

PENDING LEGISLATION

HEARING
BEFORE THE
SUBCOMMITTEE ON NATIONAL PARKS
OF THE
COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE
ONE HUNDRED FOURTEENTH CONGRESS
SECOND SESSION

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	H.R. 4119

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PENDING LEGISLATION

WEDNESDAY, JUNE 15, 2016

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

The Subcommittee met, pursuant to notice, at 2:35 p.m. in Room SD-366, Dirksen Senate Office Building, Hon. Bill Cassidy, Chairman of the Subcommittee, presiding.

OPENING STATEMENT OF HON. BILL CASSIDY, U.S. SENATOR FROM LOUISIANA

Senator CASSIDY [presiding]. The Subcommittee will come to order.

The 23 bills we are examining this afternoon cover a wide range of issues relating to the federal land administered by the Department of the Interior, primarily by the National Park Service.

Today we will hear about legislation that includes the establishment of national heritage areas, new historical sites, boundary adjustments, grounds related to memorials and related issues.

I would like to take a moment to discuss S. 2807, the Preserving Public Access to Public Waters Act, which I introduced. In the Gulf of Mexico, commercial and recreational fishing represent a large part of the economy. Spending on recreational fishing, including the multiplier effects, generated about \$70.3 billion in economic output in 2011 alone. One year, \$70.3 billion.

According to NOAA in 2014, across all economic sectors of the marine economy, 21 million full and part-time jobs were filled in the Gulf states because commercial and recreational fishing are so important to our economy and jobs in the Gulf. It is vitally important that we retain access to all public waters.

In the Biscayne Bay National Park a general management plan took over 15 years to update. Once finally released last June, local communities and anglers were distraught to find that the National Park Service chose to include a 10,502 acre reserve zone which severely limits access to commercial and recreational fishermen.

According to NOAA, about 23 million fishing trips are taken each year in the Gulf of Mexico. The same report showed that in 2014 the economic impact of recreational fishing in the Gulf of Mexico region exceeded \$12 billion in that year alone. This is a substantial portion of the regional GDP.

When access is restricted, we are not just impacting sportsmen and women enjoying a day at the sea. We are talking about moms and dads who want to take their kids fishing one day out of the

year; commercial fishermen, who make a living on the Gulf, supplying restaurants and grocery stores; associated businesses like bait shops, charter boats and motels along the Gulf that are also impacted by closures. Restricted access has real life consequences to the enjoyment of the outdoors by American families and to the economy of our region.

Although the park is part of the federal agency, fishing and other harvesting activities are largely governed by state law. This management arrangement is grandfathered under the state's Enabling Law and the State of Florida opposes the Park Service's plan to implement the marine zone.

That is why I introduced legislation which would prevent the Park Service from moving forward with restricting recreational or commercial fishing access in state or territory waters controlled by the Park Service without first coordinating and getting approval of the state.

I look forward to discussing S. 2807 and a number of other bills today. Many on our list have been passed in the House of Representatives. A few have been heard before in the Subcommittee and others have been considered in previous Congresses. We have several bills that include potential national heritage areas. Over more than 30 years Congress established 49 national heritage areas, and the FY'16 appropriation for these areas was nearly \$20 million.

As Congressional interest in these areas grow, it is important that we continue to ensure proper oversight is conducted over existing and potential heritage areas. While a few of these bills may spark conversation, I am hoping we can move through the list fairly quickly.

The purpose of this hearing is to consider the Administration's views on these bills and allow Committee members an opportunity to ask questions. We will also include written statements that have been sent to the Subcommittee in the official hearing record. Because of the large number of bills on today's agenda, I will not read through the list.

We have one witness today, Dr. Stephanie Toothman, Associate Director of Cultural Resources, Partnerships and Science for the National Park Service. I want to thank Dr. Toothman for being here.

Now let me turn to the Ranking Member, Senator Heinrich, for his remarks.

STATEMENT OF HON. MARTIN HEINRICH, U.S. SENATOR FROM NEW MEXICO

Senator HEINRICH. Thank you, Mr. Chairman.

We have 23 bills on our agenda today which, I think, demonstrates how much all of our constituents care about the National Parks in their communities.

In New Mexico we have 15 Park Service units, and they represent some of the most stunning landscapes and important cultural and historical places in our nation. I am proud to say that the President will be visiting one of those, Carlsbad Caverns National Park, later this week.

I look forward to hearing about these new proposals today. I am particularly pleased to see the Ocmulgee re-designation and expansion and the accompanying special resource study of the Ocmulgee River Corridor which includes the Bond Swamp National Wildlife Refuge and two state wildlife management areas.

I do have some concerns about S. 2807 which would give states veto authority over management of recreational and commercial fishing in marine national parks. I understand that this is intended to address the recently finalized marine reserve zone in Biscayne National Park in Florida and I certainly understand the concerns of many in Florida and the region about reduced access for anglers in the park, but I am concerned about the precedent this bill would set for giving states authority over public lands managed by the Federal Government for all Americans.

I understand that the Florida Senators are working with the Florida Fish and Wildlife Conservation Commission and recreational fishing groups on an alternative approach to resolving the conflict at Biscayne without getting into the broader and more controversial issue of state management of federal public lands and waters. I look forward to working with the Chairman and the Florida delegation to find a solution that works for all parties involved.

I also want to thank Dr. Toothman for being here today to talk about these bills, and I look forward to hearing her testimony.

Senator CASSIDY. Thank you, Senator Heinrich.

Would you care to make a comment, Senator King?

Senator KING. My only comment was I have myself visited Carlsbad Caverns. I believe the bravest person in the United States was that 16-year-old boy who walked down into that hole about 100 years ago and discovered it. What an extraordinary place, wonderful place in your state. Thank you.

Senator HEINRICH. If you want to see the pictures from that, there is a book called "Governor's Travels" floating out there somewhere. [Laughter.]

Featuring our colleague.

Senator CASSIDY. Senators Blunt and Kaine are here. Thank you. Welcome to the Committee.

Senator Blunt, would you care to comment upon a bill you are interested in?

STATEMENT OF HON. ROY BLUNT, U.S. SENATOR FROM MISSOURI

Senator BLUNT. Well, I would, Mr. Chairman, and thanks for letting me come. I am also co-sponsoring Senator Kaine's bill, and I am glad to be here with him as he talks about that bill as well.

This proposal would designate a determined area of property in Ste. Genevieve, Missouri as the Ste. Genevieve National Historic Park.

Ste. Genevieve was founded in 1750 by French Canadian settlers. St. Louis, just north of Ste. Genevieve, was founded about the same time by French settlers from New Orleans, Mr. Chairman. I was a little surprised myself to find out that the Ste. Genevieve French settlers came from Canada and settled there.

The community today has about 4,000 residents. It is located 60 miles south of St. Louis. It is one of the oldest national historic

landmark districts in the country, designated in 1960, to recognize the unique concentration of vertical log architecture. The logs were up and down, and then in substantial houses, plastered over the outside front.

I am not sure if there is anything, Senator Cassidy, in New Orleans that mimics that architecture at all, but it is very unique and some of these houses date back to at least 1790. I think the city's architecture helps paint a rich historical narrative.

One example would be in an area on South Main Street, a picture of how that area developed even into the 1840s where the last French Commandant of the town, Jean Baptiste Valle, lived and died in the 1840s. He had succeeded his brother Francois Valle, the second, who died before the transfer of power to the United States in 1804 and briefly to the Spanish before that. But after this transfer of control, Valle successfully transitioned to become a business leader in Ste. Genevieve and had a lasting impact on the economy and culture of Ste. Genevieve.

It is because of this that his house, the Jean Baptiste Valle house, located in this cluster of historic properties on South Main Street, has been recognized as one of the premier historical properties in Ste. Genevieve and, I think, in the country.

There are countless other historical properties in Ste. Genevieve. Legislation was passed in 2006 to begin a special resource study of the site, and the first public meeting occurred in 2009 to collect input. The draft study finally came out in 2015. In May the final study found that Ste. Genevieve is nationally significant, eligible for addition as a new unit of the Park Service and it recommends a number of properties be part of that.

Many of us here have dealt with the Park Service over the years. This is one of the rare occasions when property proposed for inclusion in the National Park Service is received positively by the Park Service. They would like this to be transferred from the state to the Park Service. I would like to see that happen as well.

Senator McCaskill and I have co-sponsored this legislation and hope it is favorably viewed by your Committee.

Senator CASSIDY. Thank you.

Senator Kaine.

STATEMENT OF HON. TIM KAINE, U.S. SENATOR FROM VIRGINIA

Senator KAINE. Thank you, Mr. Chair and to Senators Heinrich and King, I appreciate this opportunity.

I am here on S. 2548, the 400 years of African-American History Commission Act. I am very excited to be here, and I am very happy that Senator Blunt and others are co-sponsoring.

1619 marks a very important year in this country, and 2019 is the 400th anniversary. In 1619 the phrase in the record books was "20 and odd" in reference to the Africans who had been taken off a Portuguese slave ship by the English and brought ashore at Point Comfort, Virginia which is now Hampton, Virginia. The bringing of these 20 slaves to Virginia began the diaspora of Africans to the United States, and that population had swelled to nearly four million slaves by the Civil War.

The Act before you follows a pattern and it is to have a commission that would plan educational materials and events to commemorate African contributions to our nation. The Congress passed a similar Commission Act to honor the English contributions to our society in connection with the Jamestown 400th commemoration in 2007. Congress also passed a similar commission, enacted a similar commission to honor the Hispanic contributions to our nation in connection with the 450th anniversary of the settlement of St. Augustine in 1565 which we just celebrated last year.

Now this is a history that is painful, that is tragic, that is triumphant. It is as complicated as the American story. In the 400 years that Africans have been in this organized way, beginning with the slave trade in the English colonies in the United States, I have analogized it to this, you can divide 400 years into eight half centuries.

For five of the half centuries Africans were here and held a slight five-eighths of our history. For two-eighths of our history, African slavery was ended at the end of the Civil War. Africans were here but were in a legal, second-class status where they could be completely separated in terms of public life, education, etcetera and that was tolerated. It has only been in the last one-eighth of our history of this 400 years that African-Americans have been accorded legal equality, although we know that many social disparities remain.

But the amazing thing about that is with only one-eighth of this 400 years, a time period where African-Americans have been treated as legally equal, the contributions of Africans, people of African descent, to our life, business, academics, law, military, spirituality, culture, diplomacy, government, medicine, social justice and innovation have been remarkable.

In the same way that we enacted a commission to say that the English roots of this country matter and are worthy of commemoration and celebration, in the same way that we enacted a commission to say that the Hispanic roots of this country matter and are worthy of commemoration, I hope it would be the will of this body to say the contributions of Africans to who we are as a nation matter. It would be impossible to imagine who we would be as a nation were it not for those contributions.

My only regret is I wish I had started it sooner. The Jamestown commemorative effort that Congress enacted started seven years before 2007, and the recognition of St. Augustine commission was about seven or eight years before 2015. In fact, there is a UC on the Floor today to look at a 250th anniversary of the founding of the U.S. in 1776, and we are doing it ten years in advance of 2026.

So I am mindful of the time. It is 2016. In order to appropriately plan educational events and educational materials, I would hope that the body could act.

And I should stress this is a bipartisan bill in both houses. It has been worked on in tandem with many organizations including the NAACP and, importantly, the Smithsonian Museum of African-American history which is slated to open within the next year here in the capital.

I am very, very happy to have Senator Blunt and others as co-sponsors, and I hope it would be the will of the Committee to act

on this and hopefully we could then appropriately act on it on the Floor as well.

Mr. Chair, if I could, I would love to introduce both the Jamestown Commission and the St. Augustine Commission acts into the record as an example of previous practice in the body with respect to these commissions.

Senator CASSIDY. Without objection.

[The information referred to follows:]

PUBLIC LAW 106-565—DEC. 23, 2000

JAMESTOWN 400TH COMMEMORATION
COMMISSION ACT OF 2000

Public Law 106-565
106th Congress

An Act

Dec. 23, 2000
[H.R. 4907]

To establish the Jamestown 400th Commemoration Commission, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Jamestown 400th
Commemoration
Commission Act
of 2000.
Virginia.
16 USC 81 note.
16 USC 81 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Jamestown 400th Commemoration Commission Act of 2000”.

SEC. 2. FINDINGS AND PURPOSE.

(a) **FINDINGS.**—Congress finds that—

(1) the founding of the colony at Jamestown, Virginia in 1607, the first permanent English colony in the New World, and the capital of Virginia for 92 years, has major significance in the history of the United States;

(2) the settlement brought people from throughout the Atlantic Basin together to form a multicultural society, including English, other Europeans, Native Americans, and Africans;

(3) the economic, political, religious, and social institutions that developed during the first 9 decades of the existence of Jamestown continue to have profound effects on the United States, particularly in English common law and language, cross cultural relationships, and economic structure and status;

(4) the National Park Service, the Association for the Preservation of Virginia Antiquities, and the Jamestown-Yorktown Foundation of the Commonwealth of Virginia collectively own and operate significant resources related to the early history of Jamestown; and

(5) in 1996—

(A) the Commonwealth of Virginia designated the Jamestown-Yorktown Foundation as the State agency responsible for planning and implementing the Commonwealth’s portion of the commemoration of the 400th anniversary of the founding of the Jamestown settlement;

(B) the Foundation created the Celebration 2007 Steering Committee, known as the Jamestown 2007 Steering Committee; and

(C) planning for the commemoration began.

(b) **PURPOSE.**—The purpose of this Act is to establish the Jamestown 400th Commemoration Commission to—

(1) ensure a suitable national observance of the Jamestown 2007 anniversary by complementing the programs and activities of the State of Virginia;

- (2) cooperate with and assist the programs and activities of the State in observance of the Jamestown 2007 anniversary;
- (3) assist in ensuring that Jamestown 2007 observances provide an excellent visitor experience and beneficial interaction between visitors and the natural and cultural resources of the Jamestown sites;
- (4) assist in ensuring that the Jamestown 2007 observances are inclusive and appropriately recognize the experiences of all people present in 17th century Jamestown;
- (5) provide assistance to the development of Jamestown-related programs and activities;
- (6) facilitate international involvement in the Jamestown 2007 observances;
- (7) support and facilitate marketing efforts for a commemorative coin, stamp, and related activities for the Jamestown 2007 observances; and
- (8) assist in the appropriate development of heritage tourism and economic benefits to the United States.

SEC. 3. DEFINITIONS.

16 USC 81 note.

In this Act:

- (1) **COMMEMORATION.**—The term “commemoration” means the commemoration of the 400th anniversary of the founding of the Jamestown settlement.
- (2) **COMMISSION.**—The term “Commission” means the Jamestown 400th Commemoration Commission established by section 4(a).
- (3) **GOVERNOR.**—The term “Governor” means the Governor of the State.
- (4) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.
- (5) **STATE.**—
 - (A) **IN GENERAL.**—The term “State” means the State of Virginia.
 - (B) **INCLUSIONS.**—The term “State” includes agencies and entities of the State.

SEC. 4. JAMESTOWN 400TH COMMEMORATION COMMISSION.

16 USC 81 note.

- (a) **IN GENERAL.**—There is established a commission to be known as the “Jamestown 400th Commemoration Commission”.
- (b) **MEMBERSHIP.**—
 - (1) **IN GENERAL.**—The Commission shall be composed of 16 members, of whom—
 - (A) four members shall be appointed by the Secretary, taking into consideration the recommendations of the Chairperson of the Jamestown 2007 Steering Committee;
 - (B) four members shall be appointed by the Secretary, taking into consideration the recommendations of the Governor;
 - (C) two members shall be employees of the National Park Service, of which—
 - (i) one shall be the Director of the National Park Service (or a designee); and
 - (ii) one shall be an employee of the National Park Service having experience relevant to the commemoration, to be appointed by the Secretary; and

Establishment.

(D) five members shall be individuals that have an interest in, support for, and expertise appropriate to, the commemoration, to be appointed by the Secretary.

(2) TERM; VACANCIES.—

(A) TERM.—A member of the Commission shall be appointed for the life of the Commission.

(B) VACANCIES.—

(i) IN GENERAL.—A vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(ii) PARTIAL TERM.—A member appointed to fill a vacancy on the Commission shall serve for the remainder of the term for which the predecessor of the member was appointed.

(3) MEETINGS.—

(A) IN GENERAL.—The Commission shall meet—

(i) at least twice each year; or

(ii) at the call of the Chairperson or the majority of the members of the Commission.

(B) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold the initial meeting of the Commission.

(4) VOTING.—

(A) IN GENERAL.—The Commission shall act only on an affirmative vote of a majority of the members of the Commission.

(B) QUORUM.—A majority of the Commission shall constitute a quorum.

(5) CHAIRPERSON.—The Secretary shall appoint a Chairperson of the Commission, taking into consideration any recommendations of the Governor.

(c) DUTIES.—

(1) IN GENERAL.—The Commission shall—

(A) plan, develop, and execute programs and activities appropriate to commemorate the 400th anniversary of the founding of Jamestown;

(B) generally facilitate Jamestown-related activities throughout the United States;

(C) encourage civic, patriotic, historical, educational, religious, economic, and other organizations throughout the United States to organize and participate in anniversary activities to expand the understanding and appreciation of the significance of the founding and early history of Jamestown;

(D) coordinate and facilitate for the public scholarly research on, publication about, and interpretation of, Jamestown; and

(E) ensure that the 400th anniversary of Jamestown provides a lasting legacy and long-term public benefit by assisting in the development of appropriate programs and facilities.

(2) PLANS; REPORTS.—

(A) STRATEGIC PLAN; ANNUAL PERFORMANCE PLANS.—In accordance with the Government Performance and Results Act of 1993 (Public Law 103-62; 107 Stat. 285), the Commission shall prepare a strategic plan and annual

performance plans for the activities of the Commission carried out under this Act.

(B) FINAL REPORT.—Not later than September 30, 2008, the Commission shall complete a final report that contains—

Deadline.

- (i) a summary of the activities of the Commission;
- (ii) a final accounting of funds received and expended by the Commission; and
- (iii) the findings and recommendations of the Commission.

(d) POWERS OF THE COMMISSION.—The Commission may—

(1) accept donations and make dispersions of money, personal services, and real and personal property related to Jamestown and of the significance of Jamestown in the history of the United States;

(2) appoint such advisory committees as the Commission determines to be necessary to carry out this Act;

(3) authorize any member or employee of the Commission to take any action that the Commission is authorized to take by this Act;

(4) procure supplies, services, and property, and make or enter into contracts, leases or other legal agreements, to carry out this Act (except that any contracts, leases or other legal agreements made or entered into by the Commission shall not extend beyond the date of termination of the Commission);

(5) use the United States mails in the same manner and under the same conditions as other Federal agencies;

(6) subject to approval by the Commission, make grants in amounts not to exceed \$10,000 to communities and nonprofit organizations to develop programs to assist in the commemoration;

(7) make grants to research and scholarly organizations to research, publish, or distribute information relating to the early history of Jamestown; and

(8) provide technical assistance to States, localities, and nonprofit organizations to further the commemoration.

(e) COMMISSION PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS OF THE COMMISSION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a member of the Commission shall serve without compensation.

(B) FEDERAL EMPLOYEES.—A member of the Commission who is an officer or employee of the Federal Government shall serve without compensation in addition to the compensation received for the services of the member as an officer or employee of the Federal Government.

(C) TRAVEL EXPENSES.—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(2) STAFF.—

(A) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws (including regulations), appoint and terminate an executive director

and such other additional personnel as are necessary to enable the Commission to perform the duties of the Commission.

(B) CONFIRMATION OF EXECUTIVE DIRECTOR.—The employment of an executive director shall be subject to confirmation by the Commission.

(3) COMPENSATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(B) MAXIMUM RATE OF PAY.—The rate of pay for the executive director and other personnel shall not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(4) DETAIL OF GOVERNMENT EMPLOYEES.—

(A) FEDERAL EMPLOYEES.—

(i) IN GENERAL.—On the request of the Commission, the head of any Federal agency may detail, on a reimbursable or non-reimbursable basis, any of the personnel of the agency to the Commission to assist the Commission in carrying out the duties of the Commission under this Act.

(ii) CIVIL SERVICE STATUS.—The detail of an employee under clause (i) shall be without interruption or loss of civil service status or privilege.

(B) STATE EMPLOYEES.—The Commission may—

(i) accept the services of personnel detailed from States (including subdivisions of States); and

(ii) reimburse States for services of detailed personnel.

(5) VOLUNTEER AND UNCOMPENSATED SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Commission may accept and use voluntary and uncompensated services as the Commission determines necessary.

(6) SUPPORT SERVICES.—The Director of the National Park Service shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(f) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

(g) FACA NONAPPLICABILITY.—Section 14(b) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(h) NO EFFECT ON AUTHORITY.—Nothing in this section supersedes the authority of the State, the National Park Service, or the Association for the Preservation of Virginia Antiquities, concerning the commemoration.

PUBLIC LAW 106-565—DEC. 23, 2000

114 STAT. 2817

(i) **TERMINATION.**—The Commission shall terminate on December 31, 2008.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

16 USC 81 note.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

Approved December 23, 2000.

LEGISLATIVE HISTORY—H.R. 4907 (S. 2885):

SENATE REPORTS: No. 106-456 accompanying S. 2885 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 146 (2000):

Oct. 30, considered and passed House.

Dec. 15, considered and passed Senate.



Public Law 111–11
111th Congress

An Act

To designate certain land as components of the National Wilderness Preservation System, to authorize certain programs and activities in the Department of the Interior and the Department of Agriculture, and for other purposes.

Mar. 30, 2009
[H.R. 146]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Omnibus Public Land Management Act of 2009”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Omnibus
Public Land
Management Act
of 2009.
16 USC 1 note.

Sec. 1. Short title; table of contents.

TITLE I—ADDITIONS TO THE NATIONAL WILDERNESS PRESERVATION SYSTEM

Subtitle A—Wild Monongahela Wilderness

- Sec. 1001. Designation of wilderness, Monongahela National Forest, West Virginia.
- Sec. 1002. Boundary adjustment, Laurel Fork South Wilderness, Monongahela National Forest.
- Sec. 1003. Monongahela National Forest boundary confirmation.
- Sec. 1004. Enhanced Trail Opportunities.

Subtitle B—Virginia Ridge and Valley Wilderness

- Sec. 1101. Definitions.
- Sec. 1102. Designation of additional National Forest System land in Jefferson National Forest as wilderness or a wilderness study area.
- Sec. 1103. Designation of Kimberling Creek Potential Wilderness Area, Jefferson National Forest, Virginia.
- Sec. 1104. Seng Mountain and Bear Creek Scenic Areas, Jefferson National Forest, Virginia.
- Sec. 1105. Trail plan and development.
- Sec. 1106. Maps and boundary descriptions.
- Sec. 1107. Effective date.

Subtitle C—Mt. Hood Wilderness, Oregon

- Sec. 1201. Definitions.
- Sec. 1202. Designation of wilderness areas.
- Sec. 1203. Designation of streams for wild and scenic river protection in the Mount Hood area.
- Sec. 1204. Mount Hood National Recreation Area.
- Sec. 1205. Protections for Crystal Springs, Upper Big Bottom, and Cultus Creek.
- Sec. 1206. Land exchanges.
- Sec. 1207. Tribal provisions; planning and studies.

Subtitle D—Copper Salmon Wilderness, Oregon

- Sec. 1301. Designation of the Copper Salmon Wilderness.
- Sec. 1302. Wild and Scenic River Designations, Elk River, Oregon.
- Sec. 1303. Protection of tribal rights.

Subtitle E—Cascade-Siskiyou National Monument, Oregon

- Sec. 1401. Definitions.

Sec. 1402. Voluntary grazing lease donation program.
 Sec. 1403. Box R Ranch land exchange.
 Sec. 1404. Deerfield land exchange.
 Sec. 1405. Soda Mountain Wilderness.
 Sec. 1406. Effect.

Subtitle F—Owyhee Public Land Management

Sec. 1501. Definitions.
 Sec. 1502. Owyhee Science Review and Conservation Center.
 Sec. 1503. Wilderness areas.
 Sec. 1504. Designation of wild and scenic rivers.
 Sec. 1505. Land identified for disposal.
 Sec. 1506. Tribal cultural resources.
 Sec. 1507. Recreational travel management plans.
 Sec. 1508. Authorization of appropriations.

Subtitle G—Sabinoso Wilderness, New Mexico

Sec. 1601. Definitions.
 Sec. 1602. Designation of the Sabinoso Wilderness.

Subtitle H—Pictured Rocks National Lakeshore Wilderness

Sec. 1651. Definitions.
 Sec. 1652. Designation of Beaver Basin Wilderness.
 Sec. 1653. Administration.
 Sec. 1654. Effect.

Subtitle I—Oregon Badlands Wilderness

Sec. 1701. Definitions.
 Sec. 1702. Oregon Badlands Wilderness.
 Sec. 1703. Release.
 Sec. 1704. Land exchanges.
 Sec. 1705. Protection of tribal treaty rights.

Subtitle J—Spring Basin Wilderness, Oregon

Sec. 1751. Definitions.
 Sec. 1752. Spring Basin Wilderness.
 Sec. 1753. Release.
 Sec. 1754. Land exchanges.
 Sec. 1755. Protection of tribal treaty rights.

Subtitle K—Eastern Sierra and Northern San Gabriel Wilderness, California

Sec. 1801. Definitions.
 Sec. 1802. Designation of wilderness areas.
 Sec. 1803. Administration of wilderness areas.
 Sec. 1804. Release of wilderness study areas.
 Sec. 1805. Designation of wild and scenic rivers.
 Sec. 1806. Bridgeport Winter Recreation Area.
 Sec. 1807. Management of area within Humboldt-Toiyabe National Forest.
 Sec. 1808. Ancient Bristlecone Pine Forest.

Subtitle L—Riverside County Wilderness, California

Sec. 1851. Wilderness designation.
 Sec. 1852. Wild and scenic river designations, Riverside County, California.
 Sec. 1853. Additions and technical corrections to Santa Rosa and San Jacinto Mountains National Monument.

Subtitle M—Sequoia and Kings Canyon National Parks Wilderness, California

Sec. 1901. Definitions.
 Sec. 1902. Designation of wilderness areas.
 Sec. 1903. Administration of wilderness areas.
 Sec. 1904. Authorization of appropriations.

Subtitle N—Rocky Mountain National Park Wilderness, Colorado

Sec. 1951. Definitions.
 Sec. 1952. Rocky Mountain National Park Wilderness, Colorado.
 Sec. 1953. Grand River Ditch and Colorado-Big Thompson projects.
 Sec. 1954. East Shore Trail Area.
 Sec. 1955. National forest area boundary adjustments.
 Sec. 1956. Authority to lease Leiffer tract.

Subtitle O—Washington County, Utah

- Sec. 1971. Definitions.
- Sec. 1972. Wilderness areas.
- Sec. 1973. Zion National Park wilderness.
- Sec. 1974. Red Cliffs National Conservation Area.
- Sec. 1975. Beaver Dam Wash National Conservation Area.
- Sec. 1976. Zion National Park wild and scenic river designation.
- Sec. 1977. Washington County comprehensive travel and transportation management plan.
- Sec. 1978. Land disposal and acquisition.
- Sec. 1979. Management of priority biological areas.
- Sec. 1980. Public purpose conveyances.
- Sec. 1981. Conveyance of Dixie National Forest land.
- Sec. 1982. Transfer of land into trust for Shivwits Band of Paiute Indians.
- Sec. 1983. Authorization of appropriations.

TITLE II—BUREAU OF LAND MANAGEMENT AUTHORIZATIONS

Subtitle A—National Landscape Conservation System

- Sec. 2001. Definitions.
- Sec. 2002. Establishment of the National Landscape Conservation System.
- Sec. 2003. Authorization of appropriations.

Subtitle B—Prehistoric Trackways National Monument

- Sec. 2101. Findings.
- Sec. 2102. Definitions.
- Sec. 2103. Establishment.
- Sec. 2104. Administration.
- Sec. 2105. Authorization of appropriations.

Subtitle C—Fort Stanton-Snowy River Cave National Conservation Area

- Sec. 2201. Definitions.
- Sec. 2202. Establishment of the Fort Stanton-Snowy River Cave National Conservation Area.
- Sec. 2203. Management of the Conservation Area.
- Sec. 2204. Authorization of appropriations.

Subtitle D—Snake River Birds of Prey National Conservation Area

- Sec. 2301. Snake River Birds of Prey National Conservation Area.

Subtitle E—Dominguez-Escalante National Conservation Area

- Sec. 2401. Definitions.
- Sec. 2402. Dominguez-Escalante National Conservation Area.
- Sec. 2403. Dominguez Canyon Wilderness Area.
- Sec. 2404. Maps and legal descriptions.
- Sec. 2405. Management of Conservation Area and Wilderness.
- Sec. 2406. Management plan.
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Subtitle F—Rio Puerco Watershed Management Program

- Sec. 2501. Rio Puerco Watershed Management Program.

Subtitle G—Land Conveyances and Exchanges

- Sec. 2601. Carson City, Nevada, land conveyances.
- Sec. 2602. Southern Nevada limited transition area conveyance.
- Sec. 2603. Nevada Cancer Institute land conveyance.
- Sec. 2604. Turnabout Ranch land conveyance, Utah.
- Sec. 2605. Boy Scouts land exchange, Utah.
- Sec. 2606. Douglas County, Washington, land conveyance.
- Sec. 2607. Twin Falls, Idaho, land conveyance.
- Sec. 2608. Sunrise Mountain Instant Study Area release, Nevada.
- Sec. 2609. Park City, Utah, land conveyance.
- Sec. 2610. Release of reversionary interest in certain lands in Reno, Nevada.
- Sec. 2611. Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria.

TITLE III—FOREST SERVICE AUTHORIZATIONS

Subtitle A—Watershed Restoration and Enhancement

- Sec. 3001. Watershed restoration and enhancement agreements.

Subtitle B—Wildland Firefighter Safety

Sec. 3101. Wildland firefighter safety.

Subtitle C—Wyoming Range

Sec. 3201. Definitions.

Sec. 3202. Withdrawal of certain land in the Wyoming range.

Sec. 3203. Acceptance of the donation of valid existing mining or leasing rights in the Wyoming range.

Subtitle D—Land Conveyances and Exchanges

Sec. 3301. Land conveyance to City of Coffman Cove, Alaska.

Sec. 3302. Beaverhead-Deerlodge National Forest land conveyance, Montana.

Sec. 3303. Santa Fe National Forest; Pecos National Historical Park Land Exchange.

Sec. 3304. Santa Fe National Forest Land Conveyance, New Mexico.

Sec. 3305. Kittitas County, Washington, land conveyance.

Sec. 3306. Mammoth Community Water District use restrictions.

Sec. 3307. Land exchange, Wasatch-Cache National Forest, Utah.

Sec. 3308. Boundary adjustment, Frank Church River of No Return Wilderness.

Sec. 3309. Sandia pueblo land exchange technical amendment.

Subtitle E—Colorado Northern Front Range Study

Sec. 3401. Purpose.

Sec. 3402. Definitions.

Sec. 3403. Colorado Northern Front Range Mountain Backdrop Study.

TITLE IV—FOREST LANDSCAPE RESTORATION

Sec. 4001. Purpose.

Sec. 4002. Definitions.

Sec. 4003. Collaborative Forest Landscape Restoration Program.

Sec. 4004. Authorization of appropriations.

TITLE V—RIVERS AND TRAILS

Subtitle A—Additions to the National Wild and Scenic Rivers System

Sec. 5001. Fossil Creek, Arizona.

Sec. 5002. Snake River Headwaters, Wyoming.

Sec. 5003. Taunton River, Massachusetts.

Subtitle B—Wild and Scenic Rivers Studies

Sec. 5101. Missisquoi and Trout Rivers Study.

Subtitle C—Additions to the National Trails System

Sec. 5201. Arizona National Scenic Trail.

Sec. 5202. New England National Scenic Trail.

Sec. 5203. Ice Age Floods National Geologic Trail.

Sec. 5204. Washington-Rochambeau Revolutionary Route National Historic Trail.

Sec. 5205. Pacific Northwest National Scenic Trail.

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Subtitle D—National Trail System Amendments

Sec. 5301. National Trails System willing seller authority.

Sec. 5302. Revision of feasibility and suitability studies of existing national historic trails.

Sec. 5303. Chisholm Trail and Great Western Trails Studies.

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TITLE VI—DEPARTMENT OF THE INTERIOR AUTHORIZATIONS

Subtitle A—Cooperative Watershed Management Program

Sec. 6001. Definitions.

Sec. 6002. Program.

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Subtitle B—Competitive Status for Federal Employees in Alaska

Sec. 6101. Competitive status for certain Federal employees in the State of Alaska.

Subtitle C—Wolf Livestock Loss Demonstration Project

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- Sec. 6202. Wolf compensation and prevention program.
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Subtitle D—Paleontological Resources Preservation

- Sec. 6301. Definitions.
- Sec. 6302. Management.
- Sec. 6303. Public awareness and education program.
- Sec. 6304. Collection of paleontological resources.
- Sec. 6305. Curation of resources.
- Sec. 6306. Prohibited acts; criminal penalties.
- Sec. 6307. Civil penalties.
- Sec. 6308. Rewards and forfeiture.
- Sec. 6309. Confidentiality.
- Sec. 6310. Regulations.
- Sec. 6311. Savings provisions.
- Sec. 6312. Authorization of appropriations.

Subtitle E—Izembek National Wildlife Refuge Land Exchange

- Sec. 6401. Definitions.
- Sec. 6402. Land exchange.
- Sec. 6403. King Cove Road.
- Sec. 6404. Administration of conveyed lands.
- Sec. 6405. Failure to begin road construction.
- Sec. 6406. Expiration of legislative authority.

TITLE VII—NATIONAL PARK SERVICE AUTHORIZATIONS

Subtitle A—Additions to the National Park System

- Sec. 7001. Paterson Great Falls National Historical Park, New Jersey.
- Sec. 7002. William Jefferson Clinton Birthplace Home National Historic Site.
- Sec. 7003. River Raisin National Battlefield Park.

Subtitle B—Amendments to Existing Units of the National Park System

- Sec. 7101. Funding for Keweenaw National Historical Park.
- Sec. 7102. Location of visitor and administrative facilities for Weir Farm National Historic Site.
- Sec. 7103. Little River Canyon National Preserve boundary expansion.
- Sec. 7104. Hopewell Culture National Historical Park boundary expansion.
- Sec. 7105. Jean Lafitte National Historical Park and Preserve boundary adjustment.
- Sec. 7106. Minute Man National Historical Park.
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- Sec. 7109. Boston Harbor Islands National Recreation Area.
- Sec. 7110. Thomas Edison National Historical Park, New Jersey.
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- Sec. 7112. Martin Van Buren National Historic Site.
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- Sec. 7114. Abraham Lincoln Birthplace National Historical Park.
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- Sec. 7117. Dayton Aviation Heritage National Historical Park, Ohio.
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Subtitle C—Special Resource Studies

- Sec. 7201. Walnut Canyon study.
- Sec. 7202. Tule Lake Segregation Center, California.
- Sec. 7203. Estate Grange, St. Croix.
- Sec. 7204. Harriet Beecher Stowe House, Maine.
- Sec. 7205. Shepherdstown battlefield, West Virginia.
- Sec. 7206. Green McAdoo School, Tennessee.
- Sec. 7207. Harry S Truman Birthplace, Missouri.
- Sec. 7208. Battle of Matewan special resource study.
- Sec. 7209. Butterfield Overland Trail.
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- Sec. 7211. Battle of Camden, South Carolina.
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Subtitle D—Program Authorizations

- Sec. 7301. American Battlefield Protection Program.

- Sec. 7302. Preserve America Program.
- Sec. 7303. Save America's Treasures Program.
- Sec. 7304. Route 66 Corridor Preservation Program.
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Subtitle E—Advisory Commissions

- Sec. 7401. Na Hoa Pili O Kaloko-Honokohau Advisory Commission.
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TITLE VIII—NATIONAL HERITAGE AREAS

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- Sec. 8001. Sangre de Cristo National Heritage Area, Colorado.
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- Sec. 8008. Mississippi Delta National Heritage Area.
- Sec. 8009. Muscle Shoals National Heritage Area, Alabama.
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- Sec. 8101. Chattahoochee Trace, Alabama and Georgia.
- Sec. 8102. Northern Neck, Virginia.

Subtitle C—Amendments Relating to National Heritage Corridors

- Sec. 8201. Quinebaug and Shetucket Rivers Valley National Heritage Corridor.
- Sec. 8202. Delaware And Lehigh National Heritage Corridor.
- Sec. 8203. Erie Canalway National Heritage Corridor.
- Sec. 8204. John H. Chafee Blackstone River Valley National Heritage Corridor.

Subtitle D—Effect of Title

- Sec. 8301. Effect on access for recreational activities.

TITLE IX—BUREAU OF RECLAMATION AUTHORIZATIONS

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- Sec. 9001. Snake, Boise, and Payette River systems, Idaho.
- Sec. 9002. Sierra Vista Subwatershed, Arizona.
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- Sec. 9101. Tumalo Irrigation District Water Conservation Project, Oregon.
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- Sec. 9105. Jackson Gulch Rehabilitation Project, Colorado.
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Subtitle C—Title Transfers and Clarifications

- Sec. 9201. Transfer of McGee Creek pipeline and facilities.
- Sec. 9202. Albuquerque Biological Park, New Mexico, title clarification.
- Sec. 9203. Goleta Water District Water Distribution System, California.

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- Sec. 9401. Definitions.
- Sec. 9402. Implementation and water accounting.
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- Sec. 9404. Authorization of appropriations.

Subtitle F—Secure Water

- Sec. 9501. Findings.
- Sec. 9502. Definitions.
- Sec. 9503. Reclamation climate change and water program.
- Sec. 9504. Water management improvement.
- Sec. 9505. Hydroelectric power assessment.
- Sec. 9506. Climate change and water intragovernmental panel.
- Sec. 9507. Water data enhancement by United States Geological Survey.
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Subtitle G—Aging Infrastructure

- Sec. 9601. Definitions.
- Sec. 9602. Guidelines and inspection of project facilities and technical assistance to transferred works operating entities.
- Sec. 9603. Extraordinary operation and maintenance work performed by the Secretary.
- Sec. 9604. Relationship to Twenty-First Century Water Works Act.
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TITLE X—WATER SETTLEMENTS

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PART I—SAN JOAQUIN RIVER RESTORATION SETTLEMENT ACT

- Sec. 10001. Short title.
- Sec. 10002. Purpose.
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- Sec. 10009. Appropriations; Settlement Fund.
- Sec. 10010. Repayment contracts and acceleration of repayment of construction costs.
- Sec. 10011. California Central Valley Spring Run Chinook salmon.

PART II—STUDY TO DEVELOP WATER PLAN; REPORT

- Sec. 10101. Study to develop water plan; report.

PART III—FRIANT DIVISION IMPROVEMENTS

- Sec. 10201. Federal facility improvements.
- Sec. 10202. Financial assistance for local projects.
- Sec. 10203. Authorization of appropriations.

Subtitle B—Northwestern New Mexico Rural Water Projects

- Sec. 10301. Short title.
- Sec. 10302. Definitions.
- Sec. 10303. Compliance with environmental laws.
- Sec. 10304. No reallocation of costs.
- Sec. 10305. Interest rate.

PART I—AMENDMENTS TO THE COLORADO RIVER STORAGE PROJECT ACT AND PUBLIC LAW 87–483

- Sec. 10401. Amendments to the Colorado River Storage Project Act.
- Sec. 10402. Amendments to Public Law 87–483.
- Sec. 10403. Effect on Federal water law.

PART II—RECLAMATION WATER SETTLEMENTS FUND

- Sec. 10501. Reclamation Water Settlements Fund.

PART III—NAVAJO-GALLUP WATER SUPPLY PROJECT

- Sec. 10601. Purposes.

Sec. 10602. Authorization of Navajo-Gallup Water Supply Project.
 Sec. 10603. Delivery and use of Navajo-Gallup Water Supply Project water.
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Sec. 10701. Agreement.
 Sec. 10702. Trust Fund.
 Sec. 10703. Waivers and releases.
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Subtitle C—Shoshone-Paiute Tribes of the Duck Valley Reservation Water Rights Settlement

Sec. 10801. Findings.
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 Sec. 10804. Approval, ratification, and confirmation of agreement; authorization.
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TITLE XI—UNITED STATES GEOLOGICAL SURVEY AUTHORIZATIONS

Sec. 11001. Reauthorization of the National Geologic Mapping Act of 1992.
 Sec. 11002. New Mexico water resources study.

TITLE XII—OCEANS

Subtitle A—Ocean Exploration

PART I—EXPLORATION

Sec. 12001. Purpose.
 Sec. 12002. Program established.
 Sec. 12003. Powers and duties of the Administrator.
 Sec. 12004. Ocean exploration and undersea research technology and infrastructure task force.
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PART II—NOAA UNDERSEA RESEARCH PROGRAM ACT OF 2009

Sec. 12101. Short title.
 Sec. 12102. Program established.
 Sec. 12103. Powers of program director.
 Sec. 12104. Administrative structure.
 Sec. 12105. Research, exploration, education, and technology programs.
 Sec. 12106. Competitiveness.
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Subtitle B—Ocean and Coastal Mapping Integration Act

Sec. 12201. Short title.
 Sec. 12202. Establishment of program.
 Sec. 12203. Interagency committee on ocean and coastal mapping.
 Sec. 12204. Biannual reports.
 Sec. 12205. Plan.
 Sec. 12206. Effect on other laws.
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 Sec. 12208. Definitions.

Subtitle C—Integrated Coastal and Ocean Observation System Act of 2009

Sec. 12301. Short title.
 Sec. 12302. Purposes.
 Sec. 12303. Definitions.
 Sec. 12304. Integrated coastal and ocean observing system.
 Sec. 12305. Interagency financing and agreements.
 Sec. 12306. Application with other laws.

- Sec. 12307. Report to Congress.
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- Sec. 12309. Independent cost estimate.
- Sec. 12310. Intent of Congress.
- Sec. 12311. Authorization of appropriations.

Subtitle D—Federal Ocean Acidification Research and Monitoring Act of 2009

- Sec. 12401. Short title.
- Sec. 12402. Purposes.
- Sec. 12403. Definitions.
- Sec. 12404. Interagency subcommittee.
- Sec. 12405. Strategic research plan.
- Sec. 12406. NOAA ocean acidification activities.
- Sec. 12407. NSF ocean acidification activities.
- Sec. 12408. NASA ocean acidification activities.
- Sec. 12409. Authorization of appropriations.

Subtitle E—Coastal and Estuarine Land Conservation Program

- Sec. 12501. Short title.
- Sec. 12502. Authorization of Coastal and Estuarine Land Conservation Program.

TITLE XIII—MISCELLANEOUS

- Sec. 13001. Management and distribution of North Dakota trust funds.
- Sec. 13002. Amendments to the Fisheries Restoration and Irrigation Mitigation Act of 2000.
- Sec. 13003. Amendments to the Alaska Natural Gas Pipeline Act.
- Sec. 13004. Additional Assistant Secretary for Department of Energy.
- Sec. 13005. Lovelace Respiratory Research Institute.
- Sec. 13006. Authorization of appropriations for National Tropical Botanical Garden.

TITLE XIV—CHRISTOPHER AND DANA REEVE PARALYSIS ACT

- Sec. 14001. Short title.

Subtitle A—Paralysis Research

- Sec. 14101. Activities of the National Institutes of Health with respect to research on paralysis.

Subtitle B—Paralysis Rehabilitation Research and Care

- Sec. 14201. Activities of the National Institutes of Health with respect to research with implications for enhancing daily function for persons with paralysis.

Subtitle C—Improving Quality of Life for Persons With Paralysis and Other Physical Disabilities

- Sec. 14301. Programs to improve quality of life for persons with paralysis and other physical disabilities.

TITLE XV—SMITHSONIAN INSTITUTION FACILITIES AUTHORIZATION

- Sec. 15101. Laboratory and support space, Edgewater, Maryland.
- Sec. 15102. Laboratory space, Gamboa, Panama.
- Sec. 15103. Construction of greenhouse facility.

TITLE I—ADDITIONS TO THE NATIONAL WILDERNESS PRESERVATION SYSTEM

Subtitle A—Wild Monongahela Wilderness

SEC. 1001. DESIGNATION OF WILDERNESS, MONONGAHELA NATIONAL FOREST, WEST VIRGINIA.

(a) DESIGNATION.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), the following Federal lands within the Monongahela National Forest in the State of West Virginia are designated as wilderness and as either a new component of the National Wilderness Preservation System or as an addition

16 USC 1132
note.

SEC. 7305. NATIONAL CAVE AND KARST RESEARCH INSTITUTE.

The National Cave and Karst Research Institute Act of 1998 (16 U.S.C. 4310 note; Public Law 105–325) is amended by striking section 5 and inserting the following:

“SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated such sums as are necessary to carry out this Act.”.

Subtitle E—Advisory Commissions

Extensions.

SEC. 7401. NA HOA PILI O KALOKO-HONOKOHAU ADVISORY COMMISSION.

Section 505(f)(7) of the National Parks and Recreation Act of 1978 (16 U.S.C. 396d(f)(7)) is amended by striking “ten years after the date of enactment of the Na Hoa Pili O Kaloko-Honokohau Re-establishment Act of 1996” and inserting “on December 31, 2018”.

SEC. 7402. CAPE COD NATIONAL SEASHORE ADVISORY COMMISSION.

Effective September 26, 2008, section 8(a) of Public Law 87–126 (16 U.S.C. 459b–7(a)) is amended in the second sentence by striking “2008” and inserting “2018”.

Effective dates.

SEC. 7403. CONCESSIONS MANAGEMENT ADVISORY BOARD.

Section 409(d) of the National Park Service Concessions Management Improvement Act of 1998 (16 U.S.C. 5958(d)) is amended in the first sentence by striking “2008” and inserting “2009”.

SEC. 7404. ST. AUGUSTINE 450TH COMMEMORATION COMMISSION.Florida.
16 USC 470a
note.

(a) **DEFINITIONS.**—In this section:

(1) **COMMEMORATION.**—The term “commemoration” means the commemoration of the 450th anniversary of the founding of the settlement of St. Augustine, Florida.

(2) **COMMISSION.**—The term “Commission” means the St. Augustine 450th Commemoration Commission established by subsection (b)(1).

(3) **GOVERNOR.**—The term “Governor” means the Governor of the State.

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

(5) **STATE.**—

(A) **IN GENERAL.**—The term “State” means the State of Florida.

(B) **INCLUSION.**—The term “State” includes agencies and entities of the State of Florida.

(b) **ESTABLISHMENT.**—

(1) **IN GENERAL.**—There is established a commission, to be known as the “St. Augustine 450th Commemoration Commission”.

(2) **MEMBERSHIP.**—

(A) **COMPOSITION.**—The Commission shall be composed of 14 members, of whom—

(i) 3 members shall be appointed by the Secretary, after considering the recommendations of the St. Augustine City Commission;

(ii) 3 members shall be appointed by the Secretary, after considering the recommendations of the Governor;

(iii) 1 member shall be an employee of the National Park Service having experience relevant to the historical resources relating to the city of St. Augustine and the commemoration, to be appointed by the Secretary;

(iv) 1 member shall be appointed by the Secretary, taking into consideration the recommendations of the Mayor of the city of St. Augustine;

(v) 1 member shall be appointed by the Secretary, after considering the recommendations of the Chancellor of the University System of Florida; and

(vi) 5 members shall be individuals who are residents of the State who have an interest in, support for, and expertise appropriate to the commemoration, to be appointed by the Secretary, taking into consideration the recommendations of Members of Congress.

(B) TIME OF APPOINTMENT.—Each appointment of an initial member of the Commission shall be made before the expiration of the 120-day period beginning on the date of enactment of this Act.

(C) TERM; VACANCIES.—

(i) TERM.—A member of the Commission shall be appointed for the life of the Commission.

(ii) VACANCIES.—

(I) IN GENERAL.—A vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(II) PARTIAL TERM.—A member appointed to fill a vacancy on the Commission shall serve for the remainder of the term for which the predecessor of the member was appointed.

(iii) CONTINUATION OF MEMBERSHIP.—If a member of the Commission was appointed to the Commission as Mayor of the city of St. Augustine or as an employee of the National Park Service or the State University System of Florida, and ceases to hold such position, that member may continue to serve on the Commission for not longer than the 30-day period beginning on the date on which that member ceases to hold the position.

(3) DUTIES.—The Commission shall—

(A) plan, develop, and carry out programs and activities appropriate for the commemoration;

(B) facilitate activities relating to the commemoration throughout the United States;

(C) encourage civic, patriotic, historical, educational, artistic, religious, economic, and other organizations throughout the United States to organize and participate in anniversary activities to expand understanding and appreciation of the significance of the founding and continuing history of St. Augustine;

(D) provide technical assistance to States, localities, and nonprofit organizations to further the commemoration;

(E) coordinate and facilitate for the public scholarly research on, publication about, and interpretation of, St. Augustine;

(F) ensure that the commemoration provides a lasting legacy and long-term public benefit by assisting in the development of appropriate programs; and

(G) help ensure that the observances of the foundation of St. Augustine are inclusive and appropriately recognize the experiences and heritage of all individuals present when St. Augustine was founded.

(c) COMMISSION MEETINGS.—

(1) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold the initial meeting of the Commission. Deadline.

(2) MEETINGS.—The Commission shall meet—

(A) at least 3 times each year; or

(B) at the call of the Chairperson or the majority of the members of the Commission.

(3) QUORUM.—A majority of the voting members shall constitute a quorum, but a lesser number may hold meetings.

(4) CHAIRPERSON AND VICE CHAIRPERSON.—

(A) ELECTION.—The Commission shall elect the Chairperson and the Vice Chairperson of the Commission on an annual basis.

(B) ABSENCE OF THE CHAIRPERSON.—The Vice Chairperson shall serve as the Chairperson in the absence of the Chairperson.

(5) VOTING.—The Commission shall act only on an affirmative vote of a majority of the members of the Commission.

(d) COMMISSION POWERS.—

(1) GIFTS.—The Commission may solicit, accept, use, and dispose of gifts, bequests, or devises of money or other property for aiding or facilitating the work of the Commission.

(2) APPOINTMENT OF ADVISORY COMMITTEES.—The Commission may appoint such advisory committees as the Commission determines to be necessary to carry out this section.

(3) AUTHORIZATION OF ACTION.—The Commission may authorize any member or employee of the Commission to take any action that the Commission is authorized to take under this section.

(4) PROCUREMENT.—

(A) IN GENERAL.—The Commission may procure supplies, services, and property, and make or enter into contracts, leases, or other legal agreements, to carry out this section (except that a contract, lease, or other legal agreement made or entered into by the Commission shall not extend beyond the date of termination of the Commission).

(B) LIMITATION.—The Commission may not purchase real property.

(5) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other agencies of the Federal Government.

(6) GRANTS AND TECHNICAL ASSISTANCE.—The Commission may—

(A) provide grants in amounts not to exceed \$20,000 per grant to communities and nonprofit organizations for use in developing programs to assist in the commemoration;

(B) provide grants to research and scholarly organizations to research, publish, or distribute information relating to the early history of St. Augustine; and

(C) provide technical assistance to States, localities, and nonprofit organizations to further the commemoration.

(e) COMMISSION PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS.—

(A) IN GENERAL.—Except as provided in paragraph (2), a member of the Commission shall serve without compensation.

(B) FEDERAL EMPLOYEES.—A member of the Commission who is an officer or employee of the Federal Government shall serve without compensation other than the compensation received for the services of the member as an officer or employee of the Federal Government.

(2) TRAVEL EXPENSES.—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(3) DIRECTOR AND STAFF.—

(A) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws (including regulations), nominate an executive director to enable the Commission to perform the duties of the Commission.

(B) CONFIRMATION OF EXECUTIVE DIRECTOR.—The employment of an executive director shall be subject to confirmation by the Commission.

(4) COMPENSATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(B) MAXIMUM RATE OF PAY.—The rate of pay for the executive director and other personnel shall not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(5) DETAIL OF GOVERNMENT EMPLOYEES.—

(A) FEDERAL EMPLOYEES.—

(i) DETAIL.—At the request of the Commission, the head of any Federal agency may detail, on a reimbursable or nonreimbursable basis, any of the personnel of the agency to the Commission to assist the Commission in carrying out the duties of the Commission under this section.

(ii) CIVIL SERVICE STATUS.—The detail of an employee under clause (i) shall be without interruption or loss of civil service status or privilege.

(B) STATE EMPLOYEES.—The Commission may—

(i) accept the services of personnel detailed from the State; and

(ii) reimburse the State for services of detailed personnel.

(6) **PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.**—The Chairperson of the Commission may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(7) **VOLUNTEER AND UNCOMPENSATED SERVICES.**—Notwithstanding section 1342 of title 31, United States Code, the Commission may accept and use such voluntary and uncompensated services as the Commission determines to be necessary.

(8) **SUPPORT SERVICES.**—

(A) **IN GENERAL.**—The Secretary shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(B) **REIMBURSEMENT.**—Any reimbursement under this paragraph shall be credited to the appropriation, fund, or account used for paying the amounts reimbursed.

(9) **FACA NONAPPLICABILITY.**—Section 14(b) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(10) **NO EFFECT ON AUTHORITY.**—Nothing in this subsection supersedes the authority of the State, the National Park Service, the city of St. Augustine, or any designee of those entities, with respect to the commemoration.

(f) **PLANS; REPORTS.**—

(1) **STRATEGIC PLAN.**—The Commission shall prepare a strategic plan for the activities of the Commission carried out under this section.

(2) **FINAL REPORT.**—Not later than September 30, 2015, the Commission shall complete and submit to Congress a final report that contains—

(A) a summary of the activities of the Commission;

(B) a final accounting of funds received and expended by the Commission; and

(C) the findings and recommendations of the Commission.

(g) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **IN GENERAL.**—There is authorized to be appropriated to the Commission to carry out this section \$500,000 for each of fiscal years 2009 through 2015.

(2) **AVAILABILITY.**—Amounts made available under paragraph (1) shall remain available until December 31, 2015.

Expiration date.

(h) **TERMINATION OF COMMISSION.**—

(1) **DATE OF TERMINATION.**—The Commission shall terminate on December 31, 2015.

(2) **TRANSFER OF DOCUMENTS AND MATERIALS.**—Before the date of termination specified in paragraph (1), the Commission shall transfer all documents and materials of the Commission to the National Archives or another appropriate Federal entity.

Senator CASSIDY. All member's statements will be added to the hearing record.

[The written statement of Senator Kaine follows:]

Testimony of Senator Tim Kaine
S. 2548, 400 Years of African American History Commission Act
Subcommittee on National Parks
Committee on Energy and Natural Resources
June 15, 2016

I appreciate the opportunity to be here today.

The year 2019 will mark 400 years since the arrival of twenty Africans at Point Comfort, Virginia (current day Hampton, Virginia). These Africans were forcibly sold into slavery, captured by the English from a Portuguese slave ship and brought to Virginia. Their arrival was the beginning of the slave trade in America, which led to a total slave population of nearly 4 million by the Civil War.

The history is a tragic and painful one, but also a history of triumph over adversity. For nearly 250 years after Point Comfort, most African Americans were held in slavery and even free blacks were not accorded basic legal rights of citizenship. For the next 100 years, from the end of the Civil War to the passage of major civil rights legislation in the 1960s, free African Americans were burdened by second-class citizenship in voting, housing, employment, education, access to public accommodations and other basic areas of life. It has only been in the last 50 years that African Americans have enjoyed full legal equality as American citizens, though huge social disparities exist to this day.

Despite this tragic history, the contributions of Africans and African Americans to who we are as a nation are remarkable. Every dimension of American life—business, academics, law, military, spirituality, culture, diplomacy, government, medicine, social justice, innovation—has been profoundly influenced by countless generations of African Americans. And it is important that we tell that story—in all its pain and triumph—as we approach 2019.

When I served as Governor of Virginia, we held a major commemoration of 400 years of the English roots of America, recognizing the founding of the Jamestown Colony in 1607. Congress passed a resolution establishing a federal commission to assist in events and educational materials appropriate to that important anniversary. And last year, as Honorary Chair of the U.S./Spain Council, I participated in events commemorating 450 years of the Hispanic roots of America, recognizing the foundation of St. Augustine, Florida in 1565. Again, Congress passed a resolution to establish a federal commission to assist in events and educational materials appropriate to that important anniversary.

In February, I introduced the 400 Years of African American History Commission Act, S. 2548. This legislation would establish a commission to plan programs and activities across the country in 2019 to recognize this historic moment. A companion measure was introduced in the House by Congressman Bobby Scott. The bill has bipartisan support in both the House and Senate. The House measure is supported overwhelmingly by members of the Congressional Black Caucus, including Rep. G. K. Butterfield and civil rights icon Rep. John Lewis. The bill also received support from the National NAACP, the Leadership Council on Civil and Human Rights and the National Urban League.

Congress saw fit through the creation of a federal commission to affirm that our English roots matter. Congress saw fit through the creation of a federal commission to affirm that our Hispanic roots matter. I have introduced this bill in the belief that Congress should also affirm through the creation of a federal commission that our African roots matter.

I urge the committee to consider this legislation swiftly so it can be brought before the full Senate. The year 2019 is fast approaching, and this legislation needs to be enacted into law this year.

Senator CASSIDY. It is now time to hear from our witness.

Senator HEINRICH. Mr. Chair, before Senator Blunt leaves I just want to mention that he knows my parents are constituents of his and I had the pleasure of visiting Ste. Genevieve with them when I was younger. It is truly a unique historical location, and I very much look forward to seeing the fruits of his efforts because it is a special piece of our history in architecture in this country.

Senator KING. Mr. Chairman, I also have a bill in this package. I don't know whether you want me to present it now or?

Senator CASSIDY. You can present now, if you would like, Senator King.

STATEMENT OF HON. ANGUS S. KING, JR., U.S. SENATOR FROM MAINE

Senator KING. My bill is S. 3027, and it involves Acadia National Park in Maine.

The history is Acadia National Park was created virtually at the beginning of the National Park System under a series of laws, I think, in 1919 and then another in 1929.

There was concern in the community, some of the communities surrounding the park, about what the boundary of the park was, how it was going to grow, whether it was going to grow in ways that the communities found amicable to their interests.

So in 1986 two of my most illustrious predecessors, Bill Cohen and George Mitchell, collaborated on a statute that was passed to establish the permanent boundary of Acadia National Park and it established a boundary on a map and that was the boundary.

A couple of years ago a very generous donation became available of about 1,400 acres to the Park Service, and the Park Service accepted that donation under the auspices of the 1929 Act. It is unclear, as we will hear in testimony, that the Park Service felt that they had the legal authority to do so. There are many people in Maine who do not think that they did.

Although the communities are supportive of this donation, they are concerned about the precedent of this, and the lack of clarity of whether this donation was fully appropriate under the 1986 Act.

So my bill does a couple of things. One, it clarifies the fact that this donation can be accepted and that this 1,441 acres is part of the park. Number two, it re-establishes Acadia Park Commission and makes clear who the people are. It also takes care of a little piece of the land from the park that has been conveyed to one of the towns under a restricted covenant in terms of its use for a school. So it cleans up some of these issues.

We have worked with various parties to try to get this right, but we want to continue to work with the Park Service. They have some questions about it, some questions about the specific language. But again, everybody in the region, I say everybody, certainly the vast majority, have indicated support for this conveyance that was accepted by the Park Service. But we also want to be consistent with this 1986 Act and have the boundary absolutely clear and be sure what the processes are going forward. So that is the nature of this bill.

Senator CASSIDY. Senator Cantwell, would you like to comment on your legislation?

**STATEMENT OF HON. MARIA CANTWELL, U.S. SENATOR FROM
WASHINGTON**

Senator CANTWELL. Thank you, Mr. Chairman. Thank you so much. I thank you for holding this hearing and for including three bills that concern the State of Washington.

Two of the bills would establish national heritage areas in our state: S. 1623, the Maritime Washington National Heritage Area which includes most of the coastal shoreline of the state, and S. 1690, the Mountains to Sound Greenway National Heritage Area including lands in Kittitas and King Counties extending from the Cascades to Puget Sound.

The Mountains to Sound Greenway Trust has been working for many years with local communities and businesses and interested individuals to promote and conserve the basic scenic beauty of the Greenway and to better educate the public about the deep heritage and numerous opportunities for outdoor recreation. I do not need to go into the details, but we believe in an outdoor recreation economy in the State of Washington and it has provided great dividends, so we think enhancing some of those opportunities also increases that economic activity.

Similarly, the Washington Trust for Historic Preservation has helped to develop the Maritime Washington National Heritage Area proposal that will tell the story of the culturally diverse maritime heritage of our state.

I see my dear colleague from Maine who has told me he has been to places like Port Townsend so he understands what I am talking about when he talks about the maritime heritage of our area.

Our state's many outdoor recreational opportunities and spectacular natural resources provide quality of living, attract businesses and help them with the outdoor economy, and are major economic contributors. In our state outdoor recreation-related consumer spending generates \$22 billion a year, more than \$7 billion in wages and salaries and 227,000 direct jobs.

Mr. Chairman, the Committee considering these proposals during the previous Congress ordered them to be favorably reported, and I hope that we can move again the same legislation the same way.

The third bill I would like to briefly discuss, S. 3028, would rename the Olympic Wilderness in Olympic National Park as the Dan J. Evans Wilderness in honor of former Washington Senator and Governor, Dan Evans.

Dan Evans served in the Senate beginning in 1983 fulfilling the term following the death of Senator Scoop Jackson, former Chair of this Committee, and he remained here until his retirement—but he was most popular in our state for being a three-term governor.

So during his time in the Senate, Evans was a leader in the passage of two major wilderness bills in our state that together protected 2.5 million acres of wilderness, and he was a lead sponsor of the Washington Park Wilderness Act of 1988 which designated more than 1.5 million acres of wilderness including 876,000 acres of wilderness in the Olympic National Park, which would be renamed by this bill.

The seven members of the Washington Congressional delegation who were in office when the Olympic Wilderness bill was passed

have sent letters expressing their strong support for this designation. The designation of the Daniel J. Evans Wilderness is a fitting tribute to a man who has done so much in so many areas but has also done so much to make sure that we have protection of our state's premier wilderness areas.

I am pleased to join my colleague, Senator Murray, who has co-sponsored all three of these bills, and I hope that we will report them out of the Committee favorably.

Again, thank you, Mr. Chairman.

Senator CASSIDY. All member statements will be added to the hearing record.

It is now time to hear from our witness, Dr. Toothman. Dr. Toothman is the Associate Director for Cultural Resources, Partnerships and Science for the National Park Service.

Dr. Toothman, I understand that you also coordinated with the BLM where necessary on some of these bills. Thank you for doing so.

At the end of the testimony we will begin questions and your full written testimony will be made part of the official hearing record.

Dr. Toothman, please proceed.

STATEMENT OF DR. STEPHANIE TOOTHMAN, ASSOCIATE DIRECTOR, CULTURAL RESOURCES, PARTNERSHIPS AND SCIENCE, NATIONAL PARK SERVICE, U.S. DEPARTMENT OF THE INTERIOR

Dr. TOOTHMAN. Thank you, Senator.

Mr. Chairman, thank you for the opportunity to present the Department of the Interior's views on 23 bills on today's agenda. I would like to submit our full statements on each of these bills for the record and summarize the Department's views.

Senator CASSIDY. Without objection.

Dr. TOOTHMAN. The Department supports the following bills:

S. 2839 and H.R. 3004 which would extend the authorization for the Gullah/Geechee Cultural Heritage Corridor Commission;

H.R. 3620 which would authorize a permanent program for local commercial vehicles using a park road in Delaware Water Gap National Recreation Area;

H.R. 4119 which would authorize a land exchange at Gulf Islands National Seashore;

S. 211 which would establish the Susquehanna Gateway National Heritage Area;

S. 630 which would establish the Sacramento/San Joaquin Delta National Heritage Area;

S. 1007 which would reflect in law the new name of a privately held building within Dayton Aviation Heritage National Historical Park;

S. 1623 which would establish the Maritime Washington National Heritage Area;

S. 1690 which would establish the Mountains to Sound Greenway National Heritage Area;

S. 1696 and H.R. 482 which would re-designate the Ocmulgee, gee, I think it's Ocmulgee, National Monument, adjust the park's boundary and authorize the study of additional resources in the vicinity of the park;

S. 1824 which would authorize a National Heritage Area study for the Finger Lakes region;

S. 2087 which would modify the boundary of Fort Scott National Historical Site;

S. 2412 which would establish the Tule Lake National Historic Site as a stand alone unit of the National Park Service;

S. 2548 which would establish a commission on 400 years of African-American history;

S. 2627 which would authorize a boundary adjustment for Mojave National Preserve;

S. 2805 which would modify the boundaries of Voyageurs National Park;

S. 2954 which would establish Ste. Genevieve National Historical Site;

S. 3020 which would adjust the boundary of Florissant Fossil Beds National Monument; and

S. 3028 which would designate Olympic Wilderness as the Daniel J. Evans Wilderness.

The reasons for the support of these bills are explained in our full statements.

For several of the bills we are requesting amendments, and we would be happy to work with the Committee on drafting them.

The Department would support, if amended, S. 3027 which would modify the boundary of Acadia National Park. We would recommend language confirming the boundary includes Schoodic Peninsula addition, providing for minor boundary adjustment authority and adding conditions to deed restrictions to the deed restriction release.

The Department cannot support, unless amended, S. 2923 which would re-designate Saint-Gaudens National Historic Site as the Saint-Gaudens National Park for the Arts. The National Park Service is trying to avoid the further proliferation of non-standard designations in order to bring more consistency to national park names. We could, however, support re-designating the site as a national historical park.

The Department recommends that the Committee defer action on S. 1662 which adds communities to the Lincoln National Heritage Area until the National Park Service can determine the appropriateness of the proposed expansion.

The Department strongly opposes S. 2807 which would require state approval before the National Park Service restricts access for recreational and commercial fishing. This bill is inconsistent with the National Park Service mandate under our Organic Act to protect natural resources. In addition, we believe that existing policies calling for cooperation and consultation between the Park Service and states on management activities related to fish and wildlife resources already provides a strong, collaborative and effective framework for managing those resources.

The Department strongly opposes H.R. 3036 which would designate the National September 11th Memorial in New York City as a National Memorial. This bill authorizes federal funding for the memorial but no federal role in administering, interpreting or preserving the resources of the memorial.

Mr. Chairman, this concludes my statement. I would be pleased to answer any questions you may have.
[The prepared statement of Dr. Toothman follows:]

**STATEMENT OF DR. STEPHANIE TOOTHMAN, ASSOCIATE DIRECTOR,
CULTURAL RESOURCES, PARTNERSHIPS, AND SCIENCE, NATIONAL PARK
SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SENATE
SUBCOMMITTEE ON NATIONAL PARKS, COMMITTEE ON ENERGY AND
NATURAL RESOURCES, CONCERNING S. 211, A BILL TO ESTABLISH THE
SUSQUEHANNA GATEWAY NATIONAL HERITAGE AREA IN THE STATE OF
PENNSYLVANIA, AND FOR OTHER PURPOSES.**

JUNE 15, 2016

Mr. Chairman, thank you for the opportunity to present the Department of the Interior's views on S. 211, a bill to establish the Susquehanna Gateway National Heritage Area in the State of Pennsylvania, and for other purposes.

The Department supports enactment of S. 211, as the proposed Susquehanna Gateway National Heritage Area has been found to meet the National Park Service's interim criteria for designation as a national heritage area. We recommend an amendment described later in this statement.

However, along with designating any new national heritage areas, the Department recommends that Congress pass national heritage area program legislation. There are currently 49 designated national heritage areas, yet there is no authority in law that guides the designation and administration of these areas. Program legislation that establishes criteria to evaluate potentially qualified national heritage areas and a process for the designation, funding, and administration of these areas would provide a much-needed framework for evaluating proposed national heritage areas. It would offer guidelines for successful planning and management, clarify the roles and responsibilities of all parties, and standardize timeframes and funding for designated areas. The Department also notes that newly-authorized national heritage areas will compete for limited resources in the Heritage Partnership Program. The President's FY17 Budget proposes \$9.4 million for the current 49 areas. The authorization of additional national heritage areas will leave less funding for each individual national heritage area.

Flowing for 441 miles, the Susquehanna River is the longest river on the East Coast and the largest contributor of fresh water to the Chesapeake Bay. The portions of the river flowing through Lancaster and York Counties in Pennsylvania exhibit exceptional natural and recreational value and traverse landscapes of historical importance to our nation.

The region of the proposed Susquehanna Gateway National Heritage Area was first inhabited by Native Americans who left evidence of their occupation in a myriad of archeological sites, as well as rock art at several petroglyph sites. When Captain John Smith journeyed up the Susquehanna River in the summer of 1608, he sent emissaries to the Susquehannock town located on the east side of the river near present day Washington Boro in Lancaster County. Tribal leaders there entered a trade alliance, opening to the English a trade network extending hundreds of miles.

In 1668, William Penn set the tone for religious tolerance in Pennsylvania and brought colonists who settled the great fertile valley of the Susquehanna Gateway region, beginning its long history as an abundant agricultural center. Serving as an important transportation corridor, the river provided opportunities for commerce and invention. It was here that John Elgar constructed the first iron steamboat in America. The birthplace of Robert Fulton, the original inventor of steam powered boats, is a National Historic Landmark in Lancaster County. Here, too, Phineas Davis designed and built the first practical coal burning steam locomotive, thereby revolutionizing railroad transportation.

The region is the home ground of the “Plain People” – the Amish and Mennonites. Their religious values, simple way of life, and well-tended farms speak to the deepest feelings that Americans have about ourselves and our national experience.

In this region, visitors also find evidence of our Revolutionary War past. Lancaster and York Counties served as venues for the Continental Congress when it left Philadelphia upon the British occupation of that city. In the courthouse in York, the Congress approved the Articles of Confederation and Perpetual Union, the nation’s “first constitution,” and sent it forth to the states for ratification. In the summer of 1781, Continental Army General James Wood established Camp Security, housing more than a thousand British soldiers from General John Burgoyne’s army, which had surrendered at Saratoga.

The region also has an abundance of natural resources including migratory bird nesting sites, remnants of old growth forests, and areas of both ecological diversity and scenic quality. Ferncliff, known for its wildflowers, and the Susquehanna Gorge are both designated National Natural Landmarks. Recreational resources abound in the region, including the Kelly’s Run and Susquehanna River Water Trails, both National Recreation Trails.

S. 211 would designate the Susquehanna Heritage Corporation, a non-profit organization, as the local coordinating entity for the Susquehanna Gateway National Heritage Area. This organization has served as the coordinator for the state heritage area covering this region that was designated in 2001. The Susquehanna Heritage Corporation has demonstrated success in coordinating diverse partners in Lancaster and York Counties. Over the past 15 years, the corporation has been effective in facilitating preservation, interpretative, and educational projects and in leveraging community participation and funding. The heritage area has strong support from the public and from a myriad of state, local, federal, and non-governmental partners throughout the area. In 2008, the corporation prepared a national heritage area feasibility study that was reviewed by the National Park Service and found to meet the interim criteria for potential designation found in the *National Heritage Area Feasibility Study Guidelines*.

Most of the language in S. 211 is standard for national heritage area designation legislation that Congress has enacted in the last decade. However, the bill’s management plan requirements are missing some of the standard provisions. We recommend an amendment to make these requirements consistent with designation legislation for other national heritage areas. We would be pleased to submit language for that purpose.

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

**STATEMENT OF DR. STEPHANIE TOOTHMAN, ASSOCIATE DIRECTOR,
CULTURAL RESOURCES, PARTNERSHIPS, AND SCIENCE, NATIONAL PARK
SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SENATE
SUBCOMMITTEE ON NATIONAL PARKS, COMMITTEE ON ENERGY AND
NATURAL RESOURCES, CONCERNING S. 630, TO ESTABLISH THE
SACRAMENTO-SAN JOAQUIN DELTA NATIONAL HERITAGE AREA.**

JUNE 15, 2016

Mr. Chairman, thank you for the opportunity to present the Department of the Interior's views on S. 630, a bill to establish the Sacramento-San Joaquin Delta National Heritage Area.

The Department supports enactment of S. 630 as the proposed Sacramento-San Joaquin Delta National Heritage Area has been found to meet the National Park Service's interim criteria for designation as a national heritage area.

However, along with designating any new national heritage areas, the Department recommends that Congress pass national heritage area program legislation. There are currently 49 designated national heritage areas, yet there is no authority in law that guides the designation and administration of these areas. Program legislation that establishes criteria to evaluate potentially qualified national heritage areas and a process for the designation, funding, and administration of these areas would provide a much-needed framework for evaluating proposed national heritage areas. It would offer guidelines for successful planning and management, clarify the roles and responsibilities of all parties, and standardize timeframes and funding for designated areas. The Department also notes that newly-authorized national heritage areas will compete for limited resources in the Heritage Partnership Program. The President's FY17 Budget proposes \$9.4 million for the current 49 areas. The authorization of additional national heritage areas will leave less funding for each individual national heritage area.

The Feasibility Study for a Sacramento-San Joaquin Delta National Heritage Area was completed and published by the Delta Protection Commission in July 2012. The Delta Protection Commission is identified as the Heritage Area's local coordinating entity. The proposed national heritage area will cover the counties of Contra Costa, Sacramento, San Joaquin, Solano, and Yolo, in the State of California.

The Sacramento-San Joaquin Delta is the largest estuary on the West Coast of the Americas, a rare inland/inverse Delta at the confluence of the Sacramento and San Joaquin Rivers. The delta was formed after the last ice age 10,000 years ago, when a rapid rise in sea level inundated the alluvial valley of the Sacramento River.

Native Americans lived among the extensive freshwater and brackish marshes, oak woodland, savannah, chaparral, and riparian habitat rich with wildlife. Early fur traders such as Jedediah Smith trekked into the region in search of otter, mink and beaver. Then, gold seekers on their way from San Francisco to the gold fields in the Sierra Nevada recognized the fertility of the delta's soils. Beginning in the 1880s, using Chinese, Japanese, Filipino, East Indian, Portuguese

and Italian laborers, one of the largest reclamation projects in the United States converted the vast swamps into the leveed landscape that characterizes the delta today.

The Sacramento-San Joaquin Delta is the lynchpin of a huge watershed that links San Francisco Bay and the Pacific Ocean to waterways flowing from the Cascade, Coastal and Sierra Nevada mountain ranges. After more than a century and a half of reclamation and development, the delta still supports over one hundred crop types, and hundreds of species of flora and fauna. It is a key stopover on the Pacific Flyway. While its quiet waterways and historic towns are untapped recreational and tourism attractions for large adjacent populations in the San Francisco Bay Area and the Central Valley, the delta supplies irrigation and drinking water to far away California farmers and households, and is at the heart of statewide water conflicts.

The Sacramento-San Joaquin Delta is a hidden gem of a region located at a key geographic and historic crossroads in our country. It is a land of ethnic diversity, innovation, industry, enduring history, and both fragile and robust physical features. Artists such as Jack London and Joan Didion have written about the delta as both a place and an idea.

The mission of the proposed Sacramento-San Joaquin Delta National Heritage Area is to recognize, enhance and promote the theme 'Delta as Place' to help cultivate appreciation and understanding of the Delta's heritage, and to build support and economic activity around its preservation and enhancement. The Delta Protection Commission has conducted a Delta Narratives project in collaboration with regional academic and cultural institutions to communicate the region's historic and cultural importance. A cultural resources inventory and planning for the Great Delta Trail are underway. Agri-tourism businesses – markets, farm stays, wineries – increasingly showcase and share the region's agricultural traditions.

Through the work of such partnerships in a Sacramento-San Joaquin National Heritage Area, the Delta Protection Commission has significant potential to engage the broader community in protecting, enhancing, and enjoying the heritage values of the Sacramento-San Joaquin Delta region well into the future.

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

**STATEMENT OF DR. STEPHANIE TOOTHMAN, ASSOCIATE DIRECTOR,
CULTURAL RESOURCES, PARTNERSHIPS AND SCIENCE, NATIONAL PARK
SERVICE, U.S. DEPARTMENT OF THE INTERIOR, BEFORE THE SENATE
SUBCOMMITTEE ON NATIONAL PARKS, COMMITTEE ON ENERGY AND
NATURAL RESOURCES, CONCERNING S. 1007 TO AMEND DAYTON AVIATION
HERITAGE PRESERVATION ACT OF 1992 TO RENAME A SITE OF DAYTON
HERITAGE NATIONAL HISTORICAL PARK.**

JUNE 15, 2016

Mr. Chairman and members of the subcommittee, thank you for the opportunity to present the views of the Department of the Interior on S. 1007, a bill to amend the Dayton Aviation Heritage Preservation Act of 1992 to rename a site of the Dayton Heritage National Historical Park.

The Department does not object to S. 1007.

This bill would amend the enabling act for the Dayton Aviation Heritage National Historical Park (Park), a unit of the National Park System, to provide that the Park shall include a site known as the “John W. Berry, Sr. Wright Brothers National Museum” rather than the “John W. Berry, Sr. Wright Brothers Aviation Center.”

The John W. Berry, Sr. Wright Brothers Aviation Center is managed by Dayton History, a not-for-profit partner of the NPS, as part of the Dayton Aviation Heritage National Historical Park. The center’s exhibits focus on the Wright brothers’ early printing and bicycle businesses, their family history, and their association with schoolmate, poet and author, Paul Laurence Dunbar. The center also houses the 1905 Wright Flyer III, the only airplane in the United States designated as a National Historic Landmark.

The facility that is the subject of this legislation is a private parcel within the boundary of the Park. It is a major attraction within Carillon Historical Park, a larger attraction owned and managed by Dayton History. Dayton History is planning to change the name of the facility from the John W. Berry, Sr. **Aviation Center** to the John W. Berry, Sr. **National Museum**. This bill would ensure that there is consistency between the actual name of the facility and the name used to identify it in the Park’s establishing legislation, which designates the site within the Park.

If the committee moves forward with this legislation, the Department would recommend amending the title of the bill to more accurately reflect the bill’s purpose. The bill does not rename the site; rather the bill amends the act to reflect the new name of the site that Dayton History will be giving it. We recommend the bill be titled “to amend the Dayton Aviation Heritage Preservation Act of 1992 to reflect the renaming of a site of the park.”

If this bill is enacted, the costs for the National Park Service would be minimal. We would need to modify or replace the park entrance sign and update interpretive materials, but these would be made in the course of normal replacement and updating of these items.

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

**STATEMENT OF DR. STEPHANIE TOOTHMAN, ASSOCIATE DIRECTOR
CULTURAL RESOURCES, PARTNERSHIPS, AND SCIENCE, NATIONAL PARK
SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON
NATIONAL PARKS OF THE SENATE ENERGY AND NATURAL RESOURCES
COMMITTEE, CONCERNING S. 1623, TO ESTABLISH THE MARITIME
WASHINGTON NATIONAL HERITAGE AREA IN THE STATE OF WASHINGTON,
AND FOR OTHER PURPOSES.**

JUNE 15, 2016

Mr. Chairman, thank you for the opportunity to present the Department of the Interior's views on S. 1623, a bill to establish the Maritime Washington National Heritage Area in the State of Washington.

The Department supports the enactment of S. 1623, as the proposed Maritime Washington National Heritage Area has been found to meet the National Park Service's interim criteria for designation as a national heritage area.

However, along with designating any new national heritage areas, the Department recommends that Congress pass national heritage area program legislation. There are currently 49 designated national heritage areas, yet there is no authority in law that guides the designation and administration of these areas. Program legislation that establishes criteria to evaluate potentially qualified National heritage areas and a process for the designation, funding, and administration of these areas would provide a much-needed framework for evaluating proposed national heritage areas. It would offer guidelines for successful planning and management, clarify the roles and responsibilities of all parties, and standardize timeframes and funding for designated areas. The Department also notes that newly-authorized national heritage areas will compete for limited resources in the Heritage Partnership Program. The President's FY17 Budget proposes \$9.4 million for the current 49 areas. The authorization of additional national heritage areas will leave less funding for each individual national heritage area.

The proposed area includes land that is as located within one-quarter mile landward of the shoreline in the counties of Whatcom, Skagit, Snohomish, San Juan, Island, King, Pierce, Thurston, Mason, Kitsap, Jefferson, Clallam, and Grays Harbor, approximately 3,000 linear miles of a "Salt Water Coast." The proposed local coordinating entity for the Maritime Washington National Heritage Area would be the Washington Trust for Historic Preservation. A *Feasibility Study for a Washington State National Maritime Heritage Area* was completed by the Washington Department of Archaeology and Historic Preservation in April 2010. The National Park Service conducted a review of the study for consistency with the interim *National Heritage Area Feasibility Study Guidelines*, and with a subsequent revised Statement of Importance and boundary justification submitted March 5, 2012, and found that the area meets these criteria for national heritage area designation. The Washington Trust for Historic Preservation was informed of this decision in a letter on June 5, 2012.

The proposed Maritime Washington National Heritage Area stretches from northern ports in Bellingham and Blaine to the protected harbors of Aberdeen and Hoquiam. The landscape tells the stories of a rich Native American civilization, development of the farthest territorial corner of the United States, of gold rushers and shipbuilders, and of a gateway to Alaska, Asia and the seaports of the world.

Living between steep glacier-clad mountain ranges and a temperate saltwater shoreline, native people built a complex culture around canoe routes and salmon cycles. By the late 18th century, the region was being mapped and named by Spanish, English, and Russian explorers in the interest of science and the pursuit of colonial empire. After the 49th parallel was established as the nation's northern border in 1846, this new corner of the country entered a dramatic period of social, political and military development. The vast conifer forests were easily accessible for timber production, and the coastal geography made possible its transportation to the developing American west. The timber trade and abundant marine resources, especially salmon, of the San Juan de Fuca straight, the Puget Sound and the Pacific Ocean attracted American, European and Pan-Asian settlers who provided the labor for thriving port economies in Port Angeles, Port Townsend, and Port Gamble.

At the heart of the heritage area is the greater Puget Sound, a system of interconnected marine waterways, harbors, bays and inlets that wet the shores of the San Juan Archipelago and the many waterfront towns, cities, and ports that have grown up here over time. The naval facilities on Puget Sound have built and repaired vessels in our fleet for over a century. Even today the region relies on the country's largest marine highway system – its famous ferries – for day-to-day transportation.

These stories are represented in the traditional Native American sites, lumber towns, logging mills, salmon processing plants, historic ships, lighthouses, museums and the host of other maritime-related sites, scenes, and traditions that comprise the proposed Maritime Washington National Heritage Area. Under the leadership of the Washington Trust for Historic Preservation, the heritage area would encourage and support the work of the many organizations committed to the recognition, preservation and continued economic, recreational and educational use of this unique and vital region and its resources.

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

**STATEMENT OF DR. STEPHANIE TOOTHMAN, ASSOCIATE DIRECTOR,
CULTURAL RESOURCES, PARTNERSHIPS, AND SCIENCE, NATIONAL PARK
SERVICE, U.S. DEPARTMENT OF THE INTERIOR, BEFORE THE SENATE
SUBCOMMITTEE ON NATIONAL PARKS, COMMITTEE ON ENERGY AND
NATURAL RESOURCES, CONCERNING S. 1662, A BILL TO INCLUDE
LIVINGSTON COUNTY, THE CITY OF JONESBORO IN UNION COUNTY, AND THE
CITY OF FREEPORT IN STEPHENSON COUNTY, ILLINOIS, TO THE LINCOLN
NATIONAL HERITAGE AREA, AND FOR OTHER PURPOSES.**

JUNE 15, 2016

Mr. Chairman and members of the subcommittee, thank you for the opportunity to present the views of the Department of the Interior on S. 1662, a bill to expand the boundary of the Abraham Lincoln National Heritage Area (NHA), and for other purposes.

The Department recommends that the committee defer action on S. 1662 until such time as the National Park Service (NPS) determines if this proposed expansion is appropriate. The NHA was authorized on May 10, 2008, to help tell the stories of the places that President Abraham Lincoln lived for almost 30 years. These important sites include the Lincoln Log Cabin, the Abraham Lincoln Presidential Museum, and the Lincoln Home National Historic Site. The NHA includes 42 counties in Central Illinois. The Looking for Lincoln Heritage Coalition (LFLHC), a non-profit organization, was authorized to manage the NHA, which is a consortium of Illinois communities and sites that share the legacy of Abraham Lincoln.

Prior to beginning any effort to designate an area as a national heritage area, the NPS recommends that interested community members or organizations undertake a feasibility study to assess several factors, including: whether the landscape has an assemblage of natural, cultural, historic and scenic resources that, when linked together, tell a nationally important story; whether an organization exists with the financial and organizational capacity to coordinate heritage area activities; and, whether the level of support for designation exists within the region.

The LFLHC completed their feasibility study in 2002. The NPS recommends that the LFLHC submit an addendum to their feasibility study that includes a boundary justification for the inclusion of Livingston County, the City of Jonesboro in Union County, and the City of Freeport in Stephenson County, Illinois. The addendum will document that the LFLHC has reached out to these communities and that there is public support for the inclusion of their cities and county in the boundary of the NHA. Additionally, the addendum will ensure that the proposed inclusion of these cities and county supports the original intent of the NHA.

Once the LFLHC completes the amended feasibility study, the NPS will undertake our evaluation as expeditiously as possible. The NPS recommends that the committee defer action until the feasibility study amendment is completed and the NPS can make a determination on the proposed expansion.

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

**STATEMENT OF DR. STEPHANIE TOOTHMAN, ASSOCIATE DIRECTOR,
CULTURAL RESOURCES, PARTNERSHIPS, AND SCIENCE, NATIONAL PARK
SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON
NATIONAL PARKS OF THE SENATE ENERGY AND NATURAL RESOURCES
COMMITTEE, CONCERNING S. 1690, TO ESTABLISH THE MOUNTAINS TO
SOUND GREENWAY NATIONAL HERITAGE AREA.**

JUNE 15, 2016

Mr. Chairman, thank you for the opportunity to present the Department of the Interior's views on S. 1690, a bill to establish the Mountains to Sound Greenway National Heritage Area in the State of Washington.

The Department supports enactment of S. 1690 as the proposed Mountains to Sound Greenway National Heritage Area has been found to meet the National Park Service's interim criteria for designation as a national heritage area.

However, along with designating any new national heritage areas, the Department recommends that Congress pass national heritage area program legislation. There are currently 49 designated national heritage areas, yet there is no authority in law that guides the designation and administration of these areas. Program legislation that establishes criteria to evaluate potentially qualified national heritage areas and a process for the designation, funding, and administration of these areas would provide a much-needed framework for evaluating proposed national heritage areas. It would offer guidelines for successful planning and management, clarifying the roles and responsibilities of all parties, and standardize timeframes and funding for designated areas. The Department also notes that newly-authorized national heritage areas will compete for limited resources in the Heritage Partnership Program. The President's FY17 Budget proposes \$9.4 million for the current 49 areas. The authorization of additional national heritage areas will leave less funding for each individual national heritage area.

The Mountains to Sound Greenway National Heritage Area would include lands within King and Kittitas Counties stretching from Snoqualmie Pass to Seattle. The proposed local coordinating entity would be the nonprofit corporation Mountains to Sound Greenway Trust.

Initially, NPS review of the *Mountains to Sound Greenway National Heritage Area Feasibility Study* completed by the Mountains to Sound Greenway Trust (Trust) in March 2012, found that the study did not meet the NPS *Interim National Heritage Area Feasibility Study Guidelines*. In a subsequent May 27, 2014, *Addendum* the Trust provided a revised statement of national importance; themes and a list of associated resources; a summary of traditions, customs, beliefs and folk life; and a boundary justification.

The proposed Mountains to Sound Greenway National Heritage Area is important for its association with the expansion of our national transportation system and creation of our modern timber industry. It tells the story of how the Northern Pacific and Milwaukee railroads, and later the Sunset Highway and Interstate 90, created the final section of an historic transportation

corridor that wove the Northwest into the nation's fabric, opened up trade between the United States and Asia, and led to development of the industrial timber practices in use today .

Although by 1850 the Puget Sound area was part of the United States, the Cascade Range isolated this region with its abundant natural resources and sheltered deep-water ports from the rest of the nation. In 1864, the Northern Pacific Railroad was chartered by President Lincoln. Constructed along a Native American pathway through the nearly impassible Snoqualmie Pass, it reached Seattle 20 years later. This railroad connection from the Eastern seaboard and the Great Lakes to the western most reaches of the continental United States reinforced the newly drawn American-Canadian border. The city of Seattle grew into a booming hub for shipbuilding and trade of foreign goods and the region's own wealth of natural resources, opening the country's first trade routes on the Pacific Rim. Rail towns sprung up along the main lines, mill and coal towns on the spurs, while piers stretched into Puget Sound, attracting immigrant workers whose descendants live in the region today.

The Milwaukee Road crossed the Cascades in the early 1900s, pioneering tunneling and electrification techniques that allowed the high speed electric trains to carry Japanese silk, the nation's most precious rail commodity after gold and silver bullion, to New York. But the Milwaukee Road made its money carrying passengers to ski, hike and climb at Snoqualmie Pass. The conservation ethic that developed in the region from enjoyment of the region's natural beauty is strongly held today.

Washington's modern economy has developed directly from the Northern Pacific Land Grant used to build the railroad. In place of public financing, the railroad received the largest federal land grant in American history – 40 million acres – every other square mile of land in a checkerboard pattern up to forty miles on either side of the right-of-way. This consolidated ownership, along with the steam technology brought by the railroad, created the booming timber industry that helped rebuild San Francisco after the 1906 earthquake and fueled shipbuilding in World War I. Airplanes entering large-scale military production for the first time were built from the region's prized spruce. Demand for this aircraft led William Boeing in 1916 to found a company that supplies the nation's air transportation industry today.

Plantation forestry, involving sustained-yield harvest and reforestation, now the industry standard across much of the country, was invented in this region in the 1930's. William Weyerhaeuser, having amassed one-and-a-half million acres of Washington timberland, established the first seedling industry at Snoqualmie Falls, rolled out his "Timber is a Crop!" public relations campaign, and began to manage timber across multiple harvests, a radical idea at the time.

The cultural heritage of the Mountains to Sound Greenway National Heritage Area is alive in the ethnic diversity of the region's population and its traditions, customs and celebrations, and in the museums, festivals, historic sites and interpretive trails that both residents and visitors enjoy today. The proposed heritage area boundaries pragmatically follow modern-day political and land-management structures, a formula for long-term success as communities and their partners seek to manage, enhance, and interpret resources across this landscape.

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

STATEMENT OF DR. STEPHANIE TOOTHMAN, ASSOCIATE DIRECTOR, CULTURAL RESOURCES, PARTNERSHIPS AND SCIENCE, NATIONAL PARK SERVICE, U.S. DEPARTMENT OF THE INTERIOR, BEFORE THE SENATE SUBCOMMITTEE ON NATIONAL PARKS, COMMITTEE ON ENERGY AND NATURAL RESOURCES, CONCERNING H.R. 482 AND S. 1696, TO REDESIGNATE OCMULGEE NATIONAL MONUMENT IN THE STATE OF GEORGIA AND REVISE ITS BOUNDARY, AND FOR OTHER PURPOSES

JUNE 15, 2016

Mr. Chairman and members of the subcommittee, thank you for the opportunity to present the Department of the Interior's testimony regarding H.R. 482 and S. 1696, bills to redesignate Ocmulgee National Monument in the State of Georgia and revise its boundary, and for other purposes.

The Department supports S. 1696 and would support H.R. 482 if amended in accordance with this testimony. This legislation has three components: it would redesignate the national monument, expand the monument's boundaries, and authorize a special resource study of the Ocmulgee River corridor in Georgia from Macon to Hawkinsville. With respect to the special resource study, the Department feels that priority should be given to the 24 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 Congress.

Ocmulgee National Monument, authorized by Congress in 1934 and established by Presidential proclamation in 1936 after the purchase of lands by local citizens, encompasses 701 acres in two separate units. The Main Unit (656 acres), includes seven prehistoric mounds, a funeral mound, a reconstructed earth lodge, prehistoric trenches, and numerous archeological features. This unit also includes the site of a British colonial trading post dating to 1690 (which the Creek Indians frequented), the historic Dunlap House, an Art Moderne visitor center, Civil War earthworks, substantial urban green space, six miles of hiking trails, and a picnic area. The smaller Lamar Mounds Unit (45 acres), named for a Late Mississippian agricultural society, is located about two and one-half miles southeast of the Main Unit. Both sites are part of a larger archeological area known as the Ocmulgee Old Fields.

In 1999, the Ocmulgee Old Fields was listed on the National Register of Historic Places as a "traditional cultural property," the first location in the eastern United States to receive this designation. The monument and surrounding area is the site of one of the largest archeological investigations in North American history. The investigation and recovery of artifacts and information in this area was instrumental in the development of scientific archeology. The traditional cultural property extends well beyond the current boundaries of the monument to encompass areas traditionally associated with the cultural beliefs and practices of the Muscogee (Creek) Nation and related tribes.

REDESIGNATION

H.R. 482 and S. 1696 would redesignate Ocmulgee National Monument as "Ocmulgee Mounds National Historical Park", a more appropriate name for the site. For generations, Middle Georgians have known Ocmulgee National Monument simply as "the Indian mounds." The addition of the

word “mounds” to the name would not only clarify the identity of the site for residents of the region, it would also give all potential visitors a better idea of the principal resource of the site. In addition, the title “National Historical Park” recognizes the complexity of the site and the fact that it is much more than a collection of Indian mounds. The proposed title also provides better identification of the site as a unit of the National Park System.

BOUNDARY ADJUSTMENT

H.R. 482 and S. 1696 would also expand the boundary of the Ocmulgee National Monument consistent with the preferred alternative of a boundary study the National Park Service completed in 2014. The study evaluated lands that were part of the Ocmulgee Old Fields and found that approximately 2,100 acres of these lands were suitable and feasible for inclusion in the monument. These additional lands would link Ocmulgee’s Main Unit and the Lamar Unit and create a contiguous park unit of approximately 2,800 acres.

Of the 2,100 acres proposed for inclusion in the monument, approximately 707 acres (34% of expansion area) would likely be acquired by donation. The remaining lands, approximately 1,350 acres (66% of expansion area) would likely be acquired through purchase from willing sellers. Based on tax assessments, the value of the private tracts that would be purchased is just under \$2 million, but actual acquisition costs could be higher. Costs would eventually be incurred to demolish non-historic structures. Some relatively low-cost improvements for recreational enhancement are anticipated, such as trailhead kiosks, maintenance of old roadbeds for biking/hiking trails, and installation of canoe launching facilities. Funding for these activities would be subject to the availability of appropriations.

The proposed boundary expansion enjoys strong community support. Resolutions in favor of the expansion have been passed by the Board of Commissioners of Wilkinson County, the Macon-Bibb County Commission, the Historic Macon Foundation, Inc., the Georgia Small Business Lender Board of Directors, and the Hawkinsville-Pulaski County Chamber of Commerce. Other organizations and governmental entities have also expressed support for the expansion, including Altamaha River Keeper, the Georgia Conservancy, Main Street Macon, New Town Macon, the Macon Chamber of Commerce, the Middle Georgia Regional Commission Council, the Macon-Bibb County Convention and Visitors Bureau, the Mayor and City Council for the City of Perry, the Georgia River Network, the National Trust for Historic Preservation, Save our Rivers INC. and the Macon-Bibb County Urban Development Authority.

SPECIAL RESOURCE STUDY

H.R. 482 and S. 1696 would also authorize the Secretary to conduct a special resource study of the Ocmulgee River corridor between Macon and Hawkinsville, a distance of about 50 miles and an area encompassing approximately 70,000 acres. Although the study area would be contiguous with Ocmulgee National Monument, the size of the area and the complexity of resources warrant the authorization of a special resource study, rather than another boundary study. The study area would encompass a patchwork of privately and publicly owned land, including the Bond Swamp National Wildlife Refuge and two State of Georgia wildlife management areas. It would also include much of the Ocmulgee Old Fields Traditional Cultural Property not already included in the national monument or the proposed expansion of the monument. We estimate that this study would cost approximately \$350,000 to \$500,000. Funding for this proposed study would need to be allocated from the set amount of funding that Congress appropriates for all special resource studies.

The Department supports S. 1696 as introduced and would support H.R. 482 as passed by the House if amended to conform to the language in S. 1696. As passed by the House, H.R. 482 makes the establishment of the expanded boundary subject to the written consent of the owners of properties that would be included within the new boundary. This places landowners, rather than Congress or the Administration, in the position of determining the boundary of a federal park, which we believe is inappropriate. This provision has the potential to create legal and practical confusion over the boundary since it is possible that a landowner could give consent, then change his or her mind and withdraw consent or convey the property to another owner who withdraws consent. If the intent of this language is to ensure that no land is included within the park boundary without the consent of the landowner, we recommend amending the bill to provide that the park boundary shall not be adjusted unless and until a specified property is acquired for the park. By waiting to include land in the boundary until it is acquired by the federal government, this approach avoids entirely the potential problems we see with the approach used in the House bill. Our recommended approach has precedent in other park laws.

H.R. 482 allows land acquisition by donation or exchange only, not purchase. At this time, only about one third of the land in the proposed boundary adjustment area is anticipated to be donated. We support allowing the purchase from a willing seller with donated or appropriated funds, as provided by S. 1696. This language would also render unnecessary the prohibition on condemnation included in H.R. 482.

H.R. 482 also includes language that says that an activity outside the boundary shall not be precluded because it can be heard or seen inside the park boundary. The Department has concerns about this language. It is misleading, as it suggests that the NPS may have authority to preclude activities outside the boundaries, which it does not. Of even greater concern, however, is that the language could discourage park managers from addressing threats to park resources from external sources. Even though the NPS does not control what happens outside of its boundaries, park managers have a responsibility under the NPS Organic Act and other laws to work with owners of properties outside of park boundaries to resolve problems that could negatively impact the resources the NPS is responsible for protecting.

Finally, we note that S. 1696 as introduced has blank lines for references for a map that would depict the boundaries of the expanded and redesignated Ocmulgee Mounds National Historical Park. The National Park Service has developed a map to accompany this bill and we would be happy to submit the map to the bill's sponsor and the committee.

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

**STATEMENT OF DR. STEPHANIE TOOTHMAN, ASSOCIATE DIRECTOR,
CULTURAL RESOURCES, PARTNERSHIPS, AND SCIENCE, NATIONAL PARK
SERVICE, U.S. DEPARTMENT OF THE INTERIOR, BEFORE THE SENATE
SUBCOMMITTEE ON NATIONAL PARKS, COMMITTEE ON ENERGY AND
NATURAL RESOURCES, CONCERNING S. 1824, TO AUTHORIZE THE
SECRETARY OF THE INTERIOR TO CONDUCT A STUDY TO ASSESS THE
SUITABILITY AND FEASIBILITY OF DESIGNATING CERTAIN LAND AS THE
FINGER LAKES NATIONAL HERITAGE AREA IN THE STATE OF NEW YORK,
AND FOR OTHER PURPOSES.**

JUNE 15, 2016

Mr. Chairman, thank you for the opportunity to present the views of the Department of the Interior on S. 1824, to authorize the Secretary of the Interior to conduct a study to assess the suitability and feasibility of designating certain land as the Finger Lakes National Heritage Area in New York, and for other purposes.

The Department supports enactment of S. 1824. However, we believe that priority should be given to the 24 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 Rivers System that have not yet been transmitted to Congress.

S. 1824 would authorize the Secretary of the Interior to conduct a study to assess the suitability and feasibility of designating an area in the State of New York as the Finger Lakes National Heritage Area in New York. The study area would include the counties of Monroe, Wayne, Cayuga, Onondaga, Cortland, Tioga, Chemung, Steuben, Livingston, Ontario, Yates, Schuyler, Seneca, and Tompkins. Resources in other counties in the vicinity could be included in the study. This study would determine whether within the area there is an assemblage of natural, historic, and cultural resources that represent distinctive aspects of the heritage of the United States; are worthy of recognition, conservation, interpretation, and continuing use; and would be best managed through partnerships among public and private entities. These, and other criteria listed in the bill, are the criteria that the National Park Service supports using to determine whether to recommend to Congress the designation of an area as a national heritage area.

Collectively, the counties within the Finger Lakes National Heritage Area study area contain a broad array of natural, historic, and cultural resources of national, state, and local significance. Within the counties listed in the bill, there are 760 properties listed on the National Register of Historic Places representing every era of the American experience. Twelve of the properties are designated National Historic Landmarks. The study area contains an established national park unit, Women's Rights National Historical Park, as well as the recently authorized Harriet Tubman National Historical Park, and portions of the Erie Canalway National Heritage Corridor, the Finger Lakes National Forest, and five National Natural Landmarks, representing resources ranging from climax forest to woodland marsh to glacial geology. Portions of the North Country National Scenic Trail lie within the study area, as does the Finger Lakes Trail network.

State parks and private organizations within the study area provide public recreational and educational opportunities for similar resources not recognized through federal programs. Opportunities for the sharing of cultural heritage and folkways are available throughout the year through a variety of established organizations and the federally recognized tribes within the region. The study would be conducted in consultation with the various non-federal stakeholders in the area.

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

**STATEMENT OF DR. STEPHANIE TOOTHMAN, ASSOCIATE DIRECTOR
CULTURAL RESOURCES, PARTNERSHIPS, AND SCIENCE, NATIONAL PARK
SERVICE, U.S. DEPARTMENT OF THE INTERIOR, BEFORE THE SENATE
SUBCOMMITTEE ON NATIONAL PARKS, COMMITTEE ON ENERGY AND
NATURAL RESOURCES, CONCERNING S. 2087, TO MODIFY THE BOUNDARY OF
FORT SCOTT NATIONAL HISTORIC SITE AND FOR OTHER PURPOSES.**

JUNE 15, 2016

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to present the views of the Department of the Interior on S. 2087, a bill to modify the boundary of Fort Scott National Historic Site in the State of Kansas, and for other purposes.

The Department supports S. 2087 with a proposed amendment to substitute an updated map.

This bill would amend P.L. 95-484, the establishing legislation for Fort Scott, to modify the boundary to include four parcels totaling approximately 3.81 acres of land and to authorize the Secretary to acquire properties by purchase with appropriated funds as well as donation.

Fort Scott was designated a National Historic Landmark in 1964. On October 19, 1972, Fort Scott was authorized as a unit of the National Park Service “to commemorate the significant role played by Fort Scott in the opening of the west, as well as the Civil War and strife in the State of Kansas that preceded it.” The historic site is currently 16.69 acres, but it does not include four significant parcels adjacent to or on or near the boundary of the park. The four properties are identified as the Westar property, the Cummings property, the Chamber of Commerce property, and the Lunette Blair Blockhouse.

The Westar property is 2.87 acres located adjacent to the western boundary of the park where the first civilian merchants in the area sold supplies to soldiers, Indians, tradespeople, travelers, and farmers. The Westar property also includes part of the historical landscape associated with the Civil War, including entrenchments and fortification structures that surrounded the fort. It is also the site associated with two of the earliest African-American neighborhoods in Fort Scott, both during and after the Civil War. These African-American families and refugees escaped from Indian Territory and followed the Union Army to Fort Scott. They rented or owned houses on the present-day Westar property, one of which was occupied by an African-American Civil War veteran with the 2nd Kansas Colored Infantry who lived on his property until the 1920s.

The Westar property includes an 18,940 square-foot brick structure of various elevations and storage spaces. The building has administrative and visitor services potential and could be utilized as an educational, orientation center or as exhibit/museum space that is accessible since this would be the only on-grade building in the boundary. Additionally, this brick building could improve public safety since it would be the only appropriate space in the park for providing visitor and employee safety in the event of a natural disaster such as a tornado or a severe thunderstorm.

The Lunette Blair Blockhouse is located near the park boundary. It is the last remaining Civil War-era military structure, built to defend the town of Fort Scott and its robust military supply depot from Confederate attack. For more than 50 years, the blockhouse has been maintained and preserved through a public-private partnership between the City of Fort Scott, and local individuals and organizations. The president of the organization approached the park to donate the property because the members were no longer physically or financially able to continue their preservation efforts. No other organization has shown interest in preserving the Blockhouse. Without regular maintenance, this structure will continue to deteriorate and the opportunity for visitors to experience the epic stories of those who fought for freedom and the Union from 1861 to 1865 will be lost.

The Cummings property is 0.73 acres adjacent to the park's eastern boundary and separates the historic site from U.S. Highway 69. This parcel would provide visitors with more direct access to the park. The owners have expressed interest in selling their property. The site includes a 13,159 square-foot building on the property suitable for administrative purposes.

The Chamber of Commerce property consists of 0.24 acres adjacent to the park's eastern boundary. The site currently houses the chamber offices. The building is bordered by the park on three sides, and including this property would allow for a continuous boundary. The Chamber of Commerce would continue the use of this building for the foreseeable future.

The estimated cost of acquisition for the Cummings property is approximately \$147,500 and the estimated cost for acquisition of the Westar Property is \$350,000. The Lunette Blair Blockhouse would be acquired through donation. The additional facilities and properties will increase park operational and maintenance costs, but the amount will depend on the number of facilities acquired and their condition. Additional funds for maintenance, repairs and capital improvements would be awarded through the NPS competitive process, subject to service-wide priorities and the availability of appropriations.

Support for the boundary modification has been expressed by various community organizations and community members, including the City of Fort Scott, the Bourbon County Economic Development Association, the Bourbon County Commissioners, the Bourbon County Riverfront Authority, the Bourbon County Chamber of Commerce, and the Friends of Fort Scott NHS, Inc.

The Department requests an amendment to substitute an updated map. The map referenced in the bill, includes a parcel we do not want be included in the expansion.

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

**STATEMENT OF DR. STEPHANIE TOOTHMAN, ASSOCIATE DIRECTOR,
CULTURAL RESOURCES, PARTNERSHIPS, AND SCIENCE, NATIONAL PARK
SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SENATE
SUBCOMMITTEE ON NATIONAL PARKS, COMMITTEE ON ENERGY AND
NATURAL RESOURCES, CONCERNING S. 2412, TO ESTABLISH THE TULE LAKE
NATIONAL HISTORIC SITE IN THE STATE OF CALIFORNIA, AND FOR OTHER
PURPOSES.**

JUNE 15, 2016

Mr. Chairman and members of the subcommittee, thank you for the opportunity to present the Department of the Interior's views on S. 2412, to establish the Tule Lake National Historic Site in the State of California, and for other purposes.

The Department supports S. 2412.

S. 2412 would establish the Tule Lake National Historic Site as a stand-alone unit of the National Park Service, separating it from the World War II Valor in the Pacific National Monument. It would include portions of the Tule Lake Segregation Center National Historic Landmark and Camp Tulelake.

The World War II Valor in the Pacific National Monument, including the Tule Lake Unit, was created by a presidential proclamation on December 5, 2008. The monument consists of nine sites in Alaska, California, and Hawaii. Eight of the nine sites in the monument are World War II battle sites that memorialize battles on American soil and actual engagement with foreign enemies. This is in stark contrast to the purpose of the Tule Lake site, which is to preserve, study, and interpret the history and setting of the incarceration and later segregation of *nikkei*, first-generation Japanese Americans, at Tule Lake during World War II.

Since designation, many former detainees have expressed concerns about whether the name of the monument, "World War II Valor in the Pacific," is appropriate for a site aimed at remembering the grave injustice done to more than 120,000 Japanese Americans nationwide during the war. Additionally, public input from over 30 public scoping meetings held in western states in 2013 for the park's general management plan revealed strong public opinion to detach the Tule Lake Unit from World War II Valor in the Pacific National Monument. The rationale expressed that the name is inappropriate, and even offensive, for an internment site to be associated with wartime valor.

The Tule Lake Segregation Center, which was opened in May 1942, was the largest of the 10 War Relocation Authority camps. More than 29,000 Japanese Americans from western Washington, Oregon, and northern California were interned there. Its population made up a quarter of the 120,000 people affected by World War II Japanese American internment. Tule Lake also imprisoned the largest number of individuals categorized as disloyal, and was subsequently converted to a maximum-security segregation center. Due to turmoil and strife, Tule Lake was the last camp to close, on March 28, 1946.

Presently the park includes Camp Tulelake, where there are several historic structures once used to imprison Japanese Americans and detain German and Italian prisoners of war; the Peninsula, an iconic landscape to those who lived there and where detainees tended livestock that supported the self-contained camp; and the Segregation Center, which encompasses the original segregation center's stockade, the War Relocation Authority motor pool, the post engineer's yard and motor pool, and a small part of the military police compound.

The Tule Lake Unit is currently administered jointly by the National Park Service and the U.S. Fish and Wildlife Service (Tule Lake National Wildlife Refuge) and is managed in accordance with both NPS and USFWS laws and regulations. This bill would not affect existing land rights or alter the site's current management scheme or operational costs.

Establishing the Tule Lake National Historic Site will enable us to increase focus on understanding the high price paid by Japanese Americans on the home front during World War II. It would elevate the recognition of this site to be consistent with our other Japanese relocation centers -- Manzanar National Historic Site and Minidoka National Historic Site -- as stand-alone parks in the National Park System. And, it is in keeping with the public's and former detainees' expressed opinions on the matter.

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

STATEMENT OF DR. STEPHANIE TOOTHMAN, ASSOCIATE DIRECTOR FOR CULTURAL RESOURCES, PARTNERSHIPS, AND SCIENCE, NATIONAL PARK SERVICE, U.S. DEPARTMENT OF THE INTERIOR, BEFORE THE SENATE SUBCOMMITTEE ON NATIONAL PARKS, COMMITTEE ON ENERGY AND NATURAL RESOURCES, CONCERNING S. 2548, A BILL TO ESTABLISH THE 400 YEARS OF AFRICAN-AMERICAN HISTORY COMMISSION, AND FOR OTHERS PURPOSES.

JUNE 15, 2016

Mr. Chairman and members of the subcommittee, thank you for the opportunity to present the views of the Department of the Interior on S. 2548, a bill to establish the 400 Years of African-American History Commission.

The Department supports S. 2548, however, we would like to work with the committee on the composition of the commission.

S. 2548 would create the 400 Years of African-American History Commission (Commission) to commemorate four centuries of African-American history in the United States. Through programs, activities, education, and outreach, the Commission would honor the arrival of Africans in the United States and the contributions of African-Americans throughout the nation.

The Commission would consist of 15 members appointed by the Secretary of the Interior, including an employee of the National Park Service (NPS). It also authorizes the Commission to provide grants of up to \$20,000 and technical assistance to communities and nonprofit organizations for the development of programs, projects, and activities to assist in the commemoration. It would also provide grants to research and scholarly organizations to research, publish, and distribute information relating to the arrival of Africans in the United States. The bill would allow federal employees to be detailed to the Commission, at the Commission's request. Finally, the bill provides the authorization of funds until the Commission terminates on July 1, 2020.

When the first African people arrived in the English colonies at Point Comfort, Virginia, in 1619, it was not in the pursuit of a new life, wealth, or freedom from oppression; it was in bondage, against their will, with a loss of their freedom. Their arrival marked the beginning of a long and difficult narrative of slavery, resistance, reconstruction, and civil rights, with the story still being written today. However, in all the tragedy and hardship that is interwoven into the history of slavery in America, there is a greater narrative of resilience and perseverance, making it one of the greatest survival stories rarely told and not fully understood. The work of this Commission would support the research, preservation, and commemoration of this 400-year history of courage, determination, and great accomplishment in the face of brutal oppression.

There are several units in the National Park System that help to tell the story of the African-American struggle and triumph, including the Harriet Tubman Underground Railroad National Monument, the Charles Young Buffalo Soldiers National Monument, and the African Burial Ground National Monument. However, the NPS recognizes that there are countless sites outside

of the system that deserve recognition. These sites and stories related to African-American history have not always been fully recognized or preserved, and are often in danger of being lost or destroyed. If enacted, S. 2548 would establish a Commission that could prevent further loss through partnership coordination, research, educational outreach efforts, technical assistance, and commemoration activities leading up the 400-year anniversary of African-American history. Establishing a commission to commemorate and recognize the resilience and contributions of African-Americans since 1619, as envisioned in S. 2548, would provide the nation an opportunity to reflect upon their struggles and successes within an environment that would be inclusive and contemplative. The Department of the Interior and the National Park Service stand ready to contribute their resources and expertise to this important commemoration. Ultimately, the Commission would create greater public insight, foster preservation, and promote increased awareness of this 400-year narrative of great resilience and immeasurable contribution to our American story.

While we support establishment of this Commission, we would like to work with the committee to ensure that the Commission represents a diverse composition of national, state, local, and private individuals.

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

**STATEMENT OF DR. STEPHANIE TOOTHMAN, ASSOCIATE DIRECTOR,
CULTURAL RESOURCES, PARTNERSHIPS, AND SCIENCE, NATIONAL PARK
SERVICE, U.S. DEPARTMENT OF THE INTERIOR, BEFORE THE SENATE
SUBCOMMITTEE ON NATIONAL PARKS, COMMITTEE ON ENERGY AND
NATURAL RESOURCES, CONCERNING S. 2627, TO ADJUST THE BOUNDARY OF
THE MOJAVE NATIONAL PRESERVE.**

JUNE 15, 2016

Mr. Chairman and members of the subcommittee, thank you for the opportunity to appear before your committee to present the views of the Department of the Interior on S. 2627, a bill to adjust the boundary of the Mojave National Preserve.

The Department supports the enactment of S. 2627, but recommends a technical correction regarding the acreage of land that would be returned to the park as mitigation for the land being removed from the Preserve.

S. 2627 would remove approximately 520 acres on the north side of Mojave National Preserve from the boundary of the park. This acreage would be transferred from the National Park Service (NPS) to the Bureau of Land Management (BLM) for the proposed XpressWest rail alignment. XpressWest is constructing a high-speed rail line from Victorville, California, to Las Vegas, Nevada.

The proposed route would follow and generally parallel Interstate 15 (adjacent to the north boundary of the Preserve), except for the grade to Mountain Pass, which is too steep and the road curves too sharply to allow for the rail line to follow the Interstate. The NPS lacks authority to grant rights-of-way for railroads; the BLM, however, has such authority and can grant any necessary permits, in accordance with section 501 of the Federal Land Policy and Management Act of 1976, to XpressWest to complete the project. The area proposed for transfer to the BLM would accommodate the grade and curve requirements for the proposed high-speed train through Mountain Pass.

As mitigation for the removal of land from the boundary of the park, this bill authorizes that other land would be acquired by donation. The bill would authorize the transfer of 520 acres of NPS land to the BLM to accommodate the necessary railroad right-of-way, and the Preserve to receive in exchange a donation of approximately 2,100 acres of private land.

Section 3(b) authorizes up to 4 acres of land be acquired for every acre of land removed from the Preserve. We recommend a technical correction to this section that replaces "up to 4 acres" with "at least 4 acres." This correction will ensure the intent of the mitigation requirement is satisfied, and is consistent with the ratio that alternative energy developers have provided as mitigation in the desert.

S. 2627 also authorizes the Secretary of the Interior to permit cattle grazing, in accordance with applicable NPS laws and policies, on the land acquired under Section 3(a) by donation. The bill

states that cattle grazing shall take place during the period beginning on the date on which the land is acquired and ending on the date that is 25 years after the date on which the land is acquired, to the same extent permitted on the day before the date of enactment of the Act.

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

STATEMENT OF STEPHANIE TOOTHMAN, ASSOCIATE DIRECTOR, CULTURAL RESOURCES, PARTNERSHIPS, AND SCIENCE, NATIONAL PARK SERVICE, U.S. DEPARTMENT OF THE INTERIOR, BEFORE THE SENATE SUBCOMMITTEE ON NATIONAL PARKS, COMMITTEE ON ENERGY AND NATURAL RESOURCES, CONCERNING S. 2805, TO MODIFY THE BOUNDARY OF VOYAGEURS NATIONAL PARK IN THE STATE OF MINNESOTA, AND FOR OTHER PURPOSES.

JUNE 15, 2016

Mr. Chairman and members of the subcommittee, thank you for the opportunity to present the views of the Department of the Interior on a bill to authorize the Secretary of the Interior to modify the boundary of Voyageurs National Park (Voyageurs) in the State of Minnesota.

The Department supports S. 2805.

This bill would allow for the transfer of administrative jurisdiction of lands between the National Park Service (NPS) and the Bureau of Land Management (BLM). It would also authorize the Secretary of the Interior to acquire lands owned by the State of Minnesota by donation or exchange.

Voyageurs National Park is a 218,200-acre national park located on the northern edge of Minnesota's border, 15 miles east of International Falls, Minnesota. Fifty-five miles of the park meanders along the Canadian border with the province of Ontario. The park lies in the southern part of the Canadian Shield, representing some of the oldest exposed rock formations in the world. The surrounding waterways once served as the route for the French-Canadian voyageurs.

The NPS seeks to transfer to the State of Minnesota a 32.79 acre parcel of NPS managed lands which is outside the park boundary. In exchange, Minnesota will transfer to the NPS, 48.87 acres of State lands within the boundary of the park. Additionally the NPS would like to acquire five more parcels of land totaling 91 acres owned by the State of Minnesota that are within the boundary of the park. This bill authorizes the Secretary of the Interior to acquire by donation or exchange any land within or adjacent to the boundary of the park that is owned by the State of Minnesota, or a political subdivision of the State. There have been incidences of activities on some of these tracts of state-owned land that are inconsistent with park purposes.

Sixty one (61) BLM land tracts encompassing forty-nine (49) acres were not transferred to the National Park Service when Voyageurs National Park was established. Without specific language directing BLM to transfer ownership of its lands to the NPS, the BLM is limited to its existing authority under the Federal Land Management Policy Act (FLMPA). FLMPA authorizes BLM to transfer management authority over the lands to the National Park Service for no more than a twenty-year period and permanent transfer of the management of these lands requires Congressional action. Transfer of these parcels to the NPS would facilitate ease of management for both agencies and eliminate any future concerns related to ownership, and other administrative issues.

The cost of managing these boundary revisions and any future acquisitions is minimal as there are no structures on any of the lands. The park would absorb the minimal cost of producing new maps and brochures and signage.

The BLM, the State of Minnesota and adjacent land owners support the boundary modifications in this bill.

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

**STATEMENT OF DR. STEPHANIE TOOTHMAN, ASSOCIATE DIRECTOR,
CULTURAL RESOURCES, PARTNERSHIPS, AND SCIENCE, NATIONAL PARK
SERVICE, U.S. DEPARTMENT OF THE INTERIOR, BEFORE THE SENATE
SUBCOMMITTEE ON NATIONAL PARKS, COMMITTEE ON ENERGY AND
NATURAL RESOURCES, CONCERNING S. 2807, TO REQUIRE STATE APPROVAL
BEFORE THE SECRETARY OF THE INTERIOR RESTRICTS ACCESS TO WATERS
UNDER THE JURISDICTION OF THE NATIONAL PARK SERVICE FOR
RECREATIONAL OR COMMERCIAL FISHING.**

JUNE 15, 2016

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to present the views of the Department of the Interior on S. 2807, a bill to amend title 54, United States Code, to require state approval before the Secretary of the Interior restricts access to waters under the jurisdiction of the National Park Service for recreational and commercial fishing.

The Department is strongly opposed to S. 2807, because it is inconsistent with the National Park Service (NPS) mandate under the Organic Act to protect natural resources. In addition, we believe that existing policies calling for cooperation and consultation between the NPS and states on management activities related to fish and wildlife resources already provides a collaborative and effective framework for managing those resources.

Under the NPS Organic Act and park enabling legislations, the NPS has an affirmative responsibility to conserve, protect, and manage fish and wildlife, as well as other resources and values of park units. State laws governing fish and marine resource management apply different standards and may not provide the protections necessary to ensure that park resources are preserved unimpaired for the enjoyment of future generations.

Department of the Interior policy calls for each land managing bureau, including the National Park Service, to consult with states regarding management of fish and wildlife resources, including any potential closures or restrictions. The NPS's fishing regulations allow for recreational fishing with reasonable and minimal restrictions, adopt non-conflicting state fishing regulations, and require consultation with states prior to restricting or closing park areas to fishing.

Language contained in S. 2807 also appears to open all park units to commercial fishing, which could detrimentally impact park natural resources and opportunities for visitor enjoyment. Under current regulations commercial fishing is only permissible in park units if that use is specifically and directly authorized by Federal statutory law. In addition, several key terms in S. 2807 are currently undefined, including "fishing access," "coastal waters," and "estuaries."

It is important to note that NPS fishing management has a fractional impact on overall fishing access within a state. Within the coastal states of this country, there are millions of water acres that are managed by states for fishing, such as territorial waters, coastal bays and sounds, and inland waters. For example, of the more than 9 million water acres in Florida, Biscayne National

Park contains only 164,800 water acres (less than 2% of Florida's overall water acreage). In Texas, which contains more than 4 million water acres, Padre Island National Seashore contains only 72,500 water acres (less than 2% of Texas's overall water acreage).

The NPS is keenly aware of how important national parks are to states and gateway communities, and how changes in rules for recreational and commercial activities can affect the businesses and visitors in those communities. If a decision is made to restrict recreational or commercial fishing, it is done based on the best available science and, in accordance with law and policy, only after consultation and coordination with states and other interested and impacted parties through a public planning process. By changing the current emphasis on collaboration to mandatory state or territory approval, S. 2807 would undoubtedly result in greater variation in fishing management across the National Park System. Because each state and territory has its own interests and laws, S. 2807 would result in less consistent management of fisheries and marine resources, contrary to the intent of the Organic Act.

The NPS has successfully consulted and collaborated with states regarding fishing and marine resources. One example is the Dry Tortugas National Park research natural area, a 46 square-mile marine reserve designed to restore ecological integrity. The research natural area was created after consultation with the state of Florida, and the subsequent science plan to assess the efficacy of the research natural area was developed in partnership by the NPS and the Florida Fish and Wildlife Conservation Commission (FWC). Implementation of the science plan involved continuous coordination between FWC and NPS, and data have shown that the abundance and sizes of mutton snapper, red grouper, yellowtail snapper, and hogfish have all increased since establishment of the research natural area in that park.

National parks are areas where the NPS is responsible for protecting fish and wildlife, ecosystems, water quality, and natural quiet; preserving our nation's culture and history; educating visitors; and leaving a legacy of our nation's natural and cultural heritage. The protections afforded within parks have resulted, like at the Dry Tortugas research natural area, in positive impacts on resources the fisheries that lie outside park boundaries. The NPS will continue to consult and coordinate with state agencies in the management of fish and marine resources and will also seek public input prior to any closures or restrictions.

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

**STATEMENT OF DR. STEPHANIE TOOTHMAN, ASSOCIATE DIRECTOR,
CULTURAL RESOURCES, PARTNERSHIPS, AND SCIENCE, NATIONAL PARK
SERVICE, U.S. DEPARTMENT OF THE INTERIOR, BEFORE THE SENATE
SUBCOMMITTEE ON NATIONAL PARKS, COMMITTEE ON ENERGY AND
NATURAL RESOURCES, CONCERNING S. 2923, TO REDESIGNATE THE SAINT-
GAUDENS NATIONAL HISTORIC SITE AS THE "SAINT-GAUDENS NATIONAL
PARK FOR THE ARTS," AND FOR OTHER PURPOSES.**

JUNE 15, 2016

Mr. Chairman and members of the subcommittee, thank you for the opportunity to present the views of the Department of the Interior on S. 2923, a bill to redesignate the Saint-Gaudens National Historic Site as the "Saint-Gaudens National Park for the Arts," and for other purposes.

The Department cannot support S. 2923 unless amended in accordance with this statement.

S. 2923 would redesignate the Saint-Gaudens National Historic Site in Cornish, New Hampshire, as the "Saint-Gaudens National Park for the Arts." We understand the desire to have a park's name reflect a park's purpose, assets, or characteristics more precisely than simply "historic site." However, "National Park for the Arts" would be a unique designation within the National Park System. The National Park Service (NPS) is trying to avoid the further proliferation of non-standard designations in order to bring more consistency to national park names. We could, however, support redesignating the site as a "national historical park".

There are presently 28 different designations for units of the National Park System. This large number of types of unit designations, including national park, national monument, national preserve, national historic site, national battlefield, national military park, national recreation area, and more, create public confusion as to what properties are managed by the NPS and diminish the NPS identity. The NPS is in the process of completing an updated National Park System plan, which we hope to release later this year. The plan is expected to address the naming conventions for national park units with the aim of ultimately reducing the number of different types of designations. The creation of a singular, unique designation for one park would be inconsistent with that effort.

Authorized in 1964, Saint-Gaudens National Historic Site preserves the home, studios, gardens, and artwork of sculptor Augustus Saint-Gaudens (1848-1907), the greatest American sculptor of the Gilded Age. During his career, Saint-Gaudens completed a variety of important monuments and memorials around the country, many of them, like the *Robert Gould Shaw Memorial* in Boston, Massachusetts, the *Sherman Monument* and *Farragut Monument* in New York City, and the Standing and Seated Abraham Lincoln monuments in Chicago, Illinois, memorializing heroes of the Civil War.

Saint-Gaudens began his association with Cornish, New Hampshire, in 1885 when he and his family began using the property that today comprises Saint-Gaudens National Historic Site as their summer residence. The presence of the famous sculptor in Cornish attracted a variety of

other artists to the area, forming the Cornish Colony of Artists, one of the earliest examples of an unplanned artist colony in the United States. The colony included painters, sculptors, authors, poets, playwrights, musicians, architects, and many other artistic disciplines, and during the presidency of Woodrow Wilson, served as the summer White House.

In addition to the Saint-Gaudens estate, Saint-Gaudens National Historic Site also includes the Blow-Me-Down Farm, historically the social hub of the Cornish Colony, which was added to the park via a donation from the park's partner group, the Saint-Gaudens Memorial, in 2010. This addition expanded the park's interpretive themes beyond Augustus Saint-Gaudens and his work to include the full range of artists and artistic disciplines, as well as the historical impact of the Cornish Colony.

Generally, National Park System units designated as national historic sites tell a discrete story or contain a small number of historic resources related to that story. National Park System units designated as national historical parks have a greater diversity of historical resources and interpretive themes and may be spread out over non-contiguous lands. The addition of the Blow-Me-Down Farm to the park in 2010 added new historical resources and interpretive themes to Saint-Gaudens National Historic Site. This increased scope provides a basis for supporting redesignating this park as a national historical park. The name "Saint-Gaudens National Historical Park" would incorporate the word "park" into the title, to more closely associate the site with the NPS, and it would better reflect the broad historical context and resource diversity found at this park, while conforming to naming conventions for National Park System units.

In addition to amending S. 2923 by substituting "National Historical Park" for "National Park for the Arts", we recommend deleting section 3(b)(3). Section 3(b)(3) provides that laws or rules that are applicable solely to units that are designated as national parks shall not apply to "Saint-Gaudens National Park for the Arts." This provision is not only unnecessary, it is also confusing and misleading. Even if the name is not amended to redesignate the unit as a "national historical park," it would not be a "national park" but rather a "national park for the arts" which would be a unique designation, different from a national park.

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

**STATEMENT OF DR. STEPHANIE TOOTHMAN, ASSOCIATE DIRECTOR,
CULTURAL RESOURCES, PARTNERSHIPS AND SCIENCE, NATIONAL PARK
SERVICE, U.S. DEPARTMENT OF THE INTERIOR, BEFORE THE SENATE
SUBCOMMITTEE ON NATIONAL PARKS, COMMITTEE ON ENERGY AND
NATURAL RESOURCES, CONCERNING S. 2954, TO ESTABLISH THE
STE. GENEVIEVE NATIONAL HISTORIC SITE IN THE STATE OF MISSOURI, AND
FOR OTHER PURPOSES.**

JUNE 15, 2016

Mr. Chairman and members of the subcommittee, thank you for the opportunity to present the views of the Department of the Interior on S. 2954, a bill to authorize the Secretary of the Interior to establish the Ste. Genevieve National Historic Site in the State of Missouri, and for other purposes.

The Department supports S. 2954 with amendments.

This legislation would establish the Ste. Genevieve National Historic Site as a unit of the National Park System to preserve, protect, and interpret for the benefit of present and future generations the themes of French settlement, vernacular architecture, and community form and farming on the frontier associated with Ste. Genevieve. It would authorize the Secretary of the Interior to acquire approximately thirteen acres of land for the historic site and other significant related sites within the surrounding historic district. This bill also authorizes the Secretary of the Interior to provide interpretive tours and education programs within the historic district. Finally, it would also authorize the secretary to provide technical assistance and to enter into cooperative agreements to preserve significant sites related to the purposes of the park.

Ste. Genevieve is one of the oldest National Historic Landmark districts in the country. When initially designated it was recognized for the unique concentration of French vertical log architecture. Since then, research has identified the national significance of not only the large and rare collection of French vernacular vertical log houses, but also the contemporaneous examples of British American and German American architecture that contribute to the compelling historical associations with French exploration and settlement of the United States' interior in the late 18th and early 19th century. There is no comparably protected or managed area interpreting these themes.

The boundary of the Historic Site is encompassed by the Ste. Genevieve Historic District and National Historic Landmark, which includes lands between State Highways 61 and 31 and the Mississippi River. The National Historic Landmark, one of the oldest, was established on October 9, 1960. The proposed historic site includes a mix of privately and publicly-owned parcels. The State of Missouri owns many of those properties and could transfer them to NPS ownership by donation. Private properties may be acquired over time through donation or purchase from willing sellers as funding allows.

The Ste. Genevieve Special Resource Study and Environmental Assessment estimated the annual cost to operate the site would be \$800,000 to \$1.2 million per year, which is comparable to other

national historic sites. This operational budget would primarily fund a NPS staff of 6-12 FTE, for interpretive and educational programs, and outreach. The additional facilities and properties will increase park operational and maintenance costs, but the amount will depend on the number of facilities acquired and their condition. Additional funds for maintenance, repairs and capital improvements would be awarded through the NPS competitive process, subject to service-wide priorities and the availability of appropriations.

There is widespread support for the establishment of the historic site. The National Park Service received letters of support for the establishment of Ste. Genevieve National Historic Site from the City of Ste. Genevieve, the County Commission of Ste. Genevieve, the Foundation for the Restoration of Ste. Genevieve, Les Amis, the Missouri Parks Association, the National Society Colonial Dames of America in the State of Missouri, the New Bourbon Regional Port Authority, the Sierra Club (Eastern Missouri Group), the State Historical Society of Missouri, Ste. Genevieve Chamber of Commerce, the Ste. Genevieve Downtown Renewal Project, the Ste. Genevieve Museum, and the Ste. Genevieve Tourism Tax Commission.

We recommend two amendments to the bill. First, we recommend that the language for cooperative agreements in §3(f) of the bill be revised to authorize the Secretary to enter into an agreement for a project related to the management of the historic site in addition to an agreement to identify, mark, interpret, improve, or restore a “property” within the historic district or site. Cooperative agreements may include the expenditure of federal funds to help maintain a property, but also may be provided for projects such as interpretive signage or other informational materials found in wayside exhibits. The reference to a “project” assures that the interests of the federal government are protected in all instances where federal funds are provided.

Second, we recommend adding a definition for the special resource study referred to in the bill. This definition is important to determine which nationally properties are being considered for acquisition to the national historic site. The special resource study has an inventory of the properties contributing to the national significance of the study area in Chapter 6. We would be happy to provide the committee with language for our recommended amendments.

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

**STATEMENT OF DR. STEPHANIE TOOTHMAN, ASSOCIATE DIRECTOR,
CULTURAL RESOURCES, PARTNERSHIPS, AND SCIENCE, NATIONAL PARK
SERVICE, U.S. DEPARTMENT OF THE INTERIOR, BEFORE THE SENATE
SUBCOMMITTEE ON NATIONAL PARKS, COMMITTEE ON ENERGY AND
NATURAL RESOURCES, CONCERNING S. 3020, TO UPDATE THE MAP OF, AND
MODIFY THE ACREAGE AVAILABLE FOR INCLUSION IN, THE FLORISSANT
FOSSIL BEDS NATIONAL MONUMENT.**

JUNE 15, 2016

Mr. Chairman and members of the subcommittee, thank you for the opportunity to present the views of the Department of the Interior on S. 3020, to increase the acreage limit and update the boundary map of Florissant Fossil Beds National Monument in the State of Colorado.

The Department supports S. 3020, with a technical correction described later in this statement.

This bill would increase the acreage limit and update the boundary map, which would allow the National Park Service to accept donation of 280 acres of land from a private landowner to Florissant Fossil Beds National Monument in Teller County, Colorado. Including this land within the boundary of the monument would allow for enhanced wildfire protection as well as additional habitat for wildlife and recreational opportunities for visitors.

Public Law 91-60 limited the size of the monument to 6,000 acres. The current monument boundary includes 5,992 acres, leaving the National Park Service unable to accept the 280-acre donation. This 280-acre parcel would provide critical access to the park's western boundary for wildland fire protection, including improving opportunities for completing future hazardous fuel mitigation projects. Teller County Road 1 runs through the center of the monument and is currently the only main road that exists. The county also manages two other roads on the east side of the monument. As a result, fuels mitigation work on the monument's western boundary is limited because fire crews can only access the western boundary by foot. If the donation is approved, fire and emergency vehicles will have direct access to the western boundary of the park via a private road.

Florissant Fossil Beds National Monument is located in a high-mountain valley just west of Pikes Peak and 35 miles west of Colorado Springs, Colorado. The park was established as a national monument in 1969 to preserve one of the most diverse fossil deposits in the world and interpret its paleontological resources and geologic significance. The park maintains a collection of more than 12,000 fossil specimens, conducts inventory and monitoring of the fossil sites, has ongoing university collaborations and continues to be the subject of scientific publications.

Today, the park also offers a variety of recreational experiences to a growing community, including sightseeing, interpretive visitor center exhibits, hiking, picnicking, daily ranger-guided programs during the summer, Junior Ranger programs, and curriculum-based education programs for visiting school groups. Florissant Fossil Beds National Monument provides opportunities for exploration and discovery, as well as trails that offer easy day-hiking experiences for visitors.

The park does not anticipate additional staff or resources will be needed to support inclusion of the 280-acre donation as there are no plans to build or install any facilities there. The park superintendent provided local outreach to the community regarding the proposal and did not receive opposition from the local, county and adjacent landowners to accept the donation.

The department recommends a technical correction to the bill. On page 2, line 2, strike “numbered” and insert “entitled ‘Florissant Fossil Beds National Monument Proposed Boundary Adjustment’, numbered” to include the name of the revised map in addition to the number and date. This correction will ensure the language is consistent with the standards for identifying maps in public laws related to the National Park Service.

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

**STATEMENT OF DR. STEPHANIE TOOTHMAN, ASSOCIATE DIRECTOR,
CULTURAL RESOURCES, PARTNERSHIPS, AND SCIENCE, NATIONAL PARK
SERVICE, U.S. DEPARTMENT OF THE INTERIOR, BEFORE THE SENATE
SUBCOMMITTEE ON NATIONAL PARKS, ENERGY AND NATURAL RESOURCES
COMMITTEE, CONCERNING S. 3027, TO CLARIFY THE BOUNDARY OF ACADIA
NATIONAL PARK, AND FOR OTHER PURPOSES.**

JUNE 15, 2016

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. 3027, to clarify the boundary of Acadia National Park, and for other purposes.

The Department would support the sections of S. 3027 that address Acadia National Park's boundary, the National Park Service's (NPS) authority to adjust the park boundary, and the use of property conveyed from the NPS to the town of Tremont, if those sections are amended in accordance with this statement. Regarding the bill's removal of the statutory time limit for the authorization of the Acadia National Park Advisory Commission, the Department is not opposed to that provision.

Section 2 of S. 3027 would modify the boundary of Acadia National Park (Acadia) established in law in 1986 to include approximately 1,441 acres of land on the Schoodic Peninsula that comprise the Schoodic Woods property that was donated to the NPS in 2015. The Schoodic Woods donation was an extremely generous gift by an anonymous donor that included not only the land but also a newly constructed campground, trails, and other visitor amenities; an endowment to help pay for operating expenses at the site; and funds to pay local governments to help offset the loss of tax revenue. The addition to the park of this land, adjacent to existing national park land and ready to welcome visitors, was strongly supported by the communities on the Schoodic Peninsula and throughout the area surrounding Acadia.

The NPS accepted the donation of the Schoodic Woods property and added it to the boundary of the park under the authority of 16 U.S.C. 342(a), which was enacted as part of the Act of January 19, 1929, and which authorizes the National Park Service to accept donations of lands, easements, and buildings within Hancock County, Maine, the county in which most of Acadia is located. The NPS published the notice of the boundary adjustment reflecting the imminent acceptance of fee title to the Schoodic Woods property in the Federal Register of November 17, 2015.

The intent of Section 2 appears to be to confirm in statute the action the NPS took administratively to add Schoodic Woods to the boundary of Acadia. Although we believe that the NPS was on solid legal ground in using the 1929 authority for this boundary adjustment, we are aware of the concerns that have been raised about the use of this authority, given that Congress passed legislation in 1986 establishing a "permanent boundary" for the park (Section 102 of P.L. 99-420). However, we are concerned that legislation that amends the 1986 law to modify the boundary to include Schoodic Woods not only is redundant, it may also have

unintended consequences for actions that took place with respect to those lands between the dates the United States accepted title and the effective date of this legislation. We would like to work with the sponsor and the committee on an amendment that, rather than modifying the boundary, would confirm that the “permanent boundary” has been modified to include this parcel.

Section 3(c) of S. 3027 would prohibit the use of the 1929 authority, and authority under section 3 of the Act of February 26, 1919, to acquire land by donation outside of the “permanent boundary” established in 1986. Because the 1986 law effectively precludes the use of the minor boundary adjustment authority under the Land and Water Conservation Fund Act (54 U.S.C. 100506), the effect of section 3(c) would be to eliminate any administrative authority for the NPS to accept a donation of even a fraction of an acre of land with important resource values if it is located outside the 1986 boundary. Most national parks may use this limited administrative authority to acquire small parcels of land by purchase, exchange or donation. Those parks are able to respond quickly to opportunities or circumstances that are relevant to the park not only to accept donations, but also to make relatively modest purchases of land outside the boundary. We believe that Acadia should have that authority as well. We would like to work with the sponsor and the committee to find a way to provide the same limited flexibility that other national parks have for acquiring land outside their boundary.

Section 4 of S. 3027 would permanently authorize the Acadia National Park Advisory Commission. The commission was first authorized in 1986 and is currently due to expire in 2026. The Department is not opposed to eliminating the expiration date. There are several other advisory commissions for units of the National Park System that are permanently authorized, including the ones at Gettysburg National Battlefield Park, Jimmy Carter National Historic Site, and the National Park of American Samoa.

The Department recognizes the important work of the Acadia National Park Advisory Commission. The commission advises the Secretary of the Interior, through her designee, the superintendent of Acadia, on matters relating to the management and development of the park including, but not limited to, the acquisition of land and interests in land, and the termination of rights of use and occupancy. The advisory commission is composed of 16 members, ten of whom are appointed based on recommendations from the park’s host communities including the four towns of Mount Desert Island, three Hancock County mainland towns, and three island towns.

Finally, Section 5 of S. 3027 provides that specified lands that were part of Acadia and that were conveyed by the NPS to the town of Tremont, on Mt. Desert Island, for school purposes shall no longer be required to be used exclusively and perpetually for school purposes if the land is being used for public purposes.

Public Law 81-629, enacted in 1950, permitted the NPS to convey a parcel identified as NPS Tract 06-126 to the town to locate a new school. The conveyance was completed in 1951, with a reverter clause included in the deed specifying that the land would revert back to the United States of America if no longer used exclusively for school purposes. The town is now consolidating schools with a neighboring town and thus will no longer use this property

exclusively for school purposes, but would like to retain ownership and continue to use the developed property for community purposes. This legislation would allow it to do so.

The NPS has no intended uses for the property, and is agreeable to allowing the town to use the property for similar public purposes, so long as the use of the property will not degrade or adversely impact park resources and values, and the property remains in public ownership for recreational, educational or similar public purposes. We would support this section if amended to provide for those specific terms. We would be happy to provide recommended language.

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

**STATEMENT OF DR. STEPHANIE TOOTHMAN, ASSOCIATE DIRECTOR,
CULTURAL RESOURCES, PARTNERSHIPS, AND SCIENCE, NATIONAL PARK
SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SENATE
SUBCOMMITTEE ON NATIONAL PARKS, COMMITTEE ON ENERGY AND
NATURAL RESOURCES, CONCERNING S. 3028, TO REDESIGNATE THE OLYMPIC
WILDERNESS AREA AS THE DANIEL J. EVANS WILDERNESS.**

JUNE 15, 2016

Mr. Chairman, thank you for the opportunity to present the Department of the Interior's views on S. 3028, a bill to re-designate the Olympic Wilderness as the Daniel J. Evans Wilderness.

The Department supports S. 3028. The proposed bill would change the name of the Olympic Wilderness in Olympic National Park to the "Daniel J. Evans Wilderness" after former Washington Governor and Senator Daniel Evans, who was the sponsor of the 1988 legislation that created the Olympic Wilderness.

The Olympic Wilderness is Washington State's largest wilderness area and is one of the most diverse in the United States. It encompasses 876,447 acres managed by the National Park Service within Olympic National Park. It is bordered by the Buckhorn Wilderness to the northeast, the Brothers Wilderness to the east, the Mount Skokomish Wilderness to the southeast, the Wonder Mountain Wilderness to the south, and the Colonel Bob Wilderness to the south and east.

The heart of the Olympic Wilderness is made up of the rugged Olympic Mountains and some of the most pristine forests south of the 49th parallel. The temperate rainforest valleys of the mountains' west and south flanks receive 140 to 180 inches of precipitation annually. Mount Olympus (7,980 feet), the highest peak in the Olympic Mountains, receives more than 100 feet of snow annually. Mount Olympus has the third largest glacial system in the conterminous United States after Mounts Rainier and Baker, which are also located in Washington state.

The Olympic Wilderness contains 48 miles of wilderness coast with its beaches, rugged headlands, tide pools, seastacks and coastal rainforests. Just over 600 miles of trails lead into the interior of the park. The Olympic Wilderness is one of the most popular wilderness destinations in North America, with more than 40,000 overnight wilderness visitors each year.

The Olympic Wilderness is part of the Olympic World Heritage Site designated by the World Heritage Convention in 1981. The park is also designated as an International Biosphere Reserve (1976).

The proposed bill would require that all maps and references to the Olympic Wilderness be changed to reflect the new name. The costs for such changes are expected to be nominal if the agency is permitted to incorporate the name change concurrent with future routine updates to signs, periodicals, and maps.

Mr. Chairman, this concludes my testimony. I would be happy to answer any questions you and the other members of the subcommittee may have.

**STATEMENT OF DR. STEPHANIE TOOTHMAN, ASSOCIATE DIRECTOR,
CULTURAL RESOURCES, PARTNERSHIPS, AND SCIENCE, NATIONAL PARK
SERVICE, U.S. DEPARTMENT OF THE INTERIOR, BEFORE THE SENATE
SUBCOMMITTEE ON NATIONAL PARKS, COMMITTEE ON ENERGY AND
NATURAL RESOURCES, CONCERNING S. 2839 AND H.R. 3004, BILLS TO AMEND
THE GULLAH/GEECHEE CULTURAL HERITAGE ACT TO EXTEND THE
AUTHORIZATION FOR THE GULLAH/GEECHEE CULTURAL HERITAGE
CORRIDOR COMMISSION**

JUNE 15, 2016

Mr. Chairman and members of the subcommittee, thank you for the opportunity to present the views of the Department of the Interior on S. 2839 and H.R. 3004, bills to amend the Gullah/Geechee Cultural Heritage Act to extend the authorization for the Gullah/Geechee Cultural Heritage Corridor Commission.

The Department supports S. 2839 and H.R. 3004, which are virtually identical.

Both bills would extend the authorization for the Gullah/Geechee Cultural Heritage Corridor Commission (Commission) to serve as the local coordinating entity for the Gullah/Geechee Cultural Heritage Corridor (Corridor) an additional five years, through October 12, 2021. This extension of authority would match the authorization for the Corridor to receive Federal funding. If reauthorized, the Commission, as the local coordinating entity, would continue to implement the management plan for the Corridor, developed in 2013, and would be eligible to receive Federal grant money and technical assistance.

The Department recognizes the important work of the Gullah/Geechee Cultural Heritage Corridor and their efforts to highlight, interpret, and preserve the important contributions of the African Americans known as Gullah/Geechee in coastal counties of North Carolina, South Carolina, Georgia, and Florida to American history and culture.

The Gullah/Geechee Cultural Heritage Corridor comprises approximately 12,800 square miles from the northern border of Pender County, North Carolina, to the southern boundary of St. Johns County, Florida. Extending 425 miles along the coast and 30 miles inland, it encompasses all or part of 27 counties in four states and covers an area larger than Maryland and Delaware combined. The entire Corridor has been identified as an ethnographic resource for its rich cultural complexity, which expresses itself in its folk life and traditions such as foodways, music, language and oral traditions, craft traditions, and religion and spirituality. The Corridor's mission is three-fold, and centers around: preservation of land, language, and culture; public education of Gullah/Geechee culture; and, supporting Gullah/Geechee communities.

The Gullah/Geechee Cultural Heritage Act charged the Commission, as the local coordinating entity, with preparing and submitting a management plan to the Secretary. The Commission was further charged with conducting public meetings on, and assisting units of local government with, the management plan's implementation. The extension of the Commission's authorization will allow the critical time needed to implement the plan's recommendations.

To date, the Commission has already taken steps such as: providing outreach education materials to State welcome centers; providing highway Corridor marker signs along U.S. Highway 17; providing education programs to schools and groups; and, developing and supporting the Gullah/Geechee Cultural Heritage Corridor website. The Commission has also served as a consulting party on several items of concern to communities within the Corridor including the planning of the U.S. Forest Service/U.S Army Corps of Engineers McClellanville transmission line project and the Bureau of Ocean Energy Management's Environmental Assessment for offshore commercial wind leasing in South Carolina.

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

**STATEMENT OF DR. STEPHANIE TOOTHMAN, ASSOCIATE DIRECTOR,
CULTURAL RESOURCES, PARTNERSHIPS, AND SCIENCE, NATIONAL PARK
SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SENATE
SUBCOMMITTEE ON NATIONAL PARKS OF THE COMMITTEE ON ENERGY AND
NATURAL RESOURCES, CONCERNING H.R. 3036, A BILL TO DESIGNATE THE
NATIONAL SEPTEMBER 11 MEMORIAL LOCATED AT THE WORLD TRADE
CENTER SITE IN NEW YORK CITY, NEW YORK, AS A NATIONAL MEMORIAL,
AND FOR OTHER PURPOSES.**

JUNE 15, 2016

Thank you for the opportunity to present the views of the Department of the Interior on H.R. 3036, a bill to designate the National September 11 Memorial located at the World Trade Center site in New York City, New York, as a national memorial, and for other purposes.

The Department understands and appreciates the significance of the events of September 11, 2001, to the nation. We support memorializing and providing educational opportunities to learn about that day and its effects on our country and on the world. However, as H.R. 3036 provides no federal role in administering, interpreting, or preserving the resources of the National September 11 Memorial at the World Trade Center, and is only intended to authorize federal funding for seven fiscal years to the organization managing the memorial, we strongly oppose this legislation.

H.R. 3036, as passed by the House, would designate the National September 11 Memorial at the World Trade Center as a national memorial, but it specifically provides that this memorial would not be a unit of the National Park System. The bill authorizes the Secretary of the Interior to establish a competitive grant program to award a grant of an unspecified amount each fiscal year for seven years to a memorial to the victims of the terrorist attacks on the World Trade Center, the Pentagon, and United Airlines Flight 93 on September 11, 2001, and to the victims of the attack on the World Trade Center on February 26, 1993. Because of those specifications and others, the only organization that appears to be eligible to receive this funding would be the National September 11 Memorial & Museum at the World Trade Center, Inc. Foundation.

Thus, the objective of the bill is to have the NPS provide grants to the foundation for the memorial's operation and maintenance without any federal involvement in the operation of the memorial. There are no other circumstances where the National Park Service (NPS) provides annual operating funds to a site not managed by the NPS directly or under an agreement with the NPS, except possibly for some affiliated areas which receive relatively small amounts. There are also no other competitive grant programs administered by the NPS where only one organization would appear to meet the eligibility criteria of that program.

In addition, if the grant comes out of the NPS budget, it would reduce the amount of operational funding available for the needs of our more than 400 designated units of the National Park System. We do not believe it is appropriate to divert operational resources needed to fulfill our legislated responsibilities to a site for which the NPS has no role.

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

**STATEMENT OF DR. STEPHANIE TOOTHMAN, ASSOCIATE DIRECTOR,
CULTURAL RESOURCES, PARTNERSHIPS, AND SCIENCE, NATIONAL PARK
SERVICE, U.S. DEPARTMENT OF THE INTERIOR, BEFORE THE SENATE
SUBCOMMITTEE ON NATIONAL PARKS, COMMITTEE ON ENERGY AND
NATURAL RESOURCES, CONCERNING H.R. 3620, TO AMEND THE DELAWARE
WATER GAP NATIONAL RECREATION AREA IMPROVEMENT ACT TO PROVIDE
ACCESS TO CERTAIN VEHICLES SERVING RESIDENTS OF MUNICIPALITIES
ADJACENT TO THE DELAWARE WATER GAP NATIONAL RECREATION AREA,
AND FOR OTHER PURPOSES.**

JUNE 15, 2016

Mr. Chairman and members of the subcommittee, thank you for the opportunity to present the Department of the Interior's views on H.R. 3620, to amend the Delaware Water Gap National Recreation Area Improvement Act to provide access to certain vehicles serving residents of municipalities adjacent to the Delaware Water Gap National Recreation Area, and for other purposes.

The Department supports enactment of H.R. 3620.

H.R. 3620 would amend the Delaware Water Gap National Recreation Area Improvement Act (P.L. 109-156) with respect to the prohibition against commercial vehicle use of Highway 209, a federally owned road within the boundaries of the Delaware Water Gap National Recreation Area in Pennsylvania. The bill would reinstate the authority, with some revisions, of the National Park Service (NPS) to allow commercial vehicles serving local businesses to use Highway 209 through a permit and fee program. The previous authority expired on September 30, 2015.

The bill would permit the use of Highway 209 until September 30, 2020, by commercial vehicles with four or fewer axles that: (1) are owned and operated by a business located in the recreation area or by one or more adjacent municipalities named in the bill, or (2) are necessary to provide services to businesses or persons located in the recreation area or in one or more of those municipalities. As part of the permit program authorized by this bill, the NPS would be allowed to charge an annual fee of up to \$200 per vehicle. All fees received would be set aside in a special account and made available for the administration and enforcement of the program, including registering vehicles, issuing permits and vehicle identification stickers, and personnel costs. The bill would exempt local school buses; fire, ambulance, and other safety and emergency vehicles; and commercial vehicles along specified segments of the highway from the permit and fee requirement.

In 1983, the Commonwealth of Pennsylvania transferred 22 miles of State Road 209 (now referred to as Federal Road 209) to the United States to enhance the relatively new Delaware Water Gap National Recreation Area. It was transferred with the understanding that commercial traffic on the road would cease. At the time, it was reported that more than a 1,000 tractor trailers per day were using the road as a pass-through route between I-80 and I-84. There were

13 trucking companies surrounding the recreation area when the road was transferred, and those companies were allowed under law a ten-year transition period to adjust to the new regulation of the road. The NPS was authorized to collect and retain fees from the commercial use of the road but only from so few entities that it cost the NPS between \$50,000 and \$150,000 every year to regulate traffic. Further, when the road was transferred there were many private properties along the 22-mile route. Now the United States owns all of the properties except for one store located on the south end within the section of road from mile 0 to Bushkill Falls Road (SR 2001) that allows commercial traffic.

Completion of the construction of Interstate 287 in New Jersey provided an alternate route to I-80 and I-84 allowing commercial traffic to effectively bypass Highway 209. Construction of a state road that will parallel Highway 209 is expected to be completed in the near future and will further reduce local commercial traffic through the park. In the meantime, the enactment of H.R. 3620 would serve the needs of local communities while offering a way for NPS to manage permitting and fee collection for commercial traffic on the park road. We hope that this approach will cover the cost of NPS fee administration and traffic enforcement, but that will depend on the number of commercial vehicles that choose to use Highway 209. A year after this program is implemented, we should have an estimate for the following years.

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

**STATEMENT OF DR. STEPHANIE TOOTHMAN, ASSOCIATE DIRECTOR,
CULTURAL RESOURCES, PARTNERSHIPS, AND SCIENCE, NATIONAL PARK
SERVICE, U.S. DEPARTMENT OF THE INTERIOR, BEFORE THE SENATE
SUBCOMMITTEE ON NATIONAL PARKS, COMMITTEE ON ENERGY AND
NATURAL RESOURCES, CONCERNING S. 4119, TO AUTHORIZE THE EXCHANGE
OF CERTAIN LAND LOCATED IN GULF ISLANDS NATIONAL SEASHORE,
JACKSON COUNTY, MISSISSIPPI, AND THE VETERANS OF FOREIGN WARS, AND
FOR OTHER PURPOSES.**

JUNE 15, 2016

Mr. Chairman and members of the subcommittee, thank you for the opportunity to present the views of the Department of the Interior on H.R. 4119, a bill to authorize the exchange of lands between Gulf Islands National Seashore and the Veterans of Foreign Wars Post 5699, and for other purposes.

The Department supports H.R. 4119 with technical amendments described later in this statement.

The Veterans of Foreign Wars (VFW) Post 5699 owns a piece of property that is bordered on two sides by land owned by the National Park Service (NPS) and managed as part of Gulf Islands National Seashore. The VFW property is separated from the public road, with the only access across NPS lands. Under a previous informal agreement with the National Seashore, the VFW created and maintained a one-lane dirt access road across NPS property from the public road to their building. The VFW also removed vegetation and mowed NPS property adjacent to that access road. No right-of-way or special use permit was ever issued.

The VFW approached the National Seashore in 2015 with a proposal to exchange 2.16 acres of undeveloped land, adjacent to NPS land, at the south end of their property for 1.54 acres of NPS land that would connect their property to the public road. This land exchange would formalize the existing land use, providing the VFW with ownership and permanent access, and providing the National Seashore undeveloped acreage adjacent to other undeveloped, NPS-owned lands.

H.R. 4119 would authorize this land exchange. The bill would deem the two properties to be exchanged to be considered equal in value, and would require the VFW to pay for the costs associated with the exchange, including any required costs for environmental compliance. The bill would also modify the boundary of Gulf Islands National Seashore to reflect the land exchange upon its completion.

Finally, the National Park Service recommends a technical amendment to reference an official NPS map in the legislation, and a technical amendment to clarify the boundary modification. We would be pleased to provide the Committee with the recommended language and map.

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

Senator CASSIDY. Thank you, Dr. Toothman, for your testimony. In the time remaining we will begin with questions.

In your testimony as regards S. 2807 you, I think, said you strongly oppose and you cited the Organic Act which has, I gather, two central pillars to conserve and to enjoy.

Dr. TOOTHMAN. Absolutely.

Senator CASSIDY. The Park Service has a mission to preserve places in their natural environment. How does the Park Service balance the decision to make seasonal closures or use bag and size limits for fishing with marine reserve zones?

Dr. TOOTHMAN. I'm not sure I'm fully qualified to respond to that. I'd be glad to get you a more complete answer from our natural resources personnel, but we do try to balance in establishing those zones based on science and consultation with the many constituencies that are interested in the interest of making sure that those resources are available for the long run.

Senator CASSIDY. Inherent in that is that what might apply to one area would not necessarily apply to another, the science would change? It would be different?

Dr. TOOTHMAN. That's true and that's one of our concerns with this bill in that it has potential application to more than 80 different coastal parks, and the logistics of collaborating with all of those states already are substantial.

And so, we believe that in addition to maintaining the integrity of our responsibilities under the Organic Act that that tremendous variety would create some real issues in terms of being able to adopt to all of them. But we do tend—we do have a strong policy that encourages collaboration and consultation with our state and local partners.

Senator CASSIDY. I can see it being consultation and collaboration, but ultimately if you say so, it happens as regards much for adding the state as an entity with which to deal should be minimized.

Does the National Park Service, and you may or may not know this, look at fish aggregations solely within the park or does it evaluate the health of a population based upon the larger region which may expand beyond a particular park?

Dr. TOOTHMAN. Our primary responsibilities are within the park boundaries, but the science would mandate that we look in terms of the larger area and which might be influenced by those decisions.

Senator CASSIDY. Now what is the role the state fish and wildlife agency plays in the analysis?

Dr. TOOTHMAN. Well obviously, I'm sorry, I shouldn't say obviously. We look to our state partners to help support the science in terms of bringing the information that they have about the larger area in which they are managing, integrates with our responsibility.

Senator CASSIDY. But I gather that the state said, listen, based upon our data there is no reason to have a marine reserve or restricted fishing. Nonetheless, if you felt otherwise you would rule otherwise, I gather that.

Dr. TOOTHMAN. Our concerns with this bill is that ultimately we need to act in terms of our best judgement on what it takes to pre-

serve the resource. Again, taking into account the information we receive from our state partners.

We do have experience in other resources. The one at Dry Tortugas is a good example in which we worked with numerous partners to set aside a reserve there. And the results have been very promising in terms of the increases in size, the number of the populations.

Senator CASSIDY. Now you do have co-management arrangements in the Great Lakes, I gather, with state, tribal and federal agencies, and NOAA looks at the share to determine catch shares, etcetera, but there is a Great Lakes Fisheries Commission. It seems almost inherent in that that some of your authority is ceded to these non-federal partners if it is co-managed.

Dr. TOOTHMAN. Sir, I'm not able to respond to that particular co-management responsibility, but we would be glad to respond to it in writing as a follow up.

Senator CASSIDY. It also seems as if the state wildlife and fisheries would feel differently than you and I gather also the stakeholders, the recreational and commercial fishermen in the area affected, disagree with you. These are folks with a vested interest in maintaining the productivity of the population of fish within these areas.

Again, I am a little struck that if you ought to decide differently these stakeholders are effectively ruled out; that does seem a little preemptory. I do not have as much faith in the Federal Government to be as unbiased on these decisions as I would those who are local. That is just, kind of, my observation after 58 years of living.

But anyway, without the cooperation of the state how would the National Park Service enforce the marine reserve? Is there anything contingent upon the state cooperating?

Dr. TOOTHMAN. Each situation varies, but we certainly try to work very closely with the various enforcement officials in both state and local entities. But we also have our own enforcement capability.

Senator CASSIDY. Thank you, I certainly went over.

Let me stop and turn to my colleagues. There will be a second round.

Senator Heinrich.

Senator HEINRICH. Dr. Toothman, I understand that Congress authorized commissions to commemorate anniversaries of the arrival of English colonists at Jamestown and Spanish explorers in St. Augustine, similar to Senator Kaine's proposal for a commission commemorating the arrival of the first African slaves at Point Comfort, Virginia and the following 400 years of African-American history. Was the Park Service involved in those previous commissions and what kinds of events and programs were implemented by those commissions?

Dr. TOOTHMAN. We have been involved in terms of a supporting role. And we—but I would have to get back to you in greater detail unless maybe? Yeah, we'll have to get back to you. And I know we were involved in both St. Augustine and Jamestown.

Senator HEINRICH. If you could get back to us.

Dr. TOOTHMAN. But we can get back to you.

Senator HEINRICH. In writing.

Dr. TOOTHMAN. Yes.

Senator HEINRICH. Giving what that looked like in terms of structure, that would be helpful.

[The materials had not been submitted at the time of publication. Once the committee receives them, they will be included in the committee files.]

Senator HEINRICH. You also testified in support of H.R. 4119 which authorizes a land exchange between the Park Service and the Veterans of Foreign Wars Post 5699. That involves two small parcels.

Normally when Congress authorizes a land exchange, language is included requiring that the values of the lands to be exchanged must be equal, with the value of the lands determined by appraisals, as you know. In this case the bill deems the values of the two parcels to be equal. Do you have any sense of what the actual market value of the two parcels to be exchanged are? I am just curious why the Park Service is not recommending the standard language requiring an equal value exchange and the use of an appraisal?

Dr. TOOTHMAN. I know we posed that question to our regional counterparts and the response that we received was that the two parcels are almost virtually adjacent. They're definitely within the same framework in terms of evaluation.

And so the—based on that information, based on the fact that in the exchange we will receive a half acre more than we will be transferring and that the VFW will be paying all of the costs for the transfer, that they came to the conclusion that it would be of roughly equal value.

Senator HEINRICH. Okay.

Lastly I wanted to ask a question regarding Biscayne Bay.

How many similar situations are there where commercial fishing is actually allowed in a National Park unit? That is not something you typically associate with a park and its management and is sometimes a difficult thing to reconcile with the direction in the Organic Act. Is this analogous to other units in the Park Service management family?

Dr. TOOTHMAN. I was advised that a number of our coastal parks could be affected by this law but we would have to get back to you with specific parks that have that crossover.

Senator HEINRICH. So you are not aware, off the top of your head?

Dr. TOOTHMAN. No.

Senator HEINRICH. Of other units where there it is similarly?

Dr. TOOTHMAN. Don Hellmann advises me that we have a long list, but I do not have that in front of me.

Senator HEINRICH. And it—

Dr. TOOTHMAN. Unless it's in—is that in my book?

If you could give me a minute?

Senator HEINRICH. Sure.

Dr. TOOTHMAN. I'll go back to that. This was a lot of paper here.

Senator HEINRICH. I can give you a minute and 17 seconds.
[Laughter.]

Dr. TOOTHMAN. Okay.

We have a list, a spreadsheet that we can share with you that covers most regions with coastal land that's three pages long and we'll provide that for the record.

Senator HEINRICH. That would be helpful.

In particular I am curious how many of those units also, if there is some sort of allowance for commercial fishing as opposed to recreational fishing?

Dr. TOOTHMAN. We'll take that to the next step in terms of the spreadsheet and get you that information.

[The materials had not been submitted at the time of publication. Once the committee receives them, they will be included in the committee files.]

Senator HEINRICH. Finally, the primary species of concern with Biscayne Bay, is it red fish and grouper that is of concern or are there other species as well?

Dr. TOOTHMAN. I apologize again, this is outside of my area of expertise and I haven't been provided with that, so we will have to get you that information as well.

Senator HEINRICH. Thank you.

Thank you very much.

[The materials had not been submitted at the time of publication. Once the committee receives them, they will be included in the committee files.]

Senator CASSIDY. Senator King.

Senator KING. Thank you.

First I want to thank you for your testimony on S. 3027. It seems to me that there are three central points.

One is that the confirmation of the conveyance of the parcel of the Schoodic parcel may create unintended consequences given the different, that something had happened in between the development of the park, of the campground for example. Clearly we want to work on that so just to be sure there is no inadvertent legal issue created.

Dr. TOOTHMAN. Thank you.

Senator KING. Secondly, I understand the provision that you are suggesting that there be a, kind of, diminimus transfer authority. I certainly want to work with you on that, although relatively modest can mean a lot of things. I think we are really going to have to work on this because again, the fundamental intent of the 1986 Act was this is the boundary.

Dr. TOOTHMAN. Right.

Senator KING. And to the extent, if we are going to discuss limitations, I do not want the Swiss to eat the cheese. I want to be sure that we are respecting the integrity of that Act. So clearly we want to discuss it, but I hope you will have your counsel talk about how it can be limited in such a way as to reassure us that it is not reopening a, kind of, open ended acquisition process.

Dr. TOOTHMAN. Sir, many of our parks do have that. We can provide you with examples of what that looks like and what the boundaries are.

Senator KING. Yes, it would be helpful for the language that you suggest and also examples of what we are talking about.

Dr. TOOTHMAN. Yes.

Senator KING. If we are talking about a parking lot or a piece of abutting land or something, but if we're talking, you know, again, relatively modest can be a lot of land.

Finally, the question about the transfer to the Town of Tremont. Clearly we want to work with you on that. We are very comfortable about public ownership, recreational, educational, adversely impact part resources and values, again, as a, kind of, all-purpose term. We do not want that to the exception to eat up the rule.

Clearly we look forward to working with you on this and hope that we can resolve it promptly. We would like to get this taken care of in this session of Congress.

I appreciate your willingness to take this issue seriously and to help us to find solutions.

Dr. TOOTHMAN. And we look forward to working with you to make sure this is all straightened out and ready to go.

Senator KING. Good, thank you.

I have stayed in that campground, so I want it resolved too. [Laughter.]

Senator CASSIDY. We will now go to a second round which may just be me. [Laughter.]

Let's talk about H.R. 3036.

Staff has given me some material and I have your testimony so the comments and questions will be, kind of, an amalgamation of the two.

I think it goes without saying that September 11th is very emotional for all of us, particularly for New Yorkers, but I would say also next most particularly, all Americans. I met with some of the folks who are principle in this and they mentioned the security costs associated with visits by Heads of State, the President and the Pope, etcetera, so I also understand that.

In your testimony, however, you point out that this is a competitive grant program to give an unspecified amount each fiscal year. My staff says the CBO has estimated this could be as much as \$25 million a year, but that no other organization would be eligible except for the National September 11th Memorial Museum at the World Trade Center. Is that correct? This would be the only organization that could compete for a competitive grant?

Dr. TOOTHMAN. That's our understanding, and it's reaffirmed by a letter from our—one of the supporting groups for Flight 93, who also have taken a look at it and felt that only the 9/11 Memorial Group would be eligible.

Senator CASSIDY. Okay, and it looks like an earmark then. I mean, I don't know if you can comment on that, but if it's—

Dr. TOOTHMAN. I can't comment but—

Senator CASSIDY. Yes. It looks like, etcetera.

Now I gather it is for operation and maintenance of sorts or at least a component of it. My staff has given me some data but I would like your impression first. The degree to which you have financial data of the 9/11 Memorial Museum at the World Trade Center Foundation, their filings, as regards how much they will receive and how much they put out in O and M. Do you have any understanding of that?

Dr. TOOTHMAN. We don't have an analysis of that that I'm aware of.

Senator CASSIDY. Okay.

Dr. TOOTHMAN. Our concern is that we have no role in managing that memorial, and so that is a concern to us. So we would have no oversight or other role in determining those costs.

Senator CASSIDY. Are there any other circumstances or a park or you name it where this amount of money, a significant amount of money, would be given the order of magnitude, \$15 million, \$25 million, whatever, and the National Park Service would not have a role in administration?

Dr. TOOTHMAN. Not at this time.

Senator CASSIDY. How many programs do you all administer?

Dr. TOOTHMAN. Well, we administer 411 units. We administer at least 30 programs that support partners in various activities from documenting historic places to providing for administering grants to acquire recreational lands.

Senator CASSIDY. Now if this money is allocated, do you anticipate receiving more money next year or would this, if you will, cannibalize funding for these other programs?

Dr. TOOTHMAN. Without an additional specific appropriation, it would have to reduce what's available to our other programs and parks.

Senator CASSIDY. Thank you.

My staff has given me something which, again, I suspect the backers of this bill may find differently, but they base this upon the IRS Form 990 which is publicly available. They estimate the amount spent on operations and maintenance as well as security is approximately \$27, \$28 million and contributions from museum admissions and membership in the same year was roughly \$42 million with an additional \$87 million in contributions. So just to point that out, it does seem as if what they are receiving is adequate for O and M, but again, I am sure there is another part of that story.

Okay, thank you.

Let me ask you a couple other things. On the boundary adjustments, seven of these bills pertain to this. How would these proposed boundary modifications impact individual park budgets including acquisition cost?

Dr. TOOTHMAN. In virtually all of them, except for Ocmulgee which has a fairly significant addition of land so there would be some additional operation cost if all of that land came onboard.

The fairly minor adjustments, so at Florissant Fossil Beds, for example, that's about the—that's a small acreage, I believe it's under 20, but I'd have to double check that. It has the advantage of being immediately adjacent, being pretty much open, undeveloped land. And it would provide additional, much needed, access for wildland firefighting. So that would be virtually no impact.

I'm just looking at some of the other ones. Fort Scott National Historic Site boundary, that includes three structures plus a block house. In that case, again, there are administrative uses that would take pressure off current facilities within the site, and so the costs are believed to be minimal in terms of bringing those on.

So, again, the Ocmulgee, Ocmulgee, I'm sorry for that one, that's the only one. And again, the costs are fairly modest, maybe, just a couple of additional FTEs.

Senator CASSIDY. Okay.

Five of the bills we are hearing today would designate or provide for feasibility studies for National Heritage Areas. Last year Congress gave \$19.8 million for these areas according to CRS.

How do you consider funding for these heritage areas in light of the maintenance backlog that currently exists within the National Park Service?

Dr. TOOTHMAN. Well, while all the funding comes under your ceiling, they are coming from two different funding streams. So maintenance for the National Park Service is coming out of the operations of the National Park Service and the heritage areas is coming out of the National Recreation and Preservation budget.

So other than that more general ceiling that the Committee works under, it's not a direct one for one comparison.

Senator CASSIDY. Gotcha, okay.

How much of this land is privately owned and have any of the land owners objected to these proposals?

Dr. TOOTHMAN. Under the provisions of virtually all of these legislations, no land owner would be included without their consent and these are collaborative ventures that don't include zoning or other types of management. They're more focused on promoting heritage tourism and preservation of natural and cultural resources, so there's no oversight or ability to directly effect of a private property owner.

Senator CASSIDY. Okay.

Senator Heinrich.

Senator HEINRICH. Yes, I just wanted to quickly mention with regard to S. 2807 which we will look forward to working with you and then also the Florida delegation on.

I think in just quickly reading through the entire written record from the Park Service, I think one of the challenges here is that we have a management disagreement at Biscayne Bay as to what the proper solution is. But the proposed solution actually impacts the entire Service including Glacier Bay and Padre Island and Dry Tortugas and other places where we do not have a problem. I think that may help us to hone our solution a little bit more.

Senator CASSIDY. Okay.

Thank you, Dr. Toothman, for your testimony.

If there are no other questions, members may also submit follow up questions for the record.

Senator CASSIDY. The hearing record will be open for two weeks. Again, I thank, Dr. Toothman, for her time and testimony.

The hearing is adjourned.

[Whereupon, at 3:25 p.m. the hearing was adjourned.]

APPENDIX MATERIAL SUBMITTED



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

NOV 07 2016

The Honorable Bill Cassidy
Chairman
Subcommittee on National Parks
Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Chairman Cassidy:

Enclosed are responses to the follow-up questions on several bills from the legislative hearing on June 15, 2016. These responses were prepared by the National Park Service.

Thank you for giving us the opportunity to respond to you on these matters.

Sincerely,

Christopher P. Salotti
Legislative Counsel
Office of Congressional and
Legislative Affairs

Enclosure

cc: The Honorable Martin Heinrich, Ranking Minority Member
Subcommittee on National Parks

**Committee on Energy and Natural Resources
Subcommittee on National Parks
366 Dirksen Senate Office Building
Wednesday, June 15, 2016
2:30 pm**

Legislative hearing on:

**H.R. 3004/S. 2839, H.R. 3036, H.R. 3620, H.R. 4119, S. 211, S. 630, S. 1007, S. 1623, S. 1662,
S. 1690, S. 1696, S. 1824, S. 2087, S. 2412, S. 2548, S. 2627, S. 2807, S. 2805, S. 2923, S. 2954,
S. 3020, S. 3027, S. 3028**

Questions from Chairman Bill Cassidy

1: The National Park Service (NPS) has a mission to preserve places in their natural environment, but marine reserves have an impact on the greater marine environment.

Some private recreational anglers will shift their fishing efforts to other areas without loss of economic impact or satisfaction. However, fishing pressure and crowding increases in these other locations. This can increase overall landings and reduce catch rates.

On the other hand, others will stop fishing as the expected success rates in areas not fished are lower or the travel costs are higher. The result is an economic loss on the region's businesses who supported these anglers.

The Commercial Fisherman's Association estimates the economic impact of the National Park Service's management actions would have a \$40 million impact to commercial fishermen in the affected area.

Did the National Park Service conduct a quantitative socioeconomic impact analysis on the contributions of fishing within the park and regional impacts before designating a marine reserve zone within the Park? If not, why? If so, can you please provide a copy of it?

Answer: Yes, the Final 2015 Biscayne National Park General Management Plan/Environmental Impact Statement (GMP) included an analysis on the socioeconomic impacts of the NPS preferred alternative, which included a discussion of the economic effects of marine reserve zones. This information can be found on pages 428 to 430 of the Final GMP/EIS, Volume 1. This document can be found at:

<https://parkplanning.nps.gov/document.cfm?parkID=353&projectID=11168&documentID=6580>

Specifically, describe how the Park Service balances the decision to make seasonal closures or utilize bag and size limits for fishing with marine reserve zones?

Answer: Decisions regarding particular management actions were made in accordance with the National Park Service's laws and policies, taking into consideration the potential impacts on the species and habitats in question, public comment, and available science, including published, peer-reviewed scientific literature on coral reef ecosystem management. In the development of the Biscayne National Park GMP, the park explored several new zone possibilities to protect patch reefs in the southeast corner of the park and thereby enhance fishery resources for a more enjoyable visitor experience. To meet these objectives, the park considered a number of management strategies associated with a new zone (e.g., catch and release only, species-specific limits, seasonal closures). These concepts were ultimately not selected for a variety of reasons, including: significant overlap with management actions already being addressed in the approved Fishery Management Plan; effectiveness at meeting the goal of the alternatives; and, feasibility of enforcement and regulation.

The scientific references used to inform the NPS decision also included reports and unpublished data; studies and data are summarized in the final plan in Volume I, pages 125-126 and the reference section, Vol. II, pages 321-335.

- 2: According to the Park Service, research on a marine reserve zone in Dry Tortugas National Park helped form the scientific basis for the marine reserve zone in Biscayne National Park. Fish are seasonal and move to deeper, colder waters in warmer months and shallow reefs in cooler months. In addition, the Park's marine reserve zone does not host any known historical fish aggregations, it is not located near unique oceanic currents that might benefit regional fish populations, and the marine reserve zone is adjacent to one of the largest urban areas in the entire U.S. Because there is environmental variability across parks, why did the Park Service elect to use science from one park to make determinations regarding access in another park?**

Answer: In developing the GMP for Biscayne National Park, the National Park Service prioritized the use of published, peer-reviewed scientific literature on coral reef ecosystem management. This literature included surveys of the design, implementation, and benefits of various types of marine protected areas, including information from the Research Natural Area at Dry Tortugas National Park, but also marine reserves throughout the world, as well as data collected within Biscayne National Park. Data collected within Biscayne National Park include a multi-agency reef visual census and the park's own fish monitoring and angler survey programs.

- 3: The federal government does not have a management role in the Great Lakes. The states manage the fisheries in cooperation with the Province of Ontario suggesting that the federal government believes those states can manage the fisheries in a manner that allows for both conservation and enjoyment. What role does a state fish and wildlife agency have when the Park Service is conducting a scientific analysis of a fishery within a unit of the Park Service? Please be specific.**

Answer: States, Canadian provinces, and a number of federal agencies all have management roles within the Great Lakes. NPS units of the Great Lakes include 450,000 surface acres of Lakes Erie, Michigan and Superior. Within these waters, jurisdiction over fishing and other activities is shared between the NPS and adjacent states and, in the case of Grand Portage National Monument, with the Grand Portage Band of the Minnesota Chippewa Tribe.

Although parks typically adopt most State fishing regulations, several Great Lakes parks have promulgated special regulations to address specific threats to fish, fishing and other aquatic resources. For example, national parks along Lake Superior restrict the use of baitfish to reduce the risk of introduction for viral hemorrhagic septicemia, a disease that is lethal to most fish species. Isle Royale National Park also establishes park-specific limits on brook trout to protect "coasters", a type of brook trout that is unique to Lake Superior and of concern to both state and federal managers. Sleeping Bear Dunes National Lakeshore regulates fishing from docks to prevent conflicts between anglers and boaters. These regulations are important for the protection of NPS resources and visitors. Other federal agencies also play a role in the management of Great Lakes fish and fisheries. For example, the U.S. Fish and Wildlife Service is responsible for the control of sea lamprey in the U.S. waters of the Great Lakes. The NPS cooperates with the U.S. Fish and Wildlife Service when lamprey control activities occur within park waters.

The role of state fish and wildlife agencies in the scientific analysis of fishery data from National Park Service waters depends on the circumstances. In some cases, the NPS relies in part or entirely on analyses provided by state experts. In other instances, the NPS may also rely on the expertise of its own employees, scientists from other federal agencies (e.g., U.S. Geological Survey, U.S. Fish and Wildlife Service, or the National Oceanic and Atmospheric Administration), or university researchers.

4: Does the Park Service defer to science provided by state fish and wildlife agencies if it is the most current and best available science?

Answer: NPS policy requires use of the best available science, which includes, but is not limited to, science provided by state fish and wildlife agencies. NPS managers regularly synthesize and reconcile data and information from more than one source to develop a more complete understanding of resource condition and to identify management alternatives that address issues of concern. In the case of Biscayne National Park, the NPS prioritized the use of published, peer-reviewed scientific literature on coral reef ecosystem management, in accordance with NPS laws and policy, as well as State, federal and university data to determine the efficacy of a potential marine reserve.

5: In your testimony, you state that decisions to restrict recreational or commercial fishing are done based upon the best available science and after engagement with the states and other affected parties. However, in this case there is broad opposition from affected stakeholders both regarding the science and decision to restrict access. The National Park Service has acknowledged that it cannot manage Biscayne National Park without the continuous cooperation of the state fish and wildlife agency. Do you agree that the Park Service would not be able to effectively enforce a marine reserve without state enforcement to support the Park Service?

Answer: Biscayne National Park will enforce the marine reserve zone through the federal law enforcement rangers on its staff. The enforcement would be more effective with the cooperation of the state than without.

- 6: In the National Park Service's Record of Decision for the Biscayne General Management Plan, it says "Every five years for a maximum of 20 years, the National Park Service will provide a peer-reviewed, five year report that summarizes monitoring, research, and performance evaluation of the marine reserve zone regarding its stated goals, and release that report to the public within one year of the conclusion of each five-year monitoring period, or as soon as practicable."**

It further says, "The park will work with ... appropriate federal and state agencies to establish one or more Memoranda of Understanding (MOU) to share information regarding data collection, coordinate monitoring efforts as practicable, and receive recommendations on monitoring of the marine reserve zone. As part of this process, the park would also consider recommendations to continue or modify the marine reserve zone, including its size, geographical extent, and other specific rules and restrictions."

What baseline will the Park Service use from which to draw conclusions about the relative success or failure of the marine reserve zone? Since the Park Service established this marine reserve in 2015, do you agree that 2015 should serve as the baseline to inform the Park Service's future reporting?

Answer: Even though the Marine Reserve Zone was designated by the GMP in 2015, it has not been implemented to date. The NPS is currently in the process of measuring certain baseline conditions and determining how best to measure others. The NPS has actively monitored the coral reef within the proposed marine reserve at Biscayne National Park for decades. The data will inform monitoring of the marine reserve zone baseline conditions.

While the Park Service is collecting data and performing research on the relative performance and/or necessity of a marine reserve, would the Park Service agree that any fishing access restrictions not be maintained?

Answer: Fishing continues to be allowed in the proposed marine reserve zone at this time, while the NPS is gathering data during the baseline monitoring period.

- 7: When any fishery is closed, fishing activities are displaced to another area. While the Park studies fish aggregations within and outside the Park, did the Park Service conduct a study on the secondary effects of fishing pressure on fisheries and specific species outside of the marine reserve zone?**

Answer: The NPS did not conduct a separate study on the secondary effects of fishing pressure on fisheries and specific species outside of the marine reserve zone. However, consistent with

the requirements of the National Environmental Policy Act, the NPS did consider in the Final GMP published, peer-reviewed scientific research that analyzed the spillover effect outside marine protected areas, both in terms of fishing pressure and beneficial impacts to overall fisheries from marine reserves (see the final Plan, Vol. I, page 410 and the reference section, Vol. II, pages 321-335).

- 8: In your oral testimony, you stated that there may be 80 or more National Park Service units potentially impacted by S. 2807. Of the units you identified –**

How many have park boundaries that extend into state or territorial marine or Great Lakes waters? Please indicate the how far those units extend in to state or territorial or Great Lakes waters.

Answer: Eighty-eight (88) units in the National Park System are located on the oceans and Great Lakes. Of these 88 units, a total of 55 have boundaries that extend into adjacent marine and Great Lakes waters. The distance that these units extend into water varies considerably depending on the location of park boundaries. The area of marine and Great Lakes waters included in each park ranges from hundreds of thousands of acres to only a few acres or less at some coastal forts and historic sites. The total extent of ocean and Great Lakes waters in the National Park System is approximately 2,504,570 acres.

How many have park boundaries that end at the shoreline, and therefore would not be affected by this legislation?

Answer: Thirty-three parks (33) have boundaries that end at the shoreline. However, several key terms in S. 2807 are currently undefined, including “fishing access” and “coastal waters.” Parks that end at the shoreline may provide fishing access to adjacent state or territorial marine and coastal waters from land, and thus may be affected by this legislation. The total length of ocean and Great Lakes shoreline for the 88 parks is approximately 11,281 miles.

- 9: In your written testimony, you state, “(l)anguage contained in S. 2807 also appears to open all park units to commercial fishing.” Given that S. 2807 states that any restrictions to commercial fishing must be approved by the state, what leads the Park Service to believe that every affected state would allow for commercial fishing in National Park Service marine or Great Lakes waters where it is currently prohibited under existing regulations?**

Answer: The NPS does not believe that every state would allow commercial fishing where it is currently prohibited by NPS regulations. We are concerned that S. 2807(b) appears to open park units to commercial fishing because of the bill's requirement for state approval of any NPS restriction on commercial fishing access in park units. NPS regulations at 36 C.F.R. Section 2.3(d) already prohibit commercial fishing in park units absent specific federal statutory authorization. It is unclear whether S. 2807(b) is intended to apply to these existing NPS regulations, or instead would apply to other, future NPS restrictions. Under either interpretation, the NPS would likely need to amend 36 C.F.R. Section 2.3(d) to incorporate the state-by-state

approval requirement prior to enactment and enforcement of the commercial fishing prohibition and any other restrictions.

10: What type of economic impact studies, if any, have been done on H.R. 3036 to determine the impact this legislation would have on the NPS budget if enacted? As written, how would NPS provide for oversight of the grant process to ensure that funds were properly accounted for on an annual basis? CBO projected that this legislation would likely have a cost of up to \$25 million per year based on the most recent September 11 Memorial operating budget. How does this compare to operating and maintenance costs of similar NPS affiliated sites?

Answer: The NPS has not conducted any studies to determine the impact on the NPS budget of H.R. 3036, a bill which would authorize a competitive grant program for memorials that have been established to commemorate the events of September 11, 2001. If enacted, the NPS would need to establish a process for ensuring the proper accounting for any grants providing funding for a recipient. We expect the process would be similar to those used for other competitive grant programs that the NPS administers. The bill provides that the NPS would have to account for the use of the funds in an annual report to Congress, an additional part of the process not required of all NPS grant programs.

We do not know the amount that NPS affiliated areas spend on operation and maintenance because although those sites may receive technical and financial assistance from the NPS, they are not administered by the NPS. Only nine of the 25 designated affiliated areas of the NPS receive an amount of funding listed in the NPS budget, and for fiscal year 2017, the amounts proposed range from \$33,000 to \$1.6 million. To clarify, H.R. 3036 as passed by the House does not authorize a specific amount of funding for the memorial grant program; \$25 million is the amount that would have been authorized under the bill as introduced. And, under any version of H.R. 3036, the September 11 Memorial at the World Trade Center would not be designated an affiliated area of the NPS.

Questions from Senator Angus King, Jr.

1: What are the standards of de minimis or modest transfers that the Park Service is considering for Acadia National Park?

2: How are other parks managed so de minimis or modest transfers are possible?

3: How are the terms of de minimis or modest defined or interpreted in these other examples?

Answer: The NPS would like to see Acadia National Park have the same or a similar degree of administrative authority to acquire land contiguous to its boundary that most other parks have. Some park enabling acts have park-specific authority to make boundary adjustments, but the general minor boundary adjustment authority found in 54 U.S.C. 100506 is ordinarily available to parks unless there is a park enabling provision to the contrary. The law contains standards

that help ensure landowner and community interests are protected while allowing park managers to respond quickly to opportunities or circumstances that are relevant to a park.

Under 54 U.S.C. 100506(c), minor boundary adjustments that involve the expenditure of funds from the Land and Water Conservation Fund to purchase lands must meet the following criteria:

- the total acreage of the land to be added and deleted from the park unit cannot exceed 5 percent of the federal acreage authorized to be included in the unit, and cannot exceed 200 acres;
- the acquisition cannot be a major federal action significantly affecting the quality of the human environment;
- the total appraised value of the land to be added and deleted cannot exceed \$750,000;
- the proposed boundary change cannot be part of a larger boundary change;
- the proposal has been subject to public review and comment;
- the NPS has received written consent of the property owners whose land would be added to or deleted from the park unit; and
- the land abuts other land administered by the NPS.

A boundary adjustment to accept a donation of land adjacent to a system unit is not subject to those conditions. However, all proposed administrative boundary changes using the authority of 54 U.S.C. 100506(c), the NPS must do the following:

- prior to making a determination, consult with affected landowners, local governments, and local organizations, and also must take appropriate steps to advance local public awareness of the proposed action;
- provide timely notification of the proposed action to the Senate Committee on Energy and Natural Resources and the House Committee on Natural Resources; and
- publish the revised boundary map or other description in the Federal Register.

Ryan B. Stoa*

COOPERATIVE FEDERALISM IN BISCAYNE NATIONAL PARK

ABSTRACT

Biscayne National Park is the largest marine national park in the United States. It contains four distinct ecosystems, encompasses 173,000 acres (only five percent of which are land), and is located within densely populated Miami-Dade County. The bay has a rich history of natural resource utilization, but aggressive residential and industrial development schemes prompted Congress to create Biscayne National Monument in 1968, followed by the designation of Biscayne National Park in 1980. When the dust settled, Florida retained key management powers over the Park, including joint authority over fishery management.

States and the federal government occasionally share responsibility for regulating natural resources, but Biscayne National Park represents a unique case study in cooperative federalism. This article explores these cooperative federalism contours in order to assess whether the park's management paradigm provides a model worthy of replication. A diverse range of materials were reviewed for this project, including literature and jurisprudence on traditional models of cooperative federalism, federal natural resources laws, national park regulations and policy, Biscayne National Park's statutory frameworks and legislative history, state and federal management plans, inter-agency communications, and direct stakeholder interviews.

These materials combine to tell a story of cooperative federalism that has been frustrating and, at times, incoherent. But the story also demonstrates that shared responsibility over fishery management has produced beneficial results for the Park and its stakeholders by forcing state and federal officials to work together on planning and enforcement, diversifying human and financial resources, and incorporating federal, state, and local interests

* Ryan B. Stoa is a Senior Scholar at Florida International University's College of Law and Institute for Water and the Environment. This is contribution number 739 from the Southeast Environmental Research Center at Florida International University, and Research Paper No. 15-24 of the FIU Legal Studies Research Paper Series. The author is grateful to the many stakeholders who contributed their perspectives and expertise to this project, without whom this article's account of Biscayne National Park would be incomplete. They include Brian Carlstrom, Jessica McCawley, Gail Baldwin, Andrea Atkinson, and Bill Kelly, among others. Bartholomew Stoddard provided excellent and timely research assistance and organizational support. Contact: rstoa@fiu.edu; www.ryanstoa.com. © 2015, Ryan B. Stoa.

into park management and policy. The research suggests that future applications of the Biscayne National Park model of cooperative federalism, in which states and the federal government share joint authority over marine resources in some capacity, may enjoy similar success.

I. INTRODUCTION

The National Parks of the United States are nothing if not unique. Active volcanoes,¹ the world's longest cave system,² geothermal geysers,³ the largest island of the world's largest lake,⁴ and the tallest trees on Earth⁵ can be found in the National Park System, among other natural wonders. Some parks receive millions of visitors and are international tourist destinations—Grand Canyon National Park receives over 4.5 million visitors each year.⁶ Others are so remote they don't have park facilities and receive around a thousand visitors monthly.⁷

Biscayne National Park is neither remote nor highly frequented. Despite its location within Miami-Dade County (population 2.66 million),⁸ the Park receives only slightly more than half a million visitors annually. That number is fewer than Denali National Park in Alaska, which is serviced by a single, mostly-gravel access road.⁹ North of Biscayne National Park lies the highly developed barrier islands of Key Biscayne and Miami Beach, as well as the Port of Miami, the world's leading cruise port.¹⁰ To the south lie the Florida Keys, and to the west the Miami metropolitan area, including a solid waste landfill and nuclear power plant visible from the Park.¹¹

Nestled between these bustling coastal developments is Biscayne National Park, the largest marine national park in the United States, with ninety-five percent of its 173,000 acres located underwater.¹² The marine nature of the Park sets it apart

1. *Hawai'i Volcanoes*, NAT'L PARK SERV., <http://www.nps.gov/havo/index.htm> (last visited July 2, 2015).

2. *Mammoth Cave*, NAT'L PARK SERV., <http://www.nps.gov/macav/index.htm> (last visited July 2, 2015).

3. *Yellowstone*, NAT'L PARK SERV., <http://www.nps.gov/yell/index.htm> (last visited July 2, 2015).

4. *Isle Royale*, NAT'L PARK SERV., <http://www.nps.gov/isro/index.htm> (last visited July 2, 2015).

5. *Redwood*, NAT'L PARK SERV., <http://www.nps.gov/redw/index.htm> (last visited July 2, 2015).

6. *Annual Park Rating Report for Recreational Visitors in 2014*, NAT'L PARK SERV., <https://irma.nps.gov/Stats/SSRSReports/National%20Reports/Annual%20Park%20Ranking%20Report%20%281979%20-%20Last%20Calendar%20Year%29> (last visited July 2, 2015).

7. *Gates of the Arctic*, NAT'L PARK SERV. (July 2, 2015), <http://www.nps.gov/gaar/index.htm>; *Annual Park Ranking Report*, NAT'L PARK SERV., [https://irma.nps.gov/Stats/SSRSReports/National%20Reports/Annual%20Park%20Ranking%20Report%20\(1979%20-%20Last%20Calendar%20Year\)](https://irma.nps.gov/Stats/SSRSReports/National%20Reports/Annual%20Park%20Ranking%20Report%20(1979%20-%20Last%20Calendar%20Year)) (last visited July 2, 2015).

8. *State and County Quick Facts*, U.S. CENSUS BUREAU, <http://quickfacts.census.gov/qfd/states/12/12086.html> (last visited July 2, 2015).

9. *Id. Denali*, NAT'L PARK SERV., <http://www.nps.gov/dena/index.htm> (last visited July 2, 2015).

10. *Cruise Facts*, MIAMI-DADE CNTY., <http://www.miamidade.gov/portmiami/cruise-facts.asp> (last visited July 2, 2015).

11. NAT'L PARK SERV., FINAL GENERAL MANAGEMENT PLAN / ENVIRONMENTAL IMPACT STATEMENT VOL. 1 6 (2015) [hereinafter 1 FINAL GMP].

12. *Id.* at 5, 11.

in various ways. Much of Biscayne National Park's waters can only be accessed by boat; on the other hand, with a boat, nearly all of the Park can be accessed. The Park has four distinct ecosystems, including mangrove shorelines, estuarine shallows, barrier islands, and coral reefs.¹³ The Park's ecosystems sustain more than 100 species targeted by recreational and commercial fisheries.¹⁴ In fact, Biscayne National Park's lucrative marine resources are what prompted Congress to protect the area in the first place.¹⁵ As a result, management of the Park and its resources plays a particularly significant role in the South Florida tourism and fishing industries.

Park management has also become highly controversial. Aside from its marine character, Biscayne National Park is unique in the National Park System for the way in which its implementing legislation dictates the relationship between the National Park Service (NPS) and the State of Florida. With respect to fishing, Congress decreed that "the waters within the park shall continue to be open to fishing in conformity with the laws of the State of Florida."¹⁶ Stated differently, the state retains jurisdiction over fishing regulation and management in the Park. For a park that is mostly underwater and whose primary natural resource is fish, this reservation is a significant concession to state power. Florida's reserved power notwithstanding, Congress simultaneously authorized the Secretary of the Interior to "designate species for which, areas and times within which, and methods by which fishing is prohibited, limited, or otherwise regulated in the interest of sound conservation to achieve the purposes for which the park was established,"¹⁷ granting the NPS the right to promulgate and enforce their own fishing regulations in the Park. Nevertheless, in waters donated by the State of Florida after establishment of the Park, fishing must be regulated in conformity with state law.

While these seemingly overlapping and contradictory mandates are confusing, Florida and the NPS have agreed in principle to manage fisheries uniformly within park waters.¹⁸ That is likely a wise approach, as fishing compliance and enforcement would be challenging for stakeholders if a multitude of marine jurisdictions in close proximity to each other had distinct regulatory requirements. On the other hand, a uniform approach forces the state and federal government into a unique partnership, with each having arguably equal bargaining power over fisheries management.

States and the federal government have been engaging in "cooperative federalism" for decades, through state implementation of federally-funded programs¹⁹ or state compliance with minimum federal standards.²⁰ In the field of

13. *Id.* at 6.

14. NAT'L PARK SERV., FISHERY MANAGEMENT PLAN: BISCAYNE NATIONAL PARK ii (2014) [hereinafter FINAL FMP].

15. *Id.*

16. 16 U.S.C. § 410gg-2(a) (2012).

17. *Id.* Biscayne National Park was established "to preserve and protect for the education, inspiration, recreation and enjoyment of present and future generations a rare combination of terrestrial, marine, and amphibious life in a tropical setting of great natural beauty." 16 U.S.C. § 410gg (2012).

18. FINAL FMP, *supra* note 14, at iii.

19. See *infra* text accompanying notes 39–45.

20. See *infra* text accompanying notes 46–47.

environmental law, cooperative federalism takes place through state-managed compliance with the Clean Air Act²¹ and Clean Water Act,²² or the development of Coastal Zone Management Plans.²³ Cooperative federalism is less common in natural resources law, which is more place dependent and therefore subject to jurisdictional and territorial divides. Cooperative federalism is especially rare in the National Park System, where responsible park management must include state and local stakeholder involvement but rarely provides so much legal authority to the state. Biscayne National Park is therefore unique for both its marine and governance characteristics.

This article explores Biscayne National Park's cooperative federalism model in order to assess whether its management paradigm provides a workable model worthy of replication in waters of the United States and around the world. Materials supporting this research include implementing legislation, state and federal regulations, management policies, inter-agency documents and communications, and direct stakeholder interviews (including consultations with federal, state, and local officials). Ultimately there are some clear drawbacks to the Biscayne National Park cooperative federalism model—namely, that dual control over fisheries management lengthens and increases the cost of the joint policy-making process. However, the synergistic effect of joint management causes NPS planning to be more integrated with local legal frameworks and more responsive to stakeholder needs. Participatory planning creates the sense of ownership from surrounding communities that is so critical to the long-term sustainability of natural resources management. Cooperative federalism in Biscayne National Park has expanded the role and influence of the Park beyond its borders, producing an overall positive outcome for stakeholders and the marine environment. The research suggests that, while Biscayne National Park may be unique geographically and politically, a similar governance model could produce similar benefits for other public waters and natural resources.

II. TRADITIONAL MODELS OF COOPERATIVE FEDERALISM

Cooperative federalism is a broad concept that concerns the relationship between federal and state or local governments in the course of exercising non-exclusive powers. As Justice O'Connor noted in *New York v. United States*,²⁴ "the task of ascertaining the constitutional line between federal and state power has given rise to many of the Court's most difficult and celebrated cases."²⁵ Justice Joseph Story initiated a line of jurisprudence addressing the state-federal relationship as far back as 1816 in *Martin v. Hunter's Lessee*,²⁶ in which Story argued that while state courts could have jurisdiction to hear matters of federal law, the federal courts

21. Clean Air Act of 1955, ch. 360, 69 Stat. 322 (codified as amended in scattered sections of 42 U.S.C.).

22. Clean Water Act of 1945, ch. 758, 62 Stat. 1155 (codified as amended in scattered sections of 33 U.S.C.).

23. Coastal Zone Management Act of 1972, 16 U.S.C. §§ 1451–1466 (2012).

24. *New York v. United States*, 505 U.S. 144 (1992).

25. *Id.* at 155.

26. *Martin v. Hunter's Lessee*, 14 U.S. 304 (1816).

established by Congress retained final authority.²⁷ Subsequent cases of the Supreme Court (including, e.g., *McCullough v. Maryland*,²⁸ *Gibbons v. Ogden*,²⁹ and *Prigg v. Pennsylvania*³⁰) affirmed federal supremacy but maintained that the federal government could not force state officials to implement federal law.

Two more recent cases affirm that the federal government cannot coerce states into taking certain actions, and therefore, states retain the bargaining power that gives rise to cooperative federalism. In *New York*, the Low-Level Radioactive Waste Policy Amendments Act³¹ forced states into choosing between complying with the Act's provisions or taking title to radioactive waste. Imposing a choice between two actions, neither of which on their own could be mandated by Congress, was held unconstitutional,³² notwithstanding Justice O'Connor's concession that Congress may provide incentives to encourage state compliance and cooperation.³³ In *Printz v. United States*,³⁴ Justice Scalia concluded that interim provisions of the Brady Handgun Violence Prevention Act,³⁵ requiring state police officers to perform federal background checks, were unconstitutional on the grounds that state officers cannot be compelled to enforce federal law.³⁶ Justice Scalia wrote that the "Framers' experience under the Articles of Confederation had persuaded them that using the States as the instruments of federal governance was both ineffectual and provocative of federal-state conflict."³⁷

A. The Dual Prongs of Cooperative Federalism

While federalism jurisprudence appears to suggest that the state-federal relationship is a zero-sum game—either the federal government obtains state cooperation or the state invokes some protective defense against it—the reality is that by protecting states against coercion, *New York* and *Printz* provide states with leverage with which they can negotiate participation in federal programs.³⁸ This typically happens in one of two ways. The federal government may offer grants in exchange for state participation, essentially compensating states for services rendered. Alternatively, the federal government may provide states with a choice

27. *Id.* at 330–31.

28. *McCullough v. Maryland*, 17 U.S. 316 (1819).

29. *Gibbons v. Ogden*, 22 U.S. 1 (1824).

30. *Prigg v. Pennsylvania*, 41 U.S. 539 (1842).

31. Low-Level Radioactive Waste Policy Amendments Act of 1985, 42 U.S.C. §§ 2021e(d)(2)(C) (2012).

32. *New York v. United States*, 505 U.S. 144, 176 (O'Connor, J., writing: "a choice between two unconstitutionally coercive regulatory techniques is no choice at all.").

33. *Id.* at 166–69.

34. *Printz v. United States*, 521 U.S. 898 (1997).

35. Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, § 102, 107 Stat. 1536, 1536-38 (1993).

36. *Printz*, 521 U.S. at 935 (Scalia, J., concluding: "we held in *New York* that Congress cannot compel the States to enact or enforce a federal regulatory program. Today we hold that Congress cannot circumvent that prohibition by conscripting the States' officers directly.").

37. *Id.* at 919.

38. Roderick M. Hills, Jr., *The Political Economy of Cooperative Federalism: Why State Autonomy Makes Sense and "Dual Sovereignty" Doesn't*, 96 MICH. L. REV. 813, 858 (1998) (describing this value for states as a "New York entitlement.").

between regulating an activity according to federal standards or allowing direct federal regulation.

Cooperative federalism derived from conditional grants gained prominence with the passage of the New Deal and subsequent proliferation of economic regulations. In *Steward Machine Company v. Davis*,³⁹ for example, Congress enacted a taxing scheme designed to induce states to adopt unemployment compensation laws.⁴⁰ The scheme was upheld as a valid exercise of the spending clause. Similarly, in *South Dakota v. Dole*,⁴¹ the National Minimum Drinking Age Act⁴² was upheld despite conditioning federal highway funding on state adoption of a federal minimum drinking age.⁴³

Conditional grant programs today are developed in a two-step lawmaking and bargaining process. The lawmaking phase includes state-federal bargaining wherein states lobby for less onerous regulatory requirements, while Congress attempts to maximize the return on investment of federal funds by ensuring that spending is in line with national interests.⁴⁴ The lawmaking phase is followed by a second bargaining process in which states leverage their protection from coercion by negotiating the terms of the conditional grants should the state opt in to the federal program.⁴⁵ In the end, the protracted negotiation process reasonably assures that whatever cooperative federalism model emerges is mutually beneficial for both the state and federal government.

Cooperative federalism can also be produced through conditional preemption. If Congress has the Commerce Clause authority to regulate private activity, it may offer states the opportunity to regulate in compliance with federal standards. If the state declines the opportunity or cannot meet compliance standards, the federal government may preempt state law and begin direct federal regulation. Here, too, there is a state-federal negotiation process during lawmaking and implementation that makes it more likely the parties will find mutually beneficial outcomes leading states to participate in the federal program.⁴⁶ Conditional preemption is advantageous for the federal government because of its limited regulatory capacity; it would not otherwise be able to implement and enforce regulatory frameworks in all fifty states. For the states, the appeal lies in the freedom to choose. As Justice O'Connor put it in *New York*:

If state residents would prefer their government to devote its attention and resources to problems other than those deemed important by Congress, they may choose to have the Federal Government, rather than the State, bear the expense of a federally mandated regulatory program, and they may continue to supplement that program to the extent state law is not pre-empted.

39. *Steward Machine Co. v. Davis*, 301 U.S. 548 (1937).

40. *Id.* at 575.

41. *South Dakota v. Dole*, 483 U.S. 203 (1987).

42. National Minimum Drinking Age Act, 23 U.S.C. § 158 (1982 ed., Supp. III).

43. *Dole*, 483 U.S. at 206.

44. *See also Hills*, *supra* note 38, at 859–60.

45. *Id.* at 860–61.

46. *Id.* at 866–67.

Where Congress encourages state regulation, rather than compelling it, state governments remain responsive to the local electorate's preferences; state officials remain accountable to the people.⁴⁷

Given the limits of federal regulatory capacities, states can leverage the threat of accepting preemption to create a model of cooperative federalism that advances both state and federal interests.

B. Cooperative Federalism in Environmental Law⁴⁸

Although present to some degree in other fields, cooperative federalism is most prevalent in the fields of environmental and natural resources law.⁴⁹ Federal statutes utilize conditional grants and conditional preemption to obtain state participation in a variety of federal regulatory programs related to environmental quality and natural resources. The most commonly understood examples of cooperative federalism in the field are environmental law frameworks that address pollution control and blend conditional preemption with conditional grants to encourage states to create state programs that meet federal compliance standards. The Clean Water Act (CWA)⁵⁰ and Clean Air Act (CAA)⁵¹ are illustrative of the cooperative federalism dynamics at play in today's regulatory environment.

The CWA declared it the policy of Congress to "recognize, preserve, and protect the primary responsibilities and rights of States to prevent, reduce, and eliminate pollution."⁵² To implement this objective, Congress uses financial incentives and the threat of preemption to obtain state participation and compliance with the Act. For example, states are allowed to create their own water pollution control plans, including state water quality standards, effluent limitations, and watercourse-specific designated uses.⁵³ If the state fails to do so, or if its standards do not meet federal minimums,⁵⁴ the Environmental Protection Agency (EPA) is authorized to do the same on behalf of the state.⁵⁵ This rarely happens, in part because

47. *New York v. United States*, 505 U.S. 144, 168.

48. For purposes of this article, the fields of environmental and natural resources law are considered separately, with environmental law concerning pollution control statutes like the CAA and CWA, and natural resources law concerning place-based or resource-based statutes like the Coastal Zone Management Act of 1972, 16 U.S.C. §§ 1451–1466 (2012) (CZMA) or the National Wild and Scenic Rivers Act, Pub. L. No. 90-542, 82 Stat. 906 (1968) (codified as amended at 16 U.S.C. §§ 1271–1287 (2012)).

49. See generally THE LAW AND POLICY OF ENVIRONMENTAL FEDERALISM: A COMPARATIVE ANALYSIS (Kalyani Robbins ed., forthcoming 2016).

50. Water Pollution Prevention and Control Act, 33 U.S.C. §§ 1251–1387 (2012).

51. Air Pollution Prevention and Control Act, 42 U.S.C. §§ 7401–7671(q) (2012).

52. Federal Water Pollution Control Act, 33 U.S.C. § 1251(b) (2012); see also *District of Columbia v. Schramm*, 631 F.2d 854, 860 (D.C. Cir. 1980) (holding that "Congress carefully constructed a legislative scheme that imposed major responsibility for control of water pollution on the states"); see generally Oliver A. Houck, *Cooperative Federalism, Nutrients, and the Clean Water Act: Three Cases Revisited*, 44 ENVTL. L. REP. NEWS & ANALYSIS 10426 (2014).

53. 33 U.S.C. § 1313 (2012).

54. *Id.* § 1313(e)(3)(A).z

55. *Id.* § 1313(i)(2).

Congress provides funding for the development of pollution control programs,⁵⁶ research,⁵⁷ and construction of treatment works,⁵⁸ a major incentive for state participation. Even during federal discharge permitting states are given deference by requiring permit applicants to obtain certification from the state.⁵⁹

The CAA similarly recognized air pollution prevention and air pollution control as the primary responsibility of states and local governments,⁶⁰ and operates in much the same way as the CWA. States may create their own air pollution control scheme using a variety of legal mechanisms or pollution control strategies as long as the state complies with the ambient air quality standards established by the EPA.⁶¹ Those standards in turn are determined by the status of air quality control regions, partly designated by the state.⁶² As with the CWA, the CAA incentivizes state participation through federal funding of state pollution control programs, revocable upon noncompliance with the statute or EPA standards.⁶³ In some cases, states and local governments may even be subject to noncompliance penalties with significant punitive effect.⁶⁴ To regulate municipal, industrial, and hazardous waste, Congress enacted the Resource Conservation and Recovery Act (RCRA). Though waste disposal, historically, was an even more local vocation than air or water pollution control,⁶⁵ Congress recognized that the federal government could play a strong role in providing financial and technical assistance to states and local governments, as well as ensuring certain minimum standards were met nationwide.⁶⁶ RCRA encourages state and local cooperation in waste management, including the development of interstate compacts.⁶⁷ RCRA follows the same CWA-CAA model of allowing states to develop waste management plans in compliance with federal standards,⁶⁸ while providing funding for waste management planning,⁶⁹ research,⁷⁰ and infrastructure.⁷¹

56. *Id.* § 1256.

57. *Id.* § 1255.

58. *Id.* §§ 1281–1301.

59. *Id.* § 1341(a); *see also* PUD No. 1 v. Wash. Dep't of Ecology, 511 U.S. 700 (1994) (maintaining Washington's right to condition state certification of a federal hydropower project on salmon protection measures).

60. 42 U.S.C. § 7401(a)(3) (2012). *But see* U. S. SENATE COMM. ON ENV'T & PUB. WORKS, MINORITY REPORT: COOPERATIVE FEDERALISM: NEGLECTING A CORNERSTONE PRINCIPLE OF THE CLEAN AIR ACT: PRESIDENT OBAMA'S EPA LEAVES STATES BEHIND (2013), http://www.epw.senate.gov/public/_cache/files/bace029a-8455-4b36-bbbd-90ab7cea91c1/cooperativefederalism.pdf.

61. 42 U.S.C. § 7407.

62. *Id.* § 7407(d).

63. *Id.* § 7405, § 7509.

64. *Id.* § 7420; *see also* Tony Barboza, *San Joaquin Valley Officials Fight with EPA over Air Quality*, L.A. TIMES (Dec. 22, 2013), <http://articles.latimes.com/2013/dec/22/local/la-me-valley-air-20131223>.

65. William Kovacs & John Klucsik, *The New Federal Role in Solid Waste Management: The Resource Conservation and Recovery Act of 1976*, 3 COLUM. J. ENVTL. L. 205 (1977).

66. Resource Conservation and Recovery Act, 42 U.S.C. § 6902 (2012).

67. *Id.* § 6904.

68. *Id.* § 6926.

69. *Id.* § 6947, § 6948.

70. *Id.* § 6981.

71. *Id.* § 6908.

The CWA, CAA, and RCRA form the basis for understanding environmental law cooperative federalism, which largely follows traditional models of cooperative federalism in promoting conditional grants or conditional preemption. The notable absence of a federal climate change statutory framework may be giving rise to a new model in which the national policy is driven by states implementing individual mitigation and adaptation plans, rather than state plans being driven by national policy.⁷² Nonetheless, state planning and implementation of federal standards, facilitated by federal funds, is the dominant mode of cooperative federalism for the time being. This model benefits the federal government by extending its regulatory reach beyond what it could achieve alone, while providing states with technical and financial assistance to promote development and public health.⁷³ However, the model is contingent on federal funding, on the one hand, and the credible threat of federal preemption on the other. There is evidence that fiscal austerity is limiting the extent to which the federal government can continue subsidizing state pollution control programs, while at the same time states are obtaining more and more authority for implementing national policy.⁷⁴ As a result, these environmental legal frameworks are becoming vulnerable to local politics, state budget cuts, and administrative withdrawals that make enforcement more challenging.⁷⁵ The traditional model of cooperative federalism prevalent in environmental law has been successful but might benefit from innovative partnership formulations.

C. Cooperative Federalism in Natural Resources Law

In the face of these challenges imposed on federal environmental statutes, recent scholarship has taken a renewed interest in the cooperative federalism approaches offered by the lesser known statutes regulating natural resources. Some bear a resemblance to the CWA and CAA model. The Surface Mining Control and Reclamation Act,⁷⁶ for example, provides assistance to states developing coal mining regulations (subject to minimum federal standards) and provides exclusive jurisdiction to the state upon federal approval of state regulations.⁷⁷ Natural resources are in their nature place-based, however, and this distinction has given rise to new models of cooperative federalism. The principle of subsidiarity—well-known for its place in European Union law but also prevalent in natural resources management—

72. See generally Vivian E. Thomson & Vicki Arroyo, *Upside-Down Cooperative Federalism: Climate Change Policymaking and the States*, 29 VA. ENVTL. L.J. 1 (2011) (proposing a bottom-up approach to state-federal cooperation on climate change).

73. See Kirsten H. Engel, *State Environmental Standard-Setting: Is There a "Race" and Is It "To the Bottom"?*, 48 HASTINGS L.J. 271, 287–88 (1997).

74. Will Reisinger et al., *Environmental Enforcement and the Limits of Cooperative Federalism: Will Courts Allow Citizen Suits to Pick Up the Slack?*, 20 DUKE ENVTL. L. & POL'Y F. 1, 17–18 (2010).

75. *Id.* 16–27.

76. 30 U.S.C. §§ 1201–1328 (2012).

77. *Id.* §§ 1253, 1295; see also Katie M. Sweeney & Sherrie A. Armstrong, *Cooperative Federalism in Environmental Law: A Growing Role for Industry*, http://www.americanbar.org/content/dam/aba/events/environment_energy_resources/2013/10/21st_fall_conference/conference_materials/17-sweeney_katie-paper.authcheckdam.pdf (arguing that the regulated community is playing an increasingly large role in state-federal regulatory programs).

suggests that governance should take place at the lowest appropriate governance level in order to utilize local knowledge, increase stakeholder participation, diversify vulnerabilities and increase resilience.⁷⁸ These benefits have led to an increase in decentralized natural resources governance frameworks.⁷⁹ However, the property clause⁸⁰ of the U.S. Constitution makes it unlikely the federal government would cede exclusive control of federally-owned natural resources to state or local governments.⁸¹ As a result, natural resource statutes and resource-specific legislation incorporate state government participation in a variety of ways.

The Coastal Zone Management Act (CZMA)⁸² provides technical and financial assistance to states for the development and implementation of coastal zone management plans that protect and develop the natural, commercial, recreational, ecological, industrial, and aesthetic resources of coastal zones.⁸³ Unlike the CWA and CAA, however, the federal government does not induce participation by threatening federal preemption. If a state chooses not to participate, it only foregoes the benefits offered by the statute. However, those benefits are significant, consisting of federal funding of state programming as well as the federal deference provided to state plans. Before any activity with the potential to affect the coastal zone is authorized or funded by a federal agency, it must be deemed consistent with the state's coastal zone management plan.⁸⁴ This consistency requirement gives states leverage to bargain for mitigation actions or activities in line with the state interest, or to block projects altogether.⁸⁵ Of the 35 states with coastal zones, 34 are participants in the Coastal Zone Management Program.⁸⁶

78. See Ryan Stoa, *Subsidiarity in Principle: Decentralization of Water Resources Management*, 10 UTRICHT L. REV. 31, 34 (2014) (“[T]he advantages of decentralized environmental management are numerous. Among them: community actors have local knowledge of ecological processes and human behavior; the inclusion of trustworthy actors and the exclusion of untrustworthy actors is facilitated by community-level awareness and dynamics; local actors are more acutely aware of changes in ecological processes; local actors are more capable of adopting rules and regulations that reflect local realities; rules and regulations adopted locally are seen as more legitimate and less likely to be violated; and because multiple sub-regions are developing their own unique regulatory systems, diversification is more likely to withstand natural disasters and environmental change, making region-wide failure unlikely.”).

79. *Id.*

80. U.S. CONST. art. IV, § 3, cl. 2 (“The Congress shall have power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States.”).

81. See also Robert L. Fischman, *Cooperative Federalism and Natural Resources Law*, 14 N.Y.U. ENVTL. L.J. 179, 193–94 (2005) (proposing that the property clause provides a stronger basis for federal control of natural resources than the Commerce Clause, but noting the historical importance of the Sagebrush Rebellion in instilling principles of decentralization in federal administration of natural resources).

82. 16 U.S.C. §§ 1451–1466 (2012).

83. *Id.* § 1451, § 1455.

84. *Id.* § 1456.

85. See, e.g., *Connecticut v. U. S. Dept. of Commerce*, No. 3:04cv1271 (SRU), 2007 U.S. Dist. LEXIS 59320, 2007 WL 2349894 (D. Conn. Aug. 15, 2007) (setting aside the Secretary of Commerce’s overturning of Connecticut’s consistency objection).

86. Alaska Coastal Management Program Withdrawal From the National Coastal Management Program Under the Coastal Zone Management Act (CZMA), 76 Fed. Reg. 39, 857–58 (July 7, 2011) (Alaska is the only state that does not participate after its coastal zone management plan expired in 2011 and a new or renewed plan could not be agreed upon by state officials.).

Many other statutes promise states a role or voice in the process of administering federal natural resources. The Magnuson-Stevens Act,⁸⁷ which regulates fisheries in federal waters, allows states to regulate fishing vessels outside the boundaries of state jurisdiction under certain circumstances, as long as state regulations do not conflict with federally approved fishery management plans.⁸⁸ Fishery management plans are developed by regional fishery management councils, largely composed of state officials or state appointees.⁸⁹ The Federal Land Policy Management Act,⁹⁰ as well as the National Forest Management Act,⁹¹ require the Bureau of Land Management and Department of Agriculture, respectively, to develop land use plans in collaboration with state and local officials.⁹² Even the Endangered Species Act⁹³ involves state and local governments by requiring incidental take permits to be issued following completion of a habitat conservation plan, the development of which requires stakeholder engagement and collaboration to effectively protect the endangered species in question.⁹⁴

Laws regulating the National Park System, including the NPS Organic Act⁹⁵ and site-specific statutes, attempt to balance the dual objectives of conservation and enjoyment of the national parks,⁹⁶ both of which require state-federal cooperation to some degree. Federally-protected lands like national parks do not exist in a vacuum; they sit alongside state and tribal lands with human and natural activities that affect federal property and natural resources. Therefore, any responsible management planning process engages and involves local governments and community stakeholders.⁹⁷ In some cases, such as the St. Croix Scenic Coalition in Minnesota

87. Fishery Conservation and Management Act (Magnuson-Stevens), Pub. L. 94-265, 90 Stat. 331 (1976) (codified as amended in scattered sections of 16 U.S.C.).

88. *Id.* § 1856 (The reach of state law is otherwise limited outside of state waters.). *See, e.g., in re Oil Spill*, 808 F. Supp. 2d 943 (E. D. La. 2011) (dismissing state common law claims for injuries in federal waters on the grounds that state law is preempted by federal maritime law and the Oil Pollution Act).

89. 16 U.S.C. § 1852 (2012).

90. 43 U.S.C. §§ 1701–1787 (2012).

91. 16 U.S.C. § 1600–1687 (2012).

92. *See also* Fischman, *supra* note 81, at 200.

93. 16 U.S.C. §§ 1351–1544 (2012).

94. *Id.* at § 1539. *See also* Fischman, *supra* note 81, at 197 (citing examples from San Diego and the lower Colorado River).

95. 16 U.S.C. § 1 (2012), *repealed by* Act effective Dec. 19, 2014, Pub. L. 113-287, § 7, 128 Stat. 3272.

96. 54 U.S.C.A. § 100101 (West 2014) (The “fundamental purpose” of the national parks (“System units”) is “to conserve the scenery, natural and historic objects, and wild life in the System units and to provide for the enjoyment of the scenery, natural and historic objects, and wild life in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.”). *See also* Denise E. Antolini, *National Park Law in the U.S.: Conservation, Conflict, and Centennial Values*, 33 WM. & MARY ENVTL. L. & POL’Y REV. 851 (2009).

97. *See* JACQUELYN L. TUXILL ET AL., NAT’L PARK SERV., STRONGER TOGETHER: A MANUAL ON THE PRINCIPLES AND PRACTICES OF CIVIC ENGAGEMENT (2009) (for an overview of NPS best practices on stakeholder engagement); *see also* STEPHANIE L. TUXILL & JACQUELYN L. TUXILL, NAT’L PARK SERV., LEARNING TO BE BETTER NEIGHBORS: CASE STUDIES IN CIVIC ENGAGEMENT BETWEEN NATIONAL PARKS AND NEIGHBORING COMMUNITIES (2007). *But see* Simon B. Burse, *Wild Rivers and the Boundaries of Cooperative Federalism: The Wild and Scenic Rivers Act and the Allagash Wilderness Waterway*, 35 B.C. ENVTL. AFF. L. REV. 77 (2008) (describing conflicts between the federal government and state agencies that may arise despite otherwise sound stakeholder engagement).

and Wisconsin or the Tomales Bay Watershed Council in California, federal partnerships with state and local actors have been institutionalized to strengthen cooperation.⁹⁸

In cases where the dual mandates of conservation and enjoyment conflict, cooperative federalism plays an intriguing role. There is evidence that when the NPS prioritizes conservation over enjoyment, it does so in part because a multitude of environmental statutes impose additional regulations on park management that tilt in favor of conservation measures.⁹⁹ Many of these statutes, such as the CAA, CWA, and ESA, are administered according to cooperative federalism models as described above.¹⁰⁰ Perhaps in response to the trend toward prioritizing conservation, national park statutes occasionally amend enabling legislation to proscribe site-specific models of cooperative federalism that typically favor enjoyment opportunities.¹⁰¹ In the case of the Yukon Charley National Preserve, for example, the model was amended to remove the NPS' authority to regulate boating on waters within the preserve.¹⁰² In most other cases the NPS retains broad jurisdictional authorities, but remains tempered by the cooperative federalism dynamics inherent in park management and statutory compliance.

Traditional models of cooperative federalism, employing conditional grants, conditional preemption, or some mix of both, rose to prominence with the New Deal, and continue to feature prominently in the state-federal relationship.¹⁰³ Federal pollution control statutes, like the CWA, CAA, and RCRA, establish minimum national standards and a basic regulatory framework for pollution control that are complemented by federal funds for state programming and implementation. This model has worked well in part because decentralized governance is better suited to take advantage of local geographies and expertise, engage stakeholders, and foster innovation by allowing jurisdictions to experiment and adapt tailored programs.¹⁰⁴ Diversifying implementation ensures that the nation as a whole is less vulnerable to environmental shocks. However, even as these environmental laws were being passed in the 1970s, the drawbacks of traditional cooperative federalism models were apparent.¹⁰⁵ Vesting authority for regulation among 50 states may create a deregulatory incentive to attract investment; the federal government may not have the capacity to make good on its threat of preemption or federal funds may not be

98. TUXILL & TUXILL, *supra* note 97, at 15–21.

99. See John Copeland Nagle, *How National Park Law Really Works*, 86 U. COLO. L. REV. 861, 864–65 (2015).

100. See *supra* pp. 8–10.

101. Nagle, *supra* note 99, at 865–866.

102. *Id.* at 918–919. See *id.* at 909–922 (for additional examples from the Cape Hatteras National Recreational Seashore and the Fort Vancouver National Historic Site).

103. See *Steward Machine Co. v. Davis*, 301 U.S. 548 (1937).

104. Stoa, *supra* note 78, at 34.

105. See, e.g., Richard B. Stewart, *Pyramids of Sacrifice? Problems of Federalism in Mandating State Implementation of National Environmental Policy*, 86 YALE L.J. 1196 (1977). Critiques of cooperative federalism continue to this day. See, e.g., Henry N. Butler & Nathaniel J. Harris, *Sue, Settle and Shut out the States: Destroying the Environmental Benefits of Cooperative Federalism*, 37 HARV. J.L. & PUB. POL'Y 579 (2013); Robert L. Glicksman, *From Cooperative to Inoperative Federalism: The Perverse Mutilation of Environmental Law and Policy*, 41 WAKE FOREST L. REV. 719 (2006).

sufficient to grease the wheels of the statutory machine.¹⁰⁶ As a result, scholars have taken a renewed interest in alternative models of cooperative federalism that offer additional tools or improved management paradigms.¹⁰⁷ The next section introduces one such alternative, found in the governance framework of Biscayne National Park.

III. THE BISCAYNE NATIONAL PARK MODEL OF COOPERATIVE FEDERALISM

Humans have been reliant on South Florida's natural resources for roughly 14,000 years.¹⁰⁸ By the time Ponce de León made contact with the Tequesta tribe on the shores of Biscayne Bay in 1513,¹⁰⁹ he found a people that had largely abandoned agriculture, preferring instead the vast resources provided by the sea.¹¹⁰ Skilled in canoeing and fishing, the Tequesta established few settlements, moving between the coasts, barrier islands, and Florida Keys to harness the region's fisheries.¹¹¹ In 1598 the Spanish governor of Florida remarked that the Tequesta had fish "as plenty as they please."¹¹² Since as far back as recorded history goes, fishing has been the backbone of human life in Southeast Florida.

Today the land that is now Miami looks nothing like it did during Tequesta times,¹¹³ but the marine resources of what is now Biscayne National Park still hold the diverse fish species that sustained life for the Tequesta. Over 600 fish species have been observed in the Park,¹¹⁴ more than 100 of which are targeted by the commercial and recreational fishing industries.¹¹⁵ The spiny lobster fishery alone (most of which comes from South Florida) provides \$23 million in commercial and

106. Reisinger et al., *supra* note 74, at 23–24.

107. See generally Douglas Williams, *Toward Regional Governance in Environmental Law*, 46 AKRON L. REV. 1047 (2013); Fischman, *supra* note 81; Elizabeth Burleson, *Cooperative Federalism and Hydraulic Fracturing: A Human Right to a Clean Environment*, 22 CORNELL J.L. & PUB. POL'Y 289 (2012).

108. TOMMY RODRIGUEZ, *VISIONS OF THE EVERGLADES* 19 (2011).

109. ROBERT E. MCNICOLL, *THE CALOOSA VILLAGE TEQUESTA: A MIAMI OF THE SIXTEENTH CENTURY* 12 (1941).

110. Daniel F. Austin, *The Glades Indians and the Plants They Used: Ethnobotany of an Extinct Culture*, *THE PALMETTO*, Summer/Fall 1997, at 7.

111. McNicoll, *supra* note 109, at 17.

112. *Id.* Lopez de Velasco's account notes that the Tequesta were adept at hunting marine mammals as well: "In winter all the Indians go out to sea in their canoes to hunt for sea cows. One of their number carries three stakes fastened to his girdle, and a rope on his arm. When he discovers a sea cow, he throws a rope around its neck, and as the animal sinks under the water, the Indian drives a stake through one of its nostrils, and no matter how much it may dive, the Indian never loses it, because he goes on its back. After it has been killed they cut open its head and take out two large bones, which they place in the coffins with the bodies of the dead and worship them." *Id.* at 18.

113. The only physical remains of the Tequesta are located in downtown Miami at the mouth of the Miami River, a site now called the Miami Circle. *Miami Circle*, FLA. DEP'T OF STATE, <http://info.flheritage.com/miami-circle/> (last visited July 7, 2015). The discovery of Tequesta remains has ignited debate about the value of preservation in the face of downtown economic development. See Matt Smith & Justin Lear, *Questions of Preservation After Ancient Village Found in Downtown Miami*, CNN, <http://www.cnn.com/2014/02/04/us/florida-indian-village> (last updated Feb. 5, 2014).

114. *Biscayne Fish*, NAT'L PARK SERV., <http://www.nps.gov/bisc/learn/nature/fish.htm> (last visited July 7, 2015).

115. FINAL FMP, *supra* note 14, at ii.

\$24 million in recreational economic output annually.¹¹⁶ While Southeast Florida has evolved into an urban metropolis, the waters of Biscayne National Park continue to provide the same resource that civilizations in the region have relied upon for thousands of years: fish.

That Biscayne National Park's implementing legislation carves out a special role for the state of Florida to regulate fishing in the park is not a modest concession. Fish are the most significant resource over which a polity may have jurisdiction in these waters. As explained further below, the importance of fisheries management in the Park gave rise to a dual management planning process: one process for developing a fishery management plan, and another for developing a general management plan.¹¹⁷ Given the integral role that fisheries play in a marine park, however, one can intuit fairly quickly that a parallel planning process will be vulnerable to overlap, conflict, or inconsistency. Negotiating these processes and their respective roles has been challenging for the state and local stakeholders, as well as the NPS. What has emerged is a cooperative federalism model with checks and balances triggered through legal, political, and economic mechanisms. Much of the park's management and planning has been conducted jointly between the state and federal government, but dueling interests have brought to light underlying tensions. This section presents the Biscayne National Park model of cooperative federalism. The enabling legislation provides a starting point for the model's statutory framework, but the legal, political, and economic checks and balances are what conspire to create the delicate balance between the state and federal government that is in place today.

A. Statutory Origins

The land and waters of Biscayne National Park have been of interest to developers since the early 1900s. For much of the early twentieth century, the keys of Biscayne Bay were used primarily for growing pineapple and lime.¹¹⁸ In the 1910s, however, Adam's Key was purchased by Carl Fischer, the entrepreneur who had successfully established and sold Miami Beach.¹¹⁹ Fischer envisioned the same for the keys of Biscayne Bay, starting with the construction of a resort and casino called the Cocolobo.¹²⁰ The resort catered to the rich and well-connected, including US Presidents Harding, Hoover, Kennedy, Johnson, and Nixon, as well as industrial families like the Vanderbilts, Firestones, Hertz, Honeywells, and Hoovers.¹²¹ When the Everglades National Park was being developed, some proposed including

116. Bryan Fluech & Lisa Krinsky, *Florida's Spiny Lobster Fishery: A History of User Conflict*, UNIV. OF FL. INST. OF FOOD AND AGRIC. SCI., http://Miami-dade.ifas.ufl.edu/environment/documents/seafood/Spiny_Lobster_Fact_Sheet.pdf (last visited July 7, 2015).

117. See *infra* notes 151–153.

118. Susan Shumaker, *Untold Stories From America's National Parks: Israel Lafayette "Parson" Jones, Sir Lancelot Jones, and Biscayne National Park*, PUB. BROAD. CORP., <http://www-tc.pbs.org/nationalparks/media/pdfs/tnp-abi-untold-stories-pt-03-jones.pdf> at 51–56 (2006).

119. *Id.* at 57.

120. *Id.*

121. *Id.* at 59–61.

Biscayne Bay and its keys in the Park's boundaries, but the proposals were eventually dropped and the bay remained unprotected and relatively undeveloped.¹²²

After World War II, landowners and developers took a renewed interest in the recreational and industrial potential of Biscayne Bay. A town named Islandia was incorporated in 1961 for the purposes of connecting the bay's island chains and lobbying for a causeway connecting the islands to the mainland.¹²³ In the meantime, a large industrial seaport was proposed for construction on the shores of the bay, with a corresponding channel to be cut through the bay's waters.¹²⁴ A power utility began construction on a power plant near the bay that now contains nuclear reactors and has the sixth highest electricity generation capacity in the United States.¹²⁵ Opponents of the proposed developments were initially outnumbered, but the movement to protect Biscayne Bay started gaining momentum as key supporters lent their support. The local chapter of the Izaak Walton League, editors of the Miami Herald, Florida's area Congressman and Governor, and entrepreneur Herbert Hoover, Jr., whose childhood affection for the area inspired him to underwrite the campaign, eventually turned the tide toward preservation.¹²⁶ Public Law 90-606 was signed by President Johnson in 1968, creating Biscayne National Monument to protect the "rare combination of terrestrial, marine, and amphibious life in a tropical setting of great natural beauty."¹²⁷

The conflicting values of industrial and residential development on the one hand, and conservation on the other hand, overshadowed the seemingly benign role that commercial and recreational fishing played in the area. Nonetheless, the authority to regulate fishing is a prominent feature of the enabling legislation. With respect to fishing, Congress decreed that "the waters within the park shall continue to be open to fishing in conformity with the laws of the State of Florida."¹²⁸ In other words, the state retained jurisdiction over fishing regulation and management in the

122. MICHAEL GRUNWALD, *THE SWAMP: THE EVERGLADES, FLORIDA, AND THE POLITICS OF PARADISE* 214 (1st ed. 2006).

123. Lizette Alvarez, *A Florida City That Never Was*, N.Y. TIMES (Feb. 8, 2012), http://www.nytimes.com/2012/02/08/us/islandia-a-florida-city-that-never-was.html?_r=1. See also LLOYD MILLER, *BISCAYNE NATIONAL PARK: IT ALMOST WASN'T* 17 (2008).

124. Shumaker, *supra* note 118, at 62.

125. The site contains two oil-fired generation units, one gas-fired generation unit, and two nuclear reactors. The power utility received approval to build an additional two nuclear reactors. See *Electricity in the United States*, U.S. ENERGY INFO. ADMIN., http://www.eia.gov/energyexplained/index.cfm?page=electricity_in_the_united_states#tab3 (last updated Apr. 29, 2015); Jenny Staletovich, *Turkey Point Reactor Hearings Pit Jobs Against Water*, MIAMI HERALD (Apr. 24, 2015), <http://www.miamiherald.com/news/local/environment/article19425015.html>; Jenny Staletovich, *State Eases Oversight of Turkey Point Cooling Canals*, MIAMI HERALD (Jan. 16, 2015), <http://www.miamiherald.com/news/local/community/miami-dade/article7053941.html>. See also U.S. NUCLEAR REGULATORY COMM., OFFICE OF NEW REACTORS, ENVIRONMENTAL IMPACT STATEMENT FOR COMBINED LICENSES (COLS) FOR TURKEY POINT NUCLEAR PLANT UNITS 6 & 7: DRAFT REPORT FOR COMMENT (2015), available at <http://pbdupws.nrc.gov/docs/ML1505/ML15055A103.pdf>.

126. *The Birth of Biscayne National Park*, NAT'L PARK SERV., <http://www.nps.gov/bisc/learn/history/culture/the-birth-of-biscayne-national-park.htm> (last visited on Jul. 7, 2015); Alvarez, *supra* note 123; Shumaker, *supra* note 118, at 62–63.

127. Act of Oct. 18, 1968, Pub. L. No. 90-606, § 1, 82 Stat 1188 (authorizing the establishment of Biscayne National Monument).

128. 16 U.S.C. § 410gg-2 (2012).

park. The reserved power notwithstanding, Congress simultaneously authorized the Secretary of the Interior to “designate species for which, areas and times within which, and methods by which fishing is prohibited, limited, or otherwise regulated in the interest of sound conservation to achieve the purposes for which the park was established,”¹²⁹ giving the NPS the ability to impose their own more stringent fishing regulations in the park.

It is not clear how Congress intended the state and NPS to reconcile these overlapping mandates. The legislative history suggests a battle never arose between the state, federal government, and fishing interests in part because the Department of the Interior conceded fishing regulation to the state at the outset, declaring the department’s intention to “continue commercial and sport fishing for designated species in conformity with State laws and regulations and regulations of this Department designed to protect natural conditions and to prevent damage to marine life and formations.”¹³⁰ Contextually, it may have been unremarkable that the State of Florida retained the power to regulate fisheries in the monument. The Submerged Lands Act had given states broad jurisdiction to the ocean and its resources up to three miles from their coasts in 1953,¹³¹ and federal attempts to manage fisheries did not emerge until the Fishery Conservation and Management Act in 1976.¹³² As a consequence, states in 1968 had more developed capacities to regulate fisheries in their waters than the federal government. The designation of federally-protected marine sanctuaries and marine monuments was also in its infancy; Biscayne National Monument was established before the National Marine Sanctuaries Program was created in 1972.¹³³

Even federal courts were deferential to the constitutionally-protected sovereignty of states to regulate fishing. In *Corsa v. Tawes*,¹³⁴ a case decided in 1957 upholding Maryland fisheries regulations, the court wrote that since 1891:¹³⁵

it has been beyond dispute that in the absence of conflicting Congressional legislation under the commerce clause, regulation of the coastal fisheries is within the police power of the individual states. . . . [T]he same Constitution which puts interstate commerce under the protection of Congress, recognizes the

129. *Id.* Biscayne National Park was established “to preserve and protect for the education, inspiration, recreation and enjoyment of present and future generations a rare combination of terrestrial, marine, and amphibious life in a tropical setting of great natural beauty.” Pub. L. No. 90-606, § 1, 82 Stat. 1188 (1968).

130. S. REP. NO. 90-1597, 90th Cong., 2d Sess. 7 (1968).

131. 43 U.S.C. § 1312 (2012) (bounds of seaward States extend three miles from coastline). *See also* *United States v. States of La., Tex., Miss., Ala. and Fla.*, 363 U.S. 121 (1960) and *United States v. Florida*, 420 U.S. 531 (1975) (two Supreme Court cases adjudicating Florida’s Gulf of Mexico and Atlantic Ocean boundaries).

132. Fishery Conservation and Management Act (Magnuson-Stevens), Pub. L. 94-265, 90 Stat. 331 (1976) (codified as amended in scattered sections of 16 U.S.C.).

133. *National Marine Sanctuaries: Legislation*, NAT’L OCEANIC & ATMOSPHERIC ADMIN., <http://sanctuaries.noaa.gov/about/legislation/> (last updated Oct. 5, 2015).

134. *Corsa v. Tawes*, 149 F. Supp. 771 (D. Md. 1957).

135. *Citing Manchester v. Massachusetts*, 139 U.S. 240 (1891).

sovereignty of the states in local regulation for the protection of their natural resources.¹³⁶

Meanwhile, a definitive interpretation of the NPS Organic Act's dueling mandates between conservation and enjoyment did not exist in 1968 and still does not exist to this day.¹³⁷ The federal government's broad powers to regulate on federal lands without interference from the states was emerging, but the definitive statement provided by *Kleppe v. New Mexico* came after-the-fact in 1976.¹³⁸

Absent direction from other federal statutes or judicial decisions, the state-federal cooperative management of fisheries provisions were dictated by political compromise. The State of Florida retained an interest in regulating fisheries, while the NPS was beholden to its mission to achieve sound conservation. The federal government could not establish the monument without a title transfer from Florida, giving the state leverage to maintain a role in fisheries management.¹³⁹ The bill itself may not have been passed without the support of state and local officials with an interest in protecting the fishing industry.¹⁴⁰ Title to the state lands and waters designated for the Park were eventually vested with the federal government in 1975, but without mention of regulatory authority over fishing.¹⁴¹

In 1980 Biscayne National Monument was expanded and became Biscayne National Park.¹⁴² The designation included the same language balancing state and federal authority over fisheries,¹⁴³ but added the following proviso: "[p]rovided, that with respect to lands donated by the State after the effective date of this subchapter, fishing shall be in conformance with State law."¹⁴⁴ In 1985 Florida proceeded to

136. *Corsa*, 149 F. Supp. at 773–76.

137. *Nagle*, *supra* note 99, at 873; *Antolini*, *supra* note 96, at 857.

138. *Kleppe v. New Mexico*, 426 U.S. 529, 542–43 (1976) (stating that “while Congress can acquire exclusive or partial jurisdiction over lands within a State by the State’s consent or cession, the presence or absence of such jurisdiction has nothing to do with Congress’ powers under the Property Clause. Absent consent or cession a State undoubtedly retains jurisdiction over federal lands within its territory, but Congress equally surely retains the power to enact legislation respecting those lands pursuant to the Property Clause . . . And when Congress so acts, the federal legislation necessarily overrides conflicting state laws under the Supremacy Clause.”).

139. Biscayne National Monument Establishment, Pub. L. No. 90-606, § 3, 82 Stat. 1188, 1189 (1968) (“Notwithstanding any other provision of this Act, lands and interests in land owned by the State of Florida or Dade County may be acquired solely by donation, and the Secretary shall not declare the Biscayne National Monument established until the State has transferred or agreed to transfer to the United States its right, title and interest in and to its lands within the boundaries of said national monument.”)

140. *See Shumaker*, *supra* note 118, at 63 (noting that Herbert Hoover, Jr. financed much of the campaign to protect Biscayne Bay, and spent his youth fishing in the area). Said one fishing guide of Hoover, Jr.’s father, President Herbert Hoover, “I fished with Herbert Hoover. He liked to fish between November and April. He fished with me for over seven years in the 1940s.” *Id.* at 60.

141. FINAL FMP, *supra* note 14, at 207. In 1974 the Park was expanded as well, again without mention of regulatory authority over fishing. *Id.*

142. 16 U.S.C. § 410gg-2 (2012).

143. *Id.* (“The waters within the park shall continue to be open to fishing in conformity with the laws of the State of Florida except as the Secretary, after consultation with appropriate officials of said State, designates species for which, areas and times within which, and methods by which fishing is prohibited, limited, or otherwise regulated in the interest of sound conservation to achieve the purposes for which the park is established.”).

144. *Id.*

dedicate over 72,000 acres to the Park, and to reinforce its exclusive jurisdiction over fisheries regulation, the dedication stated: “[a]ll rights to fish on the waters *shall be retained and not transferred* to the United States and fishing on the waters shall be subject to the Laws of the State of Florida.”¹⁴⁵ Therefore, it appears that both the state and federal government have authority to regulate fishing in the Park’s original (monument) borders, while the rest of the Park’s fisheries are regulated by the state. The NPS interprets the state and federal powers over fishing in substantially similar terms.¹⁴⁶

B. Dual (and Dueling) Management Plans

In practice, commercial and recreational fishing throughout the 1990s was regulated primarily by Florida regulations and, to a lesser degree, the Park’s 1983 General Management Plan (GMP).¹⁴⁷ Following the decline of sponge populations in the park, for example, the state prohibited sponge harvesting in 1991.¹⁴⁸ A 2001 study finding fish stocks in the Park to be overfished,¹⁴⁹ as well as a general increase in commercial and recreational fishing prompted the NPS to initiate a joint fishery management planning process.¹⁵⁰ The NPS and the Florida Fish and Wildlife Conservation Commission (FWC)¹⁵¹ signed a Memorandum of Understanding (MOU) in 2002 to jointly work towards the establishment of a Fishery Management Plan (FMP).¹⁵² Around the same time, the NPS initiated a general management planning process that would replace the 1983 GMP.¹⁵³ After years of deferring to the state on fishery management, the federal government would finally attempt to assert its authority.

Legislation establishing the Park and its cooperative federalism arrangement for fishery management is both succinct and ambiguous. The legislation clearly outlines a role for state law in regulating fishing, but simultaneously authorizes federal regulatory authority without articulating how these concurrent powers are intended to co-exist.¹⁵⁴ It is equally unclear as to what extent the state can be involved in the broader management of the Park. An express authorization to regulate fishing may imply that other management issues are implicitly reserved for

145. FINAL FMP, *supra* note 14, at 208.

146. *Id.* at 2–3 (“[I]n terms of management, Biscayne National Park can be divided into two zones: a) the original monument zone, in which fishing regulations follow State regulations, with the opportunity for the Secretary of the Interior to enforce additional regulations as deemed necessary, and b) the expansion zone, in which fishing regulations are fully consistent with regulations implemented by the State of Florida.”) 1 FINAL GMP, *supra* note 11, at 12 (containing similar language).

147. FINAL FMP, *supra* note 14, at 4.

148. *Id.*

149. T.R. Ault, J.E. Cole, M.N. Evans & H. Barnett, *A New Synthesis of Coral Records to Evaluate Spatiotemporal Characteristics of Tropical Decadal Variability*, Univ. of Ariz., Dep’t of Geosciences Lab. of Tree Ring Research (2001).

150. FINAL FMP, *supra* note 14, at 5–8.

151. FLA. CONST. ART. IV, § 9 (Authorized by Florida statute to regulate freshwater aquatic life, wild animal life, and marine life in Florida, including the areas encompassed by the Park).

152. FINAL FMP, *supra* note 14, at 217–19.

153. 1 FINAL GMP, *supra* note 11, at 4 (citing scoping meetings in 2001, 2003, and 2009).

154. 16 U.S.C. § 410gg-2 (2012); FINAL FMP, *supra* note 14, at 2–3, 208.

the federal government, but regulating fisheries in a marine environment will necessarily raise broader park management concerns, including coral reef restoration, species protection, boater traffic, recreational diving, and enforcement priorities. The NPS approach to resolving these overlaps was to create two management planning processes: one for fishery management and another for general management. As evidenced by the 2002 MoU, the NPS understood the FWC as having a significant, if not co-equal, role to play in the fishery management process, citing the FWC's "crucial role in implementing and promulgating new regulations . . . for the management of fisheries within the boundaries of the Park,"¹⁵⁵ and promising to coordinate and consult with the FWC on matters of fishery management with the ultimate goal of jointly producing a Fishery Management Plan.¹⁵⁶

Inter-agency letters during this time suggest the federal government did not see a similar role for the state in the general management planning process. Initial contact was limited to consultations required by law. For example, the NPS consulted with the National Marine Fisheries Service, US Fish and Wildlife Service, and the FWC regarding endangered species protections and essential fish habitats,¹⁵⁷ with state and local agencies regarding historic preservation,¹⁵⁸ and with American Indian tribes regarding traditional interests in the Park.¹⁵⁹ After several years, some state agencies were invited to comment on an early draft of the new GMP,¹⁶⁰ the FWC not among them.¹⁶¹ The NPS has since explained its reasoning by maintaining that fishery management is not addressed by the GMP, and presumably, the general management planning process.¹⁶² Taken together, the administrative record suggests

155. FINAL FMP, *supra* note 14, at 220, (Art. III(A)(2)).

156. *Id.* at 220–22, (Art. III(A)(1) to (13)).

157. As required by the Endangered Species Act of 1973, Pub. L. No. 93-205 at 102-251, 56 Stat. § 1354 (1976); Fishery Conservation and Management Act (Magnuson-Stevens), Pub. L. 94-265, 90 Stat. 331 (1976) (codified as amended in scattered sections of 16 U.S.C.); Endangered and Threatened Species Act, FL. STAT. ANN. § 379.2291-231 (West 2014).

158. As required by section 106 of the National Historic Preservation Act of 1966, 16 U.S.C. § 470, § 106 (1992).

159. NAT'L PARK SERV., FINAL GENERAL MANAGEMENT PLAN / ENVIRONMENTAL IMPACT STATEMENT VOL. 2, at 62 (2015) [hereinafter 2 FINAL GMP].

160. These included the Division of Recreation and Parks within the Florida Department of Environmental Protection, the South Florida Regional Planning Council, and managers of Florida's Biscayne Bay Aquatic Preserve. *See* 2 FINAL GMP, *supra* note 159, at 186–92 (Letters from Lew Scruggs, Planning Manager, Fla. Dep't of Env'tl. Protection to Margaret DeLaura, National Park Service (Feb. 04, 2004); to Margaret DeLaura from Allyn L. Childress, Senior Planner, S. Fla. Reg'l Planning Council (Feb. 03, 2004); and from Marsha Colbert, Biscayne Bay Aquatic Preserve Manager to Linda Canzanelli, Superintendent, Biscayne Bay Nat'l Park (Feb. 06, 2004)).

161. The GMP's description of the consultation process with the FWC shows a lack of communication between 2000 and 2011. *See* 2 FINAL GMP, *supra* note 159, at 13.

162. The NPS repeatedly asserts that fishery management is addressed by the FMP, not the GMP. *See* 1 FINAL GMP, *supra* note 11, at 26–27, 44 ("many topics, such as fishery management, everglades restoration, and coral reef interagency management, are addressed in other park planning or in interagency planning and so are not specifically addressed in this general management plan but are included by reference"; "Because the Fishery Management Plan addresses future management of commercial fishing park wide, the National Park Service has determined that any regulatory and policy processes relevant to the parkwide phase-out of commercial fishing at the park is not addressed in the general management plan. The impacts of these proposed changes are assessed in the Fishery Management Plan"; "The state

the federal government interpreted its cooperative federalism relationship with the state to require a relatively co-equal partnership with regard to fishery management, contrasted by a nearly exclusive authority to manage park issues not pertaining to fisheries.¹⁶³ For its part, the state appears to have taken a similar view. The FWC worked closely with the NPS to develop the FMP,¹⁶⁴ while state involvement in, or attention to, general management planning in the early years of the process was limited to the modest consultation and review described above.¹⁶⁵

At the outset of the dual (and concurrent) planning process, neither the state nor the federal government appears to have raised concerns that extricating fishery management from general management would be a difficult, if not impossible, task. Once initiated, however, stakeholders became confused by the concurrent planning processes and unsure of where to focus their attention.¹⁶⁶ As a result, the general management planning process was put on hold so that the state and federal government could focus on the FMP.¹⁶⁷ To that end, a working group was established to provide recommendations to the NPS and FWC on the policies or activities necessary to achieve the desired outcomes of fishery management in the Park.¹⁶⁸

The central point of contention during the working group meetings and throughout the fishery management planning process was the potential use of marine reserve zones in which commercial and recreational fishing would be prohibited.¹⁶⁹ The 2002 MoU anticipated this conflict by agreeing to pursue the “least restrictive management actions” and ruling out the use of no-take zones by the FWC, while reserving the NPS’s right to consider such zones for means other than fishery management.¹⁷⁰ The working group’s recommendations included many provisions that were included in the final FMP, including a phase-out permit system for

manages fishing activities in the park. The issue of overfishing is addressed in the park’s Fishery Management Plan, which was developed in consultation with the state”).

163. Subject to other “special mandates and administrative commitments.” *See id.* at 11–16.

164. *See, e.g., supra* note 152 (MOU); Recommendations of the Working Group on the FMP; FINAL FMP, *supra* note 14, at 228.

165. *See supra* text accompanying notes 155–159.

166. Telephone Interview with Jessica McCawley, Marine Fisheries Management Director, Florida Fish and Wildlife Conservation Commission (June 1, 2015).

167. The existence of the 1983 General Management Plan, while outdated, may have been a factor in deciding to address the fishery management planning process first. *Id.* The Final FMP appears to corroborate this account, describing an initial round of activity from 2001–2003, after which no activity took place until 2009. FINAL FMP, *supra* note 14, at 8–10.

168. FINAL FMP, *supra* note 14, at 228.

169. McCawley, *supra* note 166.

170. The exact language of the provision is as follows: “FWC and the park agree to seek the least restrictive management actions necessary to fully achieve mutual management goals for the fishery resources of the park and adjoining areas. Furthermore, both parties recognize the FWC’s belief that marine reserves (no-take areas) are overly restrictive and that less-restrictive management measures should be implemented during the duration of this MOU. Consequently, the FWC does not intend to implement a marine reserve (no-take area) in the waters of the park during the duration of this MOU, unless both parties agree it is absolutely necessary. Furthermore, the FWC and the park recognize that the park intends to consider the establishment of one or more marine reserves (no-take areas) under its General Management Planning process for purposes other than sound fisheries management in accordance with Federal authorities, management policies, directives and executive orders.” FINAL FMP, *supra* note 14, at 218–19.

commercial and recreational fishing, but ultimately did not recommend a marine reserve or no-take zone.¹⁷¹ According to stakeholders involved in the process, working group members may have adopted the final recommendations under political duress from stakeholders and local citizens which could have potentially tainted the integrity of the process.¹⁷² Even if a marine reserve had been established, it is almost certain the FWC would not have acted on the recommendations.¹⁷³ Several years later, the 2009 Draft Environmental Impact Statement (EIS) for the FMP was released to the public,¹⁷⁴ containing the proposed phase-out permit system for commercial fishing and other restrictions on recreational fishing. The Final FMP, largely unchanged from the 2009 Draft, was published in 2014.¹⁷⁵

As the fishery management planning process came to a close, the NPS reinitiated the general management planning process.¹⁷⁶ Despite having been through a decade of vigorous debate over the costs and benefits of no-take zones that led to a rejection of the marine reserves approach, as well as an acknowledgment that fishery management would be addressed solely through the fishery management planning process, the NPS's preferred alternative proposed in the 2011 Draft GMP included a marine reserve zone in which all fishing would be prohibited.¹⁷⁷ The NPS was careful in characterizing the marine reserve zone as a means to achieve coral reef restoration, scientific research, and visitor experience enhancement so as to avoid the appearance of engaging in fishery management.¹⁷⁸ This characterization is undermined, however, by the express acknowledgment that the marine reserve zone would be located within the boundaries of the original monument, within which the NPS asserted its authority to change fishing regulations.¹⁷⁹

Florida rejected the federal government's authority to establish a marine reserve zone on the grounds that it constitutes fishery management requiring state collaboration and consent. In a series of letters to the NPS, the FWC expressed frustration that it had not been involved or consulted in the general management planning process, and accused the NPS of violating the terms of the MoU by

171. *Id.* at 44, 228.

172. McCawley, *supra* note 166.

173. As it is, certain provisions of the FMP are of questionable likelihood for implementation. The elimination of the two-day lobster mini-season, for example, is a major tourist and economic event for South Florida, and it is unlikely the FWC Commissioners would vote to eliminate it. McCawley, *supra* note 166. These reservations notwithstanding, the FWC delivered two letters, one in August 2010 and another in February 2014, expressing an intent to initiate Commission rulemaking following approval of the Final FMP. FINAL FMP, *supra* note 14, at 147.

174. NAT'L PARK SERV., FISHERY MANAGEMENT PLAN/DRAFT ENVIRONMENTAL IMPACT STATEMENT ii (2008).

175. *See generally* FINAL FMP, *supra* note 14.

176. Initially, with a series of workshops in 2009 to discuss the marine use zones proposed in 2001 and 2003. 2 FINAL GMP, *supra* note 159, at 7–10.

177. NAT'L PARK SERV., Draft GENERAL MANAGEMENT PLAN/ENVIRONMENTAL IMPACT STATEMENT ii at 82 (2011).

178. *Id.* at 76.

179. *Id.*

engaging in fishery management without the FWC.¹⁸⁰ The FWC concluded that “the proposed regulatory actions combined with the lack of agency coordination make it abundantly clear that the Park’s regulatory strategy is to address fisheries management issues within the context of the General Management Plan and outside of the framework of the MOU and the Fishery Management Plan.”¹⁸¹ The state went a step further in asserting its cooperative federalism rights by refusing to issue a consistency finding with the State of Florida Coastal Management Program, pursuant to its rights under the CZMA.¹⁸²

Had the finding of inconsistency been challenged,¹⁸³ it is not clear whether a court would have found the marine reserve zone to be inconsistent with the Program.¹⁸⁴ Nonetheless, the inconsistency findings, coupled with the state’s vocal

180. 2 FINAL GMP, *supra* note 159, at 197 (Letter from Nick Wiley, Executive Director, Fl. Fish and Wildlife Conservation Comm’n to Ms. Sally Mann, Director, Office of Intergovernmental Programs, Fl. Dep’t of Env’tl. Prot.).

181. *Id.*

182. 2 FINAL GMP, *supra* note 159, at 193, 233 (Letters from Nick Wiley, Executive Director, Fl. Fish and Wildlife Conservation Comm’n to Sally Mann, Director, Office of Intergovernmental Programs, Fl. Dep’t of Env’tl. Prot.); 2 FINAL GMP, *supra* note 159, at 224 (Letter from Jennifer L. Fitzwater, Chief of Staff, Fl. Dep’t of Env’tl. Prot. to Mark Lewis, Superintendent, Biscayne National Park); 2 FINAL GMP, *supra* note 159, at 272 (Letter from Carla Gaskin Mautz, Deputy Chief of Staff, Fl. Dep’t. of Env’tl. Prot. to Brian Carlstrom, Superintendent, Biscayne National Park); 2 FINAL GMP, *supra* note 159, at 275 (Letter from Nick Wiley, Executive Director, Fl. Fish and Wildlife Conservation Comm’n, to Lauren Milligan, Office of Intergovernmental Programs, Dep’t of Env’tl. Prot.).

183. Technically, the state issued a “conditional consistency” finding, outlining the modifications required to make the GMP consistent with the Florida Coastal Management Program.

184. The portions of the Florida Coastal Management Program relied on by FWC are somewhat ambiguous and could be interpreted to allow a marine reserve zone. *See, e.g.*, 2 FINAL GMP, *supra* note 159, at 193, 224, 233; *id.* at 235–236 (for letters, citing:

379.23 Federal conservation of fish and wildlife; limited jurisdiction.—

(2) The United States may exercise concurrent jurisdiction over lands so acquired and carry out the intent and purpose of the authority except that the existing laws of Florida relating to the Department of Environmental Protection or the Fish and Wildlife Conservation Commission shall prevail relating to any area under their supervision.

379.244 Crustacea, marine animals, fish; regulations; general provisions.—

(1) OWNERSHIP OF FISH, SPONGES, ETC.—All fish, shellfish, sponges, oysters, clams, and crustacea found within the rivers, creeks, canals, lakes, bayous, lagoons, bays, sounds, inlets, and other bodies of water within the jurisdiction of the state, and within the Gulf of Mexico and the Atlantic Ocean within the jurisdiction of the state, excluding all privately owned enclosed fish ponds not exceeding 150 acres, are the property of the state and may be taken and used by its citizens and persons not citizens, subject to the reservations and restrictions imposed by these statutes. No water bottoms owned by the state shall ever be sold, transferred, dedicated, or otherwise conveyed without reserving in the people the absolute right to fish thereon, except as otherwise provided in these statutes.

379.2401 Marine fisheries; policy and standards.—

(1) The Legislature hereby declares the policy of the state to be management and preservation of its renewable marine fishery resources, based upon the best available information, emphasizing protection and enhancement of the marine and estuarine environment in such a manner as to provide for optimum sustained benefits and use to all the people of this state for present and future generations.

379.2401 Marine fisheries; policy and standards.—

(3) All rules relating to saltwater fisheries adopted by the commission shall be consistent with the following standards:

opposition to the marine reserve zone, were successful in prompting the NPS to issue a Supplemental EIS in 2013 providing an additional two management alternatives, neither of which contain a full-blown no-take zone.¹⁸⁵ One alternative provided for a special recreation zone in which some type of recreational fishing would be permitted, while the other alternative proposed seasonal fishing closures.¹⁸⁶ The state supported the special recreation zone alternative, believing it could offer the same type of benefits that the FWC's terrestrial hunting permit system provides,¹⁸⁷ but withdrew its support in the face of public backlash.¹⁸⁸ It is not clear what the preferred alternative (among those proposed by the 2013 Draft GMP) of the state would have been instead, but the FWC maintained consistent opposition to a no-take marine reserve zone throughout the general management planning process.

In June 2015, the NPS released the Final GMP,¹⁸⁹ which introduced for the first time, and ultimately selected, a new alternative featuring both a marine reserve zone and various special recreation zones.¹⁹⁰ Again the NPS was deliberate in characterizing the purpose of the fishing restrictions as a mechanism to enhance the visitor experience, conduct research, and restore coral reefs, while maintaining that fishery management is a topic not addressed by the GMP.¹⁹¹ Based on the similarity in language between the 2011 Draft GMP and 2015 Final GMP, it is likely that the State of Florida will continue to object to the federal government's authority to establish a marine reserve zone outside of the fishery management planning process. It is also likely that a conditional consistency finding will be issued requiring the NPS to relax its fishing regulations, and in particular, to abandon the marine reserve zone. For its part, the NPS believes that after fifteen years of planning, dozens of stakeholder meetings, and hundreds of thousands of pieces of correspondence, the Final GMP represents the best interests of the Park and the public's potential enjoyment of it.¹⁹²

(c) Conservation and management measures shall permit reasonable means and quantities of annual harvest, consistent with maximum practicable sustainable stock abundance on a continuing basis.

185. 1 FINAL GMP, *supra* note 11, at 4–5.

186. *See id.* at 107–14 (describing Alternative 6); *see also id.* at 115–22 (describing Alternative 7).

187. McCawley, *supra* note 166; *but see* 2 FINAL GMP, *supra* note 159, at 275 (letter supporting the special recreation zone but maintaining a conditional consistency finding).

188. McCawley, *supra* note 166; *see also* 2 FINAL GMP, *supra* note 159, at 295 (letter withdrawing support and offering modifications the FWC would support).

189. NAT'L PARK SERV., BISCAYNE FINAL GENERAL MANAGEMENT PLAN NEWSLETTER (July 7, 2015), <http://www.nps.gov/bisc/learn/management/information-about-the-current-and-developing-general-management-plans.htm>.

190. 1 FINAL GMP, *supra* note 11, at 123–27.

191. *Id.* at 125, 26–27 (where the GMP states: “Because the Fishery Management Plan addresses future management of commercial fishing park wide, the National Park Service has determined that any regulatory and policy processes relevant to the park wide phase-out of commercial fishing at the park is not addressed in the general management plan.”); *but see* 1 FINAL GMP, *supra* note 11, at 24–25 (where the GMP appears to contradict itself: “Because establishment of a marine reserve zone would prohibit all commercial fishing in the zone following passage of a park special regulation, the possibility is addressed in this Final General Management Plan.”).

192. Telephone Interview with Brian Carlstrom, Superintendent, Biscayne National Park (June 4, 2015).

At the outset of the fishery and general management planning processes, it appeared that both the state and federal government were more or less in agreement on the nature of the cooperative federalism relationship—a relatively co-equal partnership with regard to fishery management, contrasted by a nearly exclusive federal authority to manage park issues not pertaining to fisheries.¹⁹³ The planning processes clarified, however, that dividing marine management between “fisheries issues” and “non-fisheries issues” is cleaner on paper than in reality. The cross-cutting nature of fisheries in a marine environment exposed an interpretational divide between the state and federal government wherein the state believes any management actions regulating fisheries must be promulgated through the fishery management planning process, while the federal government believes fishing regulations are appropriate if the purpose of the regulations is not fishery management. The cooperative federalism relationship between the NPS and the State of Florida is evolving, and with respect to the interpretational divide, remains unresolved.

IV. EVALUATING THE BISCAYNE NATIONAL PARK MODEL OF COOPERATIVE FEDERALISM

Despite an apparent conflict over the validity of the Park’s marine reserve zone, the state, federal government, and local stakeholders enjoy many less-publicized benefits of cooperative federalism. These benefits include improved coordination, enforcement, and monitoring, diversified funding sources, and a more effective stakeholder engagement strategy that makes litigation or political interference less likely. The state and federal government, as represented by the FWC and NPS, respectively, have developed a productive co-management paradigm in the Park to harness the benefits of this unique cooperative federalism arrangement, but the proposed marine reserve zone threatens to undermine the relationship and suggests the NPS may have pushed the limits of its federal powers. Political opposition to the reserve zone is mounting, and litigation may not be far behind. This section proposes political and legal hurdles the federal government may encounter in finalizing and implementing the GMP, provides direct feedback from key stakeholders on the costs and benefits of the Biscayne National Park cooperative federalism model, and concludes with some lessons learned from the model that can be applied in future state-federal natural resources management arrangements.

A. Challenging the Finality of the Final GMP

Within days of the Final GMP being released in June 2015, interest groups and politicians in South Florida expressed their displeasure with the provisions restricting fishing in the Park. U.S. congressional representatives in South Florida requested the House Committees on Natural Resources and Small Business convene a joint oversight hearing to review the impacts of the GMP on the fishing industry.¹⁹⁴ The request was co-signed by Rep. Ileana Ros-Lehtinen, whose district largely

193. See 2 FINAL GMP, *supra* note 159, at 186–92.

194. Letter from Reps. Curbelo, Ros-Lehtinen, & Diaz-Balart to House Committees on Natural Resources and Small Business (June 15, 2015) (on file with author). See also Press Release, Representative Carlos Curbelo, U.S. House of Representatives (July 10, 2015), <http://curbelo.house.gov/news/documentsingle.aspx?DocumentID=285>.

encompasses the boundaries of the national park, Rep. Carlos Curbelo, who represents the Florida Keys, and Rep. Mario Diaz-Balart, who represents a large swath of the Everglades and surrounding areas.¹⁹⁵ The FWC maintains its opposition to the marine reserve zone,¹⁹⁶ and local interest groups like the Florida Keys Commercial Fishermen's Association challenge a number of the GMP's actions and findings.¹⁹⁷ A congressional hearing was eventually held in August of 2015, in which the GMP came under attack from congressional representatives and fishing industry leaders.¹⁹⁸ In light of these concerns, it is worth considering the political or legal challenges the NPS might face in implementing the GMP and its controversial marine reserve zone.

Aside from a formal legal challenge, the political process may play a formal or informal role in shaping NPS policy. Congress has successfully altered national park management without enacting legislation in the past,¹⁹⁹ and potential oversight hearings could play such a role by signaling congressional intent to enact formal legislation loosening fishing restrictions or further restricting federal regulation of fisheries in the Park. If the NPS does not yield to informal Congressional pressure, formal legislation could be introduced. A dispute over Cape Hatteras National Seashore provides an interesting parallel: a series of oversight hearings addressing the NPS' decision to prohibit vehicle access to sensitive beach areas in North Carolina eventually led to legislation requiring the NPS to loosen access restrictions.²⁰⁰ Incidentally, one of those hearings in 2012 jointly considered the vehicle and fishing closures in Cape Hatteras National Seashore and Biscayne National Park, respectively.²⁰¹ Representatives Lehtinen and Diaz-Balart presided over the hearing, with Diaz-Balart stating that "closing off areas to those that pay for the management of the areas I believe has to be the last resort, the last thing you do."²⁰²

195. Including federal lands such as the Big Cypress National Preserve and the Florida Panther National Wildlife Refuge. See *Congressional District Map: Florida* (July 10, 2015), <https://www.govtrack.us/congress/members/FL>.

196. E-mail from Jessica McCawley, Marine Fisheries Mgm't Dir., FL Fish and Wildlife Conservation Comm'n, to Author (June 22, 2015) (on file with author).

197. Telephone Interview with Capt. Bill Kelly, Executive Director, FL Key's Commercial Fisherman's Ass'n. (June 29, 2015).

198. See *Restricted Access at Biscayne National Park and Implications for Fishermen, Small Businesses, the Local Economy and Environment: Hearing Before the Comm. on Natural Res. & the Comm. on Small Bus.*, 114th Cong. (2015), <http://naturalresources.house.gov/calendar/eventsingle.aspx?EventID=399137> (statements of members and hearing memo).

199. Nagle, *supra* note 99, at 910 (citing JOHN COPELAND NAGLE, *LAW'S ENVIRONMENT: HOW LAW SHAPES THE PLACES WE LIVE* 119 (Yale University Press, illustrated ed. 2010)) (describing one Senator's successful campaign to convince the NPS to allow elk hunting in Theodore Roosevelt National Park).

200. HR Summary No. 3979 § 3057 (2015), <https://www.congress.gov/bill/113th-congress/house-bill/3979>; see generally Nagle, *supra* note 99, at 911–19 (outlining the dispute over access to the Cape Hatteras National Seashore).

201. *Preserving Access to Cape Hatteras National Seashore Recreational Area Act on H.R. 4094 & Access Denied: Turning Away Visitors to National Parks Friday, Legislative and Oversight Hearing Before the Subcommittee on National Parks, Forests, and Public Lands*, 112th Cong. 1 (2012), <http://www.gpo.gov/fdsys/pkg/CHRG-112hhrg73982/pdf/CHRG-112hhrg73982.pdf>.

202. *Id.* at 8.

It would not be surprising if a bill similar to the Cape Hatteras legislation considered at that hearing (or eventually signed into law) were introduced in order to loosen fishing restrictions in the marine reserve zone. In fact, Representative Lehtinen introduced legislation in late July 2015 that would require federal agencies to obtain state approval before closing coastal waters to fishing.²⁰³ While it may take months or years to enact the bill into law, its presence may alter the federal government's approach to fishery management country-wide, largely due to the controversial marine reserve zone in Biscayne National Park.

Florida could also use informal or political pressure to negotiate for more permissive fishing regulations within the Park, largely because inadequate federal funding of the Park forces the NPS to lean on its partners for enforcement capacity. A 2006 study found the Park operating under a fiscal deficit, and called for a total budget of at least \$4.3 million annually.²⁰⁴ Ten years later, the Park still hasn't reached that target.²⁰⁵ As a result, the Park is unable to fill critical enforcement positions, and "increasingly relies on partners and volunteers to bridge the gap between what is needed and what the park can afford."²⁰⁶ The NPS views the FWC and its officers as critical partners in the daunting task of management enforcement, with the NPS conceding that it cannot manage the Park adequately "without continuous cooperation with [the FWC]."²⁰⁷ Enforcement of the marine zone will be difficult, however, if the state is opposed to the fishing restrictions, and it is unlikely that the FWC commissioners will pass formal state rules and regulations codifying the problematic provisions of the GMP.²⁰⁸ Without the FWC's support the NPS will be forced to monitor the marine zone itself, relocating its enforcement resources away from other areas. The 2013 Draft GMP is evidence that the NPS takes the FWC's concerns seriously because it at least considered alternatives that did not include a full-blown marine reserve.²⁰⁹ The Final GMP's new marine reserve zone alternative suggests, however, that the NPS considered the costs of FWC's opposition and decided they were outweighed by the benefits of resource protection.²¹⁰

203. Press Release, Congresswoman Ileana Ros-Lehtinen, *Ros-Lehtinen Introduces the Preserving Public Access to Public Waters Act in Advance of Congressional Field Hearing in South Florida on Biscayne National Park's Proposed No-Fishing Zone*, Ros-Lehtinen Media Center (Aug. 6, 2015), <http://ros-lehtinen.house.gov/press-release/ros-lehtinen-introduces-preserving-public-access-public-waters-act-advance>.

204. See NAT'L PARKS CONSERVATION ASS'N, STATE OF THE PARKS: BISCAYNE NATIONAL PARK 36 (2015), http://www.npca.org/about-us/center-for-park-research/stateoftheparks/biscayne/Biscayne_full_rpt.pdf [hereinafter STATE OF THE PARKS].

205. See NAT'L PARK SERV., FISCAL YEAR 2016 BUDGET JUSTIFICATIONS, OPERATION OF THE NPS, at 8 (July 10, 2015), <http://www.nps.gov/aboutus/upload/FY-2016-Greenbook.pdf>.

206. See STATE OF THE PARKS *supra* note 204, at 37.

207. Carlstrom, *supra* note 192.

208. McCawley, *supra* note 166.

209. See GULF OF MEXICO FISHERY MGMT. COUNCIL, MODIFICATIONS TO GULF REEF AND SOUTH ATLANTIC SNAPPER GROUPER FISHERY MANAGEMENT PLANS 1 (July 10, 2015), [http://www.gulfcouncil.org/council_meetings/Briefing%20Materials/BB-03-2015/B-11\(a\)%20%20Joint%20Generic%20Gulf%20Reef%20Fish%20and%20S%20Atlantic%20Snapper-Grouper%20031915.pdf](http://www.gulfcouncil.org/council_meetings/Briefing%20Materials/BB-03-2015/B-11(a)%20%20Joint%20Generic%20Gulf%20Reef%20Fish%20and%20S%20Atlantic%20Snapper-Grouper%20031915.pdf).

210. Florida could also use its influence on the South Atlantic Fishery Management Council and Gulf of Mexico Fishery Management Council to modify fishery regulations outside the park to accommodate recreational and commercial fishing interests affected by the marine reserve zone. The state has submitted

In that case, the state may consider alternative powers conferred by cooperative federalism arrangements. As indicated by the FWC's 2012 letters to the NPS, Florida's appears willing to invoke its powers under the CZMA to block implementation of the marine reserve zone or at least to steer the discussion toward the fishery management planning framework within which it has more leverage and statutory backing.²¹¹ In those letters, Florida argued that a marine reserve zone would be inconsistent with several provisions of the Florida Coastal Management Program, such as declarations of state supremacy over shared waters and retention of fishing regulation rights, and provisions protecting reasonable and optimal uses of fisheries.²¹² The state supremacy claims are of questionable constitutional merit,²¹³ while the provisions establishing certain fishing and marine resource exploitation principles are sufficiently ambiguous that a marine reserve zone in Biscayne National Park could be read to comply with the state's coastal program, considering the program's reliance on "sustainable" use of fisheries and the GMP's stated goal of restoring fish stocks.²¹⁴

Furthermore, the CZMA allows an inconsistency finding to proceed if the agency has complied to the "maximum extent practicable" with the state program, or if the President exempts the federal activity from compliance.²¹⁵ Both steps would be rare,²¹⁶ but would nonetheless limit the extent to which the state's likely inconsistency (or conditional consistency) finding will prompt a revision of the marine reserve zone. This would not be the first time Florida has objected to a federal action on the grounds that it is inconsistent with the state coastal program, and in some cases the state has been successful in blocking the issuance of federal permits.²¹⁷ Here, however, the NPS can override the state's objection by making its

a proposal to both councils that would shift regulatory authority over mutton snapper, yellowtail snapper, and black grouper to the state of Florida. *See id.* at 7, 12, 32; *See also* Kelly, *supra* note 197.

211. *See* 1 FINAL GMP, *supra* note 11, at 3.

212. Fish and Wildlife Conservation, FLA. STAT. §§ 379.23, 379.244, 379.2401 (2012). *See supra* quotation accompanying note 181.

213. For a discussion of the constitutionality of the consistency requirement generally, *see, e.g.*, Scott C. Whitney, George R. Johnson, Jr. & Steven R. Perles, *State Implementation of the Coastal Zone Management Consistency Provisions – Ultra Vires or Unconstitutionality?*, 12 HARV. ENVTL. L. REV. 67 (1988); *but see* Jack Archer and Joan Bondareff, *Implementation of the Federal Consistency Doctrine – Lawful and Constitutional: A Response to Whitney, Johnson & Perles*, 12 HARV. ENVTL. L. REV. 115 (1988); *see also* Lieutenant Patrick J. Gibbons JAGC USN, *Too Much of a Good Thing? Federal Supremacy & the Devolution of the Regulatory Power: The Case of the Coastal Zone Management Act*, 48 NAVAL L. REV. 84 (2001).

214. *See, e.g.*, Fish and Wildlife Conservation, FLA. STAT. § 379.2401 (stating that "Conservation and management measures shall permit reasonable means and quantities of annual harvest, consistent with maximum practicable sustainable stock abundance on a continuing basis.")

215. Coastal Zone Management, 16 U.S.C. § 1456 (c)(1) (2015).

216. The presidential exemption is rarely invoked, though Navy sonar training has been exempted on the grounds that it is essential to national security. *See* Winter v. NRDC, Inc., 555 U.S. 7 (2008).

217. *See, e.g.*, OFFICE OF OCEAN AND COASTAL RESOURCE MGMT., FEDERAL CONSISTENCY BULLETIN: CONSISTENCY APPEAL OF MOBIL FROM AN OBJECTION BY THE STATE OF FLORIDA, US DEPARTMENT OF COMMERCE, OFFICE OF THE SECRETARY (1993); Consistency Appeal of Unocal from an Objection by the State of Florida (1993) (July 10, 2015), <http://coast.noaa.gov/czm/consistency/media/fedconbulletin1.pdf> (blocking proposed oil and gas development projects from moving forward over the state's inconsistency objection on the grounds that the projects are not consistent with the CZMA nor necessary in the interest of national security).

own finding that the marine reserve zone is consistent with the state program.²¹⁸ Although dispute resolution is encouraged and could delay implementation,²¹⁹ the NPS appears willing to move forward with the GMP despite state objections.²²⁰

If the state's cooperative federalism powers cannot force a revision, a direct legal challenge to the marine reserve zone, or the GMP generally, would be daunting but not without precedent. Closing a section of the Park to fishing is a classic example of the tensions between the NPS Organic Act's twin pillars of enjoyment and conservation.²²¹ Although the Supreme Court has never attempted to resolve those tensions, the Tenth Circuit in *Southern Utah Wilderness Alliance v. Dabney* established the "impairment" test in which an agency action will be validated if it leaves a park's resources "unimpaired for the enjoyment of future generations," a test that is facially broad and gives the NPS significant interpretational discretion.²²² The impairment test is typically invoked to challenge NPS policies that favor enjoyment over conservation, and these challenges usually fail to overcome the agency's broad *Chevron* discretion.²²³ When the NPS favors conservation, the agency's discretion has been particularly difficult to overcome—policies limiting recreational or commercial activities have almost always been upheld.²²⁴ The broad discretion given to the NPS may not always lead to conservation-minded policies,²²⁵ but when it does, courts are unlikely to overturn them.

Here, the NPS has established a marine reserve zone for the express purpose of both restoring park resources (including coral reefs and reef-dwelling species) and "to provide swimmers, snorkelers, scuba divers, and those who ride a glass-bottom boat the opportunity to experience a healthy, natural coral reef with larger and more numerous tropical reef fish and an ecologically intact reef system."²²⁶ The NPS' claim that the marine reserve does not constitute "fishery management" is dubious, as the FWC has pointed out several times,²²⁷ but the zone is located wholly within the original boundaries of the Biscayne National Monument, within which the

218. State Agency Objection, 15 C.F.R. § 930.43 (2000).

219. *Id.*

220. Carlstrom, *supra* note 192.

221. See *supra* text accompanying notes 93–100.

222. *S. Utah Wilderness All. v. Dabney*, 222 F.3d 819, 827 (10th Cir. 2000); accord *Chevron, U.S.A., Inc. v. Nat. Res. Def. Council, Inc.*, 467 U.S. 837 (1984) (giving federal agencies significant discretion to interpret ambiguous statutory mandates).

223. See, e.g., *River Runners for Wilderness v. Martin*, 593 F.3d 1064 (9th Cir. 2010) (upholding an NPS policy permitting motorized watercrafts in Grand Canyon National Park); *Davis v. Latschar*, 202 F.3d 359 (D.C. Cir. 2000) (upholding an NPS policy permitting controlled hunting in Gettysburg National Military Park).

224. See Robert B. Keiter, *Preserving Nature in the National Parks: Law, Policy, and Science in a Dynamic Environment*, 74 DENV. U. L. REV. 649, 676 (1997) (finding that courts consistently uphold NPS policies that favor conservation); see also Nagle, *supra* note 99, at 884 (citing George Cameron Coggins & Robert L. Glicksman, *Concessions Law and Policy in the National Park System*, 74 DENV. U. L. REV. 729, 741 (1997) (finding that "Park Service discretion to limit recreational activities and facilities by commercial enterprises has been upheld in every litigated instance located")).

225. This dynamic has been deemed problematic by some scholars, who see the discretion as confusing the priorities of park management. See, e.g., Antolini, *supra* note 96, at 911–13, 918 (proposing a legislative amendment clarifying that conservation is the highest priority of the National Park System).

226. 1 FINAL GMP, *supra* note 11, at 125; see also Carlstrom, *supra* note 192.

227. See, e.g., 2 FINAL GMP, *supra* note 159, at 197–98.

federal government has the authority to impose its own fishing regulations.²²⁸ Even if the preparation, establishment, and implementation of the marine reserve zone violates the terms of the 2002 MoU by not following through on the federal government's agreement to collaborate with the state on fishery management, that in itself would not be sufficient to invalidate the zone. The NPS's broad discretion to interpret the Organic Act, as well as the ambiguous cooperative federalism arrangement of the Park, will likely be sufficient to uphold the marine reserve zone as a valid exercise of its federal agency powers.

If litigation is unlikely to successfully challenge the marine reserve zone, the most likely mechanism to do so may be a legislative amendment. The state may invoke its powers under the CZMA to find the zone inconsistent with state planning, but the NPS will likely overcome the challenge. The state's best hope for influencing fishery management in the Park may be to move on from the marine reserve zone and focus on the rest of the park's fishery management needs. The marine reserve constitutes only six percent of the Park's waters;²²⁹ most of the rest of the park's fishing resources is governed by the FMP within which the state retains roughly co-equal regulatory powers. While the FMP was finalized in 2014, implementation and enforcement are an ongoing challenge requiring state-federal cooperation. For the best interests of the Park and its various stakeholders, the dispute over the marine reserve zone cannot be allowed to overshadow the important cooperative federalism responsibilities both the state and federal government must live up to.

B. Stakeholder Perceptions of Cooperative Federalism

Controversy over the marine reserve zone is dominating the headlines surrounding Biscayne National Park,²³⁰ but the noise is drowning out what has otherwise been a relatively productive relationship between the state and federal government. In fact, a variety of stakeholders report that while being forced into a cooperative relationship has been frustrating and time-consuming, the costs of cooperative federalism are outweighed by the benefits of inter-agency planning and stakeholder engagement. These consultations, as well as the above analyses, form the basis for a series of recommendations for future efforts to design or implement cooperative federalism arrangements, particularly those regulating marine resources.

Some of the federal government's actions in the management planning process suggest that it placed little value on its partnership with the state over fishery management. The FWC was largely left out of the general management planning process,²³¹ the marine reserve zone was not characterized as a fishery management issue so as to remove it from the fishery management planning process,²³² and the final alternative chosen in the GMP was essentially the same alternative the state

228. Act of Oct. 18, 1968, Pub. L. No. 90-606, § 1, 82 Stat 1188, 1189.

229. 1 FINAL GMP, *supra* note 11, at 126.

230. See, e.g., Jenny Staletoich, *New Rules, No-Fishing Zone for Biscayne National Park*, MIAMI HERALD (June 4, 2015), <http://www.miamiherald.com/news/local/community/miami-dade/article23137869.html>.

231. See *supra* text accompanying notes 157–163.

232. See *supra* text accompanying notes 176–179.

vehemently objected to in 2012.²³³ Those actions notwithstanding, the Superintendent of the Biscayne National Park maintains that the FWC is an essential partner in the Park's operations, particularly with respect to research, boater safety, law enforcement, and resource protection.²³⁴ While every national park must collaborate with state and local agencies to some degree, the statutory uniqueness of the cooperative federalism arrangement in Biscayne National Park has forced the state and federal government to work more closely than they otherwise would have.²³⁵ The forced partnership has taken longer but produces a more integrated management plan.²³⁶ Other NPS officials also tend to agree: the Inventory and Monitoring Program of the NPS's South Florida/Caribbean Network has seen a general increase in research and monitoring coordination between the state and federal government lead to more robust data on fish stocks and ecosystem health.²³⁷ The relationships between state, federal, and local scientists helped create a reef fish monitoring protocol to enhance cooperation between agencies,²³⁸ and produced research on a marine reserve zone in Dry Tortugas National Park that helped form the scientific basis for the marine reserve zone in Biscayne National Park.²³⁹

The FWC seems less inspired by its cooperative federalism arrangement with the NPS, but nonetheless acknowledges that the relationship has produced results. Though the presence of the national park interferes with the state's typically strong role in state and regional fisheries management,²⁴⁰ the federal government's authority to set aside and protect lands and waters has shielded Biscayne Bay from industrial or residential development that would have threatened the viability of the bay's fisheries.²⁴¹ And while the FWC felt left out of the general management planning process,²⁴² it was heavily involved in crafting regulations contained in the FMP.²⁴³ Because of the philosophical leanings of the two organizations, the FWC and NPS were able to engage stakeholders with disparate interests. The FWC worked closely with recreational and commercial fishing groups while the NPS is more attuned to environmental and conservation groups.²⁴⁴ The FWC remains disappointed that it is not more involved in the general management planning process, but acknowledges that cooperative federalism with the NPS has increased

233. See *supra* text accompanying notes 189–192.

234. Carlstrom, *supra* note 192.

235. *Id.*

236. *Id.*

237. Telephone Interview with Andrea Atkinson, Quantitative Ecologist, National Park Service: South Florida/Caribbean Network (June 9, 2015).

238. NAT'L PARK SERV., A COOPERATIVE MULTI-AGENCY REEF FISH MONITORING PROTOCOL FOR THE FLORIDA KEYS CORAL REEF ECOSYSTEM (July 10, 2015), https://irma.nps.gov/App/Reference/DownloadDigitalFile?code=472852&file=FLKeys_Reef_Fish_monitoring_protocol_1Oct2009.pdf.

239. See NAT'L PARK SERV., ASSESSING THE CONSERVATION EFFICIENCY OF THE DRY TORTUGAS NATIONAL PARK (July 10, 2015), <http://permanent.access.gpo.gov/gpo24804/DRTOSciencePlanSmall.pdf>; see also Tracy A Ziegler & John Hunt, Implementing the Dry Tortugas National Park Research Natural Area Science Plan (July 10, 2015).

240. See Carlstrom, *supra* note 192.

241. See *supra* text accompanying notes 123–127.

242. See *supra* text accompanying notes 157–163.

243. See *supra* text accompanying notes 167–168; McCawley, *supra* note 166..

244. McCawley, *supra* note 166.

the FWC's involvement in park management, to the benefit of the state and fishery resources.²⁴⁵

Other stakeholders echo similar sentiments about the rough transition to federal involvement in the Park to an equilibrium where state and local jurisdictions can co-exist. One of the Park's only marine structures form a small community of homes called Stiltsville.²⁴⁶ When the federal government acquired the submerged lands supporting Stiltsville from the State of Florida, the NPS called for the removal of the structures.²⁴⁷ A lengthy dispute between Florida, Stiltsville homeowners, and the federal government culminated in the creation of the Stiltsville Trust, which preserves the homes in partnership with the NPS.²⁴⁸ Stiltsville is now a valued ethnographic landmark in the Park, enhancing the visitor experience while providing a connection to the human-natural experience.²⁴⁹ Other stakeholders see room for improvement in the NPS' approach to community engagement. Several groups complained about the length of time between planning meetings and poorly organized workshops.²⁵⁰ Commercial fishing groups, in particular, were skeptical of the science relied upon to create the marine reserve zone and felt left out of the process.²⁵¹ If the state and federal government are to be partners in fishery management, whether in Biscayne National Park or elsewhere, the regulations must adhere to reasonable expectations of outcomes.²⁵²

Ultimately, stakeholders, including the FWC, NPS, and local organizations, were in general agreement on the costs and benefits of cooperative federalism in the Park. On the one hand, most found that forced engagement caused delays and frustration at the outset of the management planning processes, as institutions were unfamiliar with the operational styles and regulatory requirements of their partners and often came to the table with divergent views on the optimal use of park resources. In most cases, however, the shared authority over fishery management was viewed positively because it brought together human and financial resources, more effectively engaged constituents and other stakeholders, and bridged the gap between state and federal jurisdictions. While the marine reserve zone promises to reveal further conflicts between the FWC and NPS in the months and years to come, both agencies look favorably upon the statutorily mandated cooperative federalism arrangement they must both continue to navigate.

245. *Id.*

246. See 1 FINAL GMP, *supra* note 11, at 69 (describing Stiltsville).

247. Telephone Interview with Gail Baldwin, Chairman, Stiltsville Trust (June 9, 2015).

248. For a basic overview of the dispute, see, e.g., Lloyd Miller, *Story of Stiltsville Trust*, http://www.stiltsvilletrust.org/pages/stiltsville_miami_fl_biscayne_bay.html (last visited Dec. 26, 2015); NAT'L PARK SERV., STILTSVILLE (July 10, 2015), available at <http://www.nps.gov/bisc/learn/historyculture/stiltsville.htm>; NAT'L PARK SERV., BISCAYNE FINAL ETHNOGRAPHIC OVERVIEW AND ASSESSMENT (2015), available at http://www.nps.gov/ethnography/research/docs/bisc_ethno.pdf.

249. *Id.* at 5–24.

250. Kelly, *supra* note 197; Baldwin, *supra* note 247; McCawley, *supra* note 166.

251. Kelly, *supra* note 197.

252. *Id.*

C. Exporting the Biscayne Model

As the fields of environmental and natural resources law continue to rely on cooperative federalism to implement federal policy while taking advantage of decentralized governance, the state-federal arrangements that experiment with, or depart from, the traditional models of cooperative federalism will provide opportunities for intergovernmental innovation. Some of these experiments will be more cautionary tales than success stories, but all should contribute to the evolving body of knowledge on cooperative federalism. Biscayne National Park's experience with fishery management thus provides both a cautionary tale and a success story.

In some ways, the public laws creating the Park—and the cooperative federalism arrangement over fisheries—were poorly conceived, sparking conflict where it might not have previously occurred. Authorizing both the state and federal government to regulate the same resource created ambiguities regarding their respective roles in fishery management, and the meaning of fishery management in the first place. Normally an ambiguity of that nature would be desirable, as the agencies themselves can more easily determine management structures and strategies. In this case, however, the federal agency's broad interpretational discretion allowed it to characterize a marine reserve zone prohibiting fishing as a resource management strategy that does not constitute fishery management. But if cooperative federalism is to play a meaningful role in natural resources management, both agencies must be involved in the planning process. In this case, Biscayne National Park's implementing legislation could have been more specific with respect to the State of Florida's rights to regulate fishing. While this is not the first time statutes have failed to appreciate how interconnected natural systems can be,²⁵³ it is especially important that laws establishing marine protected areas are cognizant of the pervasive influence fisheries exert on the rest of the marine environment.

At the same time, by expressly granting the state authority to regulate fishing (and remaining silent on other issues), the legislation may have implied that the state did not have a role in the general management planning process, an implication both the state and federal government appeared to agree with at the outset of the planning processes.²⁵⁴ While primary authority to manage the national park system should probably remain with the federal government, legislation can ensure that states play a role in park management. Otherwise, state involvement becomes vulnerable to NPS discretion. Biscayne National Park's fishery and general management planning processes demonstrate the perils of lackluster stakeholder engagement. The FWC's objection to the 2011 Draft GMP did more than voice opposition to the proposed marine reserve zone: it revealed the agency's profound disappointment that it had not been more involved in the planning process. One letter to the NPS stated that the conditional consistency determination "could have been avoided if the Park had honored commitments they made in the Memorandum of Understanding (MOU) between the FWC and BNP. The MOU was specifically

253. See, e.g., Ryan B. Stoa, *Droughts, Floods, and Wildfires: Paleo Perspectives on Disaster Law in the Anthropocene*, 27 GEO. INT'L ENVTL. L. REV. 393 (2015) (discussing how the evolution of environmental laws reveals a belief that nature can adapt to modern human activities, instead of vice versa).

254. See *supra* notes 161–163.

designed to facilitate fishery management planning by improving communication, cooperation, and coordination between the FWC and BNP.”²⁵⁵ Another letter to the NPS found it “unfortunate that—despite the existing MoU wherein FWC and the Park agreed to make efforts to the maximum extent possible to cooperate fully and jointly to manage fishing within the Park—the FWC is forced to provide extensive comments with regards to fisheries management issues on a Draft GMP/EIS through the Florida State Clearinghouse.”²⁵⁶

While the NPS (and any agency for that matter) can hardly be faulted for exerting authority over a matter with which they have jurisdiction, the manner in which that authority is exerted matters. Other stakeholders complained that community meetings were held concurrently, or with little notice.²⁵⁷ It is unlikely that a flawless stakeholder engagement process would have preempted opposition to the marine reserve zone entirely, but participatory approaches to marine resources management tend to be more responsive to local needs and characteristics, thereby reducing the likelihood of legal challenges.²⁵⁸ This is especially true if the cooperative federalism dynamics enumerate a participatory role for the state.

On the other hand, there are aspects of the Biscayne National Park model of cooperative federalism that are worth replicating in other contexts. Biscayne National Park’s origin story suggests that power sharing between the state and federal government may be an effective means of obtaining the political support needed to establish a federally protected area in the first place.²⁵⁹ The looming pressures of industrial and residential development that motivated the establishment of a national monument were a threat to fish stocks as much as they were to coral reefs, mangroves, and the natural aesthetic.²⁶⁰ By grouping these interests together, the campaign to protect Biscayne Bay maximized its coalition and minimized its opposition. Cooperative federalism, in this case concerning fishery management, may be a critical tool for future campaigns to obtain state support for federal protection. It may be particularly difficult to persuade states to transfer title to submerged lands under their jurisdiction without some concession, and joint

255. 2 FINAL GMP, *supra* note 159, at 237 (letter from Nick Wiley, Exec. Dir., Fla. Fish and Wildlife Comm’n, to Sally Mann, Dir., Office of Intergovernmental Programs, Dep’t of Env’tl. Prot. (Dec. 30, 2011)).

256. 2 FINAL GMP, *supra* note 159, at 252.

257. Kelly, *supra* note 197; Baldwin, *supra* note 247.

258. There is a wealth of research on the subject of stakeholder engagement, particularly with respect to natural resources and marine resources management. See Morgan Gopnik et al., *Coming to the table: Early stakeholder engagement in marine spatial planning*, 36 MARINE POL’Y 1139 (2012); Kelly Sayce et al., *Beyond traditional stakeholder engagement: Public participation roles in California’s statewide marine protected areas planning process*, 74 OCEAN COASTAL MGMT. 57, 58 (2013); Robert Pomeroy & Fanny Douvere, *The engagement of stakeholders in the marine spatial planning process*, 32 MARINE POL’Y 816, 817 (2008); Timothy Lynam et al., *A Review of Tools for Incorporating Community Knowledge, Preferences, and Values Into Decision Making in Natural Resources Management*, 12 ECOLOGY & SOC’Y 5 (2007); Daniel J. Decker et al., *Stakeholder Engagement in Wildlife Management: Does the Public Trust Doctrine Imply Limits?*, 79 THE J. OF WILDLIFE MGMT. 174, 175 (2015).

259. See 16 U.S.C. § 410gg-2 (2012) (noting that the legislative history establishing Biscayne National Monument includes statements from the Department of the Interior conceding Florida’s authority to regulate fishing in the monument).

260. See *supra* text accompanying notes 123–127.

management offers a mutually beneficial enticement.²⁶¹ The 1980 legislation creating Biscayne National Park went even further by guaranteeing the State of Florida exclusive authority to regulate fishing in any waters it subsequently granted to the Park, an option the state exercised by proceeding to dedicate an additional 72,000 acres.²⁶²

There are trade-offs to granting states exclusive authority to regulate fishing: first, because, as the NPS admits, its authority to establish the marine reserve zone (ostensibly not a fishery management action) derives from its joint powers to regulate fishing in the original monument boundaries of the Park.²⁶³ If the NPS did not have this authority, it would be forced to abandon the marine reserve zone, or assert its authority through less legally justifiable means that might strain the state-federal relationship and increase the likelihood of litigation. Alternatively, it might pursue a marine reserve zone through the general management planning process by working closely with the state to negotiate a mutually beneficial compromise. Granting states the exclusive authority to regulate fishing might also leave the federal government out of the fishery management planning process, just as GMP planning largely left out the FWC. The Biscayne National Park experience suggests that states and the federal government should engage in more joint planning, not less, but each case will need to explore how much joint or exclusive authority over resource management a state needs in order to lend its support.

From an operational standpoint, cooperative federalism has provided the Park with more diversified funding, staffing, and enforcement capacities. State officers are cross-deputized to enforce federal laws, allowing FWC and Miami-Dade County marine patrol officers to enforce regulations alongside NPS Rangers.²⁶⁴ The state and federal government share boating facilities and much of the day-to-day issues that arise are worked out jointly with state and federal officers, without prompting a jurisdictional dispute.²⁶⁵ While cooperative federalism may not be the causal factor behind each instance of cooperation, both the state and federal government indicate that the state's authority to regulate fishing has forced the agencies to establish joint management protocols and procedures.²⁶⁶ With the state's power to regulate fishing also comes responsibility; the resources Florida brings to the table are an invaluable contribution to the Park's manpower and financial solvency.²⁶⁷ In cases where the federal government may not have the human or financial capacity to adequately manage a national park or its natural resources, conferring certain regulatory powers to the state may induce substantial investments.²⁶⁸

261. See 16 U.S.C. § 410gg-2 (2012), (noting that in 1985 Florida dedicated over 72,000 acres to the park while reinforcing its exclusive jurisdiction over fisheries regulation).

262. See *supra* text accompanying note 145.

263. See 1 FINAL GMP, *supra* note 11, at 86.

264. FINAL FMP, *supra* note 14, at 237.

265. Carlstrom, *supra* note 192.

266. See Reef Fish Monitoring Protocol, *supra* note 238; Carlstrom, *supra* note 192; Atkinson, *supra* note 237; McCawley, *supra* note 166.

267. Carlstrom, *supra* note 192; see also *supra* text accompanying notes 204–207.

268. Although not part of the national park system, California's CALFED Bay-Delta Program is an excellent example of state and federal agencies jointly managing natural resources by sharing authority

V. CONCLUSION

Biscayne National Monument was created to protect the “rare combination of terrestrial, marine, and amphibious life in a tropical setting of great beauty.”²⁶⁹ What the drafters of Public Law 90-606 may not have realized is that a rare combination of state and federal powers was created in that tropical setting of great beauty as well. While conferring joint authority to regulate fishing to the state and federal government may have seemed innocuous enough at the time, the Park’s cooperative federalism framework has been anything but. The state and federal government have been forced to navigate their roles and responsibilities without the benefit of unambiguous legislation or judicial precedent, creating a relationship that has been at times both strained and co-dependent. After over a decade of management planning, the federal government is prepared to move forward with a marine reserve zone that lacks support from the state. For its part, the state looks prepared to challenge the zone through other informal and formal cooperative federalism powers and its Congressional delegation. The outcome of the conflict will shed light on the extent of the federal government’s powers within this unique arrangement, as it asserts its authority to establish the marine reserve zone by citing its joint authority over fishery management while simultaneously alleging that the zone does not constitute fishery management. The conflict also demonstrates that while fishery management may be excised from general management in theory, the interconnected nature of marine environments makes that more difficult in practice.²⁷⁰

The marine reserve zone conflict also casts a shadow over what has otherwise been a productive and innovative experiment in cooperative federalism. The majority of stakeholders interviewed for this project concluded that, on balance, the state’s role in fishery management has been a worthwhile experience for the agencies involved, with a positive impact on the Park and its resources. The state’s role in fishery management planning ensured that the federal government would accommodate Florida’s culturally and economically significant fishing industry to some extent, while lending legitimacy to federal planning. Human and financial resources are shared, providing long-term management stability to the park. The general management planning process may have suffered in part because the state was not more involved, an oversight implementing legislation could have addressed. The Biscayne National Park model of cooperative federalism suggests that future applications of the model, in which states and the federal government share joint authority over marine resources in some capacity, may enjoy similar success.

and responsibilities. See CAL. BAY-DELTA AUTH., CALFED BAY DELTA PROGRAM: PROGRAMMATIC RECORD OF DECISION 1 (2015), <http://calwater.ca.gov/content/Documents/ROD8-28-00.pdf>; CAL. BAY-DELTA AUTH., CALFED 10-YEAR ACTION PLAN 1 (2015), http://www.calwater.ca.gov/content/Documents/10_Year_Action_Plan_Final.pdf.

269. Biscayne National Monument Establishment, Pub. L. No. 90-606, 82 Stat. 1188 (1968).

270. The marine nature of the BNP model may limit the extent to which it can be applied in other (e.g., terrestrial) contexts. Further research that investigates the replicability of this and other management paradigms may shed light on those aspects of the model that are more or less easily replicated.

9/11 MEMORIAL

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April 20, 2016

The Honorable Lisa Murkowski
Chairman
U.S. Senate Committee on Energy & Natural Resources
304 Dirksen Senate Building
Washington, DC 20510

Dear Chairman Murkowski:

As family members of the victims of the September 11, 2001 attacks and members of the Board of Directors of the National September 11 Memorial & Museum, we are writing to extend our support of the ***National 9/11 Memorial at the World Trade Center Act*** (H.R. 3036), which would designate the 9/11 Memorial at the World Trade Center site as a true national memorial and provide competitive grant funding for the operations, maintenance and security of this world-class Memorial, which honors the 2,983 people killed in the terror attacks of September 11, 2001 at the World Trade Center site, near Shanksville, Pa., and at the Pentagon, as well as the six people killed in the World Trade Center bombing on February 26, 1993.

On February 9, 2016, H.R. 3036 passed the House of Representatives with overwhelming support in a 387-12 vote. We urge you quickly to pass this bill in the Senate and in advance of the 15th anniversary of the attacks on our nation.

For many of us, the 9/11 Memorial is also the final resting place of our loved ones. The people who perished on September 11, 2001 and February 23, 1993 were each unique individuals—beloved husbands and wives, sons and daughters, whose lives were tragically cut short in the midst of everyday activities.

In addition to providing solace to family members and friends of those killed, the 9/11 Memorial is a place where people from around the world, and all walks of life—from world leaders to millions of school children, many of whom were born after the attacks—come to learn about what happened to our country that tragic day. Since its opening on the 10th

NATIONAL SEPTEMBER 11 MEMORIAL & MUSEUM
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WWW.911MEMORIAL.ORG

anniversary of the attacks, over 25 million people from every state in the nation and over 170 foreign countries have visited.

Each day, visitors are uniting to pay their respects, mourn the tremendous loss America suffered during these attacks and celebrate our nation's resilience in the face of unspeakable tragedy. It is a tribute to people from every attack site and it ensures that we will never forget those who perished, whose names are now forever inscribed in bronze around the twin reflecting pools.

It has been heartwarming to see the outpouring of public support for the Memorial over the years. The sheer numbers and overwhelmingly positive feedback from our visitors underscores the importance that people from all over the world place on coming here to remember, reflect and learn.

Now, as we approach the 15th Anniversary of the attacks, it is crucial that the federal government take this stake in the future of this beautiful and inspiring national tribute, which has become a symbol of hope and our nation's resilience.

We thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Virginia S. Bauer".

Virginia S. Bauer, wife of David Bauer, North Tower

A handwritten signature in black ink, appearing to read "David Beamer".

David Beamer, father of Todd Beamer, United Flight 93

A handwritten signature in black ink, appearing to read "Paula Grant Berry".

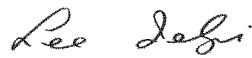
Paula Grant Berry, wife of David Berry, South Tower

A handwritten signature in cursive script, appearing to read "D. Burlingame".

Debra Burlingame, sister of Charles F. Burlingame, III, Flight 77

A handwritten signature in cursive script, appearing to read "Christy A. Ferer".

Christy A. Ferer, wife of Neil Levin, North Tower

A handwritten signature in cursive script, appearing to read "Lee A. Ielpi".

Lee A. Ielpi, father of Jonathan Ielpi, New York City Fire Department

A handwritten signature in cursive script, appearing to read "Monica Iken".

Monica Iken, wife of Michael Iken, South Tower

A handwritten signature in cursive script, appearing to read "Thomas S. Johnson".

Thomas S. Johnson, father of Scott Johnson, South Tower

A handwritten signature in cursive script, appearing to read "Anthoula Katsimatides".

Anthoula Katsimatides, sister of John Katsimatides, North Tower

A handwritten signature in dark ink, appearing to read "Howard W. Lutnick". The signature is fluid and cursive, with the first name "Howard" being more legible than the last name "Lutnick".

Howard W. Lutnick, brother of Gary Lutnick, North Tower

A handwritten signature in dark ink, appearing to read "Thomas H. Rogér". The signature is cursive, with "Thomas" and "Rogér" being the most prominent parts.

Thomas Rogér, father of Jean Rogér, Flight 11

cc: The Honorable Maria Cantwell, Ranking Member
 The Honorable Bill Cassidy, Chairman,
 Subcommittee on National Parks
 The Honorable Martin Heinrich, Ranking Member,
 Subcommittee on National Parks

9/11 Parents & Families of Firefighters and WTC Victims

www.RespectHumanRemainsAtThe911Memorial.com

Firefighter Families Oppose H.R. 3036, the 9/11 Memorial- Museum Bailout Bill for the following reasons:

- This bill supports a memorial-museum design that virtually none of the 9/11 families wanted, the most expensive in human history to build and maintain. At \$72 million to operate annually, the tiny 8 acre memorial-museum complex costs at least twice as much as the cost of operating the largest of our national parks, Yosemite and Yellowstone.
- The memorial-museum staff has unethically placed the victims' unidentified human remains inside the \$24 per person admission-charging museum, despite promises of a repository separate and distinct from the museum, which is what families requested.
- False claims of tremendous security needs made by memorial-museum staff, despite the presence of two law enforcement agencies, the Port Authority Police Department and the NYPD, which created a special anti- terrorism unit to safeguard the site.
- The lack of patriotism and sanctity of the site, most notably the absence of any American flags on the memorial plaza. Only a single flag – originally erected by patriotic construction workers - flies on top of a mechanical building on the edge of the site, out of view of most people. This is the result of corporate political correctness that has no place at one of the most sacred sites in the United States. The recent ban on singing the National Anthem - inflicted on a visiting group of school children by a memorial museum security supervisor- further confirms this lack of patriotism by museum officials.
- The intentional ban on the placement of any artifacts (including an iconic piece of artwork originally on the plaza the day of the attacks, the "Koenig Sphere") or direct references to the events of 9/11. The desired effect of making the 9/11 plaza just another city park has taken root, including the encouragement of lunch hour eating on the benches and a free-for-all tourist experience of selfies and playing children.
- Erroneous claims of poverty by memorial-museum staff masks the fact that many of them collect a salary in excess of a quarter million dollars annually –and nearly a half million by the president of the museum!



A project of the September 11th Families' Association

June 27, 2016

For the Record

Dear Members and Staff of the Senate Energy & Natural Resources Committee:

As a member of the 9/11 community, I appreciate the commitment that the National September 11 Memorial & Museum has made to honoring the victims and to preserving the sacred World Trade Center site, and I am writing to extend my support of the National 9/11 Memorial at the World Trade Center Act (H.R. 3036).

As a representative of the 9/11 Community I have been involved in development of the Memorial since 2002 on behalf of the families who lost loved ones. The Memorial's importance to our nation and to the world must be preserved and supported. This legislation would designate the 9/11 Memorial at the World Trade Center site as a true national memorial and provide competitive grant funding for the operations, maintenance and security of this world-class Memorial, which honors the 2,983 people killed in the terror attacks of September 11, 2001 at the World Trade Center site, near Shanksville, Pa., and at the Pentagon, as well as the six people killed in the World Trade Center bombing on February 26, 1993.

It is worth noting that on February 9, 2016, H.R. 3036 passed the House of Representatives with overwhelming support in a 387-12 vote. I urge you quickly to pass this bill in the Senate and in advance of the 15th anniversary of the attacks on our nation.

Since its opening on the 10th anniversary of the attacks, over 26 million people from every state in the nation and over 170 foreign countries have visited the 9/11 Memorial to honor the victims, celebrate our nation's resilience and to stand on the very site where the attacks occurred. The sheer numbers and positive visitor feedback underscores the importance that people from all over the world place on coming to this sacred site to remember, reflect and learn. This beautiful and inspiring Memorial was realized through an unprecedented public-private partnership.

Now, as we approach the 15th Anniversary of the attacks, it is crucial that the federal government take this stake in the future of this national tribute, which has become a symbol of hope and our nation's resilience.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jennifer Adams-Webb', written in a cursive style.

Jennifer Adams-Webb
Chief Executive Officer

**Statement for the Record by Senator Barbara Boxer
Before the Senate Committee on Energy and Natural Resources
S.2414, the Tule Lake National Historic Site Establishment Act
Wednesday, June 15, 2016**

I would like to thank Chairman Murkowski, Ranking Member Cantwell, and the members of the Energy and Natural Resources Committee for holding today's hearing and for including my bill, S. 2414, the *Tule Lake National Historic Site Establishment Act*, on today's agenda. This bill, which I introduced along with Senator Dianne Feinstein, would separate the Tule Lake Incarceration Camp from the rest of the World War II Valor in the Pacific National Monument and establish it as a standalone site within the National Park Service as the Tule Lake National Historic Site.

The Tule Lake War Relocation Center, as the site was originally known, was the largest of ten concentration camps constructed by the federal government to incarcerate Japanese-Americans during World War II. These camps held more than 110,000 American citizens who were forcibly removed from their homes and stripped of their constitutional rights. For nearly three years, Tule Lake incarcerated nearly 19,000 Japanese-Americans who conscientiously objected to taking "loyalty oaths."

In 2008, President George W. Bush designated the Tule Lake camp, along with a handful of naval battle sites in Hawaii and Alaska, as part of the new World War II Valor in the Pacific National Monument. However, many feel that the term, "valor" is an inappropriate term for a place designated to draw attention to this grave injustice done to so many of our citizens during one of our country's darkest moments.

Instead, my bill would give the Tule Lake camp the national recognition it deserves and honor the tens of thousands of Japanese-Americans and their families who were incarcerated during the war. The legislation would elevate the camp to the same National Historic Site status of the Manzanar incarceration center near Death Valley, California and Minidoka incarceration center in Idaho, and it has the support of the Tule Lake Committee, a grassroots non-profit made up of camp survivors and their families, as well as the National Parks Conservation Association.

Re-designating the Tule Lake camp as the Tule Lake National Historic Site will ensure that current and future generations of Americans are educated about this dark period in our nation's history, and I urge my colleagues to support my bill.

Thank you again, members of this Committee, for your consideration today.

###

From: [Lane, Michelle \(Energy\)](#)
To: [Ripchensky, Darla \(Energy\)](#); [Brooks, David \(Energy\)](#)
Subject: FW: Letter for the permanent record - opposing H.R. 3036
Date: Monday, June 20, 2016 12:05:21 PM

From: Michael Burke [mailto:savethesphere@gmail.com]
Sent: Sunday, June 19, 2016 4:22 PM
To: Schindler, Blake (Cassidy)
Cc: Darla_ripchensky@senate.energy.gov
Subject: Letter for the permanent record - opposing H.R. 3036

Senator Bill Cassidy MD, Chairperson
National Parks Service, sub-committee
703 Hart Senate Office Building
Washington DC 20510

Dear Sir:

I am writing for the permanent record to oppose H.R. 3036, the 9/11 memorial and museum bill.

On September 11, my brother, Capt. William F. Burke, Jr., Eng. Co. 21, FDNY, gave his life at the World Trade Center.

The rig he and his men rode to the site in, now half burnt out, is a permanent exhibit in the museum.

So why do I oppose H.R. 3036? First, I agree with the hundreds of 9/11 family members who have expressed opposition to the inclusion of their loved unknown final remains as part of the museum's collection. This violates all our moral understanding on how to handle unknown remains and is something the large majority of families who have expressed an opinion on it oppose.

Secondly, the memorial remakes the WTC site so that it does recognize the 9/11 attacks. As memorial Foundation officials and architect Michael Arad says it cannot. It therefore bans all physical reminders of the attacks, including the iconic Koenig Sphere, damaged in the attacks, but the only remaining intact artifact of the WTC.

Imagine the USS Arizona Memorial banning the USS Arizona.

The billion dollar, eight acre WTC memorial is most famous for inspiring happy selfies and naps upon its stone benches.

In light of Ft. Hood, Paris, Brussels, San Bernadino and now Orlando, this has descended from farce to obscenity.

While millions visit the memorial, many too young to remember the attacks, and stand on the pristine, anti-septic plaza and gaze at the humongous waterfalls, the Sphere stands forgotten and abandoned a half mile away in an obscure corner of Battery Park, a backdrop for a happy

hour drinking spot.

Thousands, including 9/11 families, survivors, first responders, and downtown residents have called for the return of the Sphere. Executive Director of the Port Authority Patrick Foye had called for its return. The Fritz and Maria Koenig Foundation of Germany had called for its return. Community Board 1 of Lower Manhattan has called for its return.

The Foundation ignores them all. They insist the 9/11 WTC memorial can include nothing of 9/11 or the WTC.

It is, or should be self-evident, our first duty at the WTC site is to faithfully preserve and convey the history of the attacks. So we and future generations may never forget and resolve never again. That is how we best honor the memory of the thousands of innocents brutally slaughtered September 11.

The current design and Foundation officials betray their memory, as they have betrayed the victims at Orlando and elsewhere.

Thanks to my initiative, the NPS is currently working to declare the Sphere a National Historic Landmark. Working with the NPS, we plan a series of discussions this summer in NYC and elsewhere discussing its historical and contemporary significance.

The first debt of the 9/11 Memorial and Museum Foundation is to history; to convey it faithfully. They receive tens of millions in grants for that purpose and the museum charges \$25 per visitor. They have received millions of visitors. Until such time that its six figured officials understand what their first duty is, and return the Sphere, as well handle the unknown remains - which may include Capt. Billy Burke's, Congress should not pass bill H.R. 3036. I would greatly appreciate it if this statement could be delivered to Senator Cassidy.

Thank you,

Michael Burke
2550 Independence Av
Bx NY 10463
646 320-2443

Note: I am Director of Save the Sphere and co-founder of the annual Capt. Billy Burke 1 WTC Stair Climb which has raised hundreds of thousands to build smart homes for disabled veterans.

From: ROSEMARY CAIN
To: Schindler, Blake (Cassidy)
Cc: Ripchensky, Darla (Energy); Lane, Michelle (Energy)
Subject: Opposition to Bill H.R. 3036
Date: Tuesday, June 21, 2016 9:54:17 AM

Sen. Bill Cassidy, MD, Chairperson
National Parks Service Subcommittee
703 Hart Senate Office
Washington D.C. 20510

Senator Cassidy,

I am writing this for the Permanent record to OPPOSE H.R. 3035- the 9-11 Museum Memorial Bill.

As a family member of the horrific September 11th attacks, I am writing to oppose the proposed 25 Million dollar grant to the 900 Museum. After having already received tremendous subsidies and are also a fee charging admission, I feel the money could be better used for our Military, border security, to hire more FBI, etc. With no accountability from the Museum, I feel it could be operated on a better budget by the National Park Service, in which I am in favor.

My son George was a New York City Firefighter and lost his life on that day. I am sure you are well aware of the fact that many, many families NEVER HAD RECOVERY. Thousands of small body parts, recovered but unidentifiable, have been taken and housed in the BASEMENT OF THE MUSEUM. This being done WITHOUT consent of next of kin. All done as a ploy to make money. Many heartbroken families are against the way the museum has conducted themselves. Thank you for your interest and support in this matter.

Rosemary Cain
12 Cedar Street
Massapequa, N.Y. 11758
516-798-0109



In Memory of our Heroes

Christian Adams
 Lorraine G. Bay, Crew
 Todd Beamer
 Alan Beaven
 Mark Bingham
 Deora Bodley
 Sandra W. Bradshaw, Crew
 Marion Britton
 Thomas E. Burnett Jr.
 William Cashman
 Georgine Rose Corrigan
 Patricia Cushing
 Jason Dahl, Capt.
 Joseph Deluca
 Patrick Driscoll
 Edward Porter Felt
 Jane C. Folger
 Colleen L. Fraser
 Andrew Garcia
 Jeremy Glick
 Lauren Grandcolas
 Wanda A. Green, Crew
 Donald F. Greene
 Linda Gronlund
 Richard Guadagno
 LeRoy Homer, Jr., First Officer
 Toshiya Kuge
 CeeCee Lyles, Crew
 Hilda Marcin
 Waleska Martinez
 Nicole Miller
 Louis J. Nacke, II
 Donald A. Peterson
 Jean Hoadley Peterson
 Mark Rothenberg
 Christine Snyder
 John Talignani
 Honor Elizabeth Wainio
 Deborah Ann Jacobs Welsh, Crew
 Kristin Gould White

The Honorable Lisa Murkowski
 Chairwoman
 Committee on Energy and Natural Resources
 304 Dirksen Senate Office Building
 Washington, DC 2015

Dear Chairwoman Murkowski:

On behalf of the individual members of the Families of Flight 93 who have joined in unity below, I write to register our strong opposition to H.R. 3036, the National 9/11 Memorial at the World Trade Center Act, as passed by the House of Representatives on February 9, 2016.

While we each voice our opposition as an individual citizen, we all have had the distinct honor and privilege to serve as board members of the Families of Flight 93. The Families of Flight 93 is a private, not-for-profit 501(c)(3) charitable organization working in partnership with the National Park Service, the National Park Foundation, the Flight 93 Federal Advisory Commission, and the Friends of Flight 93 with the mission to work collaboratively toward the creation of the congressionally mandated Flight 93 National Memorial.

First, we want to make clear that we acknowledge the need for, and support congressional efforts to provide, federal funding to help defray security related costs for the New York 9/11 Memorial. However, we cannot support any version of H.R. 3036 authorizing funding for a competitive grant of up to \$25 million per year from the National Park Service's budget for the New York Memorial's needs. The National Park Service is facing almost \$12 billion in deferred maintenance needs as well as insufficient funding levels to provide routine maintenance and ensure sufficient staff for the more than 400 national parks and national park unit properties throughout the United States. In their statement for the record regarding H.R. 3036, the NPS clearly stated: "If the \$25 million grant comes out of the NPS budget, it would reduce the amount of operational funding available for the needs of our 408 designated units of the National Park System. The \$25 million grant is more than the annual funding appropriated for nearly 99% of the units of the National Park System. The NPS does not have the room in its budget to absorb a cost of this magnitude, nor do we believe it is appropriate to divert operational resources needed to fulfill our legislated responsibilities to a site for which the NPS has no role."

The potential decrease in funding for the Flight 93 National Memorial would be detrimental to our operational integrity if the NPS were compelled to redirect funds in order to satisfy the directives of H.R. 3036. With Alaska being home to a significant number of national parks, preserves, monuments, and national historical parks, I am sure you are keenly aware of the negative impact this legislation would have on the National Park Service's ability to carry out its mission there. Should the Congress choose to provide federal funding for

132 State Route 365, Remsen, NY 13438
 (315) 831-3621

May 23, 2016

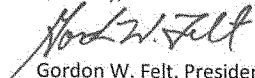
security measures at the 9/11 Memorial, we believe it would be more prudent for the funds to come from the Department of Justice or Department of Homeland Security; both of which have the expertise to assess, develop, and implement security measures and protocols, as well as to assure fiscal oversight. We would support efforts to secure funding from these two Departments.

Second, we are opposed to the Flight 93 National Memorial's inclusion in H.R. 3036. Neither our organization nor any of our partners has ever requested to be included in the legislation; nor were we consulted prior to being so. We can only surmise that the Flight 93 National Memorial and other 9/11 memorials were added to the legislation at the House Resources Committee's markup to circumvent the House of Representative's ban on congressionally directed funding. We do not appreciate the Flight 93 National Memorial being completely disregarded and used in such a blatantly offensive manner for purely political purposes. Additionally, inclusion of the Flight 93 National Memorial in H.R. 3036 might be construed by some that the Families of Flight 93 and its partners support the legislation, which is not the case. Should the Senate Energy and Natural Resources Committee consider this legislation, we request the Flight 93 National Memorial's participation in the grant program be stricken.

Having to oppose H.R. 3036 as currently drafted puts us and our organization in an awkward position and is a decision we have not taken lightly. While there is no question that the security needs of New York City and the Memorial are as significant as any site within our country, the source of funds requested to be able to provide this security do not seem to reflect the priority that they are due. As is obvious to the Families, based on our individual efforts over the years to secure federal funding for the land, construction, and operation of the Flight 93 National Memorial, a \$25 million dollar per year request for funding would create an enormous deficit in the National Park Service's already underfunded budget. Not only would the impact of the loss of these funds be felt across the entire National Park Service system during its Centennial Year and beyond, but it would put absolutely necessary funds to properly operate the Flight 93 National Memorial in serious jeopardy.

Thank you for your attention to this important matter.

Sincerely,



Gordon W. Felt, President
Edwin R. Root, Vice President
Carole O'Hare, Secretary
Calvin Wilson, Treasurer
D. Hamilton Peterson

Patrick G. White
Emily Root Schenkel
Claudette Greene
Esther Heymann

Ken Nacke
Sarah R. Wainio
Christine Homer
Kelly Garcia Arrillaga

**U.S. Senate Committee on Energy and Natural Resources
Subcommittee on National Parks
June 15, 2016 Hearing: Pending Legislation**

Statement for the Record Submitted from Senator Al Franken

S. 2805 authorizes a land transfer between the Bureau of Land Management and the National Park Service within the Voyageurs National Park in Northern Minnesota.

Voyageurs is a rugged and beautiful 218,000 acre National Park located along the Canadian border. The Park was created by Congress in 1975 to preserve the landscape and honor the legacy of the region. French travelers or “voyageurs”—the namesake of the Park—explored the region more than 250 years ago. The interconnected lakes and rivers served as a crucial pathway for early fur trappers and pioneers. But the history in the Park goes back much further—more than 10,000 years—with the arrival of prehistoric man as the glaciers receded after the last Ice Age. In fact, over 220 archeological sites have been documented within the Park. In more recent times, the American Indian tribes of the Ojibwe Band have fished and gathered wild rice in the region.

The heavily forested park is a spectacular mix of conifer and deciduous trees. Paired with the unique geology and rock formations and plethora of lakes, it is truly a sight to behold. The Park is loved by boaters, fishermen, and outdoor enthusiasts from around the country and around the world. In fact, last year alone, nearly 200,000 visitors made the trek to the relatively remote area.

The legislation I introduced with Senator Klobuchar—and its companion in the House, led by Representative Nolan—would fix an issue that dates back to the origin of the Park. S. 2805 formally transfers parcels of land from the Bureau of Land Management to the National Park Service that were not transferred at the establishment of the Park. These parcels are already being managed by the National Park Service, and enacting this bill would save taxpayers money by eliminating the need for a duplicative land management renewal procedure. S. 2805 also resolves an outstanding land management issue faced by the State of Minnesota and Koochiching County by authorizing a land exchange between the State of Minnesota and the National Park Service.

This non-controversial fix is supported by all parties involved—including the National Park Service, the Bureau of Land Management, the State of Minnesota, and Koochiching County.

Thank you for considering this legislation. I urge its adoption to fix this longstanding bureaucratic oversight.



STATEMENT OF: Sarah Watson, Executive Director of the Looking for Lincoln Heritage Coalition

BEFORE THE: Senate Committee on Energy and Natural Resources

SUBCOMMITTEE ON: National Parks

CONCERNING: S. 1662, Abraham Lincoln National Heritage Amendment Act

DATE: June 23rd, 2016

Mr. Chairman, members of the subcommittee, thank you for the opportunity to present the views of the Looking for Lincoln Heritage Coalition on S. 1662, a bill to expand the boundary of the Abraham Lincoln National Heritage Area (NHA), and for other purposes.

The Looking for Lincoln Heritage Coalition (LFLHC) supports S. 1662. LFLHC is a consortium of Illinois communities and sites that share the legacy of Abraham Lincoln. Our mission is to preserve, interpret and promote the heritage and culture of the Abraham Lincoln NHA. We believe that the addition of the communities in question would prove beneficial to the NHA.

The Abraham Lincoln National Heritage Area, enacted by congress in 2008, spans a 42-county region of central Illinois. Included within the NHA boundary are sites vital to the story of Lincoln, such as the Lincoln Home, Lincoln/Douglas debate sites and the 8th Judicial Circuit. Without Livingston County, and the cities of Freeport and Jonesboro, the Lincoln story within the Abraham Lincoln NHA is incomplete.

Before Lincoln began his path to Presidency, he practiced law within the 8th Illinois Judicial Circuit. The Abraham Lincoln NHA includes all but one county on that circuit: Livingston County. Within the county lies the city of Pontiac, home to sites and original buildings which Lincoln visited during his years as a circuit attorney.

Our NHA is also home to five of the seven Lincoln/Douglas Debate sites. The signing of this bill would welcome the remaining two, Freeport and Jonesboro, into our boundary. The inclusion of the Freeport and Jonesboro grants them access to all that Looking for Lincoln has to offer and vice versa.

The passing of S. 1662 not only completes the story of Lincoln within the Abraham Lincoln National Heritage Area, but grants us permission to utilize federal dollars for programming, preservation and education within the communities in question, furthering the preservation of the Lincoln legacy in Illinois.

Mr. Chairman, this concludes my testimony. I will gladly answer any questions you or any members of the subcommittee may have.

Senator Bill Cassidy, MD, Chairperson
National Parks Service Subcommittee
703 Hart Senate Office Building
Washington, DC 20510

Dear Senator Cassidy,

I am writing this for the Permanent Record to OPPOSE H.R. 3036; the 9/11 Memorial Museum Bill, and I request that my statement be made known to Senator Cassidy.

I recently retired from The Fire Department of the City of New York after thirty years of service therein and I am a brother-in-law of 9/11 Hero, FDNY Battalion Chief Orio Joseph Palmer, who died while leading search and rescue operations on the 78th floor of the South Tower of The World Trade Center on September 11, 2001.

In my opinion the 9/11 Memorial/Museum (MM) in its current manifestation is a not a national memorial, but rather, a national disgrace. MM officials have for years ignored the input of the majority of 9/11 family members on the myriad issues that the aftermath of 9/11 have presented. No issue however is more poignant than that of the unidentified human remains of those killed at the WTC; remains that are interred--disgracefully--in a dangerous, subterranean vault against the wishes of countless 9/11 family members.

Numerous 9/11 family groups have pleaded for years to have these human remains interred instead at ground level in a more respectful and accessible location, something akin to a tomb of the unknowns. These pleas have fallen on deaf ears. Indeed, when asked to poll each family member to ascertain their opinion on the interment of their loved one's remains, MM officials have denied even this minimal request.

In the view of many 9/11 family members (and I) the 9/11MM has become a bloated, avaricious tourist-trap and they consider the request for an additional \$25 million annual grant with virtually no oversight an affront of the highest order. If such a sum is to be granted, and if this is truly to be "America's Memorial" than we request the National Parks Service to take control of it. Their experience and knowledge would far better serve the history of 9/11 than the present cabal of MM officials currently ensconced in their politically protected sinecures.

Perhaps they might even erect a few American Flags on the Memorial plaza since none--astonishingly!--currently exist on this, the site of America's worst terrorist attack. All who visit that sacred ground certainly deserve a respectful, dignified memorial, but the memory of those precious souls who died there *demands* that it be so.

Respectfully Submitted,

James McCaffrey
LT/FDNY(ret)
Brother-in-law of FDNY Battalion Chief Orio Joseph Palmer (Batt 7)
111 First Street
Yonkers, NY 10704
(914) 482-0284

cc Darla Ripchensky
cc Michelle Lane

**Testimony to the U.S. Senate Committee on Energy and Natural Resources,
National Parks Subcommittee, in Support of Senate Bill 3028 to
Redesignate Olympic National Park's Olympic Wilderness as the Daniel J.
Evans Wilderness**

by Tim McNulty, Olympic Park Associates, June 15, 2016

Senator Daniel J. Evans has been a singular force in protecting the lands, waters, and wilderness of Washington's Olympic National Park. Re-designating the Olympic Wilderness is a fitting tribute that honors Senator Evans's outstanding conservation accomplishments. It recognizes his broad environmental legacy as well as his personal commitment to a unique planetary treasure.

Rarely has a public figure had such a long and intimate relationship with a specific natural area. Senator Evans fell in love with the Olympic Mountains as a Boy Scout at Camp Parsons. His regard for the Olympics deepened through a lifetime of hiking, backpacking, and climbing in the Olympic Mountains and has endured into his senior years.

As Governor and U.S. Senator from Washington, Daniel J. Evans worked diligently across political lines to rally support for conserving wilderness across the state. More than two and a half million acres of wilderness in Washington's national parks and forests bear lasting witness to his vision and leadership. Beyond that, his conservation legacy in Olympic National Park is extraordinary.

As Governor, Evans played a pivotal role in completing protection for Olympic National Park's outstanding coastal strip. He worked with conservationists, timber companies, private landowners and the state's congressional delegation to forge an agreement that added spectacular Shi Shi Beach and Point of the Arches to Olympic National Park. The legislation also included the east shore of Ozette Lake, protecting one of the last large coastal lakes in state. Today these areas are among the most popular on the Olympic coast.

As Senator, Evans was instrumental in passing the 1984 Washington Wilderness Act, which brought permanent protection to nearly a million acres of the state's most outstanding wild lands, including five new wilderness areas in Olympic National Forest. Senator Evans's personal intimacy with these areas, gained through a lifetime of hiking, made him an effective advocate for wilderness.

Following his leadership in passing the 1984 Act, Senator Evans worked to address the issue of ecological boundaries for Olympic National Park. The result, Public Law 99-635, realigned the boundaries of Olympic Park and Forest to conform to watershed and ridge-top divides. It expanded the Park significantly, adding scenic and ecologically sensitive areas to the Park. Today the Park's boundaries along Rugged Ridge, the Queets, Skokomish rivers, and Royal Creek ensure protection of complete drainages rather than following erratic section lines across ridge-tops and watersheds. Scenic jewels like Lake of the Angels are now part of the Park because Senator Evans knew them well, and knew they deserved to be. This act also added the submerged lands of Lake Ozette to the Park, completing protection of that matchless coastal lake, as well as the entire coastal intertidal area from mean high to "lowest low" tides, along with the dramatic offshore sea stacks and islands.

Among his most visionary proposals, Senator Evans wrote language into the Park boundary bill that would allow the National Park Service to purchase the two dams on the Elwha River. It was blocked in committee, but this was six years before passage of the Elwha dams legislation – and 14 years before the dams were purchased by the government, allowing the largest successful dam removal and salmon restoration project in the country to proceed.

And of course, Senator Evans was the guiding sponsor of a bill that established a vast sweep of protective wilderness in Washington's three national parks. The Washington Parks Wilderness Act of 1988, designated wilderness in North Cascades, Mount Rainier and Olympic national parks. It was a breathtaking accomplishment culminating a lifetime of conservation leadership.

For this – and for much more – visitors to Olympic National Park today owe a deep debt of gratitude to Daniel J. Evans. He brought a passion for the Olympics, a dedication to conservation, and a long-term vision for this place to government. The result is a conservation legacy that is stunning and worthy of redesignating the Olympic Wilderness as the Daniel J. Evans Wilderness.

Dear Ms. Ripcheneskly,

I am writing to convey my opposition to H.R. 3036-the 9/11 Memorial Museum Bill and to request that this letter be made of the permanent record of the proceedings regarding this legislation.

Please convey to Senator Cassidy, and all of the sub-committee members my opposition, and request to be formally made a part of the permanent records regarding this bill.

Introduction

I am the father of a murdered daughter, Colleen Ann (Meehan) Barkow, age 26, Colleen was an employee of Cantor-Fitzgerald working on the 103rd Floor of the North Tower.

A newly wed married less than a year, her partial remains (upper torso) was found on what to have been her first wedding anniversary September 17th, 2001. The medical examiner provided photos of the remains, which her mother and I have yet to be able to bring ourselves to view. I share this with you so that you may understand why we remain connected to events of that day, and why as parents we keep our oath "Never to Forget".

I have written to my own Senators, Senator Booker and Menendez to convey them why I oppose this legislation and hope you will also share it with Senator Cassidy and all the members of the Sub-committee. Below is an extract of my letter to the senators.

A simple acknowledgement of this email to the above email address would be most appreciated.

Signed:

Thomas J Meehan III

Thomas J Meehan USAF Veteran 1962 -1 968 DAV Member
Father of A Murdered Daughter on 9/11 (Colleen Ann Meehan Barkow)
Gold Star Family (A3C P. Meehan, Brother, Age 18 Died December 25,
1953)

Letter to my Senators

Dear Senator Booker & Menendez

I am certain that the board members of the 9/11 national Memorial and museum who testified on the 14th anniversary of the attacks on September 11th, 2015 behind closed doors , in the house do not speak for all of the victims families, I know they do not speak for me and my family.

This Legislation is viewed by some as the third attempt of securing a federal grant up to twenty five million dollars for a period of time, with little to no oversight by Department of the Interior. To some, myself and others it is the selling of a name to obtain a grant, while retaining control and gaining the title of a "National Memorial".
(This is the third attempt to secure funding from the Department of the Interior, it should be noted).

Who speaks for the dead?

I think I can assure you it is not the lobbyist the museum foundation board paid for, or those who seek to secure the legacy of the foundation's primary benefactor.

There are currently thirty designated "National Memorials" a title only congress can bestow, but which the foundation has already adopted of its own accord, A name not yet bestowed, but used to promote the museum as the center piece of the economic recovery of lower Manhattan. Shame on those who wrap themselves in the flag, while professing the name, not yet bestowed.

If this legislation were to be passed , the 9-11 national memorial and museum would be the only national memorial Not operated by the United States parks department, the foundation would continue to serve two masters, that of securing and maintaining the memorial to the lives lost ,i.e. the reflecting pools, and that they (The foundation)) remain as the economic engine of the recovery of lower Manhattan. They seem focused on Dollars over Remembrance to many who do not live in the city. The foundation while remiss in acknowledging the lives lost at the hearings on the 14th anniversary, offers no compromise to meet the financial obligations of the security on the mall.

The foundation senior staff currently are paid salaries in excess of a half-million dollars each, excessive by some standards, to those who lost loved ones, and who do not comprehend the dollars over remembrance mantra the foundation has adopted. This also evidenced by the foundation actions over the past years, as demonstrated by the questioning if the reading of names should be continued, the gifts offered in the gift shop, and cocktail parties adjacent to the remains of our loved ones. And last but not least a twenty four dollar entrance fee , the placement of the remains inside the museum, often referred to as the Pay to Pray option to the American public.

No matter how you justify these mis-steps, something's are not easily forgotten.

The senate should listen to those who oppose this legislation in its current form, if the memorial is to truly be national memorial then finding a path to that end,by and allowing the Department of the Interior to assume control of the Memorial as defined in HR 3036 should be a goal of any

legislation, that seeks to protect the public.

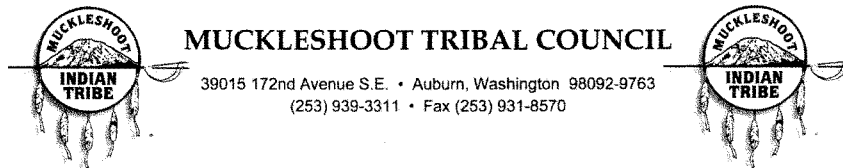
Allowing those agencies who maintain and protect our current national memorials who have the experience, resources and dedication they have for all our national memorials, should be the goal that all seek for the 9/11 Memorial as defined in this legislation.

Signed:

Thomas J Meehan III

Thomas J Meehan USAF Veteran 1962 -1 968 DAV Member

Father of A Murdered Daughter on 9/11 (Colleen Ann Meehan Barkow)



June 29, 2016

Honorable Maria Cantwell
United States Senator
511 Hart Senate Office Building
Washington, D.C. 20510

Honorable Patty Murray
United States Senator
154 Russell Senate Office Building
Washington, D.C. 20510

Re: Mountains to Sound Greenway National Heritage Area Bill

Dear Senators Cantwell and Murray:

The Muckleshoot Indian Tribe is pleased to have the opportunity to comment on S. 1690, the Mountains to Sound Greenway National Heritage Area Bill. The Department is concerned about the lack of recognition of tribal treaty rights in the bill and about the downplaying of tribal interests in forest management in general. However, the Muckleshoot Tribe will not at this time take a position in active support or in opposition to S. 1690 provided, at minimum, that the following changes and corrections are made to the proposed Act:

- (1) Add the following: "This legislation and the proposed Mountains to Sound Greenway National Heritage Area and resulting Plan are not intended, nor shall they be construed to, define, waive, limit, or affect any reserved treaty rights held by any federally recognized Indian tribe within the applicable geographic area and all such existing rights are preserved; nor are the legislation and Plan intended nor shall they be construed to define, waive, limit, or affect the federal trust responsibility of federal land managers within the applicable geographic area to support and protect such treaty rights and access to treaty reserved resources or to consult with federally recognized Indian tribes.
- (2) Correct Section 2 part (7), Definitions: "Tribe or Tribal" means any federally recognized Indian tribe which has cultural heritage and historic interests and/or federally reserved treaty rights within the proposed Mountains to Sound Greenway National Heritage Area. Notice and opportunity for consultation

regarding Heritage Area Planning and related actions shall be provided by the Local Coordinating Entity to such tribes, in addition to any notice and opportunity for consultation required of federal, state, or local agencies or other entities by other applicable federal or state laws.

The Muckleshoot Indian Tribe also requests that tribes be more explicitly included throughout the bill so that they will have opportunities to participate in management as desired and to ensure that their interests be considered in planning. For example, tribes should be included under Section 5(b)(3)(F) and (d)(2)(A) "Management Plan" so that tribal interests will be among those considered in developing the Plan and under Section 6(b)(2) and (3) and (c)(2) "Administration of the proposed Act", so that tribes may participate in grant funding opportunities, cooperative agreements, and Plan implementation as applicable.

Thank you again for the opportunity to comment on the Bill.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Marie Stora".

Muckleshoot Tribal Council



NATIONAL ASSOCIATION OF POLICE ORGANIZATIONS, INC.

Representing America's Finest

317 South Patrick Street. ~ Alexandria, Virginia ~ 22314-3501
 (703) 549-0775 ~ (800) 322-NAPO ~ Fax: (703) 684-0515
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EXECUTIVE OFFICERS

June 10, 2016

MICHAEL McHALE
 President
 Florida Police Benevolent
 Association

JOHN A. FLYNN
 Vice President
 Patrolmen's Benevolent
 Association of New York City

TODD HARRISON
 Recording Secretary
 Combined Law Enforcement
 Association of Texas

SEAN M. SMOOT
 Treasurer
 Police Benevolent & Protective
 Association of Illinois

MARC KOVAR
 Sergeant-at-Arms
 New Jersey State Policemen's
 Benevolent Association

CRAIG D. LALLY
 Executive Secretary
 Los Angeles Police
 Protective League

RICHARD WEILER
 Parliamentarian
 Police Officers Labor Council
 of Michigan

WILLIAM J. JOHNSON, CAE
 Executive Director and
 General Counsel

The Honorable Lisa Murkowski
 Chair
 Energy and Natural Resources Committee
 United States Senate
 Washington, D.C. 20510

The Honorable Maria Cantwell
 Ranking Member
 Energy and Natural Resources Committee
 United States Senate
 Washington, D.C. 20510

Dear Chairwoman Murkowski and Ranking Member Cantwell:

On behalf of the National Association of Police Organizations (NAPPO), I am writing to you to express our support for the National 9/11 Memorial at the World Trade Center Act (H.R. 3036).

NAPPO is a coalition of police unions and associations from across the United States that serves to advance the interests of America's law enforcement through legislative and legal advocacy, political action, and education. Founded in 1978, NAPPO now represents more than 1,000 police units and associations, 241,000 sworn law enforcement officers, and more than 100,000 citizens who share a common dedication to fair and effective crime control and law enforcement.

The events of September 11, 2001 changed our lives and our country. Thousands lost their lives that day and hundreds more continue to die because of their brave responses to the attack. Every single New York City Police Department officer and Port Authority Police Department officer who died that day were NAPPO members. It is only right that the National September 11 Memorial be recognized as a national memorial.

We urge the Committee to advance the National 9/11 Memorial at the World Trade Center Act to ensure that we never again forget what happened that fateful day. If we can provide any additional information or assistance, please feel free to contact me at (703) 549-0775.

Sincerely,

William J. Johnson, Esq., CAE
 Executive Director



**NATIONAL
FRATERNAL ORDER OF POLICE®**

328 MASSACHUSETTS AVE., N.E.
WASHINGTON, DC 20002
PHONE 202-547-8199 • FAX 202-547-8190

CHUCK CANTERBURY
NATIONAL PRESIDENT

JAMES O. PASCO, JR.
EXECUTIVE DIRECTOR

13 June 2016

The Honorable Lisa A. Murkowski
Chairman
Committee on Energy and National Resources
United States Senate
Washington, D.C. 20510

The Honorable Maria E. Cantwell
Ranking Member
Committee on Energy and National Resources
United States Senate
Washington, D.C. 20510

Dear Madam Chairman and Senator Cantwell,

I am writing on behalf of the members of the Fraternal Order of Police to advise you of our support for H.R. 3036, the "National 9/11 Memorial at the World Trade Center Act."

The "National 9/11 Memorial at the World Trade Center Act," will give the current 9/11 Memorial Federal recognition and support by making the site a national memorial and authorizing \$25 million in annual funding for the 9/11 Memorial plaza. Despite the extensive cost to operate and secure the site, it is free and open to the public. The site currently relies on private donations to their non-profit foundation for its funding. The foundation plans to spend around \$12 million a year on private security and operation of the waterfalls cost another \$4.5-5 million annually. It is a Federal responsibility to fund national security around high profile targets, not a private donor's responsibility.

This legislation will ensure that anyone may access this sacred site and honor the lives that were lost that day. The terrorist attacks on 11 September 2001 caused more law enforcement line of duty deaths than any other single incident in American history. One officer was killed when United Flight 93 crashed into a field in Shanksville, Pennsylvania as he and other passengers attempted to regain control of the plane from the hijackers. Seventy-one officers were killed when the two World Trade Center buildings collapsed in New York City. Dozens more have passed away in the years following 2001 as the direct result of illnesses contracted while working in the hazardous conditions immediately following the attacks in New York. By authorizing funding to support the 9/11 Memorial plaza's security and operations, we can guarantee that this sacred space will always be a free site of remembrance open to all.

On behalf of more than 300,000 members of the Fraternal Order of Police, I want to thank you for introducing this legislation and amendment. If I can be of any further help, please do not hesitate to contact me or Executive Director Jim Pasco in my Washington office.

Sincerely,

Chuck Canterbury
National President

— BUILDING ON A PROUD TRADITION —



Senator Bill Cassidy, MD, Chairperson
National Parks Service Subcommittee
703 Hart Senate Office Building
Washington, DC 20510

I am writing this for the Permanent Record to OPPOSE H.R. 3036...
the 9/11 Memorial Museum Bill.

As the sister of FF George C. Cain, murdered on September 11th, 2001, I find it irresponsible to fund a \$25 million dollar grant to the Memorial. The Museum and the Memorial already receive sufficient funding and it does not require another \$25 million dollars to operate. That money could certainly be better used to protect our country with additional Border Patrol agents and Homeland Security and our Military. Funding for the military has been cut on many levels and as an Army mom, I can tell you that I sent my son many expensive boxes filled with commonly needed toiletries and food items, during his 2 deployments to Afghanistan. At one point, he went without breakfast for many weeks, because of so called "budget cuts". I find that deplorable. The additional funding that the greedy operatives at the Museum are requesting, would be better put to use, for any of our Military branches and servicemen and women.

Thank you for your consideration.

Nancy K. Nee
sister of FF George Cain , Ladder 7, FDNY
Never Forget September 11th

43 Nimbus Rd
Holbrook , NY 11741
Neebones@verizon.net



Olympic Park Associates, 13245 - 40th Ave., NE, Seattle, WA 98125-4617

June 8, 2016

Senator Maria Cantwell
United States Senate
311 Hart Senate Office Building
Washington, DC 20510-0001

Dear Senator Cantwell,

Olympic Park Associates (OPA) wish to express our strong support for Senate Bill 3028 to redesignate Olympic National Park's Olympic Wilderness as the Daniel J. Evans Wilderness. Thank you for introducing a bill that will honor a conservationist whose lifetime of dedication to the protection of Olympic National Park and its irreplaceable wilderness is remarkable.

Senator Evans has been a singular force for protecting the lands, waters, and wilderness of Olympic National Park for most of his career in public service. OPA worked closely with Senator Evans to secure passage of the Washington National Parks Wilderness Act, which created the Olympic Wilderness. We have also had the privilege of working with him on a number of conservation measures that have greatly enhanced the permanent protection of this world-class preserve.

Senator Evans's intimate knowledge and deep personal regard for the Park dates from his early days as a Boy Scout at Camp Parsons. During the 1970s, as governor, he led the effort to add the stunning, unprotected northern coast of Shi Shi Beach and Point of the Arches to the Park. Later as U.S. senator, Evans expanded his legacy of conservation leadership in Olympics by providing critical leadership that resulted in passage of the 1984 Washington Wilderness Act (which protected some 90,000 acres of Forest Service lands in the Olympics), and an Olympic Park boundary adjustment bill two years later that added critical areas to the Park and established ecological watershed boundaries between Olympic Park and the National Forest.

Senator Evans's leadership in passing the Washington Parks Wilderness Act of 1988, which secured permanent protection for 95 percent of Olympic National Park, crowned a lifetime of passionate engagement with one of the world's most treasured landscapes.

Few if any of these accomplishments would have happened without Senator Evans's leadership.

We are pleased that the Olympic Peninsula tribes are being consulted as part of this process. It is entirely fitting that Senator Evans's name be forever associated with a landscape he spent a lifetime working to protect. Thank you for your efforts to make this a reality.

Sincerely,

A handwritten signature in black ink, appearing to read "Donna Osseward", is written over a faint, dotted rectangular background.

Donna Osseward
President, Olympic Park Associates

P.O. Box 3879 p 301.740.3388 www.pentagonmemorial.org
 Gaithersburg, MD 20885 f 301.560.3401



April 11, 2016

The Honorable Lisa Murkowski
 Chairman
 U.S. Senate Committee on Energy & Natural Resources
 304 Dirksen Senate Building
 Washington, DC 20510

Dear Chairman Murkowski:

As leaders of organizations with missions related to honoring and remembering the victims of 9/11, we continue to work closely with the National September 11 Memorial & Museum, and appreciate the commitment that the organization has made to honoring the victims and to preserving this sacred site.

We are writing to extend our support of the *National 9/11 Memorial at the World Trade Center Act* (H.R. 3036), which would designate the 9/11 Memorial at the World Trade Center site as a national memorial and provide competitive grant funding for the operations, maintenance and security of this world-class Memorial, which honors the 2,983 people killed in the terror attacks of September 11, 2001 at the World Trade Center site, near Shanksville, Pa., and at the Pentagon, as well as the six people killed in the World Trade Center bombing on February 26, 1993.

On February 9, 2016, H.R. 3036 passed the House of Representatives with overwhelming support in a 387-12 vote. We urge you to pass this bill in the Senate and in advance of the 15th anniversary of the attacks on our nation.

Since its opening on the 10th anniversary of the attacks, over 25 million people from every state in the nation and over 170 foreign countries have visited the 9/11 Memorial to honor the victims, celebrate our nation's resilience and to stand on the very site where the attacks occurred. The Memorial's twin reflecting pools are each nearly an acre in size and located within the footprints where the Twin Towers once stood and where they came down. The sheer numbers and positive visitor feedback underscores the importance that people from all over the world place on coming to this sacred site to remember, reflect and learn.

This beautiful and inspiring Memorial was realized through an unprecedented public-private partnership. As we approach the 15th Anniversary of the attacks, it is crucial that the federal government take a stake in the future of this national tribute, which has become a symbol of hope and our nation's resilience.

Thank you for your consideration.

Sincerely,



James J. Laychak
President, Pentagon Memorial Fund
Brother of Dave Laychak

cc:

The Honorable Maria Cantwell, Ranking Member
The Honorable Bill Cassidy, Chairman, Subcommittee on National Parks
The Honorable Martin Heinrich, Ranking Member,
Subcommittee on National Parks

Subject: FW: H.R. 3036 - For the Record

June 24, 2016

For the Record

Dear Members and Staff of the Senate Energy & Natural Resources Committee:

I am writing to let you know that I, as a 9/11 family member, support H.R. 3036. My sister Lorraine Mary Greene Lee was killed during the attacks at the World Trade Center that day. Lorraine was an administrative assistant working on the 101st floor in the second tower. After 9/11, in order to ensure my sister was remembered along with all those who perished, I served on the LMDC Family Advisory Committee and was very active in advocating for a proper memorial and museum to remember all the heroes of that day.

I am proud of the memorial and museum we have built with the loving input of family members. It is a poignant tribute to those who lost their lives. I am truly appreciative of the commitment that the National September 11 Memorial & Museum has made honoring the victims and preserving the history of this sacred site. Many people say "We will never forget," so let's show my sister and all she died with on that day that we really mean those words by designating their place of remembrance as a National Memorial. The National September 11 Memorial located at the World Trade Center truly does deserve this designation.

I know there have been some misrepresentations of what this bill is about, but my family and I understand that the intention of the bill is to formally designate the outdoor, 9/11 Memorial Plaza as a true National Memorial. It also authorizes the Memorial to seek grant funding through the Department of the Interior for operations, maintenance, and security of the Memorial Plaza, though no funding is guaranteed. My family believes that these provisions will help ensure that the federal government has a stake in the future of this national tribute, which is a true symbol of the resilience of this great nation.

The sheer numbers and positive feedback from visitors show just how important the National September 11 Memorial & Museum is to Americans and people from all over the world. They see this sacred site as a place to remember and reflect on the 2,983 people killed in the terror attacks of September 11, 2001 at the World Trade Center site, those killed near Shanksville, Pa., and at the Pentagon, as well as the six people killed in the World Trade Center bombing on February 26, 1993. This memorial and museum pays tribute to them all.

As the fifteenth anniversary of those terrible attacks on our country and fellow countrymen approaches, it would be fitting to finally designate the memorial and museum dedicated to their memory as a National Memorial. Please make this a reality by voting for H.R. 3036.

Thank you.

Patricia Reilly
310 Philip Avenue
Staten Island, NY 10312

Senator Bill Cassidy, MD, Chairperson
703 Hart Senate Office Building
Washington, DC 20510

I am writing this for the permanent record to oppose H.R. 3036, the 9/11 Memorial Museum Bill. Please make sure Senator Cassidy reads my letter. I am Deputy Chief (retired) FDNY Jim Riches who served 32 years in Fire Dept of NYC. I led search and recovery operations from Sept. 11, 2001 until closing of WTC site on 5/30/02. I am also a 9/11 family member whose Firefighter son Jimmy Riches FDNY Engine 4, died in the North Tower on 9/11/01.

The 9/11 Memorial Museum is a NOT FOR PROFIT organization which runs the Museum. The Museum staff have outrageous six figure salaries, Pres Joe Daniels, political appointee of then Mayor Michael Bloomberg, makes close to \$500,000.00. far above a similar position at National Parks Service. Numerous other cronies have huge six figure salaries. Great to know that when children raise money from cookie sales thinking they are doing a patriotic deed, they are paying these huge salaries. Some have also left the employment of the 9/11 Memorial Museum and collected six figure buyout packages, bonuses like baseball players. They are getting rich off our dead sons and daughters. A \$24 dollar admission fee is way too high. It is supposed to be a museum for all to see not just the rich.

Security at site is handled by New York Police Dept. and the Port Authority Police Dept which the 9/11 Memorial Museum gives absolutely nothing. Thousands of human remains were recovered at WTC. I know because I was there 9 months and picked up many remains including those of my son, Firefighter Jimmy Riches. Of the close to 3,000 who perished at World Trade Center close to 1,100 families have never received even one piece of their loved one. Close to 8,000 unidentified human remains are stored in the basement of the admission charging museum against the wishes of the majority of 9/11 families. The Museum will not poll the families about their final resting place. All of the family polls say the families want them out of museum.

To reward these greedy 9/11 board members with \$25 million dollars, no questions asked and no input into how money will be spent is outrageous. Don't waste taxpayer money to make them rich. We, the family members, hope that the National Parks Service would at some time in the near future take complete control of 9/11 Memorial Museum, and bring some respect and dignity to the WTC site. Joe Daniels and his crew do whatever they please down there without regard for the feelings of the 9/11 family members and line their pockets with money and then hire lobbyists to get even more money from Washington. Shame on anyone who creates the illusion that it is patriotic to donate to the 9/11 Memorial Museum, but only make themselves rich. Put National Parks Service in charge of 9/11 Museum and rein in bloated salaries and bring admission fee down to reasonable amount and bring dignity and respect to WTC site and listen to all 9/11 family members. Vote no on H.R. 3036. Those who died on 9/11/01 deserve better.

Deputy Chief Jim Riches FDNY (retired) 1003 Shore Pkwy Bklyn NY 11228 917-692-1199
Father of Firefighter Jimmy Riches Engine 4 FDNY 29 years old



SERGEANTS BENEVOLENT ASSOCIATION

POLICE DEPARTMENT, CITY OF NEW YORK

35 WORTH STREET, NEW YORK, NY 10013

212.226.2180 FAX 212.431.4280

www.sbanyc.org

June 10, 2016

EDWARD D. MULLINS
PRESIDENT

ROBERT GANLEY
VICE PRESIDENT

PAUL A. CAPOTOSTO
TREASURER

VINCENT VALLELONG
RECORDING SECRETARY

GARY DeROSA
FINANCIAL SECRETARY

ANTHONY BORELLI
HEALTH & WELFARE
SECRETARY

VINCENT GUIDA
CITY-WIDE SECRETARY

The Honorable Bill Cassidy
Chairman,
Subcommittee on National Parks
Committee on Energy & Natural
Resources
United States Senate
Washington, DC 20510

The Honorable Martin Heinrich
Ranking Member,
Subcommittee on National Parks
Committee on Energy & Natural
Resources
United States Senate
Washington, DC 20510

Dear Mr. Chairman and Senator Heinrich:


I am writing on behalf of the more than 13,000 members of the Sergeants Benevolent Association of the New York City Police Department (SBA) to thank you for scheduling the hearing on H.R. 3036, the "9/11 Memorial Act." The SBA strongly supports this legislation, which passed the House of Representatives on February 9, 2016 and we respectfully request that that the bill be advanced to the full Senate as expeditiously as possible.

Built upon the site where the Twin Towers once stood, the National September 11 Memorial symbolizes the honor and regard we hold for all those killed in the 9/11 terrorist attacks. In addition to being a tribute to the many lives cut short on 9/11, the memorial is also a reminder of the strength and resilience embodied by thousands of police officers, firefighters, and other Americans who came to New York's aid in the aftermath of the attacks. It is for these reasons and many others that the National September 11 Memorial should be designated a national memorial as required by H.R. 3036. By designating this facility a "national memorial" H.R. 3036 allows the National September 11 Memorial to apply for grants to assist with security, operation, and maintenance. This will help to ensure that this memorial retains its place as an integral part of our nation's tribute to the heroes and victims of 9/11.

On behalf of the membership of the Sergeants Benevolent Association, thank you again for your consideration of this legislation. Please do not hesitate to contact me, or our Washington Representatives Andrew Siff and Chris Granberg at (202) 457-7756, if we can be of any further assistance.

Sincerely,

Ed Mullins
President

 THE TULALIP TRIBES		The Tulalip Tribes are the successors in interest to the Snohomish, Snoqualmie, and Skykomish tribes and other tribes and band signatory to the Treaty of Point Elliott
Board of Directors: Mel Sheldon Jr., Chairman Marie Zackuse - Vice Chairman Les Parks - Treasurer Bonnie Juneau - Secretary Glen Gobin, Ti Cetz- Council Member Theresa Sheldon - Council Member Herman Williams, Leib Sil Teod - Council Member Misty Napeahi- Tribal Government General Manager	NATURAL AND CULTURAL RESOURCE DEPARTMENT 6406 Marine Drive Tulalip, WA 98271-9694 (360) 716-4480 FAX (360) 716-0642	
Chairman Bill Cassidy and Ranking Member Martin Heinrich Subcommittee on National Parks, Energy and Natural Resources Committee 304 Dirksen Senate Office Building Washington, DC 20510 13 June 2016 Re: Tulalip Tribes' Opposition to S. 1690, Designation of Mountains To Sound Greenway Heritage Area Dear Senator Cassidy and Senator Heinrich, The Tulalip Tribes wish to communicate our opposition to Senate Bill 1690, designating the "Mountains to Sound Greenway" in Washington State as a Heritage Area. The Tulalip Tribes is a federally recognized sovereign Indian tribe with a reservation in western Washington. The Tulalip Tribes is the successor in interest to the Snohomish, Snoqualmie and Skykomish tribes, and other tribes and bands signatory to the Treaty of Point Elliott of 1855. Through this treaty, the Tulalip Tribes expressly reserved rights necessary to continue our lifeway activities, including hunting and to gathering traditional foods, medicines and materials on all "open and unclaimed" lands, and to fish and gather shellfish in usual and accustomed places, which includes a majority of the lands in the proposed Heritage Area. We do not support a new "Heritage Area" designation in our ancestral territories where we have reserved treaty rights, and for which we were not alerted nor consulted during the long process leading up to this proposal in Congress. National Heritage Areas, by definition, are meant to "tell nationally important stories". Our story in this area reaches back to "time immemorial", and to what archaeologists trace back nearly 14,000 years. Yet our story has not been requested nor, as far as we can tell, is intended to be told through this designation. Characterizing our area's history by once again starting with European explorers, railroads and timber barons, does a profound injustice to us, as Native peoples of this area. Focusing on merely the last 200 to 250 years, as outlined in the feasibility study addendum submitted for this proposal (2014), perpetuates the myth that our area's history began in earnest with western explorers and settlement. Such an approach continues to ignore or simplify the very deep roots and complex relationships of our peoples to these lands over time, as well as our current association with and rights in these areas. It appears that the nonprofit "Mountains to Sound Greenway Trust" has been working for many years to bring this proposal forward, and has involved a robust Board of Directors, Advisory Board, and technical advisory board comprised of approximately 150 representatives of local, state, federal agencies, businesses,		

nonprofits, environmental and recreational organizations, as well as private citizens. To our knowledge, however, no treaty tribes on the west side of the Cascades, who have reserved rights in a large portion of this area, were briefed or otherwise involved in any way in the development of the current "Heritage Area" designation proposal to Congress.

A celebration of the railroad, logging, mining, and agricultural heritage in our region, as outlined in the feasibility study, appears to be the intended focus of this national designation. To us, these same historical events are seen as the driving forces for disease, decimation of our populations, and the displacement of our people from much of this the area, and represent a very difficult time and decisive turning point in our long history in this area. To elevate and honor that portion of our region's history, without at the same time reconciling its very significant impacts to our people is unacceptable to us.

We respectfully ask that you withdraw the current bill, and work with us and other Point Elliott Treaty Tribes to explore together how to honor and tell the story of our collective regional history, in a way that is honest, open and respectful of our ancestors, safeguards our treaty rights, and seeks to provide for the wise stewardship of the lands and resources in this area for all.

Sincerely,



Melvin Sheldon, Chairman

CC: Senator Lisa Murkowski, Senator Maria Cantwell, Senator Rob Portman, Senator John Barrasso, Senator Lamar Alexander, Senator Mike Lee, Senator John Hoeven, Senator Shelley Moore Capito, Senator Ron Wyden, Senator Bernard Sanders, Senator Debbie Stabenow, Senator Angus King, Senator Elizabeth Warren



June 15, 2016

Senator Lisa Murkowski, Chairperson
Energy and Natural Resources Committee
304 Dirksen Senate Building
Washington, DC 20510

RE: S.2412, the *Tule Lake National Historic Site Establishment Act*

Dear Chairperson Murkowski:

I write to you and members of the Energy and Natural Resources Committee on behalf of the Tule Lake Committee, to express our complete support of Senator Barbara Boxer's bill, S. 2414, the *Tule Lake National Historic Site Establishment Act*, that is on the Committee's agenda today.

The Tule Lake Committee is a non-profit grassroots organization that represents survivors and descendants of Japanese Americans who were incarcerated at Tule Lake during WWII. Since 1974, the Tule Lake Committee has organized multi-day biannual pilgrimages to the Tule Lake site to honor the memory of our forebears who endured mass incarceration — a dark moment in our history that a 1982 Congressional Commission found was caused by racism, wartime hysteria and a failure of political leadership.

For the past 15 years, the Tule Lake Committee has worked with the National Park Service, advocating for and raising funds to preserve this rare historic civil rights site. Tule Lake is unique among the ten American concentration camps that were built to imprison 120,000 Japanese Americans, regardless of U.S. citizenship, as it was the only maximum-security segregation center created to punish those who expressed dissatisfaction with the injustice of the mass incarceration.

BOARD of DIRECTORS
Chair, Hiroshi Shimizu
CFO, Barbara Takei
Secretary, Roy Ikeda
Satsuki Ima
Ken Nomiya
Stan Shikuma

Presently, the Tule Lake concentration camp and segregation center is one among multiple and varied sites that comprise the WWII Valor in the Pacific National Monument, most of which are unrelated to the civil rights story of the Japanese American mass incarceration. Senator Boxer's bill, S. 2414 would rename and separate the Tule Lake Unit from the World War II Valor in the Pacific National Monument, changing its designation to the more illustrative Tule Lake National Historic Site. Renaming the Tule Lake site would provide it with significance and stature equal to that accorded the two other Japanese American wartime incarceration sites managed by the National Park Service, the Manzanar National Historic Site and the Minidoka National Historic Site.

Page 2
June 15, 2016
S.2412, the *Tule Lake National Historic Site Establishment Act*

As one of our nation's most significant historic sites, Tule Lake informs us of troubling but significant events in our nation's history, about a time when our leaders abandoned the rule of law because fear prevailed over reason and justice. The mass eviction from the West coast and incarceration led to tragic destruction of the lives of thousands of innocent Japanese Americans, but a Presidential apology and monetary redress remind us of the greatness of a nation that would acknowledge and right a wrong.

Senator Boxer's bill, S. 2414, will help clarify the nature of what the Tule Lake site represents, and help to tell this important American story. The Tule Lake Committee urges members of the Senate's Energy and Natural Resources Committee to support S. 2414, which will help provide the public a better understanding of Tule Lake as a nationally significant historic site.

Thank you for your consideration of S. 2414, the *Tule Lake National Historic Site Establishment Act*.

Sincerely,

A handwritten signature in black ink, appearing to read "Barbara Takei". The signature is fluid and cursive, with a long horizontal stroke at the end.

Barbara Takei

April 18, 2016

The Honorable Lisa Murkowski
Chairman
U.S. Senate Committee on Energy & Natural Resources
304 Dirksen Senate Building
Washington, DC 20510

Dear Chairman Murkowski:

As leaders of organizations that partner with the National September 11 Memorial & Museum to advance its mission, we appreciate the commitment that the organization has made to honoring the victims and to preserving this sacred site.

We are writing to extend our support of the ***National 9/11 Memorial at the World Trade Center Act*** (H.R. 3036), which would designate the 9/11 Memorial at the World Trade Center site as a true national memorial and provide competitive grant funding for the operations, maintenance and security of this world-class Memorial, which honors the 2,983 people killed in the terror attacks of September 11, 2001 at the World Trade Center site, near Shanksville, Pa., and at the Pentagon, as well as the six people killed in the World Trade Center bombing on February 26, 1993.

On February 9, 2016, H.R. 3036 passed the House of Representatives with overwhelming support in a 387-12 vote. We urge you quickly to pass this bill in the Senate and in advance of the 15th anniversary of the attacks on our nation.

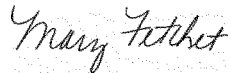
Since its opening on the 10th anniversary of the attacks, over 25 million people from every state in the nation and over 170 foreign countries have visited the 9/11 Memorial to honor the victims, celebrate our nation's resilience and to stand on the very site where the attacks occurred. The Memorial's twin reflecting pools are each nearly an acre in size and located within the footprints where the Twin Towers once stood and where they came down. The sheer numbers and positive visitor feedback underscores the importance that people from all over the world place on coming to this sacred site to remember, reflect and learn.

This beautiful and inspiring Memorial was realized through an unprecedented public-private partnership.

Now, as we approach the 15th Anniversary of the attacks, it is crucial that the federal government take this stake in the future of this national tribute, which has become a symbol of hope and our nation's resilience.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Mary Fetchet".

Mary A. Fetchet, mother of Brad Fetchet, South Tower
Founding Director, Voices of September 11th

A handwritten signature in black ink, appearing to read "William Keegan".

Bill Keegan
Founder, President, Heart 9/11

A handwritten signature in black ink, appearing to read "Aaron M. Leonard".

Aaron Leonard, USA (Ret)
Executive Director, Project Rebirth

A handwritten signature in black ink, appearing to read "Edie Lutnick".

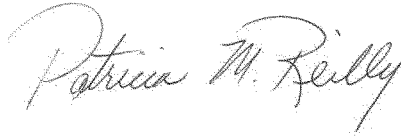
Edie Lutnick, sister of Gary Lutnick, North Tower
Co-Founder, Executive Director, Cantor Fitzgerald Relief Fund

A handwritten signature in black ink, appearing to read "David".

David Paine, Co-Founder, 9/11 Day/MyGoodDeed, "9/11 National Day of Service and Remembrance"

A handwritten signature in black ink, appearing to read "JP".

Jeff Parness
Founder, Executive Director, Board Member, New York Says Thank You Foundation

A handwritten signature in cursive script that reads "Patricia M. Reilly".

Patricia Reilly, sister of Lorraine Lee, South Tower
Chairman, September 11th Education Trust

A handwritten signature in cursive script that reads "Paul Rieckhoff".

Paul Rieckhoff
Founder and CEO, Iraq and Afghanistan Veterans of America (IAVA)

A handwritten signature in cursive script that reads "Terry Grace Sears".

Terry Grace Sears
Executive Director, Tuesday's Children

A handwritten signature in cursive script that reads "Jennifer Adams-Webb".

Jennifer Adams-Webb
Chief Executive Officer, 9/11 Tribute Center, a project of the
September 11th Families Association

A handwritten signature in cursive script that reads "Jay Winuk".

Jay Winuk, brother of Glenn J. Winuk, Volunteer Firefighter killed on 9/11
Co-Founder, EVP, 9/11 Day/MyGoodDeed, "9/11 National Day of Service and
Remembrance"

cc: The Honorable Maria Cantwell, Ranking Member
The Honorable Bill Cassidy, Chairman, Subcommittee on National Parks
The Honorable Martin Heinrich, Ranking Member,
Subcommittee on National Parks

Dear Members and Staff of the Senate Energy & Natural Resources Committee:

As a 9/11 family member of a first responder who died in the line of duty on 9/11, I appreciate the commitment that the National September 11 Memorial & Museum has made to honoring the victims and to preserving the sacred World Trade Center site. I am therefore writing to extend my support of the National 9/11 Memorial at the World Trade Center Act (H.R. 3036).

My brother Glenn J. Winuk was a partner at a law firm situated very close to the WTC. For almost 20 years Glenn was also a highly trained volunteer firefighter and EMT. When the towers were hit, Glenn helped evacuate his law offices and headed on foot west toward the South Tower to participate in the rescue effort. He perished when that building collapsed. To our family, and to countless others, the site of the 9/11 Memorial is sacred ground and the Museum itself is a singular and historic treasure, an essential place to visit, learn and confer for people worldwide.

This legislation would designate the 9/11 Memorial at the World Trade Center site as a true national memorial and provide competitive grant funding for the operations, maintenance and security of this world-class Memorial, which honors the 2,983 people killed in the terror attacks of September 11, 2001, at the World Trade Center site, near Shanksville, PA, and at the Pentagon, as well as the six people killed in the World Trade Center bombing on February 26, 1993.

It is worth noting that on February 9, 2016, H.R. 3036 passed the House of Representatives with overwhelming support in a 387-12 vote.

I urge you quickly to pass this bill in the Senate and in advance of the 15th anniversary of the attacks on our nation.

Since its opening on the 10th anniversary of the attacks, more than 26 million people from every state in the nation and more 170 foreign countries have visited the 9/11 Memorial to

honor the victims, celebrate our nation's resilience and stand on the very site where the attacks occurred.

The volume of visitors and positive visitor feedback about experiences at the site underscore the importance that people from all over the world place on coming to this sacred site to remember, reflect and learn.

This beautiful and inspiring Memorial was realized through an unprecedented public-private partnership. **Now, as we approach the 15th anniversary of the attacks, it is crucial that the federal government take this stake in the future of this national tribute, which has become a symbol of hope and our nation's resilience.**

Thank you for your consideration.

Sincerely,
Jay Winuk

Jay S. Winuk
President - Winuk Communications, Inc.
Co-founder, EVP – MyGoodDeed, "9/11 National Day of Service and Remembrance"
845-277-1160 (direct)
914-523-3227 (cell)
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www.911day.org

[Watch our Born on 9/11 Video](#)

