issued a decision that is also contrary to Congress' intention of how the federal Trails Act was intended to work. In addition, the Caldwell decision means that—while we do not get paid for the taking of our property—the government must pay much more for property in the future when negotiations for a possible trail are authorized, even when no trail is ever created. The government must also pay interest for time during these negotiations for a possible trail, even before any property is converted to a trail.

Since the Caldwell decision means that the government must pay property owners when it merely authorizes negotiations that may possibly, ultimately lead to a trail and not when property is actually taken, the government would end up paying a property owner even if that person ultimately does not have a trail and railroad easement imposed on their property. Also, because the date of taking is earlier, the government, in every case, will be obligated to pay more in interest. This makes no sense.

Sarah and I have always worked hard, saved our money, and paid our taxes and we expected that the federal government would treat us in a fair and just manner. We must tell you that we see this effort by the government to now escape their clear constitutional obligation to pay us (and the other one hundred property owners from whom they admit taking property) as a very fundamental and very substantial injustice.

For that reason, I and these other property owners in St. Louis County are extremely grateful for Senators McCaskill and Bond and Congressmen Canaan, Akin, Clay, Emerson and Graves's effort to correct this injustice. We are very grateful for this Committee providing this opportunity to hear this important legislation. Senators McCaskill and Bond have shown admirable bi-partisan leadership in crafting S. 2073 to make sure that Sarah and I and our neighbors will receive compensation for the government taking our property while at the same time saving the federal government money by making the Trails Act work as originally written by Congress at less cost to taxpayers.

S. 2073—The Trails Act Technical Correction Act—is narrowly drafted to strengthen the Trails Act, save taxpayers money and make sure that those land owners such as myself are fairly treated. This is a good law, and one for which I am proud of both of my Senators for sponsoring.

Mr. Chairman, Sarah and I thank you. We thank Senators McCaskill and Bond, the members of this Committee and your staff, for your work on this important piece of legislation. Especially in an election year we hear a lot about partisan division in Congress. Well, Senators Bond and McCaskill's support of this legislation

and the similar bi-partisan support this bill enjoys in the House of Representatives is a very gratifying experience. It is very encouraging to me to see that when the United States Senate recognizes that citizens have suffered an injustice at the hands of their federal government, this Committee and the United States Senate will work to correct that injustice.

Thank you again for the great honor and privilege of appearing before you today.

Note: *See Appendix II for supplemental statement submitted by Gale Illig.*

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

Mr. ILLIG. Thank you.

Senator AKAKA. Now we'll hear from Lorelei Monsanto.

STATEMENT OF LORELEI MONSANTO, SPOKESPERSON, ONE CAMPUS GROUP, ST. JOHN, VI

Ms. MONSANTO. Good afternoon.

Senator AKAKA. Good afternoon.

Ms. MONSANTO. Thank you, Senator Akaka for having this meeting today. My name is Lorelei Monsanto. I know in Hawaiian you say "Lee", but it's Lorelei.

I represent a group called One Campus. Mr. Chairman, on the onset I would like to express my appreciation to this committee on two counts. Firstly, for affording me the privilege to appear before you today to give testimony on H.R. 53 and second for the committee's foresight in going directly to the people of St. John to hear what we have to say on matters of vital concern to us, thereby giving us a real sense of participating in the affairs of the Island.

One Campus has walked alongside our delegate, Donna Christensen, to create a much needed partnership with the local government and the National Park System in regards to education. Our dream is to create a full body environment for the children, residents, visitors and the Virgin Islands National Park. One Campus motto is "educate the whole child through math, science, reading and hands-on expression through the environment in which they live and die."

I am here before you to request your support on bill H.R. 53. All of you have the children of the Island of St. John on your shoulders. The decision made here today will affect us with the partnership between the management agency of the Virgin Islands, the Department of the Interior and the residents of the Virgin Islands.

The residents on St. John do not support a swap of any kind. With the rumor of swapping lands on St. Croix for one in St. John is like asking Texas to give land to Vermont. The Virgin Islands has limited land mass and no comparison to support a land swap is warranted. In fact, we need to develop our own land banks to support our needs.

St. John is only eight miles long and comprised of 12,322 acres of land mass. Of that 7,400 acres, plus or minus, belongs to the National Park. 50, plus or minus acres belongs to the local government which is being used. The balance is owned by hotels, businesses and residents alike. So you can see from the basic map all of these sources are limited.

Another aspect you need to consider is that the Virgin Islands are a territory and you can adjust territories needs differently. The National Park of the Virgin Islands is like no other park in the United States. Can you please show me any island that is owned

three-fourths by the Federal Government and not by the people it serves?

The park has always been an aloof neighbor. But now it needs to be a viable partner who will support and work together to achieve new standards with community and park. The park has changed our lives both for the good and the bad from affecting our property taxes to promoting tourism, not living up to its own mandates to employ from the local base and not even knowing its own boundaries. These items and more have brought us here today.

H.R. 53 requests a lease on a parcel of land known as the Bishop property consisting of 55 acres. This Bishop left a reversionary clause for the land for the purpose we are now seeking, an educational complex, grades K–12. She was a visionary that wished the land be utilized with a partnership of the National Park.

We would also like a mid-Island visitor center, a science center, including marine and botany studies. An expansion of a local job corps to educate the local base to work within the park as plumbers, electricians, rangers, interpreters and managers of the National Park which surrounds them. Imagine a National Park that works truly with the community in which it surrounds. Guests from all over the world can come to St. John and marvel how the National Park Service and the local government educated a future generations with a global partnership.

The environmentalists may say this cannot happen and must not happen. But the question is not, excuse me, why, but how can we make it happen. The friends of the National Park say that they will support whatever action the Congress recommends. They know there is truly a need for an educational complex.

Other groups such as the Sierra Club stresses that and I quote, "ecology is not a fad." I agree. To let us help the very children of the Virgin Islands learn about the environment in a hands-on approach. The VI National Park and us needs the Sierra Student Coalition.

We all have to work on this partnership. The National Park Conservation Association motto is "protecting our National Park for future generations." What does it truly mean?

On an island that is eight miles long the mass of the children are unaware of the very existence of a National Park. We need the NPCA to show us how they can assist in helping the future to refer about sciences and special resources we have. There is also the Land for Public Trust. Their motto, "conserving land for the people." This group works with Congress to garner support for Federal funding to purchase land.

The question remains who are these people conserving for? The recently purchased over 400 acres known as Maho Bay. They could have easily used some of that land to assist in a swap to assist the children's needs for a complex. However it appears they had no such interest.

Residents who were against this lease gave One Campus the biggest gift ever. They hired a local appraiser to locate land for a school because they did not want it "in their back yard." I have attached a copy of the document for your review where you can the land values are unaffordable for the local government who will

have to build the school. Also the lands noted are not conducive for an educational facility.

One Campus has met these same residents who were against the lease and have positively engaged with us and now we have a new organization called Kid's First by these very residents. So this proves partnerships and bridges can and will be built. Attached is their press release* on this wonderful engagement.

The residents of St. John have been down this road less traveled before. Congress met to condemn the Island in the 1960s. Here we are now to request land for an educational facility and partnerships with the National Park and environmentalists.

St. John is my home. My children and the children of St. John will know that they have all the enabling rights given to them to learn, to become one with the environment in which they live. I have faith and belief that this congressional committee will allow the lease for an educational complex with restrictions to ensure the protection of a National Park, residents of St. John and the Island of St. John.

In closing, I thank you. One Campus and the children thank you for the opportunity afforded us.

[The prepared statement of Ms. Monsanto follows:]

PREPARED STATEMENT OF LORELEI MONSANTO, SPOKESPERSON, ST. JOHN, VI

Good Afternoon Chairman Bingaman and other members of the Committee on Energy and Natural Resources. My name is Lorelei Monsanto and I represent the group called One Campus. Mr. Chairman and members, at the outset I would like to express my appreciation to this committee on two counts; firstly for affording me the privilege of appearing before you today to give testimony on HR 53 and secondly for the committee foresight in going directly to the people of St. John to hear what we have to say, on matters of vital concern to us. Thereby, giving us a real scents of participating in the affairs of the island.

One Campus has worked along side our Delegate, Donna Christiansen to create a much needed partnership with the local government and the NPS in regards to education. Our dream is to create a full-bodied environment for the children, residents, visitors and the VI National Park.

One Campus motto is "Educated the whole child through math, science, reading and hands on expression through the environment in which they live and thrive."

I am here before you to request your support on bill HR 53. All of you have the children, of the island of St. John on your shoulders. The decision made today will affect us with the partnership between the Management agency of the VI and the residents of the Virgin Islands.

The residents on St. John do not support a swap of any kind. With the rumor of swapping land on St. Croix for land on St. John is liken to asking Texas to give up land for Vermont. The Virgin Islands has limited land mass and no comparison to support a swap is warranted. In fact, we need to develop our own land bank to support our own needs.

St. John is only eight miles long and comprised of 12,322+-acres is land mass. Of that 7,400+-acres belongs to the National Park, 50+-acres belongs and is being used by the local Government and the balance owned by hotels, businesses and residents alike. So, you see our resources are limited.

Another, aspect you need to consider is that the U.S. Virgin Islands are a territory and you can address territories needs differently. The National Park of the Virgin Islands is like no other park in the UNITED STATES-it owns more than ¾s of the island and still growing.

The Park has always been a aloof neighbor, but now needs to be a viable partner who will support and work together to achieve new standards with Community and Park. The Park has changed our lives both for the good and the bad. From affecting our property taxes, to promoting tourism, not living up to its own mandate to em-

* Document has been retained in subcommittee files.

ploy from the local base as well as not knowing the Parks own boundaries. These items and more have brought us here today.

H.R. 53 requests a lease on a parcel of land known as the Bishop property consisting of 55 acres. Ms, Bishop left a reversionary clause for this land for the purpose we are seeking—A EDUCATIONAL COMPLEX, grades K-12. She was a visionary that wished this land by utilized with the partnership of the NPS (see attached deed of conveyance). We also would like a mid island visitors center, science center including marine and botany studies. An expansion of a local job corps to educated the local base to work in the park, as plumbers, electrician, rangers, interpreters and managers of the NPS that surrounds them.

Imagine a NPS that works truly with the Community in which it surrounds. Guest from all over the world can come to St. John and marvel of how a NPS and local Government educated the future generations with a global partnership.

The Environmentalist may say no this can not happen and must not happen, but the question is why not and how can we make it happen!

The Friends of the Virgin Islands National Park have stated they will support whatever action the Congress Recommends. They know there is truly a need for this Educational Complex (see attached letter).* Other groups such as the Sierra Club's stresses that the "ecology is not a fad" and I agree, so let us help the very children of the VI learn about the environment in a hands on approach. The VI needs the Sierra Student Coalition. We all have to work on this partnerships. The National Parks Conservation Association's motto is "Protecting our National Park for Future Generation". What does this really mean? On a island that is 8 miles long the mass of the children are unaware of the National Park. We need the NPCA to see how they can assist in helping the Future they refer to, (Virgin Island Children), about the sciences and precious resources we have. There is also the Land for Public Trust. Motto-"Conserving land for People". This group works with Congress to garner support for federal funding to purchase lands. The question remains who are the people they are conserving for? They recently purchased over 400 acres known as MAHO Bay and could have easily used some of that land to assist in a swap to assist the children's need for a complex; however it appears they had so such interest.

Residents, who were against this lease, give One Campus the biggest gift ever. They hired a local appraiser to locate land for a school because they do not want it in "their back yard". I have attached the document for your review you can see the land values are unaffordable for the local Government who will still have to build the school. Also, the lands noted are not conducive for a Educational facility. One Campus has met with some on the Residents who were against the lease and have positively engaged them and now we have an new organization call Kid's First by these very residents. So this proves partnerships and bridges can and will be built. Attached is their press release on this wonderful engagement.

The Residents of St. John have been down this road less traveled before. Congress met to condemn the island in the 60's and here we are now with a request for land for an educational facility and partnership with the NPS and the environmentalist St. John is my home, my children and the children of St. John will know that they will have all the enabling rights giving to them as they learn to become one with the Environment in which they live.

I have the faith and believe that this congressional committee will allow the lease for a educational complex with restrictions to ensure the protection on the NPS, residents of St. John and the Island of St. John.

Senator AKAKA. Thank you very much, Lorelei. Mr. Pencek, it sounds like you've done all of your homework on your proposed heritage area. The Park Service doesn't appear to have any specific issues with the bill. So I'm not aware of any outstanding issues that you have. But I want to thank you for coming and getting on the record your thoughts about what has happened. We really do appreciate that.

Mr. PENCEK. Thank you, Senator, for the opportunity.

Senator AKAKA. Mr. Illig, I think you've very clearly laid out the issue from your perspective. So I don't have any specific questions for you at this time. As I mentioned to the National Park Service witness earlier, I may send written questions to the Department of

* See Appendix II.

Justice. If we need to clarify any issues based on their response I may submit additional questions to you as well.

But at this point in time I do not have any questions for you.

Mr. ILLIG. Thank you, Senator.

Senator AKAKA. Thank you very much for testifying for this committee.

Mr. ILLIG. Thank you, sir, appreciate it.

Senator AKAKA. Ms. Lorelei Monsanto, as you know the Administration is opposing this bill, 53. The lease of the National Park land is likely to be controversial in the Senate. In your opinion is any form of land exchange a possible alternative or do you believe that the lease is the only option?

Ms. MONSANTO. Sir, we have done our research. We did investigations. We found where there was approximately 500 plus acres that was earmarked by the Jackson Hole Preserve as the delegate testified that land went into private hands. We have exhausted all our resources in looking for alternatives. So we feel the lease would be the better interest.

The land will still be owned by the National Park. They will still have control of the land. We're not asking them to give us an outright conveyance.

We're trying to work as a partnership. We have an Island that is, as we testified, surrounded by a National Park. The kids are unaware of what's happening with the National Park.

There's something also. Rockefeller got this land from local people. They thought they were giving this land for the needs of their children and their children to come, for generations to come. And here we are at this crossroad just because the name Rockefeller was attached. We're forgetting where Rockefeller got the land from. So I think we really need to look at the bigger picture.

Senator AKAKA. I thank you very much for your testimony today. My counterpart here, the ranking member mentioned that I ask about another way of maybe looking at it in a land exchange. I think we still need to look at it. As we know now that the National Park has opposed the bill and will continue to look at this. Thank you so much for being here today.

I want to thank each of you for testifying this afternoon. Your testimony will help us better understand the issues that you have and we face now. The bills that Mr. Illig and Ms. Monsanto have testified on raises more complex, legal policy issues. We will continue to work with the sponsors of those bills to see if we can work out a workable solution.

Before we close today I want to let you know that some members of the committee were not able to be here this afternoon may submit additional questions in writing. If we receive any questions we will forward them to you and ask you to respond to them so that we may include both the questions and answers in the official hearing record.

Senator AKAKA. Again I want to thank you for your testimonies. The committee is adjourned.

[Whereupon, at 4:05 p.m. the hearing was adjourned.]

APPENDIXES

APPENDIX I

Responses to Additional Questions

RESPONSES OF DANIEL N. WENK TO QUESTIONS FROM SENATOR AKAKA

S. 662

Question 1a. What is the status of the Harriet Beecher Stowe home in Maine? For example, is it privately owned, is it listed in the National Register, and is it in good condition?

Answer. The house is currently owned by Bowdoin College and is not open to the public. It is listed on the National Register of Historic Places and is also a National Historic Landmark. Recently Bowdoin College commissioned historic structure reports on the house. The reports found that the building has been extensively modified and that little remains of the interior from 1850-1852 when Stowe was in residence, although the basic structure is in reasonably good condition and the exterior appearance of the house has not been altered as much as the interior. The house was used as a commercial inn and restaurant for many years and renovations for those purposes remain.

Question 1b. Harriet Beecher Stowe also owned a home in Hartford, Connecticut. What is the status of the home in Hartford and will that property be included in the study authorized by S. 662?

Answer. We know of at least two other houses associated with Harriet Beecher Stowe, one in Cincinnati, Ohio and one in Hartford, Connecticut. Both houses are open to the public. As part of the special resource study, these two sites, which commemorate Harriet Beecher Stowe's life, will be reviewed.

S. 827

Question 2a. Has the National Park Service or anyone else conducted a study to determine the feasibility of establishing the Freedom's Way National Heritage Area?

Answer. The study for a potential Freedom's Way National Heritage Area was conducted in 1997 by the proposed management entity, the Freedom's Way Heritage Association, Inc., and the Massachusetts Dept. of Environmental Management. The National Park Service (NPS) reviewed the feasibility study and found that it did not fully address the interim national heritage area criteria. Representatives of the NPS Northeast Region conducted field reconnaissance visits in November 2000. Based on the findings of the reconnaissance team, the Freedom's Way Heritage Association, Inc. submitted an addendum in April 2001. The NPS evaluated that addendum, as well as the original feasibility study, and found that the criteria were fully addressed and met. While the proposed Freedom's Way National Heritage Area contains significant natural and cultural resources and meets the established criteria for congressional designation, we would again request that the committee defer action on S.827 until national heritage area program legislation is enacted.

Question 2b. How many other National Heritage Areas are there in Massachusetts and New Hampshire and what is it that makes Freedom's Way unique?

Answer. There are no national heritage areas in New Hampshire. There are 4 heritage areas that include part of Massachusetts within its boundaries:

- John H. Chafee Blackstone River Valley NHC (MA/RI)
- Quinebaug & Shetucket Rivers Valley NHC (CT/MA)
- Essex NHA (MA)
- Upper Housatonic Valley NHA (CT/MA)

In terms of what makes the Freedom's Way National Heritage Area unique, this is a region that substantively influenced our democratic forms of governance and the development of intellectual traditions that underpin the concepts of American freedom, democracy, conservation, social justice, and ethnic diversity. Historically prominent leaders in literature and intellectual thought found the region to be a source of inspiration including Henry David Thoreau and Louisa May Alcott. It was also the locale for expressions of religious freedom and social experimentation with the settlements of such groups as the Shakers. The events that occurred here during the American Revolution include the ride of Paul Revere and the engagements at Lexington and Concord.

S. 923/H.R. 1528

Question 3a. Is the New England National Scenic Trail a hiking trail?

Answer. The trail is a combination of existing trails that wind through Massachusetts and Connecticut and that are primarily devoted to hiking. Some sections support additional uses such as horseback riding and mountain biking.

Question 3b. How much of the land associated with the trail would be owned by the National Park Service?

Answer. There is no existing federal land associated with the proposed trail route. The study concluded that at this time, there is no need for federal acquisition by the NPS. However, both bills provide the ability to purchase land from willing sellers if that is deemed advisable in the future.

Question 3c. How much of the trail is in private ownership and does the National Park Service plan on someday owning the entire trail in fee?

Answer. The ownership of land across the two states varies. Some of it is state-owned, some privately owned, some of it is owned by corporations, some by municipalities, and some by non-profits. Part of the trail crosses public roads and public water utilities. None of it is owned by the federal government. The NPS does not plan on owning any of the trail in fee.

S. 956

Question 4a. Will this designation as a National Heritage Area place any new restrictions on property owners' regarding use or development of their property?

Answer. This legislation places no restrictions on owners of private property including zoning and land use regulations. The legislation also provides protection for private property rights tailored to the specific needs of the region.

Question 4b. Have National Heritage Area designations in any state had any adverse impact on private property?

Answer. As of 2007, there were over 61 million people who live in the 37 designated national heritage areas and to date, we have found no examples of private property complaints stemming from a NHA designation. The March 2004 GAO-04-593T report documents that the heritage area program has had no adverse impact on rights of private property owners.

S. 2073

Question 5. The rails-to-trails program is not administered by the NPS. Please direct these questions to the appropriate office in the Administration.

Answer. You are correct that the NPS generally is not involved in the rails-to-trails cases that arise under the National Trails System Act (the "Act"). The Surface Transportation Board (STB) of the Department of Transportation has authority over the construction, operation and abandonment of most of the nation's rail lines. The STB also has authority to issue a Notice of Interim Trail Use ("NITU") under Section 8(d) of the Act, 12 U.S.C. §1247(d), when the conditions for such a notice are met.

The NPS referred Question 5 regarding the Act to the Department of Justice (DOJ), which handles, on behalf of the United States, the cases that these questions concern. S. 2073 would amend the National Trails System Act by establishing an accrual date for Fifth Amendment takings claims brought in connection with the implementation of that Act. The accrual date established by S. 2073 is different from the accrual date determined for such claims by the United States Court of Appeals for the Federal Circuit in Caldwell v. United States, Renewal Bodyworks v. United States, and Barclay v. United States. In these cases, the Federal Circuit determined that the issuance of an original NITU triggers the running of the statute of limitations. S. 2073 would amend Section 8(d) of the Act to state that claims for damages shall not begin to accrue before the date on which a State, political subdivision, or qualified private organization enters into an agreement with the railroad to assume full responsibility for the right-of-way and interim use of that right-of-way.

DOJ also informs us that it previously raised a number of concerns, including constitutional concerns, regarding a similar bill, H.R. 4581, by letter dated August 1, 2006. A copy of that letter is attached. DOJ advises us that the concerns expressed in that letter, including the constitutional concerns, apply equally with respect to S. 2073.

Question 5a. How many property owners are involved in the Missouri dispute and how much will it cost the Federal government to resolve the case if this legislation is enacted?

Answer. The case of Gale and Sarah Illig v. United States is a class action consisting of approximately 140 plaintiffs with claims involving 99 parcels of property along a 6.2-mile railroad right-of-way in St. Louis, Missouri. In December 2004, prior to the decision in Caldwell v. United States, the parties had filed with the court a proposal to settle the class action for approximately $5.2 million, which included the fair market value of the easements taken ($2.36 million), interest calculated under the Declaration of Takings Act, 40 U.S.C. § 258e-1 ($1.55 million), and statutory attorney's fees and costs under the Uniform Relocation Assistance and Real Property Act, 42 U.S.C. §4654(c) ($1.26 million), although we understand that plaintiffs' counsel would actually receive one-third of any settlement or court award, plus expenses, pursuant to a contingent fee agreement. The proposed settlement was never entered because the district court dismissed the Illig plaintiffs' claims in the wake of Caldwell. Approximately 70 of the Illig plaintiffs then appealed, and the United States Court of Appeals for the Federal Circuit resolved those appeals in favor of the United States on April 7, 2008. For the reasons set forth in its August 1, 2006, letter, DOJ believes that the provision of S. 2073 that would allow parties to reopen final court judgments raises serious constitutional concerns. Nonetheless, in answer to the question, the exact amount it would cost the Federal government to resolve this case if S. 2073 is enacted is unknown because we do not know how many of the Illig plaintiffs would be permitted to proceed with their claims or the amount of additional interest and attorney's fees that plaintiffs would seek in connection with the appeal of some of their claims.

Question 5b. I understand that similar issues may exist in Kansas and California. How many cases exist in each of those states and what is the anticipated cost of settlement if this law is enacted?

Answer. There are no pending cases in Kansas or in California that present similar issues. However, the takings claims brought in Barclay v. United States, which involved Kansas properties, and Renewal Body Works v. United States, which involved a California property, were dismissed as time-barred under the claim accrual rule set forth in Caldwell v. United States. The judgments in those cases became final on September 12, 2006. By its terms, Section 2(c) of the proposed law would permit the claimant in Renewal Body Works and some of the claimants in Barclay to seek review of the merits of their claims. (See also discussion above in response to (5(a.)) Since the merits of these claims were never addressed prior to the dismissal of the claims as time-barred, the costs of settlement are unknown at this time. The demand in Renewal Body Works was for $1,242,000, plus interest from the alleged date of taking, attorneys' fees, and costs; in Barclay, there were 25 claims, with the total amount claimed $250,000, plus interest from the alleged date of taking, attorneys' fees, and costs.

Question 5c. Is S. 2073 retroactive and if so, how many other cases are out there that may be resurrected for settlement?

Answer. S. 2073, as written, is retroactive and would resurrect claims that have been dismissed by the courts as time-barred under the applicable six-year statute of limitations. (See also discussion above in response to (5(a.)) Other than the cases identified above, we are unaware of any other rails-to-trails cases previously dismissed as time-barred that would be resurrected by this proposed legislation.

Question 5d. Are you aware of any states other than Missouri, Kansas, and California that have rails-to-trails issues affected by this legislation?

Answer. To date, the Department of Justice has defended several thousand rails-to-trails takings claims in approximately 40 cases involving property in 18 different states. With the exception of the three cases noted above (Illig v. United States, Barclay v. United States, and Renewal Body Works v. United States), we are not aware of any previously dismissed rails-to-trails actions that could be resurrected by this proposed legislation. The only pending case with time-barred claims that would be affected by the proposed legislation is Schneider v. United States, a state-wide class action involving over 2,000 claims in Nebraska, some of which are subject to dismissal under the claim accrual rule set forth in Caldwell v. United States, but would not be subject to dismissal under the proposed legislation.

There are however a number of pending rails-to-trails class actions that would be affected by this proposed legislation in other ways. In each of these cases, the par-

ties have transmitted notices to potential class members that utilize the claim accrual date established in Caldwell v. United States. If S. 2073 is enacted, the parties would be required to issue an amended notice to potential class members, reopen the time period for potential class members to opt-in or opt-out of the pending class actions, and reassess any previously completed appraisal or valuation work. The proposed legislation would also adversely affect the pending claims of some plaintiffs and class members. For example, if the claim accrual date is changed with respect to pending cases, there will be current plaintiffs and class members who are presently eligible to receive just compensation for the taking of their property whose overall compensation will be reduced, or who will become ineligible for any such compensation, due to the change in the claim accrual date. Further, a change in the claim accrual date will result in the dismissal of some pending claims that are timely under the claim accrual date established in Caldwell, but would not be ripe for review under the claim accrual date that would be established by S. 2073.

S. 2513

Question 6a. How is the land proposed for acquisition by this legislation currently being used?

Answer. The bill would expand the park by 67 acres in two, non-contiguous parcels. The Colonel Barrett House and surrounding farmland (Barrett Farm) property includes 64 acres. The Joshua Brooks House property, in Lincoln, includes 3 acres of natural land with a single-family home on the back portion of the property that is currently occupied.

The Barrett House and immediately adjacent farmland is now owned by Save Our Heritage, Inc. a local nonprofit organization, which seeks to preserve it for public use and enjoyment. It is currently being rehabilitated and is open to the public for interpretation a few days a year. Most of the remaining farmland is owned by the Town of Concord and preserved as conservation land.

The only other property actively considered for acquisition or a conservation easement at this time is the 3-acre parcel adjacent to the Joshua Brooks House. It contains a single-family home on the rear portion of the parcel and wetlands on the front portion including part of Elm Brook. The parcel could be acquired in fee or through a conservation easement by NPS.

Question 6b. Does the land proposed for acquisition at Minuteman National Historical Park have any specific interpretive value or is it needed to protect the park from encroachment?

Answer. Yes the Barrett Farm has significant interpretive value and is a key resource in the park's story of the events of 1775 that started the American Revolution. The property at the Joshua Brooks House is part of the original farm properties and its acquisition will help protect the House and its viewshed from imminent inappropriate development.

Question 6c. How will the National Park Service use the property that is proposed for acquisition?

Answer. The Barrett Farm will be used primarily for interpretation; along with formal programs, living history demonstrations will be a central component. There is a remarkable degree of integrity to the Barrett House so Save Our Heritage, Inc. is expected to be involved in the long-term fundraising efforts to complete interior restoration and furnishing of the house. The landscape will be restored as well since farming is a key element of the historic landscape. For the parcel at Joshua Brooks House, the land will protect the viewshed and will also protect a section of Elm Brook, the remainder of which is within the park boundary.

S. 2604

Question 7. What makes the Baltimore National Heritage Area unique and worthy of national designation?

Answer. The foremost reason the area is unique is its role in the defense of Baltimore against the British in 1814 by a populace of largely first-generation immigrants and free and enslaved African Americans. The Star-Spangled Banner, our national anthem, and a new sense of national identity were forged in large part out of this experience. Other resources representing the theme of national identity include the National Road, the Nation's first federally funded interstate transportation route, that begun in 1811 in Baltimore and headed westward. Additionally, Baltimore was a major shipbuilding center beginning with the famous Baltimore clippers, a major port of entry for new immigrants second only to New York, and the starting point and industrial center of the first long-distance railroad into the American frontier.

S. 2804

Question 8a. What is the estimated value of the land identified for addition to the Everglades National Park?

Answer. The Nature Conservancy purchased the land, proposed to be added to Everglades National Park by this bill, for approximately $500,000 in 2003. Applying an escalation amount of six percent overall per year brings the current value to $650,000. The NPS would still need to do an appraisal of the land's current value, as the Department does not pay carrying costs based on escalation.

Question 8b. What is the "Hurricane Hole" mentioned in the legislation, who will be allowed to use it, and how long will they be allowed to use it (that is, for the rest of their life or that of their heirs)?

Answer. The Hurricane Hole is a small body of water, located on the northeastern section of the property, where boat owners have traditionally moored their sailing vessels during tropical storms and hurricanes.

It was the original intent of NPS staff to permit only sailboat owners who had previously demonstrated use of the Hurricane Hole to be allowed to secure their vessels there during storms. However, subsequent discussions within NPS determined that the permit system would be difficult to enforce and may run contrary to maritime law. The Department worked with committee staff to clarify the language in the bill relating to the Hurricane Hole. The bill, as reported out of committee, states that the Secretary "may allow use of Hurricane Hole by sailing vessels during emergencies, subject to such terms and conditions as the Secretary determines to be necessary."

H.R. 53

Question 9a. How many schools currently operate within the boundaries of a national park unit?

Answer. There are eight schools that operate within the boundaries of a national park:

- Three schools in Yosemite National Park, all operated by a local school district;
- One school in Death Valley National Park, operated by a local school district;
- One school in Yellowstone National Park, operated by NPS, which is closing at the end of the 2007-2008 school year;
- One school in Grand Canyon National Park, operated by the state;
- One school in Valley Forge National Historical Park, operated by a private concern in a leased space; and
- One school in Big Bend National Park, operated by the San Vicente Independent School District.

There are six elementary schools, six junior or senior high schools and two colleges/ universities operating within the boundary of Santa Monica Mountains National Recreation Area. None of these schools are located on National Park Service-owned land.

Question 9b. What if any national park units currently lease land or real property to a government or private entity and what is the primary use of the leased property?

Answer. Attached is a listing of all current leases within the National Park Service, as reported to the seven NPS regional offices.

Question 9c. The NPS witness mentioned at the hearing on April 23, 2008, that Virgin Islands National Park expects to receive various parcels of land in the near future. What are the specific parcels that are due to be received by NPS (please provide a map that illustrates their location) and is there any opportunity to work with the current land owner and the Virgin Islands Government to treat the acquisition as an exchange for the 10-acre site?

Answer. The Trust for Public Land has purchased more than 400 acres on the island of St. John. These lands, part of the once-private Estate Maho Bay and located in the area highlighted in the attached map,* will be acquired by NPS in the near future. However, park staff knows of no other parcels that are slated to be purchased by or transferred to the National Park Service.

The National Park Service remains engaged with the territorial government on finding solutions to the school issue.

Question 9d. A large portion of Virgin Islands National Park was originally acquired form the Rockefellers with restrictions regarding future use. Is the land proposed for lease a part of the land acquired from the Rockefellers?

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*Map has been retained in subcommittee files.

Answer. The land proposed for the long-term lease is not part of the original 1958 land grant from Laurance Rockefeller. It was purchased in 1968 as part of the Estate Catherineberg parcel and is not subjected to the reversionary clause that governs the Rockefeller lands.

H.R. 1483

Question 10a. Have any National Heritage Areas reached the end of their initial authorization without being reauthorized?

Answer. The Illinois and Michigan National Heritage Corridor reached the end of its authorization for federal funds in 2004. However, in 2006 Congress reauthorized its funding for an additional 15 years. In addition, the authority for federal funding for Cache la Poudre National Heritage Area has expired. But in general, most national heritage areas that reached the end of their initial authorization were reauthorized for additional funding. We hope by requiring an evaluation three years before the cessation of federal funds, the heritage area will plan for how to secure funding through non-NPS sources, thus working towards self-sufficiency.

Question 10b. What type of relationship would the National Park Service maintain with a National Heritage Area if it was not reauthorized by Congress?

Answer. While the designation of a national heritage area continues indefinitely, federal funding normally expires after a 15-year period. When federal funding to a heritage area expires, the NPS is still authorized to provide technical assistance to a heritage area. Because many heritage areas contain one or more park units, the partnership between the heritage area and the NPS remains an important part of carrying out the area's management plan and protecting and interpreting resources associated with nationally important stories on a larger scale.

PARK LEASE INFORMATION
8/1/2007

Region	Lease Name	Park	Lessee	Authority	Description
AKR	Boss Bakery Building	Klondike Gold Rush National Historical Park	Karl and Rosemary Klupar, Boss Bakery, LLC	P.L. 105-391	Retail sales of packaged baked goods, beverages, and associated gift items.
AKR	Red Front Building	Klondike Gold Rush National Historical Park	Alaska Fur Gallery, Inc.	P.L. 105-391	Retail sales of fur and leather clothing and gift items.
AKR	Pantheon Saloon Building	Klondike Gold Rush National Historical Park	Mirson's International, Ltd., dba Princess World Jewelers	P.L. 105-391	Retail sales of diamond, gold, and tanzanite jewelry.
AKR	Lynch & Kennedy Dry Goods Store	Klondike Gold Rush National Historical Park	Lynch & Kennedy Dry Goods, Inc.	P.L. 105-391	Retail sales of art and craft items, clothing, jewelry, and objets d'art. Second floor employee quarters and office.
AKR	Pacific Clipper Line Office	Klondike Gold Rush National Historical Park	Klondike Tours, Inc.	P.L. 105-391	Retail sales of children's apparel and fabric quilts.
AKR	Hern Liquor Store Building	Klondike Gold Rush National Historical Park	Klondike Tours, Inc.	P.L. 105-391	Retail sales of sightseeing tours and hand-carved wooden flutes.
AKR	Boas Tailor & Furrier Shop	Klondike Gold Rush National Historical Park	W. Jeff Brady	P.L. 105-391	Offices for the Skagway News Company, Publishing *The Skagway News*, twice monthly; retail sales of books, magazines, newspapers, recordings, etc.
AKR	Verbauwhe de's 'Cribbs' Bldg	Klondike Gold Rush National Historical Park	David A. Lee	P.L. 105-391	Sightseeing tour office and retail sales of tours, souvenirs, and related items.
AKR	Frederick Verbauwhe de Confectione ry	Klondike Gold Rush National Historical Park	Casey McBride	P.L. 105-391	On-premises manufacture and retail sale of gold nugget jewelry, and retail sale of other jewelry items.
IMR	No leases				
MWR	Brown & Hammond / Cranz Farms	Cuyahoga Valley National Park •	National Historic Inns, Inc. 8230 Brandywine Road Sagamore Hills, OH 44067	36 CFR Part 18, Historic Property (prior to PL 105-391)	Historic Property. Used as lodging accommodations, restaurant, meeting facilities. Brown Farm: approx. 6.57 acres, four structures: house, garage, greenhouse, barn. Hammond Farm: approx 9.61 acres, 7 structures: house, 2 smokehouses, carriage house, chicken house, 2 barns.
MWR	Parry Farm	Cuyahoga Valley National Park	Michael/Margaret Lytz 1274 W. Steels Corner Road Cuyahoga Falls, OH 44223	36 CFR Part 18. Historic Property (prior to PL 105-391)	Countryside Initiative. Site consists of farmland and homestead. Total acres approx 50.55. Structures: house, garage. Lessee operates diversified fruit production enterprise with vineyard, orchard, and berries grown for wines, juices, jams, preserves, pies, tarts, etc.

MWR	Wallace Farm	Cuyahoga Valley National Park	National Historic Inns, Inc. 63 College Street Hudson, OH 44235	36 CFR Part 18, Historic Property (prior to PL 105-391)	Historic Property. The James Wallace Farm. Operated as a bed and breakfast inn. Property contains approx. 2.53 acres.
MWR	Bathhouse Row	Hot Springs National Park	IN PROCESS OF LEASING Six structures	PL 105-391 & 2002 36 CFR Part 18	Historic Property. Bathhouse Leasing Feasibility Analysis includes six structures: the Hale, Lamar, Maurice, Ozark, Quapaw, and Superior historic bathhouses. 1) Quapaw leased 4/20/07 -- 55 year lease to Quapaw Baths LLC for Family Spa -- use of thermal waters, children's swimming club, coffee shop and reception room, catering
NCR	Piper Farm	Antietam National Battlefield	Mr. & Mrs. Lou Clark	36 CFR Part 18	One historic house and two small outbuildings (springhouse and slave quarters) on approximately two acres. Operated as a bed and breakfast, and is residence for the Clarks.
NCR	Frederick Kasekamp (Cooper) House	Chesapeake and Ohio Canal NHP	Jennifer Sterner, Dwayne Sterner and Andrew Lesisko	36 CFR Part 18	Private, seasonal residence
NCR	Lockhouse 10	Chesapeake and Ohio Canal NHP	Michael & Melissa Gaffney	36 CFR Part 18	Private residence
NCR	Christian Smith (Myers) House	Chesapeake and Ohio Canal NHP	Art and Ingrid Stressel	36 CFR Part 18	Private residence
NCR	West House	Chesapeake and Ohio Canal NHP	Donald F. Handy (David Ritter, sub-lessee)	36 CFR Part 18	Used by Outer Quest (specializing in adventure recreation activities as a local headquarters.)
NER	Old City Hall	Lowell National Historical Park	1st Holding Trust	Former Historic Leasing Authority	Office space--Under review for a new AMD
NER	Market Mills Bldg	Independence National Historical Park	Lowell Telecommunications Company	Former Historic Leasing Authority	At the end of five year option
NER	Parking Garage	Independence National Historical Park	Philadelphia Parking Authority	Former Historic Leasing Authority	Parking garage. Lease finalized 2008.
NER	Thomas Bond House	Independence National Historical Park	Thomas Bond House Association	Former Historic Leasing Authority	Hotel -- 99 year lease
NER	Kennedy Supplee House	Valley Forge National Historical Park	Piazza Associates	Former Historic Leasing Authority	Restaurant. Letter of Intent with Piazza Associates
NER	David Walker Farmstead	Valley Forge National Historical Park	in process	36 CFR Par 18	Montesori School
NER	Valley Forge Post Office	Valley Forge National Historical Park	United States Postal Service	36 CFR Part 18	Post Office. New lease signed 07/07
NER	Ellis Island Kitchen Bldg	Statue of Liberty National Monument	Save Ellis Island Foundation	36 CFR Part 18	Kitchen and Laundry Building

NER	Bullet Hole House	Minute Man National Historical Park	William Hall & Myra Harrison	New Historic Leasing Authority	Residential lease. Extended for additional year
NER	Burke House	Minute Man National Historical Park	The Thoreau Society	New Historic Leasing Authority	Office space lease
NER	Ahern House	Cape Cod National Seashore	Michael J. Seiser	Former Historic Leasing Authority	Single Family Residence-- Historic lease
NER	Cliff Park Inn	Delaware Watergap National Recreational Area	Cliff Park Associates	Carry Over From Acquisition	Hotel, Restaurant & Golf Course
NER	Slateford Farm	Delaware Watergap National Recreational Area	Hal Bromm	36 CFR Part 18	Historic Building -- commercial use
NER	Reynolds House	Morristown National Historical Park	Great Swamp Watershed	36 CFR Part 18	Three year lease -- Office Space
NER	Fort Hancock	Gateway National Recreation Area/Sandy Hook	Sandy Hook Associates	36 CFR Part 18	33 Historic Buildings -- still in litigation
NER	Apartments	Johnstown Flood National Memorial	Various Renters	Carryover from Acquisition	Leases are not up for renewal
PWR		Golden Gate National Recreation Area	Fort Mason (lower)	36 CFR Part 18	Fort Mason Foundation, lessee with a lease term of up to 60 years based on performance to the phased development plan. The FMF organization currently has the parking, Gatehouse, Guardhouse and Firehouse (event rental space) until 12/2010. The remainder of the buildings are under a Cooperative Agreement. If FMF satisfactorily meets all the conditions precedent to Phase 2 of the phased improvement development and preservation plan, the FMF lease can be expanded to acquire the entire premises under a lease term of 20-25 years for performance. The 38 resident non-profits groups assigned to the Fort Mason Foundation will convert to sub-lessees when the entire premises is under lease.
PWR	Fort Mason (upper)	Golden Gate National Recreation Area		36 CFR Part 18	(24 residential buildings leased to individuals)
PWR	Quarter 2	Golden Gate National Recreation Area	Darren Palm and Jason Huck	36 CFR Part 18	residential
PWR	Quarter 3	Golden Gate National Recreation Area	Evan Thornley	36 CFR Part 18	residential
PWR	Quarter 7E	Golden Gate National	Gareth Wood	36 CFR Part 18	residential

		Recreation Area			
PWR	Quarter 7W	Golden Gate National Recreation Area	Caron Stempek	36 CFR Part 18	residential
PWR	Quarter 36E	Golden Gate National Recreation Area	Mark Kamal	36 CFR Part 18	residential
PWR	Quarter 36W	Golden Gate National Recreation Area	Mark Cashel	36 CFR Part 18	residential
PWR	Quarter 38N	Golden Gate National Recreation Area	Tim Lee	36 CFR Part 18	residential
PWR	Quarter 38S	Golden Gate National Recreation Area	Rob Knaiz	36 CFR Part 18	residential
PWR	Quarter 39E	Golden Gate National Recreation Area	Julie Wajsman	36 CFR Part 18	residential
PWR	Quarter 39W	Golden Gate National Recreation Area	R. Gardner	36 CFR Part 18	residential
PWR	Quarter 41	Golden Gate National Recreation Area	Kenneth and Emily Blaske	36 CFR Part 18	residential
PWR	Quarter 42	Golden Gate National Recreation Area	Michelle Antic	36 CFR Part 18	residential
PWR	Quarter 43	Golden Gate National Recreation Area	Tom Fejes	36 CFR Part 18	residential
PWR	Quarter 44	Golden Gate National Recreation Area	Pat Shereck	36 CFR Part 18	residential
PWR	Quarter 46	Golden Gate National Recreation Area	Mr. and Mrs. Fleischer	36 CFR Part 18	residential
PWR	Quarter 47	Golden Gate National Recreation Area	Mr. and Mrs. Scott Case	36 CFR Part 18	residential
PWR	Quarter 48	Golden Gate National Recreation Area	Brandon Petri	36 CFR Part 18	residential
PWR	Quarter 49	Golden Gate National Recreation Area	Todd Rossoff	36 CFR Part 18	residential
PWR	Quarter 50E	Golden Gate National Recreation Area	Melissa Henkel	36 CFR Part 18	residential
PWR	Quarter 50W	Golden Gate National Recreation Area	Carl Blakey	36 CFR Part 18	residential
PWR	Quarter 35N	Golden Gate National Recreation Area	Oceanic Society	36 CFR Part 18	Office Lease
PWR	Quarter 35S 1st	Golden Gate National Recreation Area	Yacht Racing Assn.of SF Bay/ Sailing Education Adventures	36 CFR Part 18	Office Leases - 2
PWR	Quarter 35S 2nd	Golden Gate National Recreation Area	Animal Fund	36 CFR Part 18	Office Lease
PWR	Fort Barry	Golden Gate National Recreation Area		36 CFR Part 18	

PWR	955 A&B Simmonds Road	Golden Gate National Recreation Area	The Marine Mammal Center	36 CFR Part 18	essential marine hospital & rescue employees
PWR	956 A&B Simmonds Road	Golden Gate National Recreation Area	The Marine Mammal Center	36 CFR Part 18	essential marine hospital & rescue employees
PWR	Fort Baker Retreat and Conference Center	Golden Gate National Recreation Area	Fort Baker Retreat and Conference Center	36 CFR Part 18	Commercial -- term up to 60 years
PWR	Ford Assembly Building	Rosie the Riveter/World War II Home Front National Historical Park	Ford	Authority: Specifically provided in enabling legislation	The park will lease the Ford Assembly Plant for provision of visitor services
PWR	Hazlett Warehouse	San Francisco Maritime National Historical Park	Kimpton Corporation	36 CFR Part 18	Hazlett Warehouse Leased to Kimpton Corporation - Argonaut Hotel
SER	Land Parcel	Big Cypress National Preserve	Crown Castle	inherited through a land exchange agreement, thus it will not be converted to a NPS lease under 36 CFR Part 18 until it expires in 2014.	Communications tower, ID No. 1020923 leased to Crown Castle
SER	Land Parcel	Big Cypress National Preserve	Quest Communications	36 CFR 14, as a right of way permit	Utilization of lands pursuant to the Right-of-way Permit along Loop Road; Quest Communications
SER	Historic District Developme nt Bldg.	Martin Luther King, Jr. National Historic Site	Historic District Development Cooperation	36 CFR Part 18	House (six rooms) leased to Historic District Development Cooperation (HDDC)
SER	Leslie Barber Shop	Martin Luther King, Jr. National Historic Site	Leslie Jordon	36 CFR Part 18	A small commercial shop leased to Leslie Jordon (Barber Shop)
SER	Plum Orchard	Cumberland Island National Seashore	In process of leasing	36 CFR Part 18	Plum Orchard at some point will be leased

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RESPONSES OF WILLIAM J. PENCEK, JR., TO QUESTIONS FROM SENATOR BURR

S. 2604

Question 1. What do you see as the benefits of national designation as a heritage area?

Answer. There are several major benefits that would result from designation as a national heritage area. The most significant of these include:

- Benefits to the public (resident, and regional, national and international visitors)

—Filling big cultural heritage gaps.—There are big gaps in understanding the diversity and complexity of our nation's cultural heritage, particularly the formative years of the new republic between the American Revolution and the Civil War. The Baltimore National Heritage Area (BNHA) will have a distinct (but non-exclusive) focus on the historic, cultural, natural, recreational and scenic resources of national significance which illuminate that seminal period. The over-arching interpretive theme for the BNHA, as identified in the feasibility study, is "Portal to American Identity." As outlined in the study, among the four biggest national heritage stories that will be highlighted are:

- the impact and outcomes of the War of 1812
- the African American push for equality and opportunity
- immigration, industrialization and westward expansion
- the unique cultural expressions of the largest city on the Chesapeake, the continent's largest estuary.

The resource set in the BNHA illustrating these stories is as rich as, and may be richer than, any other.

—Improving the visitor experience.—The financial and technical resources made available through designation will significantly enhance the ability of the BHNA to implement the recommendations of its interpretive plan, now underway. The interpretive plan will provide a blueprint for the investments needed to speak to residents and visitors using the most engaging and rewarding methods and techniques.

- Benefits to local and state BNHA stakeholders

—Increased financial and technical resources.—The Baltimore Heritage Area Association, the proposed management entity for the BNHA, will be eligible for up to $1 million annually over 15 years ($10 million maximum). This will boost the Association's ability to leverage significant public and private funds. The organization has demonstrated, since 2002, that it is highly capable of raising substantial funds for operations, programming and capital and non-capital projects. A portion of any federal funds appropriated and awarded for the BNHA will go for direct expenditures by the Association, but as outlined in #3 below, the largest portion of the funding is anticipated to be re-granted through cooperative agreements with partner organizations for priority projects indentified in the management plan. Similarly, the invaluable technical assistance of the National Park Service (NPS) will benefit the Association directly, but is expected to be of even greater benefit to partner organizations within the BNHA.

—Recognition in the cultural heritage tourism marketplace.—As outlined in the written testimony provided to the Subcommittee, Baltimore is at an extreme competitive disadvantage in the important cultural heritage tourism marketplace, relative to the cities in its leisure travel competitive set: Washington, Philadelphia, New York and Boston. This is not because the resources or national heritage stories of the BNHA are less significant, plentiful or well-conserved or -interpreted. This is in significant part because of the financial, technical and marketing assistance from NPS which those cities have enjoyed for decades, as well as the "seal of approval" that the NPS logo and brand represent in the marketplace. BNHA, the Association and its partners will proudly leverage the brand recognition and respect that comes with the NPS arrowhead, and the opportunities for reaching the public in new ways.

—Assistance in exploring the feasibility of new or expanded national park units.—In two instances, the feasibility study outlines the need for examination of the feasibility of new or expanded national park units—the possible expansion of the Fort McHenry National Monument and Historic Shrine to include other significant War of 1812-related resources in the BNHA, and the creation of a new unit related to Thurgood Marshall including his home, elementary school and other resources. Designation of the BNHA will assist in sustaining the momentum to ensure these examinations take place as soon as possible.

- Benefits to NPS, U.S. Department of the Interior

—Filling big cultural heritage gaps.—As outlined above, the resource set and the national heritage stories in which the BNHA is strong happen to be areas where NPS can benefit substantially. These are resources and stories from a period which can and should be much better represented in NPS park units and in the national heritage areas.

—A robust partner.—The BNHA and the Association, certified by the state of Maryland in 2002, have an extraordinary record of accomplishment, and bring to the table many innovative best practices to benefit NPS and the network of national heritage areas. Among its most significant accomplishments:

• Secured over $2 million in grants from the Maryland Heritage Areas Authority (MHAA) for projects throughout the state-certified Baltimore Heritage Area (BHA). Each $1 of MHAA funds invested in the BHA leverages $27.35 in annual, ongoing state and local tax revenues[1].

• Awarded $550,000 in grants from the city-funded BHA Small Cap Grant Fund to 43 projects throughout the BHA, leveraging more than $7 million in non-city investments.

• Completed design and secured over $1,000,000 in federal, state, city and private funds for construction and operation of the Star-Spangled Trails (www.starspangledtrails.org), and the Inner Harbor Trailhead, to encourage ex-

[1] Investing in Our Communities: Maryland's Heritage Areas Program, Maryland Department of Housing and Community Development, November 2003.

ploration of BHA in the Inner Harbor and beyond. Recruited and trained Urban Park Rangers to lead guided tours on Heritage Walk (www.heritagewalk.org), Mount Vernon Cultural Walk, and the Pennsylvania Avenue Heritage Trail.

• Secured more than $120,000 in foundation and other grants to complete the BNHA feasibility study, rather than using Federal funds, as is customary.

• Created a mini-grant program to assist less well-resourced organizations develop cultural heritage projects.

• Launched Authentic Baltimore, www.authenticbaltimore.org, a program to certify the sites, services and events that authentically convey the heritage of Baltimore to residents and visitors.

• Conducted dozens of workshops reaching thousands of individuals. Among the most recent was co-sponsored with the Alliance of National Heritage Areas, which attracted more than 75 NHA representatives from around the nation.

• Supported a full-time Heritage Education and Outreach Administrator who coordinated and expanded the activities of the Greater Baltimore History Alliance, a consortium of 50 Baltimore-area history museums, and doubled their membership.

• Completed the successful K-12 pilot initiative, "Defense of a Nation: Baltimoreans and Their Role in the War of 1812," involving 50 teachers and 1,400 public school students, and sustained its subsequent annual operation.

• Partnered with the Baltimore City Public School System to design and implement activities funded by Teaching American History, a program of the U.S. Department of Education, to teach American history at Baltimore's history museums, and secured more than $1 million in grant funds to implement the program.

• Secured $130,000 in Federal Highway funding to complete a BHA/Charles Street Scenic Byway interpretive plan.

• Led efforts to assist development of the Arabber Center (Upton Cultural Visitor Center) using $400,000 in funds in the City's FY '09 capital budget.

• Led efforts to rehabilitate PS 103 and create a Thurgood Marshall/Baltimore civil rights interpretive center, using $250,000 in Baltimore's FY 2008 capital budget and a $100,000 Preserve America grant.

• Coordinated securing a $2 million bequest for the city-owned H. L. Mencken House and completion of lease agreement for the house with the Society for the Preservation of H.L. Mencken's Legacy.

• Secured funds to hire staff/consultant to coordinate planning for the national observance of the War of 1812 Bicentennial in Baltimore.

• Coordinated the City of Baltimore's $1.4 million contribution to the planning and construction of the new Fort McHenry Visitor Center, an amount matched by the State.

• Coordinated successful efforts to increase to $3 million the ceiling for the Maryland Heritage Area Authority Financing Fund.

NPS can take significant advantage of the resource set and innovative best practices which have proven successful in the BNHA.

Question 2. Most heritage areas begin operating as a state-sponsored activity before seeking federal designation. The Baltimore Heritage Area was endorsed by the state of Maryland in 2001. How much was the operational budget for the Baltimore Heritage Area in 2007 and what was the source of funds?

The BHA's operating budget for fiscal year 2007 (July 1, 2006 to June 30, 2007) was as follows:

OPERATING BUDGET

LINE ITEMS	MARYLAND HERITAGE AREAS AUTHORITY	CASH MATCH	IN-KIND MATCH	TOTAL
Director	50,000	32,000		82,000
Education and Outreach Administrator	25,000	12,000		37,000
Trail/Byway Mngr	25,000	25,000		50,000
Urban Park Rangers		12,800		12,800
Benefits		24,600		24,600
Contract services		10,000		10,000
Operating Expenses			25,000	25,000
TOTAL	**100,000**	**116,400**	**25,000**	**241,400**

Sources of Cash Match

City of Baltimore	29,400
Foundation	20,000
Private Donors	20,000
Greater Baltimore History Alliance	12,000
Federal Highway Administration	25,000
Tourism Cares for Tomorrow	10,000
TOTAL	**116,400**

In kind match of $25,000 was made available from the City of Baltimore for office space and equipment, and administrative support, communications, duplication, and mail services.

In addition to the operating budget, BHA benefitted from another $3 million in leveraged heritage area investments. BHA was awarded $245,00 in MHAA projects grants; $250,000 in city capital budget funds for the Star-Spangled Banner Trails; $250,000 in city capital budget funds for PS 103/Thurgood Marshall's School; $110,000 from the Chesapeake Bay Gateways Network for the Inner Harbor Promenade; $130,000 from the State Highway Administration for the Charles Street Interpretive Plan; $1 million in Teaching American History funds; and $7,500 from the Baltimore Community Foundation for the Field Trip Transportation fund for Baltimore City Public School students. BHA also awarded $200,000 in city capital budget funds to 12 cultural heritage projects in the heritage area.

Question 3. What are your priorities for use of federal funds if this designation is approved?

Answer. In general, consistent with the 37 other National Heritage Areas, funds would be used to assist 1) preparing, updating, and implementing a management plan; 2) making grants to, and entering into cooperative agreements with, the State of Maryland, private organizations, non-profit organizations or any other person; 3) hiring and compensating staff; 4) entering into contracts for goods and services; 5) acquisition of properties or interests in properties by gift, devise, or by purchase from a willing seller using donated or appropriated funds; and 6) undertaking any other initiatives that advance the purposes of the Heritage Area under the law. Organized in the categories listed above, an initial award of up to $1 million would likely be used as follows:

ACTIVITY	FEDERAL FUNDS	STATE FUNDS	CITY AND OTHER FUNDS	TOTAL
Management plan	50,000	25,000	25,000	100,000
Grants and cooperative agreements	750,000	200,000	200,000	1,150,000
Staff	100,000	100,000	100,000	300,000
Contracts for goods and services	100,000	50,000	50,000	200,000
Property acquisition	0	0	0	0
Other	0	50,000	200,000	250,000
TOTALS	**1,000,000**	**425,000**	**575,000**	**2,000,000**

More specifically, as outlined in the feasibility study, some of the major priorities of the BNHA over the next few years include investments in:

- Planning and implementing the national observance of the bicentennial of the War of 1812, the writing of the Star-Spangled Banner, and the making of the flag.
- Planning and implementing the creation of an interpretive center on the national legacy of Thurgood Marshall and Baltimore's national civil rights history in PS 103, the historic elementary school attended by Marshall.
- Assisting in planning and implementing the rehabilitation and environmental restoration of the Middle Branch of the Patapsco River and its associated historical, cultural, natural, scenic and recreational resources. Visited by Captain John Smith in 1608, the Middle Branch is rich in War of 1812, industrial, and recreational resources, aquatic life and birds.
- Implementing the Charles Street corridor management plan and securing America's Byway designation.
- Managing the successful re-use of President Street Station (the site of the first bloodshed of the Civil War, listed in the National Register of Historic Places and the National Underground Railroad Network to Freedom); the Peale Museum (the nation's first purpose built museum and a National Historic Landmark) and the H.L. Mencken House (a National Historic Landmark); and the Arabber Center (Upton Cultural Visitor Center in the Old West Baltimore National Register Historic District).
- Completing and implementing a heritage area-wide interpretation plan to improve experiences for residents and visitors.

RESPONSES OF GALE ILLIG TO QUESTIONS FROM SENATOR BURR

Question 1. How long have you been seeking compensation for land taken to establish the trail?

Answer. The federal government took our land almost 16 years ago. The Justice Department and a federal judge agree that our land was taken by the federal government in 1992. The STB issued a NITU on March 25, 1992, that authorized negotiations for a possible rail-to-trail conversion of our land. The NITU provided that if the railroad and the trail sponsor did not reach an agreement for a trail conversion within 180 days the railroad easement would be abandoned without any trail being created. On October 6, 1992, this 180 day period was extended for 60 days. It was again extended on December 4, 1992, for 27 days until December 31, 1992. We were never sent any notice of the NITU or of these extensions to the NITU. We had no knowledge that our land was subject to a possible rail-trail conversion.

On December 30, 1992 the railroad and the trail sponsor reached an agreement and a trail was created on our land. Only after this agreement was reached did the trailgroup begin the process of building the trail and ultimately leasing our land to St. Louis County to operate the public trail. It was not until some time after this trail use agreement was reached and the trail group began constructing the trail that we learned a public trail was to being built on our land.

28 U.S.C. §2501 provides a six years period for filing a compensation claim after the cause of action against the federal government accrues. We filed suit on December 28, 1998, less than six years after the Trail Use Agreement. Federal Judge Bruggink on November 12, 1999, ruled that we had filed this claim in a timely manner because the statute of limitations "clock" did not start to run until the date of the Trail Use Agreement. (i.e. that a claim for the taking of our land did not accrue until it had been converted to trail use with a Trail Use Agreement.) We then endured five years of litigation with the Department of Justice. This lawsuit was fi-

nally resolved with a Settlement Agreement providing for us to be paid. The Settlement Agreement was to be approved by federal Judge Eric Bruggink on December 17, 2004, and Judge Bruggink said he was ready to approve the settlement. However, three days before this, the Court of Appeals for the Federal Circuit issued its decision in Caldwell v. United States and issued a "new rule" for calculating when the statute of limitations "clock" starts running in Trails Act cases. The Justice Department then retroactively applied this "new rule" to our claim and dismissed the case. Judge Bruggink said that the new Caldwell-rule" made no sense, was the "Grinch that stole Christmas" and threw the Trails Act into a "cocked hat" but none the less he was required to follow the Court of Appeals and dismiss our claim.

So, now, almost 16 years later we have still not been paid even though everyone agrees the government took our land and agrees on the value of the land that was taken.

Question 2. How many property owners are involved in the Missouri dispute and how much will it cost the Federal government to resolve the case if this legislation is enacted?

Answer. There are 88 Missouri property owners that were parties to the settlement with the Department of Justice. S. 2073(c) will allow these Missouri landowners to proceed with their claim for "just compensation" and authorize the Court of Claims to allow the Settlement Agreement to be finalized and paid. Under the terms of the Settlement Agreement, the Department of Justice agreed that the value of the land taken from all 88 of these landowners was $2,385,000. This was determined by both appraisers for the Government and appraisers for the property owners and was reviewed by Judge Bruggink. The Settlement also provided for interest on this amount. The rate of interest is to be calculated according to the decision of the Court in Miller v. United States, 08-2489L (Fed Cl.) which used an annual adjusted Moody's AAA rate and would be approximately $4,200,000 from the date of taking December 30, 1992, through March of this year. Slightly more interest would be added for any additional delay in finalizing this payment. The settlement would also reimburse the property owners $902,942 for legal fees and $352,697 in expenses and appraisal costs and other costs they incurred in making their claim for compensation. This is a total of $7,840,639.

Question 3. Is S. 2073 retroactive and if so, how many other cases are out there that may be resurrected for settlement?

Answer. Section C of S. 2073 provides:

> REVIEW OF CERTAIN CLAIMS—Notwithstanding any other provision of law, the court in which the claim was originally filed shall review on the merits, without regard to the defense of res judicata or collateral estoppel, any claim that—
>
> (A) was brought against the United States, by the owner of property that is subject to a railroad right-of-way and to interim use described in paragraph (1) of section 8(d) of the National Trails System Act, for damages sustained by reason of such section 8(d);
>
> (B) was dismissed, before the date of the enactment of this Act, for not being brought within the time period provided under section 2401 or 2501 of title 28, United States Code; and
>
> (C) would have been considered to have been brought in a timely manner if the amendments made by subsection (a) had been in effect when the claim was brought, if the claimant applies to the court for such review not later than 60 days after the date of the enactment of this Act.

This provision would specifically allow those landowners who had filed a timely claim prior to the Caldwell decision (timely being understood as filed within six years after the date of the Trail Use Agreement) to refile their claim if they do so within 60 days of this Act being enacted. In essence, this "undoes" the retroactive application of the "new rule" announced by the two-judge majority in Caldwell but only for those property owners who had actually filed a claim before Caldwell was decided.

To my knowledge, this would allow only two other cases (other than Caldwell, which involved two landowners in Georgia, and Illig v. United States involving the 88 Missouri property owners) to make a claim for compensation. They are: Barclay v. United States, a case involving 25 individuals and families that own rural property in Kansas and Renewal Body v. United States, a case involving a single landowner (a small family business) near Fresno California. The Barclay and Renewal Body cases were filed before Caldwell but had not yet reached a settlement or final determination of the value of the land taken for the trail.

Question 4. How has the trail affected your land use and property value?

Answer. Each of the Missouri land owners property has been affected differently by the taking of a portion of their land for Grant's Trail. The value of each land owner's property taken for the trail was determined by two appraisers. One appraiser was hired by the Justice Department and one hired by the property owners. Each property was appraised to determine the value of the land taken. In some cases the value of the land taken was only $1,000, as in the case of Mr. and Mrs. Overkamp's home. In other cases it was more significant. Some landowners with homes appraised as worth only $130,000 found that almost $13,000 of their home equity had been taken by the trail. Part of this is because of how close the trail ran to their home or how much of their yard was taken for the trail.

In Sarah and my case, we have a modest three bedroom, two bathroom, slightly more than 2,000 square foot home. Our home was appraised by St. Louis County as worth $300,000. A significant part of our home's value was due to the fact that it sits on a double lot and—before the trail was created—we could divide our property and sell a lot if we needed to. However, because the trail took a 50 foot wide swath of our yard, we can no longer subdivide our home and have lost this additional value.

Also, one of the features that Sarah and I most enjoy about our home is the quiet and secluded community where we live and a screened-in sun porch on the south side of our home. The sun porch is one of our favorite rooms. Outside the sun porch and further to the south is the now abandoned Missouri Pacific Railroad right-of-way. We own the property over which the MoPac held an easement for this now abandoned rail line. The tracks themselves were just a single line located on the far side of the easement and they were infrequently used. Between the tracks and our home was a large, attractive hedge which gave us privacy.

The County—which operates the trail—now claims the legal right to use the full 100 foot width of the original railroad easement, including the right to cut and remove all of the trees and other landscaping on this part of our land. There are now hundreds of people biking and walking through our property where we previously enjoyed a quiet and secluded home.

However, the Trails Act did not just create a trail across our land but also created a new easement across our yard for a railroad or light rail to possibly be built over our property in the future. Under Missouri law we owned this land free of any easement for either a public access trail or a railroad. Now we have the possibility of a future railroad or light rail being built across our property. When the time comes when we sell our home, we will not be able to sell it for as much because 50 feet of our yard is now subject to this rail-trail easement.

The Justice Department and their appraiser had agreed that this creation of a public trail and future railroad across our land had taken $72,065 in the value of our home from us.

Another of the property owners that had joined the settlement is a community athletic association which sponsors baseball and other athletic activities for youth in our neighborhood. The creation of the trail across their land meant that they lost a significant portion of their land used for ball fields.

Again, I want to emphasis that we do not oppose recreational trails or parks nor do we oppose the Trails Act. To the contrary recreational trails and parks are an important benefit to our community. It is just that, as in our case, when one citizens' land is taken so that the general public can enjoy a trail and a future railroad right-of-way is created, those citizens whose land is taken should be fairly compensated for their loss.

RESPONSE OF LORELEI MONSANTO TO QUESTIONS FROM SENATOR BURR

Question 1. Land Lease from National park Service for Virgin Islands School (H.R. 53): How many other sites did the Virgin Island government consider for the proposed school and how was the National Park site selected?

Question 2. Land Lease from National Park Service for Virgin Islands School (H.R. 53): How many children would attend the proposed school and where do they currently attend school?

Answer. (See letter below)

DEPARTMENT OF THE INTERIOR,
NATIONAL PARK SERVICE,
St. John, VI, September 15, 2006.

Hon. CRAIG W. BARSHINGER,
Legislature of the Virgin Islands Senator at Large—26th Legislature, 1302 Cruz Bay, St. John, VI.

DEAR SENATOR BARSHINGER: I am in receipt of your letter requesting an update on the land exchange for a new public school on St. John.

The Virgin Islands National Park (VINP) has identified a parcel of land that would be suitable for the proposed exchange. It would constitute approximately ten acres of Parcel No. 6, Estate Catherineberg. This location was selected for the following reasons:

—not being part of the original Deed of Gift from Laurance Rockefeller, it is not subject to the reversionary clause;
—it is located approximately mid-island, favorable for transporting students from both Cruz Bay and Coral Bay;
—it is located on the boundary of the VINP, adjacent to other development, lessening potential impacts to other park resources;
—it has less slope than most of St. John, making earth-change and mitigation for environmental impacts easier;
—it is located on Centerline Road, eliminating the need to construct new roads; and
—the location is not visible from the ocean, thus not further degrading the St. John viewshed.

With regards to the Virgin Island Government's (VIG) proposal to exchange certain offshore cays for this land there are several concerns. The first is that V1G owned cays within the boundaries of the VINP only comprise 3.02 acres (Booby Rock, Perkins Cay and Whistling Cay). Two other cays (Cinnamon Cay—1.03 acres and Waterlemon Cay—.74 acres) are privately owned. I believe that there has been some discussion of other cays that are located outside of authorized park boundaries, but such an action would require a boundary expansion/adjustment, a very lengthy process that involves Congressional action. In short, it would require the VIG to come up with significantly more land to exchange for what will undoubtedly be ten acres of very valuable VINP land.

Moreover, any lands considered for the exchange will have to be appraised, as the NPS requires that any land exchanges be for lands of comparable value. As this action is being initiated at the VIG's request, the VIG will have to bear the cost of land surveys and appraisals. Likewise, an Environmental Impact Study will have to be prepared demonstrating that the development of a school at this site will have no negative impacts on any park resources. Also, before the NPS transfers any lands, a thorough archeological survey must be done to ensure that the NPS is not giving up and significant cultural resources.

Of course, there will be many other details to be addressed before this becomes a reality, but these are some of the major issues and processes facing us right now.

Sincerely,

ART FREDERICK,
Superintendent.

APPENDIX II

Additional Material Submitted for the Record

STATEMENT OF DR. WILLIAM G. CALE, JR., PRESIDENT, UNIVERSITY OF NORTH ALABAMA, ON H.R. 1483

Mr. Chairman, and members of the National Parks Subcommittee: On behalf of the University of North Alabama (UNA), I am pleased to share our strong endorsement for creation by the federal government of the Muscle Shoals National Heritage Area.

I am aware that the U.S. House of Representatives has approved this designation by passing H.R. 1483, the Omnibus Parks Bill that includes the Muscle Shoals National Heritage Area.

UNA presently acts as the local coordinating entity for this project and we have been deeply involved with feasibility work. Through those efforts the advantages to this region have crystallized into a compelling case.

Speaking now as a university president, I envision joint opportunities between the university and the proposed Muscle Shoals National Heritage Area that will enhance the region educationally, culturally, and economically. UNA is home to one of the few academic programs in the nation training future professionals in the music industry.

The synergies that would emerge from a national designation for a heritage area that is already part of our curriculum are obvious and will serve to preserve, enrich, and build upon this musical history.

We are proud to have a world-class Geography Department that will be able to assist in fulfilling a portion of the mission of this heritage area through sophisticated mapping and GIS technologies, helping us to preserve and better understand the unique history of the region.

This region's history includes development along the Tennessee River after the advent of the TVA and Wilson Dam, and the westward expansion of the nation after the first railroad west of the Allegheny Mountains began here. The list of compelling attributes of the six-county region is lengthy, and harkens to the Civil War, the Trail of Tears, and a very unique civil rights history that includes not only African Americans but also Native Americans.

The designation of the Muscle Shoals National Heritage area is an important project to our region, and UNA looks forward to being a partner in its success.

APPALACHIAN MOUNTAIN CLUB,
April 23, 2008.

Hon. DANIEL K. AKAKA,
Chair, Subcommittee on National Parks, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN AND HONORABLE MEMBERS OF THE COMMITTEE: On behalf of the Appalachian Mountain Club (AMC), we are pleased to submit our testimony in support of S. 923 and H.R. 1528 which would amend the National Trails System Act to designate the New England National Scenic Trail. In January, the House of Representatives approved the designation, and we look forward to expeditious Senate action to complete the legislative process on this regionally significant resource.

Founded in 1876, the Appalachian Mountain Club is America's oldest nonprofit conservation and recreation organization. With 90,000 members, AMC promotes the protection, enjoyment, and wise use of the mountains, rivers, and trails of the Appalachian region. AMC maintains over 1,700 miles of trail throughout the Northeast and our members contribute over 35,000 hours annually in volunteer trail stewardship.

This 190-mile Metacomet-Monadnock-Mattabesett (MMM) trail system has been in existence for over 50 years, stretching through 39 communities in Western Mas-

sachusetts and Central Connecticut. The New England National Scenic Trail Act would designate much of the MMM Trail System in Connecticut and Massachusetts as the New England National Scenic Trail.

Nearly 2 million people live within 10 miles of the trail, which travels through some of the best examples of the classic New England landscape with stunning scenery and natural resources. At a time when Americans are becoming increasingly disconnected from nature, the trail provides a valuable outlet to experience the outdoor world. It provides grand vistas of mountains and rural towns, unfragmented forests and large river valleys, as well as being the setting for historic Native American and colonial landmarks, highlighting the unique landscape of the area. The trail system also crosses important and diverse ecosystems including traprock ridges, mountain summits, lakes, streams and waterfalls. However, recent changes in land use continue to alter the landscape of Southern New England, and portions of the trail are experiencing pressures that threaten its long-term viability.

Recognizing this threat, and in partnership with the National Park Service and regional planning agencies, the AMC and a broad range of stakeholders took part in the federally-legislated feasibility study of the trail system with the main goal of determining the best way to protect the long term viability of the system from Long Island Sound through Massachusetts. The results of the study reflect substantial input and recommendations from a broad group of interests, including landowners and user groups. The study proposed a "Trail Management Blueprint," and concluded that designation as a National Scenic Trail is the most feasible way to ensure the long-term viability of the trail, generate an increased level of attention, and ensure an organizing structure needed to focus resources on the trail by a wide array of trail partners. The study recommended route relocation and a trail extension to Long Island Sound that would make it approximately 220 miles in length.

The Berkshire Chapter of the Appalachian Mountain Club (AMC) is the steward of the trail in Massachusetts, and the Connecticut Forests and Parks Association is the steward of the trail system in Connecticut. The entire trail system is managed and maintained by volunteers primarily from these two organizations, and those efforts rely on the generosity and commitment of landowners who voluntarily allow the trail to cross their land. Under the proposed "Blueprint for Management" those local relationships will continue, and would be bolstered by the additional support, recognition, and resources for management and protection that National Scenic Trail designation would provide.

The AMC is eager to continue our role as trail steward; however, key trail management and protection issues are rapidly growing beyond the capacity of volunteers to manage. Therefore, we urge the Senate to approve designation of the trail system as the New England National Scenic Trail as the best opportunity to protect this valuable regional resource from additional threats of trail corridor fragmentation, to provide an opportunity to address landowner issues through the Management Blueprint, to provide an opportunity to receive federal funding for trail management and protection, and to bring together trail partners and communities through creation of a Trail Stewardship Council.

We support this legislation because of our longstanding commitment to providing outdoor recreational opportunities and experiences to a wide range of people, involving children and families in outdoor activities, encouraging at-risk youth to learn about and experience wild areas, and educating our members and the general public about the values of conservation and wilderness.

Thank you for the opportunity to comment on this important legislation.

HEATHER CLISH,
Appalachian Mountain Club.

PATRICK FLETCHER,
Chair, AMC Berkshire Chapter.

CONNECTICUT FOREST & PARK ASSOCIATION,
April 22, 2008.

Hon. DANIEL K. AKAKA,
Chairman, Subcommittee on National Parks, Energy and Natural Resources Committee Office, Washington, DC.

Re:New England National Scenic Trail Designation Act S. 923 and H.R. 1528

DEAR CHAIRMAN AKAKA, SENATOR BURR, AND HONORABLE MEMBERS OF THE SUBCOMMITTEE ON NATIONAL PARKS: As Executive Director of the Connecticut Forest & Park Association, it is my distinct pleasure to offer our organization's strong support for the New England National Scenic Trail Designation Act, S. 923 and H.R. 1528.

The New England National Scenic Trail Designation Act enjoys great public support in the State of Connecticut, where more than half of the subject trail is located. Both Senator Lieberman and Senator Dodd have co-sponsored S. 923, and all Connecticut Representatives have co-sponsored H.R. 1528.

The New England National Scenic Trail Designation Act would designate the Mattabesett and Metacomet Trails in Connecticut and the Metacomet-Monadnock Trail in Massachusetts as the nation's ninth National Scenic Trail. The Connecticut Forest & Park Association established and maintains the Metacomet and Mattabesett Trails in Connecticut. The trails are part of the Association's 800-mile Blue-Blazed Hiking Trail System in Connecticut and have been maintained continuously by Association volunteers since 1931. The trails exist through the generosity of civic-minded landowners, both public and private, and the dedication and hard work of Association volunteers.

The Metacomet and Mattabesett Trails traverse the scenic trap-rock ridges of central Connecticut. These ridges are sheer expanses of basalt, a volcanic rock that emerged from the earth as great sheets of magma eons ago. The magma cooled into a series of ridges collectively known as the Metacomet Ridge, running generally from Suffield, Connecticut south to Guilford. Atop these ridges run the Metacomet and Mattabesett Trails, and from certain vantage points the hiker can see Long Island Sound to his left and Mt. Tom in Massachusetts to his right—clear across the State of Connecticut. Though beautiful and historic, the trails exist largely without formal protection and with limited conservation ownership. The Connecticut Forest & Park Association believes that National Scenic Trail designation will greatly improve the prospects for the long-term conservation of these trails.

The Association supported Congressman John Olver's original, 2001 legislation that authorized the National Park Service to study the feasibility of designating these trails as a National Scenic Trail. During the study, we entered into a cooperative agreement with the National Park Service and helped complete much of the research needed in Connecticut. Association Board members, staff and volunteers actively participated in the Steering Committee that guided the National Park Service through the study period.

Much good came of simply conducting the study. We identified and communicated with all the landowners on or within 250 feet of the trails. We created a GIS database that depicts the trail and the properties that it crosses, thus allowing us to quickly identify trail landowners and possible alternative routes should a trail need to be moved. We communicated with towns up and down the trail, and in some cases were able to have consideration for the trails included in the town's plan of conservation and development. We moved the trail off of several properties when landowners indicated to us that they did not desire the trail on their lands, and also conserved several sections of the trail when opportunities arose.

We believe that designation of these beautiful, historic, open-to-the-public footpaths as the New England National Scenic Trail will be most beneficial and will truly enhance the long-term viability of these trails. On May 15, 2007, I testified in support of H.R. 1528 before the House Subcommittee on National Parks, Forests and Public Lands, and I incorporate my testimony on that date into this letter via this reference: http://resourcescommittee.house.gov/images/Documents/20070515/testimony—moore.pdf. Importantly, National Scenic Trail designation will not change the fundamental nature of the trail: a footpath that exists at the good will of the landowner and that is maintained by volunteer organizations, the Connecticut Forest & Park Association and the Appalachian Mountain Club. Critically, the New England National Scenic Trail Designation Act ensures that federal condemnation of land will not be used for protection of the trail.

We believe that National Scenic Trail designation will greatly enhance the opportunities for the conservation of trail properties though willing seller transactions. Designation will also bring opportunities for better funding for trail stewardship, including such items as improved mapping, signage, trailhead parking, volunteer support and the like. Through the "Management Blueprint" created during the feasibility study and the study's proposed Stewardship Council, communications and relationships with landowners will be strengthened and improved and partnerships will be created between trail-maintaining organizations, towns, conservation organizations and businesses.

National Scenic Trail designation is made possible under the authority of the National Trails System Act. The primary goal of the National Trails System Act is that "trails should be established primarily near the urban areas of the Nation." We note that over two million people live within ten miles of this trail system. With two million people within ten miles of this extraordinary trail, traversing the scenic trap-rock ridges of Connecticut and Massachusetts, we believe that a New England Na-

tional Scenic Trail clearly achieves the primary goal of the National Trails System Act, and does so strikingly.

In conclusion, the Connecticut Forest & Park Association urges you to act favorably upon the New England National Scenic Trail Designation Act. H.R. 1528 was passed by the U.S. House of Representatives on January 29, 2008, and we eagerly await passage by the United States Senate. The Association would be pleased to provide the Subcommittee on National Parks with any additional information needed. Thank you very much for your consideration of this bill and thank you for the opportunity to submit testimony.

Respectfully submitted,

ADAM R. MOORE,
Executive Director.

STATEMENT OF ELISE RUSSELL, LEGISLATIVE REPRESENTATIVE, NATIONAL PARKS CONSERVATION ASSOCIATION, ON H.R. 53

NATIONAL PARKS GROUP SAYS VIRGIN ISLANDS NATIONAL PARK MUST BE PROTECTED FROM UNNECESSARY DEVELOPMENT ON PARKLAND

Group Urges Virgin Islands Government to Explore All Options Before Exploiting Parkland

"The Senate Committee on Energy and Natural Resources, National Parks Subcommittee, will today hold a hearing to consider a bill (H.R. 53) that would allow the Secretary of the Interior to enter into a long-term lease with the Territorial Government of the Virgin Islands for purposes of establishing a school, compromising the historic preservation of Virgin Islands National Park. The bill has passed in the U.S. House of Representatives.

Development of a school on Virgin Islands National Park land is inconsistent with the purpose of the park. We recognize the need for new educational facilities in the Virgin Islands, however we strongly encourage the Virgin Islands government to explore all options, and undergo a full analysis of alternate sites, before exploiting our national park land.

We are particularly concerned with the language in the bill that would authorize the lease of the National Park Service land for not only the establishment of a school, but also for "other purposes." This would threaten park resources, and potentially give unlimited latitude for the Virgin Islands government to use the land in ways that are inconsistent with the mission and protection of the park.

Only after exhausting the possibility of acquiring other suitable lands, should national park land ever be considered. If an exhaustive search of alternative sites bears no fruit, we would be open to a potential land exchange of equal value between the Park Service and the Virgin Islands government, but only ten acres in size and only for the purpose of building a school.

Taking care of the places that honor our past and continue to inspire our future requires that these places be protected and preserved, not developed,µfor the enjoyment of future generations."

St. John, VI, April 22, 2008.

Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

Re: H.R. 53

Dear Committee Members, we wish to express complete opposition to passage of H.R. 53 that would permit the National Park Service to lease land within the Virgin Islands National Park to the Virgin Islands government, which wants to use the land to build a mid-island school on St. John.

The reasons this idea is ill advised at this time include:

- The business model for the new school assumes that ALL future students that traditionally attend the private, parochial, and public schools on St. John and St. Thomas would drop out of those schools to attend the new St. John mid-island school. This assumption is unrealistic, and an independent survey of all St. John households with children to justify this claim has not been conducted.
- The VI government's dismal record of managing its current financial crisis would only become worse from the added debt of building and maintaining a new St. John school with a flawed business model.
- The new school operating and on-going maintenance budgets have not been disclosed in any formal document to all St. John property owners that pay property

taxes to support the VI public school system. An independently audited review of the proposed new school's complete financial model, with assumptions, has not been provided to all St. John property owners whose property taxes are being increased upwards of 500% without any formal, documentable appeal process.

- Not all St. John parents with school age children are in favor of, or believe, a new mid-island school is needed. Parents of elementary students are not all in favor of their children being bused up the hill, rather than walking to their local schools, Guy Benjamin or Julius E. Sprauve. Many St. John parents also express their children's perspective that they want to attend high school on St. Thomas because of the diversity and opportunity to meet, interact and make a new set of friends.

Sincerely,

PHILIP SHERIDAN,
JANE SHERIDAN.

STATEMENT OF ROBERT H. SWENSON, ASSOCIATE PROFESSOR AND ARCHITECT, SOUTHERN ILLINOIS UNIVERSITY, CARBONDALE, IL, ON S. 956

I am pleased to submit testimony in support of Senate Bill S. 956—Establishment of The Land between the Rivers National Heritage Area in the State of Illinois. My name is Robert Swenson and I was born in Rosiclare, Illinois and raised in Metropolis, Illinois, both on the lower Ohio River. I obtained my undergraduate degree from Southern Illinois University in 1965 and my professional degree in Architecture at Yale University in 1969. I have been a licensed, practicing architect in Illinois for 34 years and am now an Associate Professor in the School of Architecture at Southern Illinois University at Carbondale. I especially appreciate this opportunity to represent our university and the people of southernmost Illinois who reside within the seventeen counties included in this National Heritage Area proposal and to share my experiences as a design professional, researcher, teacher, and native of this region to illustrate why I wholeheartedly support this proposal.

National Park Service staff have indicated that a National Heritage Area region should include a "cohesive, nationally distinctive landscape" which is unified around "one nationally important story that sets it aside from all other areas" with "boundaries that are well defined" and with clearly described "contributing components." An SIU-Carbondale team is in the process of improving its original LBRNHA Feasibility Study submission in order to clearly demonstrate that the proposed national heritage area meets the criteria for designation, and to create the appropriate management organization to interface effectively with the National Park Service—National Heritage Area staff, others within the SIUC community, and our own regional heritage, educational, tourism, and economic development agencies and organizations to manage our National Heritage Area.

One—Cohesive, nationally distinctive landscape—To respond to the first of the National Park Service requirements, the southernmost Illinois "Land between the Rivers" is truly a cohesive nationally distinctive landscape defined by, and contained within, the edges of the Wabash, the lower Ohio, and the Mississippi rivers and the prairies on the north—all at the confluence of remarkable geological and biological diversity where the woodlands and the glacier's edge rock-outcrops meet the upper Delta. Home of the Shawnee National Forest with its Garden of the Gods, the Crab Orchard National Wildlife Refuge, and the Cypress Creek National Wildlife Refuge with its Cache River and Heron Pond, when you are in "Little Egypt," you know where you are and that it is a special place. This land had abundant wildlife for food; trees for fuel, buildings, steamboats & furniture; salt, iron ore, coal, and building stone; fruit trees, fertile valleys and prairies for starting farms and growing crops; natural beauty and diversity: plus a climate allowing one to survive the four seasons—and all adjacent to water and the river highways.

Two—One nationally important story that sets it aside from all other areas—The "Land between the Rivers" story is complex in that it represents several centuries and numerous events and not, as is often the case, a short period of time and a single event or person. Our story is, simply: Had it not been for both the strategic location between the two largest rivers in North America and the timber, coal, and mineral resources of this region, the United States probably would be a very different size and place today. Eight stories in particular stand out that make this point clear: 1) the Kincaid Mounds pre-history site, considered to be one of the ten most important archaeological sites in the nation; 2) Three European nations coming from three directions on the rivers competed for this place; 3) George Rogers Clark secured the Northwest Territory from the British to control both rivers; 4)

Aaron Burr and General James Wilkinson were NOT successful with their plans to divide the country and start a new nation; 5) Lewis and Clark acquired Indian scout George Druillard and other volunteers at Fort Massac for the Corps of Discovery and taught each other mapping and celestial observation skills beginning at the confluence of the Ohio and Mississippi Rivers; 6) General Ulysses S. Grant and Admiral David Porter together created the joint Army-Navy strategy using ironclad gunboats and riverboat troop ships to divide the South; 7) the rivers themselves both became the interstate highways for a developing nation (and continue so today); and 8) the timber and coal and fluorspar resources in this land that fueled both the steamboats and the railroads continue to power the steam and nuclear power plants of our nation today.

Three—Boundaries that are well defined—The Land between the Rivers boundaries are clear along three edges—the Wabash on the east, the Ohio on the South, and the Mississippi on the west—and not quite so clear visually on the north. The people who live here know when they are in Little Egypt or the Land between the Rivers, as going north out of the area is where the forests, coal mines, and rivers seem to stop and the prairies to the north begin. The Continental Congress understood these boundaries when it set aside the land in this region as "Army" land from the rivers north to an east-west line through Vincennes, Indiana on the Wabash for surviving Revolutionary War soldiers. The major contributing components are summarized above and described in greater detail along with other contributing components in the attachments.

Four—Contributing components—Our story is extraordinary, complex, and ongoing, primarily as the result of both its strategic location at the intersection of the two largest rivers in North America at the middle of this developing country and because of the numerous qualities unique to this landscape and resources that supported the people who came through here, and/or stayed here, or returned to this place. The United States could have been much smaller and/or different than we know it now because of what happened in this Land between the Rivers. A short list of additional people, places, and events includes:

- The pre-history portion of the "Land at the Confluence between the Rivers" story began with native Americans from the south, the east, the north, and the west establishing "Mound" cities at numerous sites along the lower Ohio and the Mississippi, the largest being Kincaid Mounds in Massac County, and in building upland communities on ridge tops, shelter bluffs, and caves as well, evident in rock art throughout the region.
- The first Europeans arrived in the 1600s with the French explorers Marquette and Joliet, followed by the hunters, trappers, Jesuit priests, businessmen, and military who established the Kaskaskia trading community on the Mississippi in 1700 (later to become the headquarters for the Northwest Territory and eventually the first capital of the future State of Illinois) and a tannery on the lower Ohio at the Grand Chain of Rocks which, with a military contingent, also controlled the river to prevent the British from coming downriver and the Spanish from coming upriver.
- The French continued their presence by establishing Fort Massiac on the lower Ohio in 1756 and Fort de Chartres on the Mississippi, both later captured by the British "Black Watch" and eventually by the Americans at the time of the Revolution.
- George Rogers Clark and the Kentucky "Longknives" marched through southernmost Illinois from Fort Massac on the Ohio to capture Kaskaskia and Fort deChartres on the Mississippi from the French.
- At Alexander Hamilton's direction, General James Wilkinson established Cantonment WilkinsonVille at Grand Chain on the lower Ohio during the "Quasi-War" episode with France where it looked as if the United States was going to need troops in the lower Ohio Valley to attack New Orleans in the event of war.
- Fort Massac figured into the unsuccessful Aaron Burr Conspiracy with the same General Wilkinson to create another nation west of the Mississippi.
- Pierre Menard established the French presence at Kaskaskia and Prairie du Rocher.
- Lewis and Clark recruited a critical group of men at Fort Massac and Kaskaskia for their expedition and taught each other celestial observation and surveying to successfully verify the coordinates of the confluence of the Ohio with the Mississippi Rivers and created the first map of the expedition of the confluence as requested by President Jefferson.
- Shawneetown on the lower Ohio became established in the early 1800s as one of the earliest entry points into Illinois country, became the home of the first bank and land office in Illinois in 1818, was visited by Revolutionary War hero

Marquis de Lafayette in 1825, and is the site of the Greek Revival Shawneetown Bank listed on the National Register of Historic Places.

- The circa 1800 Flatboat "America" recently found, excavated, and documented near the town of America on the lower Ohio is the only flatboat ever found and recorded from the thousands that traveled the rivers.
- Escaping slaves from the south were able to cross the lower Ohio from the Tennessee and Cumberland Rivers into Massac County or move through Cairo from the Mississippi with the assistance of "free Black" farmers and liberal whites.
- The Bank of London was un-successful in the late 1830s with their City of Cairo planning and real estate venture designed by nationally known Philadelphia architect William Strickland.
- The 1830s Thebes Court House on the Mississippi River, site of one of the earliest HABS-Historic American Building Survey projects in in the 1930s during the Depression, held Dred Scott in jail for one night after his unfavorable Supreme Court decision.
- Over 15,000 Cherokee Indians were escorted through southernmost Illinois on the "Trail of Tears" by the U.S. military led by Winfield Scott during the winter of 1838 with the tragic loss of many lives. Many escaped and were provided protection resulting in numerous families with a mixed Black and White ancestry now represented in numerous marked and unmarked graves in southernmost Illinois cemeteries.
- Abraham Lincoln was familiar with the region when he worked the "Broadhorn" flatboats on the Ohio and Mississippi Rivers, later represented the Illinois Central Railroad's development through the region, and debated Stephen A. Douglas at Jonesboro, an event recently commemorated with life-size statues.
- General Ulysses S. Grant successfully maintained control of the Ohio and Mississippi Rivers at Fort Defiance at Cairo and with Admiral Porter developed the strategies to divide the south using the army and the navy.
- The U.S. Navy successfully sent ironclad gunboats built at Mound City down through the Confederacy using the lower Ohio River to enter the Tennessee, Cumberland, and Mississippi Rivers, effectively dividing the south.
- U.S. Navy hospital ships with their African-American nurses on-board brought the wounded from both armies back to the military hospital at Mound City on the same rivers opened up by the gunboats. The National Cemetery at Mound City contains the remains of Civil War participant from the North and the South, including "Colored Troops".
- Established near Fort Massac, the City of Metropolis developed its economy based on the building of steamboats, wagon components, furniture, leather gloves, stoves, mussel shell buttons, and access to both the river and the rail lines.
- Two of the largest steel truss railroad bridges in America were constructed at Cairo and Metropolis connecting the Great Lakes and New Orleans, and the enormous "dual-rail" bridge at Thebes built in 1901 is still carrying major rail traffic from the Southwestern to the Northeastern United States.
- History related to the devastating 1937 Ohio River Flood and the 1993 Mississippi River Flood.
- Cairo at the confluence—an icon city known throughout the world, which in many ways represents the economic and social history of the entire region where the steamboats and railroads and Blacks and Whites and rich and poor met to decide what to do next in America. Cairo was the place where African-Americans riding trains or buses north could sit anywhere but if traveling south could only sit only in designated seating. The first National Register Historic District in Illinois was established in Cairo with numerous significant National Register structures. The U.S. Custom House designed in 1869 by A.B. Mullet, architect for the U. S. Treasury continues in use today as a Museum of southern Illinois heritage.
- Many more that could be included that are referenced in the attachment to this testimony. Our nation has many important places with some of these attributes, but few with this many, with such significance, and especially so accessible to historians and tourists located in the center of mid-America. The major contributing components are summarized above and described in greater detail along with other contributing components in the attachments.

Management Entity: The exact role, function, and administrative group to become the Management Entity is yet to be defined, but it will be an entity under the direct supervision of the Southern Illinois University "system" President Glenn Poshard and will include interdisciplinary faculty and staff from throughout the university supported by an advisory group representing all the various stakeholders through-

out the Land between the Rivers National Heritage Area region. Members of the Advisory group will undoubtedly come from same group of volunteers from throughout the region who tirelessly met on many occasions to guide and assist the staff of the Office of Economic and Regional Development that prepared the original Feasibility Study.

With assistance and guidance by National Heritage Area staff representing the National Park Service, the Management Entity will carefully create and submit a "Management Plan" that includes the following:

- Description of comprehensive policies, goals, strategies, and recommendations for telling the story of the area.
- Specify existing and potential sources of funding and economic development strategies to protect, enhance, and interpret the area.
- Describe actions and commitments that governments, private organizations, and citizens will take to protect, manage, and develop resources of the heritage area.

This testimony and the attached Additional Testimony* share both review input and extensively edited writings borrowed from two of my interdisciplinary colleagues: Mark Wagner, Staff Archaeologist with the SIUC Center for Archaeological Investigations, who has hands-on experience and has written extensively in professional journals about his findings; and David Koch, Emeritus Director of the SIUC Morris Library Special Collections Research Center, who I worked closely with as co-director of the SIUC-Library of Congress funded "Lewis & Clark in Southernmost Illinois" research project and who continues to advocate for the protection and development of this Land between The Rivers National Heritage Area.

I wish to thank Senator Durbin and Senator Obama, and their staffs for taking the initiative in sponsoring this Bill and for SIU President Glenn Poshard and his staff for stepping forward to provide the people and resources necessary to provide professional management for this National Heritage Area.

SUPPLEMENTAL STATEMENT OF GALE ILLIG, GRANTWOOD VILLAGE, MO

Background.—On April 23, the United States Senate Energy Committee, Subcommittee on National Parks held hearings on S. 2073 sponsored by Senator McCaskill and co-Sponsored by Senator Bond. Daniel N. Wenk, Deputy Director, National Park Service, U.S. Department of Interior testified on behalf of the Administration in opposition to S. 2073. Deputy Director Wenk presented his own statement in opposition and also incorporated the Department of Justice's letter of former Assistant Attorney General William E. Moschella sent on August 1, 2006 to Congressmen Devin Nunes, then Chairman of the U.S. House Committee on Natural Resources, Subcommittee on National Parks opposing similar legislation in the House.

STATEMENT OF DANIEL N. WENK, DEPUTY DIRECTOR, NATIONAL PARK SERVICE, U.S. DEPARTMENT OF INTERIOR—APRIL 23, 2008

(1) "As a result of the Caldwell and Barclay decisions, no confusion remains in the law regarding accrual of rails-to-trails takings claims [occurring when a NITU is issued]."

While Deputy Director Wenk was telling the Senate that the Department of Justice's position is that the law after Caldwell and Barclay is settled and that a landowner has a taking claim when a NITU is issued, even before any Trail Use Agreement is reached. However, Justice Department lawyers are arguing in federal court the precise opposite. Specifically, the Department of Justice is now trying to escape paying "just compensation" in Trails Act taking cases by arguing that no physical taking claim arises when the NITU is issued, but that a taking claim can only be brought after a Trail Use Agreement is reached and the land is actually converted to trail use and a trail physically built on the land.

DOJ Statement May 1, 2008 In Response to Interrogatories in Ladd v. United States, No. 07-271 (a Trails Act taking case in which the NITU has been issued but no Trail Use Agreement has yet been reached)

Here, no trail use agreement was reached, and the negotiation period has ended. We believe that the legal effect of the [NITU], in that circumstance, is an issue of first impression for this Court.

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*Additional testimony has been retained in subcommittee files.

How you evaluate whether there is a taking, we believe, would be evaluated differently in a circumstance where the trail use agreement is never reached. There is no physical occupation by a recreational trail here.

The Plaintiffs have grounded their claims in a particular Notice of Interim Trail Use, dated July 26, 2006 . . . .Here, Plaintiffs have argued that, by operation of the Trails Act, there is a Notice of Interim Trail Use that took their property, and that particular Notice of Interim Trail Use set a particular period of time in which to negotiate a trail use agreement, and that time has passed. There is no trail use agreement, so there can be no permanent taking.

Here, there is no physical occupation by the government. What's going on on the ground during that negotiation period is the same as what had been going on prior to the negotiation period. What essentially it is, is a moratorium in which you can negotiate potential trail use for the future. In this situation, no trail use agreement was reached, and so it defaults back to the normal regulatory process that would occur.

[W]e believe there are no permanent taking claims . . . [w]e believe that what temporary claims there are should be evaluated as regulatory [and not as a physical taking claim].

DOJ Statement at the February 14, 2008 status conference in Pankratz v. United States, No. 07-675 (a case in which the NITU has been issued and a Trail Use Agreement has been reached)

In the current situation, [the trail operator] hasn't established any kind of trail, so there hasn't been any kind of physical occupation of that corridor. So it could be a matter that we're dealing with a regulatory taking [and not a physical taking].

At this point even without the revocation [of the NITU and Trail Use Agreement] there is only a regulatory act. There is no physical invasion. So even right now I think we have an argument that there is at most a regulatory claim, not a physical [taking] claim.

STATEMENT OF ASSISTANT ATTORNEY GENERAL WILLIAM E. MOSCHELLA IN LETTER TO U.S. HOUSE RESOURCE SUBCOMMITTEE CHAIRMAN, DEVIN NUMES AUGUST 1, 2006—REFERENCED IN TESTIMONY OF DEPUTY DIRECTOR WENK

(1) "We share this commitment [to ensuring that individuals whose property may have been taken by government action] have an opportunity to present their claims in the Federal courts."

In a currently pending case, Rogers v. United States, the Department of Justice has sought six months of additional time to engage in extensive discovery seeking a "harsh, consequence" in order to defeat the landowners' claims by finding a "chain of title ensuing from a forged or 'wild' deed." (Defendant's Memorandum in Support of Defendant's Motion for Relief Pursuant to RCFC 56(f) filed in Rogers v. United States, No. 07-273). The Department of Justice expends very considerable resources disputing landowner's right to compensation. Indeed, dramatically disproportionate resources to the value of the claim. In Grantwood Village v. U.S., the Court of Federal Claims ordered the Department of Justice to reimburse the landowner almost $300,000 in legal fees for a dispute over land that was worth $19,000. Nels Ackerson, counsel for property owners' testified before the House Judiciary Committee in the June 20, 2004 hearing, "Litigation and its Effect on the Rail-to-Trail Program."

Both taxpayers and land owners are paying far too great a price for lawsuits when land has been taken by the Federal Government for trails. One of the Justice Department's own attorneys has written that in this area of the Fifth Amendment, it appears to protect only wealthy land owners. The process cries out for justice and common sense.

The Department of Justice, having the benefit of very little guidance from Congress, has adopted practices that I consider to be unrestrained litigation, uncontrolled expenditures, and unending disputes with land owners whose property has been taken for trails. Congress has established no procedures to rein in this inefficient process that is unfair to land owners and taxpayers alike.

The Department of Justice has compounded the cost and inefficiency of this poorly conceived process by aggressively litigating every issue with every land owner, sometimes over and over again, and sometimes the same issue several times in the same litigation. Since the Government ultimately must pay the land owners' attorneys' fees, as well as the Justice Department's own fees and costs, everybody loses by this prolonged litigation.

> An example of this wasteful process is the litigation involving Paul and Patricia Preseault . . . .On May 22nd of 20002 . . . some 16 years after that original take, and after prolonged litigation-the Court of Federal Claims ordered the Government to pay the Preseaults $234,000, plus interest, from 1986, for a total of approximately $552,000, for the value of the land taken. And in addition, the Government must reimburse Mr. and Mrs. Preseault's reasonable attorneys' fees of $894,855.60. The United States will write a check for more than $1,446,000. In addition, the Government's lawyers have expended time and costs that appear to be nearly the same amount as the Preseault's attorneys' fees. So the total cost to the Government may be more than $2,500,000, for the quarter-mile trail.

In other cases such as Hash v. United States, 99-324-S-MHW, the Justice Department continues to litigate and re-litigate issues even after the Government's liability has been decided. This represents a substantial expense to taxpayers and frustrates landowner's right to compensation. This is also a practice that is contrary to the statement that the Department of Justice seeks to allow deserving landowners to present their claims for compensation.

> (2) "In Plaut v. Spendthrift Farm, Inc. 514 U.S. 211 (1995), the Supreme Court struck down a similar provision [to the one in S. 2073], one that changed the applicable limitations period in securities cases and allowed cases dismissed under the old limitations period to be reinstated under the new period."

Plaut has no bearing on S. 2073. The Plaut case concerned the government's ability to change the statute of limitations period in claims between private parties. S. 2073 concerns the ability of Congress to change the statute of limitations period for claims against the federal government itself. Plaut involved a totally different issue. The Supreme Court itself expressly acknowledged that Congress possess this authority to change the statute of limitations for claims against itself. See United States v. Sioux Nation, 448 U.S. 371 (1980). Congress routinely does precisely this with private relief bills and other legislation establishing the limitations period for claims against the federal government.

> (3) "We believe Caldwell and Barclay were correctly decided. Indeed, the United States advocated in favor of using NITU issuance as the accrual event in both cases."

The Justice Department argued before the Court of Appeals for the Federal Circuit that the claim accrual date for a Trails Act taking should be the date of the Trail Use Agreement, not the date of the NITU.

> On appeal, the United States argued that the trial court held correctly that Caldwell's claim accrued when the railroad and the City reached a trail use agreement. Caldwell v. United States, 391 F.3d 1226 (Fed. Cir. 2005).
>
> The [trial court] held correctly that Caldwell's taking claim accrued when the [trail operator] and [railroad] reached a trail use agreement. In this case, the government's liability (if a taking occurred) was fixed when the [trail operator] and [railroad] entered into a trail use agreement, not when the ICC issued the NITU and not when the deed to the corridor changed hands. (Government's appellate brief in Caldwell v. United States, 391 F.3d 1226 (Fed. Cir. 2005)).

> (4) "Courts have been clear that only Federal Action should trigger a takings claim against the United States. Here, the issuance of the NITU is the only relevant Federal action in Trails Act takings cases. Thus, we believe a contrary approach—such as found in H.R. 4581—would be unnecessary and inconsistent with long standing principles."

Prior to Caldwell the Department of Justice—and the Court of Federal Claims-consistently held that a Trails Act taking occurred only upon both a NITU and a Trail Use Agreement. See Glosemeyer v. United States, 45 Fed. Cl. 771 (2000), Grantwood Village v. United States, 95 F.3d 654 (1996), and Moore v. United States, 63 Fed.Cl. 781 (2005). Indeed, Moore was finally resolved after Caldwell and the Department of Justice still resolved that case with the date of taking being the date of the Trail Use Agreement, not the NITU. See Moore, 63 Fed.Cl. 781.

After Caldwell, the Department of Justice continues to argue that a physical taking has not occurred until both a NITU is issued and either a Trail Use Agreement is reached and/or a trail is physically constructed on the land.

> How you evaluate whether there is a taking, we believe, would be evaluated differently in a circumstance where the trail use agreement is never reached. There is no physical occupation by a recreational trail here. (DOJ Statement at the February 14, 2008 status conference in Ladd v. United States, No. 07-271).
>
> The Plaintiffs have grounded their claims in a particular Notice of Interim Trail Use, dated July 26, 2006 . . . .It is true that, in the future, there could be another Notice of Interim Trail Use that would be issued, but the fact that the STB has jurisdiction, that can't be enough to me that there is a permanent taking . . . .Here, Plaintiffs have argued that, by operation of the Trails Act, there is a Notice of Interim Trail Use that took their property, and that particular Notice of Interim Trail Use set a particular period of time in which to negotiate a trail use agreement, and that time has passed. There is no trail use agreement, so there can be no permanent taking. (DOJ Testimony at the February 14, 2008 status conference in Ladd v. United States, No. 07-271).
>
> Here, there is no physical occupation by the government. What's going on on the ground during that negotiation period is the same as what had been going on prior to the negotiation period. What essentially it is, is a moratorium in which you can negotiate potential trail use for the future. In this situation, no trail use agreement was reached, and so it defaults back to the normal regulatory process that would occur. Id.
>
> In the current situation, [the trail operator] hasn't established any kind of trail, so there hasn't been any kind of physical occupation of that corridor. So it could be a matter that we're dealing with a regulatory taking. (DOJ Testimony at the February 14, 2008 status conference in Pankratz v. United States, No. 07-675).

On the very day that the Department of Justice backed out of the settlement agreement with the Illig land owners because the Justice Department now contended that the date of taking occurred on the earlier NITU date, the Department of Justice settled another Trails Act taking case by claiming that the taking occurred on the date of the Trail Use Agreement. Doing so allowed the Department of Justice to avoid paying these landowners interest for the period between the NITU and the Trail Use Agreement. See Moore, 63 Fed.Cl. 781.

> (5) "We are unaware of any court decision that has established an accrual test similar to the one proposed in H.R. 4581 [and S. 2073 as the date of the Trail Use Agreement]."

The Justice Department is not only aware of a number of cases using exactly the claim accrual test specified in S. 2073, the Justice Department has been party to and agreed to the settlement of a number of cases with the accrual date being the date of the Trail Use Agreement.—Precisely the "accrual test" specified by S. 2073. See Glosemeyer v. United States, 45 Fed. Cl. 771 (2000), Grantwood Village v. United States, 95 F.3d 654 (1996), and Moore v. United States, 63 Fed.Cl. 781 (2005).

> (6) Using the Trail Use Agreement as the date for claim accrual as specified in S. 2073 "would likely prevent some other landowners from achieving getting (sic) prompt resolution of their claims. Under [S. 2073], these landowners would have to wait for the new accrual requirements to be met in their cases before they could bring suit."

Currently, even under the post-Caldwell rule that the NITU alone provides the claim accrual date the Department of Justice is still trying to delay and postpone landowners Trails Act taking claims. In Pankratz v. United States, the Justice Department sought to indefinitely delay Kansas landowners' claim because even though there was both a NITU and a Trail Use Agreement, there was a possibility that the trailuser may abandoned the NITU.

> [B]ut I think based on our conversation with [the trail operator] from our perspective the most prudent way to proceed would be to allow some additional time, that process some additional time to work its way through. (DOJ Statement during March 4, 2008 hearing in Pankratz v. United States, No. 07-675) (In Pankratz, the NITU was issued on September 13, 2004 and the government was still seeking an indefinite delay of the case almost four years after the NITU.)

> (7) Using the Trail Use Agreement as the date for claim accrual as specified in S. 2073 would mean "landowners who had a claim on the date of the NITU would no longer have one under [S.2073], if they were divested of their property

during the intervening time period [between the date of the NITU and the Trail Use Agreement]"

Currently, even under the post-Caldwell rule, the Department of Justice is arguing that Kansas and Arizona landowners who have been divested of their property by a NITU have no claim for compensation for the period before a Trail Use Agreement and/or actual construction of a trail on the property.

> How you evaluate whether there is a taking, we believe, would be evaluated differently in a circumstance where the trail use agreement is never reached. There is no physical occupation by a recreational trail here. (DOJ Statement at the February 14, 2008 status conference in Ladd v. United States, No. 07-271).
>
> The Plaintiffs have grounded their claims in a particular Notice of Interim Trail Use, dated July 26, 2006 . . . .Here, Plaintiffs have argued that, by operation of the Trails Act, there is a Notice of Interim Trail Use that took their property, and that particular Notice of Interim Trail Use set a particular period of time in which to negotiate a trail use agreement, and that time has passed. There is no trail use agreement, so there can be no permanent taking. (DOJ Statement at the February 14, 2008 status conference in Ladd v. United States, No. 07-271).
>
> Here, there is no physical occupation by the government. What's going on on the ground during that negotiation period is the same as what had been going on prior to the negotiation period. What essentially it is, is a moratorium in which you can negotiate potential trail use for the future. In this situation, no trail use agreement was reached, and so it defaults back to the normal regulatory process that would occur. Id.
>
> In the current situation, [the trail operator] hasn't established any kind of trail, so there hasn't been any kind of physical occupation of that corridor. So it could be a matter that we're dealing with a regulatory taking. (DOJ Statement at the February 14, 2008 status conference in Pankratz v. United States, No. 07-675).

(8) "Section 2 (a) of the bill would place a new condition on the right to bring a takings claim under the Trails Act, specifically that the railroad "in writing" convey an interest to the trail operator."

S. 2073 does not require that the conveyance be"in writing". Rather, S. 2073 precisely tracks the language of the Trails Act (16 U.S.C. § 1247(d)) which says:

If a State, political subdivision, or qualified private organization is prepared to assume full responsibility for management of such rights-of-way and for any legal liability arising out of such transfer or use, and for the payment of any and all taxes that may be levied or assessed against such rights-of-way, then the [Surface Transportation] Board shall impose such terms and conditions as a requirement of any transfer or conveyance for interim use in a manner consistent with this chapter, and shall not permit abandonment or discontinuance inconsistent or disruptive of such use.

As such, a Trail Use Agreement—whether or not reduced to writing—would be the time when the trail user has "assumed full responsibility for management of the rights-of-way." As a practical matter, virtually every Trail Use Agreement is in fact reduced to writing as either a separate agreement or as deed from the railroad to the trail operator.

(9) "The bill would result in different legal standard depending on whether the takings claim was filed in the Court of Federal Claims or a district court."

This concern was directed to the language of H.R. 4581. S. 2073 provides a uniform standard for cases brought in both the Court of Claims and in district court under the "mini-Tucker Act."

STATEMENT OF NANCY C. GONCE, PROJECT DIRECTOR, MUSCLE SHOALS REGIONAL CENTER, ON H.R. 1483

Thank you, Mister Chairman, members of the Committee, and members of the staff of the National Park Service for allowing me the opportunity to provide testimony regarding The Muscle Shoals of Northwest Alabama.

We are pleased to share with you the work of the Muscle Shoals Regional Center at the University of North Alabama towards designation of the Muscle Shoals National Heritage Area.

The very definition of a National Heritage Area describes the Muscle Shoals story. The story is one of a place where natural, cultural, historic, and scenic resources combine to form a cohesive nationally distinctive landscape shaped by patterns of human activity shaped by geography. And as place where those patterns are an important part of our Nation's story.

The area to be included in the Muscle Shoals National Heritage Area encompasses the six counties in Alabama of Colbert, Lauderdale, Lawrence, Franklin, Morgan and Limestone in which historic and contemporary activity ties the people and places together by their location on the unique geographic topography represented by a series of shoals on the Tennessee River in Northwest Alabama.

The Muscle Shoals is described as the section of the Tennessee River extending from Brown's Ferry Island near Decatur, Alabama, for a distance of thirty-six miles, where there is a fall of 136 feet. This is greater than Niagara's fall on the American side, and indeed, is the greatest fall beneath a major river in the United States.

The series of shoals and shallow water impeded defense, transportation, commerce, settlement, and development from the earliest recorded history of the region. The challenges of dealing with the unique landscape resulted in pivotal and standard-setting solutions to overcome obstacles, both natural and human.

The Muscle Shoals area of Northwest Alabama touches the states of Tennessee and Mississippi geographically and historically, the Tennessee River connects the region to the Gulf of Mexico by the Tennessee-Tombigbee Waterway, and by land to the Natchez Trace Parkway.

In fulfilling the intent of the legislation that authorized the Muscle Shoals National Heritage Area Feasibility Study, community meetings were held throughout the six-county region with an attendance of more than 450 people. The comments and ideas that came from those meetings were compiled to identify themes, significant people, places, and events, as well as resources available for study and documentation.

The discussions at those community meetings centered on whether or not the citizens of the region felt that our history met the definition of a National Heritage Area. The consensus was that the definition applied and that there was a willingness to pursue National Heritage Area designation. The Muscle Shoals story would be one of a place where natural, cultural, historic, and scenic resources combine to form a cohesive nationally distinctive landscape. The Muscle Shoals is a place where patterns of activity shaped by geography are an important part of our Nation's story, whether pre-history or contemporary.

The stories of the people, places and events of the region are representative of the courage and ingenuity of the American people. Those same people have, through their lives and work, set standards in many disciplines—government, science, technology, regional planning, the arts and culture, sports, and world affairs. What may seem at first glance to be just a list of people, places and events, those lists reflect the extraordinary contributions of ordinary people. That spirit of leadership, entrepreneurship, experiment, energy, courage, creativity and tenacity of the people associated with The Muscle Shoals are part and parcel of America's story.

It was the courage of citizens, sons and daughters of The Muscle Shoals, such as Jesse Owens, Helen Keller, General Joe Wheeler, and those who left the banks of the Tennessee on The Trail of Tears who have helped create a Muscle Shoals chapter in America's story. Helen Keller, "America's First Lady of Courage", will be honored in the near future by her inclusion in Statuary Hall. Miss Keller's Birthplace, Ivy Green, is located in Tuscumbia, where the Helen Keller Public Library is one of the earliest to be established in the state. The extraordinary career of Jesse Owens is told at the museum that bears his name.

The Muscle Shoals region is represented in Statuary Hall by General Joe Wheeler. General Joseph Wheeler began his military career in 1859, as Major General and Commander of the Confederate Cavalry in the state of Tennessee, and later Commander of all the United States Cavalry, operating in Cuba under Lt. Col. Teddy Roosevelt. He also served his district in the Congress of the United States. The Wheeler Family Home, Pond Spring, is a historic site operated by the Alabama Historic Commission. Wheeler Dam, Wheeler Lake, Wheeler Wildlife Refuge and the Wheeler Basin Public library are named in honor of General Joe Wheeler.

It was the ingenuity of engineers, scientists, and planners who tamed the Tennessee with canals, dams, and locks and set high standards as part of the creation and work of the Tennessee Valley Authority. That extraordinary planning effort also set standards in the fields of archaeology, transportation, health care, education, library services, navigation and recreational land and water development to create another chapter.

The people who called the Tennessee the "singing river" in ancient times helped create the distinctive sounds that are part of the fabric of modern American music—

whether it is embodied in the works of W. C. Handy, "The Father of the Blues", or by Sam Phillips, "The Father of Rock & Roll", or by the hundreds of songwriters, producers, and musicians who have created a distinctive and unique American sound identified as the Muscle Shoals sound.

The Muscle Shoals culture is both distinctive and distinguished. A creative spirit of storytelling is evident in the work of three Pulitzer Prize winners, professional actors, artists, filmmakers, writers, photographers, and educators.

There is a dedication to telling and sharing the region's stories through tourism events, festivals, and in collections in museums and libraries, and by experiencing the natural beauty in the region's parks and public lands.

Upon designation as a National Heritage Area, the management plan for the Muscle Shoals National Heritage Area will explore ways to draw together in a cohesive way the various themes and stories through the development of interpretative, educational, and cultural tourism programs. Themes which were identified in the community meetings-Music, Civil War, Folklore, Arts and Literature, Architecture, African American history, Native American history, Recreation, and other sub-themes will be the basis of the interpretative project development. Due to strong cooperative efforts that already exist in the region, it is anticipated that programs will be developed through appropriate partnership and that the work of the Muscle Shoals National Heritage Area will take into consideration existing efforts.

It is anticipated that much of the work of the Muscle Shoals National Heritage Area will be in partnership with other agencies and programs. Exploratory efforts are underway to find ways to identify and promote existing cultural assets and identify under-utilized assets.

The imposing architectural marvel, Wilson Dam, recorded in the American Engineering Record and a National Historic Landmark, serves as a symbol of The Muscle Shoals and how a region has made the transition from impediment to creative solution. Architectural Trails could be developed to tell the story of people as well as the structures. Those stories would include a wide range or architectural styles ranging from the log cabin of W.C. Handy to the Village created to house workers, who were building the dams, to the recording studios, from the Palladian Belle Mont Mansion, to the Frank Lloyd Wright Rosenbaum House, and others. A visit to Ivy Green, the birthplace of Helen Keller, helps the visitor to understand the life and work of "America's First Lady of Courage".

Following designation, the management plan will be developed to determine how the programs and projects of the Muscle Shoals National Heritage Area will be defined and implemented.

Prior to developing the management plan, the study team from the Muscle Shoals Regional Center at the University of North Alabama has visited several existing National Heritage Areas in the southeast, asking the same questions of each staff about management, challenges, and successes in their own Heritage Area programs. The high standards set by the existing National Heritage Area programs will serve as a model for the development, implementation, and management of the Muscle Shoals National Heritage Area.

Thank you again for allowing me the opportunity to submit testimony in support of the Muscle Shoals National Heritage Area designation. I would be pleased to respond to any questions the Subcommittee members may have regarding this effort.

St. Louis, MO, February 28, 2007.

Hon. CLAIRE MCCASKILL,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCASKILL: My wife and I congratulate you on your election as Missouri's new Senator. I am one of your constituents living in south St. Louis County, I am writing to ask you to help me receive payment for property that the Federal Government took from us.

I understand last year Congressmen Carnahan and Akin introduced legislation in the House and Senator Bond and Talent introduced a bill S. 3478, in the Senate. It meant a great deal to us that our Congressmen and Senator's introduced these bills, and gave me hope that I would finally be paid for the property that the government took from us.

We realize that the Senate and you as our Senator are involved in a lot of important issues. I was very impressed to know that our representatives in congress were interested enough to introduce this legislation.

This bill S. 3478 did not pass in the last Congress, but I understand Congressman Carnahan is preparing to introduce a new bill in the house similar to S. 3478 and it will be co-sponsored by Congressman Akin, Clay and Emerson in the House.

Your help would mean so much to me if you could introduce similar legislation in the U.S. Senate.

My wife and I own our home at 2506 Via Miralesta Dr. St. Louis, Mo. 63125. We bought our home in 1965 and where we lived and raised our family. Our home I feel is worth 125,000.

In 1992 the ICC authorized a private trail group to negotiate with the Mo Pac Railroad to acquire the rights to the abandoned railroad easement that crossed our property. This railroad was abandoned and under Missouri law we owned this property and it was not subject to any easement for a railroad or for a public trial. Never the less, the Mo Pac gave the property to a private trail group that had the right to use this abandoned right-of-way for a recreational trail. Even though the Mo Pac did not own the right to give our property to the private trail group, the Mo Pac was able to give them our property to use for a public trail because of the federal Rails-to-Trails Act. This abandoned railroad corridor can (and may) also be reactivated in the future for light-rail or railroad use.

As I understand the situation, the U.S. Supreme Court has said that the Trails Act is legal but that the federal government owes us compensation for this taking of our property.

To receive this compensation we filed a claim in a case in the United States Court of Claims known as ILLig v. United States. This lawsuit took more than five years and was finally resolved when the Justice Department agreed in the fall of 2004 to pay us 8,000 for our property. The Justice Department also agreed to pay us interest. But unfortunately, in a totally unbelievable turn of events, two days before the settlement with the Justice Department was to be approved by the Judge in our case, a court of appeals decision in a Geogia case called Caldwell was issued. The Caldwell case retroactively changed the statue of limitations and meant that our case was dismissed with us receiving nothing for the government's taking of our property. Our lawyers said the Caldwell case made no sense and that one of the three judges dissented and said the decision was "contrary to all authority."

Our lawyers have also said that the only way we can be certain to get the compensation that everyone agrees we are owed is by Congress passing a law like S. 3478 to correct the error of this Caldwell case.

I am writing to ask that you support similar legislation this year in the Senate to make sure that I and the almost 100 other Missouri property owners receive compensation for this taking of our property by the federal government.

We are very glad we can write to ask for your help with this. It would mean a great deal to us personally if you would support legislation in the Senate similar to what Congressmen Carnahan will be introducing in the House.

It is amazing to me that it takes an Act of Congress for citizens to be paid for the government's taking of their property, and is especially amazing when the Justice Department had already agreed that the government took our property and agreed how much we are owed.

Thank you for reading this letter.

Sincerely,

ERWIN PFEIFFER.

STATEMENT OF THOMAS C. KIERNAN, PRESIDENT, NATIONAL PARKS CONSERVATION ASSOCIATION

On behalf of the more than 340,000 members of the National Parks Conservation Association (NPCA), I want to express our opposition to H.R. 53, which would authorize the Secretary of the Interior to enter into a long-term lease of portions of Virgin Islands National Park to the Territorial Government of the Virgin Islands (GVI) for purposes of establishing a school.

This legislation is controversial because it combines two extremely important and emotional public policy issues: protecting our national parks, and providing young people with the best possible schools. NPCA believes, as do others on the island, that we can protect the Park while also doing what's right for the children of St. John. Earlier this month a non-profit was created, "Kids First!" dedicated to providing a quality education for the children of St. John in a safe and nurturing environment.

The development of a school on Virgin Islands National Park land is inconsistent with the purposes of the Park. It conflicts with the direction given by the Park's authorizing legislation, which states, "the national park shall be administered and preserved by the Secretary of the Interior in its natural state . . . " (70 Stat. 940). We are particularly concerned with the language in the bill that authorizes the lease of National Park Service land for not only the establishment of a school, but

also for "other purposes." This potentially gives unlimited latitude for the GVI to use the land in the Park in ways inconsistent with the mission protection of the Park. Finally, we are concerned this legislation sets a harmful precedent of opening the door for other national park land to be leased away, essentially in perpetuity.

We urge the GVI to undergo a full analysis of alternate sites outside the Park. On March 25th NPCA delivered to committee staff an independent real estate appraiser's report, attached here, identifying a number of sites on the island that might be suitable for building a school, some of which are currently listed for sale. Only after exhausting the possibility of acquiring other suitable lands, should national park land ever be considered.

NPCA recognizes the need for new educational facilities in the Virgin Islands. However, we cannot support building a school and related facilities on national park land. If an exhaustive search of alternative sites bears no fruit, we would be open to a potential land exchange of equal value between the Park Service and GVI, but ONLY 10 acres in size, and ONLY for the purpose of building a school. Thank you for considering our views.

STATEMENT OF BETTY-MAE STIENHANS, GRANTWOOD VILLAGE, MO

I am a single woman and I live in the home that I grew-up in with my parents. For more than fifty one years I have lived in my home in the town of Grantwood Village in St. Louis County. My parents, now both deceased, also lived in this home. As I have gotten older, one of the pleasures I have is my garden. Recently, I had to have hip replacement so I am not able to work in the garden as I would like but still it is a great joy for me to have a garden.

About fifteen years ago the federal government took a significant part of my yard for a public trail. I do not oppose trails and parks, but this was a trail that ran through my back yard and garden very near my home. It had been an abandoned railroad but the railroad had not used the easement in years and the portion of my property that the railroad had used (when they did many years ago) was very narrow. The railroad had abandoned this easement and I owned the property which was my yard and garden. The part of my property taken and used for the trail is much wider than that part which had been used years ago by the railroad.

I understand that it is the prerogative of the federal government to create parks and trails and that doing so sometimes means that the government needs to take private property owned by citizens for these trails and parks. I also understood that when, as in my case, the government takes a citizens' property, the government is required to pay for the value of the property they have taken.

Well, in my case this has not happened. I have not been paid for the portion of my home that the government took for this trail. What is especially outrageous is that a federal judge and the United States Justice Department all agree that the government took my property, and that I was entitled by the U.S. Constitution to be paid "just compensation" the Justice Department agreed to pay me $31,000 for the value of my home that was taken. While I would rather have had my property back, being paid for this was at least some consolation for the loss of my yard and garden. To give you an idea of how significant a portion of my property was taken, you should know that my home was appraised by the St. Louis County Assessor with a market value of $125,000 and the Justice Department agreed that the government had taken $31,000 of this value. While I realize that $31,000 is not a large amount of money to the federal government, it means a great deal to me. My home is the only real estate that I own and the government taking this much of my home equity is a devastating financial effect. Especially as I get older I look to my home equity as a source of funds for my long-term care.

Unbelievably, just two days before the federal judge was to approve the settlement with the Justice Department, a Court of Appeals in a Georgia case called Caldwell, retroactively changed the statute of limitations and the Justice Department said I could not be paid. That was in 2004. In other words, the government was able no avoid its constitutional obligation to pay me for the property they took from me, not because other government did not take my property but because some court in another case retroactively changed the rules.

It is difficult to express how very disheartening it is to be treated this way by my government. I have always paid my taxes, voted and tried to support my community and country in every way I can. I never thought that the government would take my property but, if they did, I always assumed that they would treat me fairly. As you can see, that has not been my experience.

I am not alone in this situation. About one hundred of my neighbors (also your constituents) were also denied this compensation by this retroactive change in the statute of limitations. We have all been treated unfairly by our own government.

I understand that you are already familiar with what I am telling you because in the last Congress you sponsored S. 3478 which would have corrected the error and injustice of the Caldwell case. I wrote you a note then to thank you for your support of that bill. I am writing today to ask that you support similar legislation again in this session of the Senate. This is a matter of very great importance to me and to my neighbors.

It means a great deal to me that you have helped me on this matter in the past and I hope that we can get it passed this year. I have been waiting more than 15 years for the government to pay me for the property they have taken, I just hope that this year I will finally be paid.

STATEMENT OF FRANK AND JUANITA S. SCOTINO, ST. LOUIS, MO

We are one of your constituents and live in St. Louis County of Lemay Missouri. We are writing to thank you for your assistance last year and to ask for your continued assistance this year.

Last year you introduced Senate Bill S. 3478. It meant a great deal to us that you introduced this Bill and gave us hope that we would finally be paid for the property that the government took from us. It truly made us proud to know that my U. S. Senator cared about making sure that we and these other Missouri property owners were treated fairly by the federal government. We realize that the Senate and you as our senator are involved in a lot of important national issues. However, as one Missouri voter we were very impressed and pleased to know that you were interested enough in our situation to introduce this legislation. Thank you again!

We understand that S. 3478 did not pass in the last Congress. We understand that congressmen Carnahan and Akin are preparing to introduce a new bill in the House that is very similar to S. 3478 and that it will be co-sponsored by Congressmen Akin, Clay, and Emerson in the House. We would like to ask that you introduce similar legislation in the U.S. Senate this year.

Here is some brief background on why your help means so much to me. We are senior citizens (82 years old). We have a wonderful family that we enjoy. You have done so much for Senior Citizens in Missouri. Thank you for the job you have done for us. This compensation would mean a lot to us. It would help with our independence.

It is amazing to us that it take an Act of Congress for citizens to be paid for the government's taking of their property. This is especially amazing when the Justice Department has already agreed that the government took our property and agreed how much we are owed. A federal judge has also agreed that the government took our property and that we are owed this compensation. The U. S. Supreme Court said that the Fifth Amendment to the U.S. Constitution guaranteed our right to receive this compensation when a rail to trail easement across our property.

We are very glad that you are our Senator and that I can write to ask for your help with this. It would mean a great deal to us personally if you would reintroduce a Bill similar to S. 3478 that you introduced last year. Thank you for reading this letter and thank you so much for your help last year.

STATEMENT OF MARY KATHRYN ENGLAND, ARNOLD, MO

I live in Arnold, Missouri but formerly resided along Grant's Trail in St. Louis County.

I am writing to ask you to help me receive payment for property that the federal government took from my family. About 100 other Missouri property owners are in the same situation and are entitled to receive compensation for the government's taking of their property but we all need you help.

Congressmen Carnahan is preparing to introduce a bill in the House that is co-sponsored by Congressmen Clay, Akin and Emerson. This bill will allow me and the other Missouri property owners to receive the payment that the Justice Department has already agreed we are owed for the government's taking of my property. Here is some brief background.

Last year Congressmen Carnahan and Akin introduced similar legislation in the House and Senator Bond and Talent introduced a bill, Senate Bill S. 3478, in the Senate. It meant a great deal to me that our Congressmen and Senators introduced these Bills and gave me hope that I would finally be paid for the property that the government took from my late wife and myself. It truly made me proud to know

that my U.S. Senators cared about making sure that I and these other Missouri property owners were treated fairly by the federal government. We realize that the Senate, and you as our senator, are involved in a lot of important national issues. However, as one Missouri voter I was very impressed and pleased to know that our representatives in Congress were interested enough in my situation to introduce this legislation.

Unfortunately, S.3478 did not pass in the last Congress. I understand that Congressmen Carnahan is preparing to introduce a new bill in the House that is very similar to S. 3478 and that it will be co-sponsored by Congressmen Akin, Clay and Emerson in the House. If I could be so bold, I would like to ask that you introduce similar legislation in the U.S. Senate this year. While this bill did not pass last year, I am hopeful that it can this year.

In 1992 the ICC authorized a private trail group to negotiate with the MoPac Railroad to acquire the rights to the abandoned railroad easement that crossed our property. This railroad was abandoned and under Missouri law we owned this property and it was not subject to any easement—for a railroad or for a public trail. Never the less, the MoPac gave the property to a private trail group that had the right to use this abandoned right-of-way for a recreational trail. Even though the MoPac did not own the right to give our property to the private trail group, the MoPac was able to give them our property to use for a public trail because of the federal Rails-to-Trails Act. This abandoned railroad corridor can (and may) also be reactivated in the future for light-rail or railroad use.

I lived in my home with my mother when the railroad abandoned its easement and a trail was created. I joined an action to get compensation for the significant equity taken out of my home by the federal government. Shortly thereafter, the company I worked for, Eastern Airlines, went under and I lost my job. I soon found another but that company moved from the area. In the end, I had to give up my home because I was unable to afford to live there. When I sold it, I was unable to receive full value because of the presence of a public trail on the property. The government was supposed to compensate me but it never has. Instead, it is hiding behind a newly created legal rule to deny me compensation. The proposed legislation will do nothing more than make sure the federal government pays for property it now uses for the public. The U.S. Supreme Court said that the Fifth Amendment to the U.S. Constitution guaranteed our right to receive this compensation when a rail-to-trail easement was created across our property.

Please let me know if there is anything I can do to help make sure that this bill passes this year. Thank you for reading this letter and thank you so much for your help.

STATEMENT OF JANE BUTLER, ST. LOUIS, MO

Congratulations on your election to be Missouri's new Senator. As a citizen who lives in St. Louis County, Missouri, I am writing to ask you to help me receive payment for the property that the federal government took from me. About 100 other Missouri property owners are in the same situation and are entitled to receive compensation for the government's taking of their property, but we all need your help.

Congressmen Carnahan is preparing to introduce a bill in the House that is co-sponsored by Congressmen Clay, Akin and Emerson. This bill will allow me and the other Missouri property owners to receive the payment that the Justice Department has already agreed we are owed for the government's taking of my property. Here is some background.

Last year Congressmen Carnahan and Akin introduced similar legislation in the House and Senator Bond and Talent introduced a bill, Senate Bills S. 3478, in the Senate. It truly made me proud to know that my US Senators cared about making sure that I and the other property owners were treated fairly by the federal government.

Since the bill last year did not pass, Congressman Carnahan is preparing a new bill in the House that is very similar to S. 3478 and that it will be co-sponsored by Congressmen Akin, Clay and Emerson in the House. I would like to ask that you introduce similar legislation in the Senate this year.

In 1992 the ICC authorized a private trail group to negotiate with the MoPac Railroad to acquire the right to the abandoned railroad easement that crossed our property. This railroad was abandoned and under Missouri law we owned this property and it was not subject to any easement—for a railroad or for a public trail. The MoPac gave the property to a private trail group that had the right to use this abandoned right-of-way for a recreational trail. Even though the MoPac did not own the

right to give my property to the private trail group, the MoPac was able to give them my property to use for a public trail because of the federal Rails-to-Trails Act.

It was my home, my property and is my most significant asset. The fifty-foot wide easement for a public trail represented a substantial loss in the value of my home and the loss in my home equity that I have worked over the years to build up.

As I understand the situation, the US Supreme Court has said the Trails Act is legal but the federal government owes me compensation for the property. To receive this compensation, I filed a claim in a case in the United States Court of Claims known as Mig v. United States. The lawsuit took more than five years and was finally resolved when the Justice Department agreed in the fall of 2004 to pay for the property. The Justice Department also agreed to pay me interest. To me, it is a lot of money that I could use. It is also doing the right thing!

I am 64 years old and have waited for more than 15 years for the government to pay me. Unfortunately, in a totally unbelievable turn of events, two days before the settlement with the Justice Department was to be approved by the Judge in our case, a Court of Appeals decision in a Georgia case called Cardwell was issued. The Caldwell case retroactively changed the statute of limitations and meant that our case was dismissed with me receiving nothing for the government's taking of my property.

Our lawyers said the Caldwell case made no sense and that one of the three judges dissented and said the decision was "contrary to all authority.' The Judge in our case said the Caldwell case was the "Grinch that Stole Christmas" and even though he disagreed with the decision he was bound to follow it.

Our lawyers told me that the only way I can be certain to get the compensation I am owed, is by Congress passing a law like S. 3478 to correct the injustice. The Justice Department has admitted that I am entitled to receive compensation for my property. It is time to "Do the Right Thing." It is amazing that it takes an Act of Congress for citizens to be paid for their property. The US Supreme Court said that the Fifth Amendment to the US Constitution guaranteed this right for compensation when a rail-to trail crossed my property. Would you please support legislation in the Senate similar to what Congressman Carnahan will be introducing in the House. Thank you for your time and for reading this letter.

STATEMENT OF BRENDA BRINKMANN, IMPERIAL, MO

I live in Imperial, Missouri. I am writing to encourage you to support legislation that will help to compensate Missouri property owners. I was very pleased to learn that you are again joining other legislators from Missouri, re-introduce legislation that will help compensate Missouri property owners for property taken from them for use by the public.

My husband and I made our home at 2512 Via Miralesta in St. Louis, County. I was a secretary and am now retired. My husband passed away some time ago without ever having been paid for the property taken from us. In 1992, the government established a hiking and biking trail for the public to use across our property. We have still not been paid.

In 1992, the federal government took part of my home for use as a public trail. The railroad had abandoned its easement it had used for rail service and the property was to come to my family for our use and enjoyment. We made a claim for compensation to the government because of the taking. Even though I know that the government can take private property for public use, I also know it must pay compensation to the property owner when it does so.

The reason the government gave for backing out of a settlement just two days before it was to be finalized by the federal court was that a decision by two judges, in a case unrelated to mine called Caldwell v. United States, changed the date of the taking. The most upsetting thing is that the government is trying to avoid compensation even though it admits that it took my property and admits that it took $8,000 from the equity in that home. It is not fair that I, as a private individual, must pay that amount for what amounts to a public park without the public contributing a dime for the use of my property. It was a great disappointment to me that the government would treat us in this way—hiding behind a decision in another case which the dissenting judge said was "against all authority." The government should honor its constitutionally required obligation to pay private property owners when it takes their land for public use.

I am told that representatives Carnahan, Akin, Clay and Emerson will introduce legislation to correct the situation and provide the compensation owed to me and the others in my case. I hope you will support that effort. I also as that you sponsor

similar legislation in the Senate. I cannot express here how important this is to me and others in my situation.

STATEMENT OF ROBERT BARCZEWSKI, AFFTON ATHLETIC ASSOCIATION, AFFTON, MO

Congratulations on your election to be Missouri's new Senator. I am one of your constituents and live in Affion I am writing to ask you to help me receive payment for property that the federal government took from our association. About 100 other Missouri property owners are in the same situation and are entitled to receive compensation for the government's taking of their property but we all need you help.

Congressmen Carnahan is preparing to introduce a bill in the House that is co-sponsored by Congressmen Clay, Akin and Emerson. This bill will allow us and the other Missouri property owners to receive the payment that the Justice Department has already agreed we are owed for the government's taking of my property. Here is some brief background.

Last year Congressmen Carnahan and Akin introduced similar legislation in the House and Senator Bond and Talent introduced a bill, Senate Bill S. 3478, in the Senate. It meant a great deal to us that our Congressmen and Senators introduced these Bills and gave me hope that I would finally be paid for the property that the government took from our association. It truly made me proud to know that my U.S. Senators cared about making sure that I and these other Missouri property owners were treated fairly by the federal government. We realize that the Senate, and you as our senator, are involved in a lot of important national issues. However, as one Missouri voter I was very impressed and pleased to know that our representatives in Congress were interested enough in my situation to introduce this legislation.

Unfortunately, S.3478 did not pass in the last Congress. I understand that Congressmen Carnahan is preparing to introduce a new bill in the House that is very similar to S. 3478 and that it will be co-sponsored by Congressmen Akin, Clay and Emerson in the House. If I could be so bold, I would like to ask that you introduce similar legislation in the U.S. Senate this year. While this bill did not pass last year, I am hopeful that it can this year.

In 1992 the ICC authorized a private trail group to negotiate with the MoPac Railroad to acquire the rights to the abandoned railroad easement that crossed our property. This railroad was abandoned and under Missouri law we owned this property and it was not subject to any easement—for a railroad or for a public trail. Never the less, the MoPac gave the property to a private trail group that had the right to use this abandoned right-of-way for a recreational trail. Even though the MoPac did not own the right to give our property to the private trail group, the MoPac was able to give them our property to use for a public trail because of the federal Rails-to-Trails Act. This abandoned railroad corridor can (and may) also be reactivated in the future for light-rail or railroad use.

As I understand the situation, the U.S. Supreme Court has said that the Trails Act is legal but that the federal government owes us compensation for this taking of our property. To receive this compensation we filed a claim in a case in the United States Court of Claims known as Illig v. United States.

Our lawyers have now told us that the only way we can be certain to get the compensation that everyone agrees we are owed is by Congress passing a law like S. 3478 to correct the error of this Caldwell case.

The value of the land that was taken from us is $152,000. We would love to be compensated so we could use this money to further enhance our sports programs for children in South St. Louis County.

I should also say that I do not oppose the Trails Act or the creation of recreational trails. The legislation that Congressmen Carnahan is planning to introduce in the House will actually improve the Trails Act and make it possible for more railroad rights-of-ways to be converted to recreational trails at less expense to taxpayers. However, it will allow the federal government to pay me and these other Missouri property owners for land that the Justice Department has admitted was taken from us in our case. The Justice Department and the Court agreed that we were entitled to receive compensation for this taking of our land. It is only right that the government honor this obligation.

I am writing to ask that you support similar legislation this year in the Senate to make sure that I and the almost 100 other Missouri property owners receive compensation for this taking of our property by the federal government.

It is amazing to me that it takes an Act of Congress for citizens to be paid for the government's taking of their property. This is especially amazing when the Justice Department has already agreed that the government took our property and agreed how much we are owed. A federal judge has also agreed that our property

was taken by the government and that we are owed this compensation. The U.S. Supreme Court said that the Fifth Amendment to the U.S. Constitution guaranteed our right to receive this compensation when a rail-to-trail easement was created across our property. I just do not understand how, with all this, a two judge decision in a Georgia case can retroactively change the law two days before we were suppose to be paid and now we get nothing even though everyone agrees the government took—and still has—our property.

I am very glad that I can write to ask for your help with this. It would mean a great deal to me personally if you would support legislation in the Senate similar to what Congressman Carnahan will be introducing in the House. Thank you for reading this letter.

STATEMENT OF S. CATHERINE LONGLEY, SENIOR VICE PRESIDENT FOR FINANCE AND ADMINISTRATION AND TREASURER, BOWDOIN, COLLEGE, ON S. 662

Please accept this testimony in support of S.662. My name is Catherine Longley and I am the Senior Vice President for Finance & Treasurer of Bowdoin College in Brunswick, Maine. Bowdoin College is the present owner of the Harriet Beecher Stowe House, a National Historic Landmark.

The Harriet Beecher Stowe House in Brunswick, Maine, is where Harriet Beecher Stowe lived when she wrote the landmark novel, Uncle Tom's Cabin. There is no dispute about the historic significance of the site nor its value, in particular for African Americans and women. The novel was based on her family's exposure to the brutality of slavery when living in Ohio just across the river from Kentucky, a slave state. According to the National Register of Historic Places, which added the Stowe House to its registry in 1962, "Many of the characters in her book mirrored real-life individuals such as Josiah Henson, a fugitive slave who escaped from Kentucky to Canada along the Underground Railroad with his wife and two children." While in Ohio, Stowe also heard women's accounts of what it was like to live in a slave household.

The publication of Uncle Tom's Cabin inspired antislavery activism, including activism among many as yet uncommitted to the cause. Stowe spoke out against slavery during the period before the Civil War and urged the emancipation of slaves during the war. Abraham Lincoln was to have said upon meeting her in 1862, "So you're the little woman who wrote the book that started this Great War!"

Harriet Beecher Stowe was also one of the most popular writers of the 19th century, contributing to Western Monthly Magazine and Godey's Lady's Book, as well as subsequently writing a number of successful novels and articles on religion and housekeeping, She was a highly educated woman in an era when the education of women was unusual. She was also writing while managing a household of nine. The house where she and her large family lived while she wrote Uncle Tom's Cabin is a national treasure and is deserving of thoughtful preservation and public access.

With the support of Maine's congressional delegation, the College received a $99,000 HUD grant. In March 2007, the College engaged the firm of Barba. + Wheelock, an architectural and preservation firm in Portland, Maine, to undertake a Historic Structure Report. The report details extensive archival research and investigation of the structure itself. In brief, the findings reveal that restoration of the house in which Stowe lived is not practical. A major remodeling of the house took place in 1855 shortly after the Stowes left Brunswick. The report concludes that these extensive renovations have left the structure with little of its Stowe-era appearance. Although room layouts and ceiling heights remain unchanged in some areas, historic millwork and trim throughout the exterior and interior largely date to the mid-nineteenth century. Restoring the house to its 1850—1854 appearance would require extensive removal of historic fabric, and much guesswork and filling in the blanks to recreate missing features.

While the house would not become a typical, furnished house/museum, surviving historic fabric can be preserved. Rooms can be restored to their mid-nineteenth century appearance containing appropriate exhibits. The history of and changes to the Stowe House itself could be part of the interpretation. Surviving Stowe-era fabric such as concealed wallpapers and the hearth could be preserved and interpreted for visitors. The house, although altered, is nonetheless where Stowe lived when writing her very influential book and it retains historic significance as the site of that important event. The College has been engaged in dialogue with representatives from the Maine Historic Preservation Commission, the local Pejepscot Historical Society, Maine Freedom Trails, Inc., and local and state leaders to try to identify creative ways to partner with one another to ensure this property is preserved and to locate potential funding.

If the National Park Service were to add the Harriet Beecher Stowe House to its ranks of important historical destinations, it would be in good company. The Town of Brunswick is steeped in history and has a wealth of literary, historic, and cultural locations. Bowdoin's Walker Art Building, itself on the National Register of Historic Places, was completed in 1894 and houses one of the oldest and most prized college art collections in the nation, encompassing more than 15,000 objects. Bowdoin's Peary-MacMillan Arctic Museum is named for Arctic explorers and Bowdoin College graduates Robert E. Peary (Class of 1877) and Donald B. MacMillan (Class of 1898). Also in Brunswick are the Pejepscot Museum, the SkolfieldWhittier House Museum, and the Joshua L. Chamberlain Museum. Joshua Lawrence Chamberlain led the 20th Maine with extreme valor at the Battle of Gettysburg and was present at the end of the Civil War when he was chosen by Ulysses S. Grant to accept the Confederate surrender at Appomattox. Combining resources with the National Park Service would greatly add to the enrichment of scholars, visitors, and local citizens who could enjoy the cultural benefits of the area.

Uncle Tom's Cabin was the best-selling novel of the 19th century. It is impossible to overstate the influence of the book and its testimony to the power of words and literature to change the world. Preserving the Stowe House offers not only an opportunity to understand Stowe's work in its historical context, but also opens the possibility for continued discussions about words and action. We ask the Subcommittee on National Parks to support a special resource study to evaluate resources at the Harriet Beecher Stowe House to determine the suitability and feasibility of establishing the site as a unit of the National Park System, and for other purposes.

MOUNT GRACE LAND CONSERVATION TRUST,
Athol, MA, April 23, 2008.

Hon. JEFF BINGAMAN,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

Re: Testimony—New England National Scenic Trail

DEAR JEFF BINGAMAN, This letter is provided in strong support of pending bills S. 923 and H.R. 1528 to amend the National Scenic Trails Act to designate the New England National Scenic Trail.

Mount Grace Land Conservation Trust is a regional nonprofit land trust with a mission to protect land and encourage land stewardship in north central Massachusetts. Our service area encompasses six towns in which the currently undesignated trail passes. Working with local landowners and conservation partners at all levels, Mount Grace has helped to permanently conserve 21,000 acres in our 21 year history, in an area with an average land parcel size of 25 acres.

Mount Grace supports designation of the proposed New England Trail (now the Metacomet-Monadnock Trail in Massachusetts) as a National Scenic Trail because designation will increase the prominence of this well-established multi-state trail, thereby expanding funding opportunities for voluntary land conservation by interested landowners in the region.

Mount Grace owns conservation land on which the trail passes in the Franklin County towns of Wendell and Warwick, Massachusetts and we have facilitated the protection of numerous other parcels of privately or now-publicly owned land along the trail. Protection of this trail corridor is an identified priority in Mount Grace's 5-yr Focus Area Strategy.

National Scenic Trail designation will strengthen the economic and recreational resources of our region. I urge you to support favorable passage of these bills into law. Thank you.

Very truly yours,

LEIGH YOUNGBLOOD,
Executive Director.

STATEMENT OF RICHARD P. DECKER, ATLANTA, GA

Dear Members of the Committee: I am a part-time resident of St. John, U.S.V.I. I own a house at 3-20 Estate Catherineberg, St. John, U.S.V.I. I am writing to express my strong opposition to H.R. 53, which would allow the National Park Service to lease land within the Virgin Islands National Park to the Virgin Islands Government for the purpose of a school.

This bill would give extraordinary and unprecedented authority to the Secretary of the Interior to enter into a long-term lease of public land to the Government of

the Virgin Islands. This is tantamount to a give-away of public property. The public will never get that land back, and the Virgin Islands National Park, and the National Park System, will suffer.

H.R. 53 is opposed by the Department of the Interior, the National Park Service, the National Park Conservation Association and many full-time and part-time residents of St. John, because it is an unprecedented attack on the national park system. See attached letters, Tab "A".* The members of the House of Representatives failed to heed the opinions of these knowledgeable sources. I appeal to the members of this committee.

I urge the members of this committee to look at the attached page from the National Park Service's web page on Historic Places. Catherineberg is the area the sponsors of this Bill want the park to give up. The land in question is adjacent to the Catherineberg Sugar Mill, one of the most recognized and photographed sites in the Virgin Islands National Park. Unstable ruins from the 18th and 19th centuries are also on this land. Further, the land in question lies directly above beautiful Cinnamon Bay Beach. Clearly, the construction of a large facility on this fragile hillside will endanger historic ruins in Catherineberg and sea life in Cinnamon Bay that has been enjoyed by thousands of visitors to the Virgin Islands National Park for many years.

Many thoughtful and responsible voices in the Virgin Islands oppose this misuse of public land. See attached editorial, Tab "B". Local residents are rightfully concerned about their public schools, but there is no consensus in favor of the proposed "lease" of public park land. See attached articles and samples of disagreement, Tab "C".

Moreover, there is absolutely no proven necessity or justification for the development of this pristine land into a school. The existing school structure in Cruz Bay can be easily, and comparatively, cheaply renovated to accommodate the school-aged children of St. John for many years to come or, less historic and environmentally sensitive land can be purchased by the Virgin Islands Government for a new school.

In short, H.R. 53 is a bad bill. It is short-sighted and counter-productive. There are many other solutions, including renovating the existing structure, or developing other, less historically and environmentally sensitive land. The Virgin Islands Government can sell the existing structure for commercial use and use the sales proceeds to buy other land not within the Park. None of these alternatives have been meaningfully explored.

Giving away a piece of the Virgin Islands National Park will not end the Virgin Islands Government's apparently insatiable desire to appropriate public park land. Indeed, a local politician, Carmen Wesselhoft, has been quoted as saying that the proposed 10 acres is "not enough" and she wants "200 more acres" from the Park for "housing" because land is "too expensive for locals." Obviously, H.R. 53 only adds incentive to this kind of thinking.

Far and away the most important asset of the Virgin Islands is the Virgin Islands National Park on St. John. Without the Park, St. John would already be overdeveloped like St. Thomas, and another national jewel would be ruined. Please do not consider passing H.R. 53.

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* Letters have been retained in subcommittee files.