

NATIONAL PARKS LEGISLATION

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

S. 1897	S. 2286
S. 2158	S. 2316
S. 2229	S. 2324
S. 2267	S. 2372
S. 2272	S. 3078
S. 2273	S. 3300

JUNE 27, 2012



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NATIONAL PARKS LEGISLATION

WEDNESDAY, JUNE 27, 2012

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

The subcommittee met, pursuant to notice, at 3:03 p.m. in room SD-366, Dirksen Senate Office Building, Hon. Jeff Bingaman, chairman, presiding.

OPENING STATEMENT OF HON. JEFF BINGAMAN, U.S. SENATOR FROM NEW MEXICO

The CHAIRMAN. OK. Why don't we have the hearing come to order?

This is a hearing Senator Udall would normally Chair. He's the Chair of the Subcommittee on National Parks. But he's not able to do it today. So I'm going to go ahead.

We're considering 12 bills that cover a variety of National Park related issues. In the interest of time I won't read the bill titles. Instead I'll include the complete list of bills in the hearing record.

I'd like to briefly comment on one of the bills which is S. 3300. That's a bill that I've introduced along with Senators Cantwell and Murray and Alexander and Udall, of New Mexico, to establish the Manhattan Project National Historical Park. This is a multi-state National Park with units in New Mexico, Tennessee and Washington.

The Manhattan Project which was a top secret effort to create an atomic bomb during the Second World War has been described as the single, most significant event of the 20th century. While its legacy is complicated, it changed the course of history and is of national and international significance. For those reasons I believe it's important for future generations to learn about it and from it. By establishing these sites in Los Alamos and Hanford and Oak Ridge as a National Park, it's my hope that visitors will soon have improved public access and a better understanding of the historical significance of the Manhattan Project. There's strong local support in Los Alamos.

In fact I'm advised that Heather McClenahan is here. Where's Heather? She is the Executive Director of the Los Alamos Historical Society. She's testifying in the House side on this same legislation tomorrow, as I understand it.

So there is strong support in Los Alamos. I understand there is also similar local enthusiasm in Washington State and in Tennessee. We have worked for several months with the Park Service

and the Department of Energy to try to find the appropriate language to allow the Park Service to protect and interpret the historic resources while not interfering with the mission of the Department of Energy.

We'll continue to work with the agencies to perfect the bill as necessary. I hope we can get the bill ready for mark up in the near future.

So let me call on Senator Murkowski for any statement she has before I introduce our witnesses.

**STATEMENT OF HON. LISA MURKOWSKI, U.S. SENATOR
FROM ALASKA**

Senator MURKOWSKI. Thank you, Mr. Chairman. As you are filling in for the Chair of the Subcommittee here, I am filling in for the ranking member, Senator Paul, who is also not able to make it.

I appreciate the opportunity though to speak to a couple of the bills that are on the calendar here this afternoon.

S. 2272 and S. 2273, both focus on probably the most storied and photographed geographic feature in, certainly in Alaska and perhaps in the country. Mount McKinley is the tallest mountain in the United States. We, as Alaskans, aren't shy about reminding folks about how big and how beautiful it is and that it is ours.

In Alaska that mountain is referred to as something else. We don't refer to it as Mount McKinley. We just call it Denali. That's what we've always called it.

Denali is an Alaskan native word, an Athbascan word. It means the "high one." As you think about this incredible mountain, you think that's pretty appropriately named.

All S. 2272 does it make that name official. I know that the name Mount McKinley has some special significance to the folks in Ohio because of President William McKinley. My response to those folks is you're more than welcome to go right on referring to the mountain as Mount McKinley, just as Alaskans have always referred to the mountain as Denali. All that's changing is that the Alaskan name is becoming, technically, correct for an Alaskan landmark.

The other bill that I've introduced that is on the calendar today is S. 2273. It's also a renaming piece of legislation. It also revolves around the history of Denali.

Next June will mark the 100th year anniversary of the first successful summit of the mountain. It's probably well past time that we did something to permanently honor the man who did that. The gentleman's name was Walter Harper. He's an Alaska native. He was the first person to reach the summit of Denali. He did it on Sunday, June 7, 1913.

So what this legislation does is renames the Talkeetna Ranger Station in Alaska to the Walter Harper Talkeetna Ranger Station. It's a station. This is the station where anybody who is planning on climbing the mountain has to stop to get their permit, get their mountain orientation. So it seems fitting to me that hopeful Denali climbers get their mountain orientation at a building named for the first man to ever successfully do the same climb.

Now clearly these are little bills in the big picture of things that we do around here. I understand that. But I also understand, as I know the Chairman does, that it's the little things that sometimes matter a great deal to our communities.

Making Denali the name that Alaskans use anyway, the official name of America's tallest mountain means something to Alaska.

Honoring a man like Walter Harper by renaming the ranger station that serves as the base for all National Parks? operation in Denali National Park, also means something.

So I thank the Chairman for giving me the chance to speak on these 2 bills. Will look forward to the comments from the witnesses.

The CHAIRMAN. Alright. We have 2 panels.

Our first panel is two Administration witnesses.

Mr. Herbert Frost, who is the Associate Director of the National Resource Stewardship and Sciences in the National Park Service in the Department of Interior. Thank you for being here.

Ms. Ingrid Kolb is the Director of the Office of Management in the Department of Energy. Thank you for being here.

So why don't you folks proceed in which ever order you'd like. Give us your views on the various bills pending before the committee today. Then we'll have some questions.

STATEMENT OF HERBERT FROST, ASSOCIATE DIRECTOR, NATURAL RESOURCES STEWARDSHIP AND SCIENCE, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. FROST. Mr. Chairman, thank you for the opportunity to appear before the subcommittee today to present the Department of the Interior's view on the 12 bills that are 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.

The CHAIRMAN. We'll include the full statement for these 2 witnesses and the witnesses on the second panel as well.

Mr. FROST. The Administration supports S. 3300. This bill would establish the Manhattan Project National Historical Park in Oak Ridge, Tennessee, Los Alamos, New Mexico and Hanford, Washington. This legislation would enable the National Park Service to work in partnership with the Department of Energy to ensure the preservation of key resources associated with the Manhattan Project and to increase public awareness and understanding of this consequential effort.

We appreciate the language specifically providing for amendments to the initial agreement and the broad range of authority for the Secretary of the Interior as these provisions will give the National Park Service the flexibility to shape the park over time and to provide the promotion and education and interpretation related to the Park's purpose. We are continuing to review the bill for any amendments that might be needed.

The Department supports the following 3 bills with amendments which are described in our full statements.

S. 1897, which would revise the boundaries of Gettysburg National Military Park to include the Gettysburg Train Station.

S. 2229, which would authorize the issuance of right-of-way permits for natural gas pipelines in Glacier National Park.

S. 2324, which would authorize a study of a segment of the Neches River in the State of Texas for the potential addition to the National Wild and Scenic River system.

The Department also supports S. 2316, which would designate the Salt Pond Visitor Center at Cape Cod National Seashore as the Thomas P. O'Neill, Jr. Salt Pond Visitor Center.

The Department has no objections to S. 2272 or S. 2273.

S. 2272 would designate a mountain in the State of Alaska as Mount Denali.

S. 2273 would designate the Talkeetna Ranger Station in Talkeetna, Alaska as the Walter Harper Talkeetna Ranger Station.

The Department recommends that the committee defer action on S. 2286 and S. 2158.

S. 2158 would establish the Fox-Wisconsin Heritage Parkway National Heritage Area. The National Park Service has made a preliminary finding that the feasibility study does not demonstrate that the proposed area meets the National Heritage Area study interim criteria. The NPS anticipates completing its final review of the study within 1 month.

S. 2286 would designate certain segments of the Farmington River and Salmon Brook in the State of Connecticut as components of the National Wild and Scenic River System. We recommend not taking action on the bill until the study is completed.

S. 2267 would reauthorize funding for the Hudson River Valley National Heritage Area for 10 years. We recommend that S. 2267 be amended to authorize an extension to the Heritage Area's funding until we have completed an evaluation and report on its accomplishments and the future role of the National Park Service in the Heritage Area. We also recommend enacting a Heritage Area program legislation that standardizes timeframes and funding for designated National Heritage Areas.

S. 3078 would direct the Secretary of the Interior to install in the area of the World War II Memorial a suitable plaque or inscription with the words President Franklin D. Roosevelt prayed on July 6, 1944, the morning of D-Day. The Department appreciates the efforts of Senator Portman to work with the National Park Service on this legislation. If directed by Congress pursuant to this legislation, the Park Service will work to find an appropriate location for the plaque in accordance with the Commemorative Works Act process, as directed in Section Three of this legislation. We support the continued application of the Commemorative Works Act as a vehicle for citing and designing the plaque including important design reviews and public consultation.

S. 2372 would overturn the off road vehicle management plan at Cape Hatteras National Seashore and reinstate the defunct interim strategy. The Department strongly opposes S. 2372 because we believe that the final ORV management plan and special regulation will allow appropriate public use and access at the seashore to the greatest extent possible while also ensuring wildlife protection, providing a variety of visitor use experiences, minimizing conflicts among various users and promoting the safety of all visitors.

Mr. Chairman, this concludes my statement. I'd be pleased to answer any questions.

[The prepared statement of Mr. Frost follows:]

PREPARED STATEMENT OF HERBERT FROST, ASSOCIATE DIRECTOR, NATURAL RESOURCES STEWARDSHIP AND SCIENCE, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

S. 1897

Mr. Chairman, members of the subcommittee, thank you for the opportunity to present the views of the Department of the Interior on S. 1897, a bill to add the historic Lincoln Train Station in the Borough of Gettysburg and 45 acres at the base of Big Round Top to Gettysburg National Military Park in the Commonwealth of Pennsylvania.

The Department supports enactment of this legislation with a technical amendment.

Gettysburg National Military Park protects major portions of the site of the largest battle waged during this nation's Civil War. Fought in the first three days of July 1863, the Battle of Gettysburg resulted in a victory for Union forces and successfully ended the second invasion of the North by Confederate forces commanded by General Robert E. Lee. Historians have referred to the battle as a major turning point in the war—the "High Water Mark of the Confederacy." It was also the Civil War's bloodiest single battle, resulting in over 51,000 soldiers killed, wounded, captured or missing.

The Soldiers' National Cemetery within the park was dedicated on November 19, 1863, when President Abraham Lincoln delivered his immortal Gettysburg Address. The cemetery contains more than 7,000 interments including over 3,500 from the Civil War. The park currently includes nearly 6,000 acres, with 26 miles of park roads and over 1,400 monuments, markers, and memorials.

Gettysburg's Lincoln Train Station was built in 1858 and is listed on the National Register of Historic Places. The station served as a hospital during the Battle of Gettysburg, and the wounded and the dead were transported from Gettysburg through this station in the aftermath of battle. President Abraham Lincoln arrived at this station when he visited to give the Gettysburg Address.

Gettysburg National Military Park's 1999 General Management Plan called for expanding cooperative relationships and partnerships with the Borough of Gettysburg and other sites "to ensure that resources closely linked to the park, the battle, and the non-combatant civilian involvement in the battle and its aftermath are appropriately protected and used." In particular, the plan stated that the National Park Service would initiate "cooperation agreements with willing owners, and seek the assistance of the Borough of Gettysburg and other appropriate entities to preserve, operate and manage the Wills House and Lincoln Train Station."

The Borough of Gettysburg Interpretive Plan called for the Lincoln Train Station to be used as a downtown information and orientation center for visitors—where all park visitors would arrive after coming downtown—to receive information and orientation to downtown historic attractions, including the David Wills House. This is the house where Lincoln stayed the night before delivering the Gettysburg Address. The Interpretive Plan also called for rehabilitation of the Wills House, which was added to the park's boundary through Public Law 106-290 in October 2000, and is now a historic house museum in the borough and an official site within Gettysburg National Military Park. Through a Memorandum of Understanding, the David Wills House is operated by the Gettysburg Foundation in conjunction with the National Park Service.

The Lincoln Train Station is next to the downtown terminus of Freedom Transit, Gettysburg's shuttle system, which started operations in July 2009 with a grant from the Federal Transit Administration in the Department of Transportation.

In 2006, the Borough of Gettysburg completed rehabilitation of the Lincoln Train Station with funds from a Commonwealth of Pennsylvania grant. Due to a lack of funds, however, the borough has been unable to operate a visitor information and orientation center there. Through formal vote of the Borough Council, the Borough of Gettysburg has asked the National Park Service to take over the ownership and operations of the train station. The anticipated acquisition cost for the completely rehabilitated train station is approximately \$772,000, subject to an appraisal by the federal government. It is expected that funding to acquire this land would not come from federal appropriations but would be provided by non-governmental entities.

The park has a preliminary commitment from the Gettysburg Convention and Visitor Bureau (CVB) to provide all staffing requirements for operations of an information and orientation center in the train station, thereby alleviating the park of staff costs. Anticipated operating costs for the train station that will be the responsibility of the NPS are limited to utility costs, with the rest being paid by the Gettysburg CVB. In the event that the Gettysburg CVB is unable to provide staffing and

funding for operations, the NPS would seek another park partner to cover these costs and requirements.

This legislation would also add 45 acres near Big Round Top along Plum Run in Cumberland Township, Pennsylvania, to the boundary of the park. The 45-acre tract of land is adjacent to the Gettysburg National Military Park and is within the Battlefield Historic District. The land is at the southern base of Big Round Top at the southern end of the Gettysburg battlefield. There were cavalry skirmishers in this area during the Battle of Gettysburg, July 1863, but the real significance is environmental. The tract has critical wetlands and wildlife habitat related to Plum Run. Wayne and Susan Hill donated it to the Gettysburg Foundation in April 2009. The Gettysburg Foundation plans to donate fee title interest in the parcel to the National Park Service once it is within the park boundary. It abuts land already owned by the National Park Service.

The maps referenced on page two of the legislation have been updated and are being submitted for the record. Our technical amendment is to update the map reference to reflect a date of "January 2010" for both maps.

Mr. Chairman, that concludes my testimony. I would be pleased to answer any questions you or members of the committee may have regarding the Department's position on S.1897.

S. 2158

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to appear before your committee to present the Department of the Interior's views on S. 2158, a bill to establish the Fox-Wisconsin Heritage Parkway National Heritage Area, and for other purposes.

The Department recommends that the committee defer action on S. 2158. The National Park Service (NPS) has made a preliminary finding that the feasibility study, conducted by the Fox-Wisconsin Heritage Parkway, does not demonstrate that the proposed area meets the Service's national heritage area study interim criteria. The NPS anticipates completing its final review of the study within one month.

In addition, the Department recommends deferring action on S. 2158 until program legislation is enacted that establishes criteria to evaluate potentially qualified national heritage areas and a process for the designation and administration of these areas. 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 would provide a much-needed framework for evaluating proposed national heritage areas, offering guidelines for successful planning and management, clarifying the roles and responsibilities of all parties, and standardizing timeframes and funding for designated areas.

S. 2158 would establish the Fox-Wisconsin Heritage Parkway National Heritage Area (NHA), with the Fox-Wisconsin Heritage Parkway, a non-profit organization, as the local coordinating entity. The legislation includes standard language for national heritage area designation bills regarding the proposed area's administration, management plan, and funding. The proposed Fox-Wisconsin Heritage Parkway NHA runs through parts of 15 counties throughout Wisconsin and marks the path of Father Jacques Marquette's and Louis Joliet's exploration from the Great Lakes, through Wisconsin, to the Mississippi River, in 1673. Their voyage eventually led to the establishment of European settlements in the Mississippi River corridor. The proposed Fox-Wisconsin Heritage Parkway NHA includes approximately 1,400 square miles of land in central and southeastern Wisconsin, including Brown, Calumet, Columbia, Crawford, Dane, Fond du Lac, Grant, Green Lake, Iowa, Marquette, Outagamie, Richland, Sauk, Waushara, and Winnebago counties.

Prior to beginning any effort to designate an area as a national heritage area, the National Park Service 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 Fox-Wisconsin Heritage Parkway organization prepared a feasibility study in 2010. It did a great deal of research and planning, and conducted extensive civic engagement activities across the area which involved numerous organizations, agencies, businesses, and individuals in discussions about the potential heritage area. Although the National Park Service considers a strong level of community support and a solid organizational framework to be important ingredients for a successful heritage area, the primary consideration for the NPS is whether a proposed area contains an assemblage of natural, cultural, historic and scenic resources that, when

linked together, tell a nationally important story. The preliminary finding of the NPS is that the proposed area does not meet this criteria.

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

S. 2229

Mr. Chairman, thank you for the opportunity to appear before your committee to present the views of the Department of the Interior on S. 2229, a bill to authorize the issuance of right-of-way permits for natural gas pipelines in Glacier National Park, and for other purposes.

The Department supports S. 2229 with amendments. The Department testified in support of H.R. 4606, an identical bill, before the House Subcommittee on National Parks, Forests and Public Lands on June 8, 2012. S. 2229 would provide authority for the National Park Service to grant a right-of-way permit for any natural gas pipeline that is located within Glacier National Park as of March 1, 2012, subject to certain conditions.

Currently, there is only one natural gas pipeline that runs through Glacier National Park. It was built in 1962 with the permission of the park superintendent, who may not have known that there was no authority to issue a permit for a gas pipeline. The pipeline passes within the park boundary for approximately 3.5 miles in the right-of-way for U.S. Highway 2. The line is near the southwestern boundary of the park, and in close proximity both to the Middle Fork of the Flathead River, which is designated as a Wild and Scenic River, and the Great Bear Wilderness, managed by the U.S. Forest Service as part of the Flathead National Forest. The pipeline provides natural gas to Kalispell, Montana, and the Flathead Valley, as well as to some park facilities. In 1990, a renewal of the permit was requested. The superintendent at the time recognized that he did not have the proper authority to permit this pipeline. NorthWestern Energy, which owns and operates this pipeline, recently sought a legislative solution to provide the necessary authority.

In 2008, the Flathead National Forest received a request from NorthWestern Energy to place another gas line alongside the existing pipeline (a practice known as twinning). That new line would also pass through Glacier National Park. NorthWestern Energy recently advised the National Park Service that it does not plan to take action on this proposal. However, if this proposal is revived at some point in the future, we would be concerned about potential impacts to park resources including the viewshed along US Highway 2, the Wild and Scenic River Corridor, recommended wilderness, and vegetation. We are, therefore, supportive of limiting permitting authority to the existing natural gas pipeline, as provided for in the legislation.

We recommend amending the legislation in two ways. First, S. 2229 would allow the permitting of a 100-foot right-of-way (50 feet on either side of centerline of the pipeline) through the park. We recommend allowing the width of the proposed right-of-way to be determined cooperatively by the National Park Service and NorthWestern Energy, and described in a permit issued subsequent to the legislation, rather than codified in the legislation itself. This approach would be consistent with legislation passed in 2002 for existing and new natural gas transmission lines in Great Smoky Mountains National Park and in 2005 natural gas pipeline legislation for Delaware Water Gap National Recreation Area. And second, we recommend amending the bill to provide consistency with laws (including regulations) and policies applicable to rights-of-way for natural gas pipelines within units of the National Park System by deleting the reference to 16 U.S.C. 5, because that law addresses utility rights-of-way for other types of utilities than natural gas pipelines. We would be happy to provide the Committee with suggested language for these amendments.

Mr. Chairman, that concludes my statement. I would be happy to answer any additional questions you may have.

S. 2267

Mr. Chairman and members of the subcommittee, thank you for the opportunity to present the views of the Department of the Interior on S. 2267, a bill to reauthorize the Hudson River Valley National Heritage Area (NHA).

The Department recognizes the important work of the Hudson River Valley National Heritage Area to preserve heritage resources in Hudson River Valley between Yonkers and Troy, New York. We recommend that S. 2267 be amended to authorize an extension for heritage area program funding until we have completed an Evaluation and Report on the accomplishments of the area and the future role of the National Park Service; and until heritage area program legislation is enacted that

standardizes timeframes and funding for designated national heritage areas. Consistent with congressional directives in the FY 2009 and FY 2010 Interior Appropriations Acts, the Administration proposed in the FY 2013 Budget focusing most national heritage area grants on recently authorized areas and reducing and/or phasing out funds to well-established recipients to encourage self-sufficiency. The Department would like to work with Congress to determine the future federal role when heritage areas reach the end of their authorized eligibility for heritage program funding. We recommend that Congress enact national heritage legislation during this Congress.

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 would provide a much-needed framework for evaluating proposed national heritage areas, offering guidelines for successful planning and management, clarifying the roles and responsibilities of all parties, and standardizing timeframes and funding for designated areas.

S. 2267, as introduced, would extend the authorization of federal funding for Hudson River Valley for an additional 10 years.

The Hudson River Valley National Heritage Area was established in 1996 by Public Law 104-333. The heritage area includes 250 communities in ten counties bordering the Hudson River for 154 miles of tidal estuary. This includes three million acres of the Hudson Highlands, the Catskill Mountains, rolling farmland and compact villages, as well as small cities and hamlets. The region extends from the confluence of the Mohawk and Hudson Rivers, south to the northern border of New York City.

The mission of this national heritage area is to recognize, preserve and promote the natural and cultural resources of the Hudson River Valley. This is accomplished through a voluntary partnership with communities and citizens, and local, state and federal agencies emphasizing public access, economic development, regional planning and interpretive programs.

Public Law 104-333 designated the Hudson River Valley Greenway Communities Council and the Greenway Heritage Conservancy, Inc. as the local coordinating entities for the NHA. The heritage area management entities facilitate public private partnerships for the preservation of heritage resources and work closely with National Park Service (NPS) staff at Roosevelt-Vanderbilt National Historic Sites. The heritage area's work focuses on regional initiatives for heritage programming, interpretation, and education, preservation and resource stewardship, heritage development and infrastructure, and planning and design.

During its 15 years of existence, the Hudson River Valley National Heritage Area has a significant record of achievement. It has taken the lead on initiatives such as Heritage Weekend which gives visitors the opportunity to discover—or rediscover—many historic, architectural and natural treasures in the state. The heritage area staff has worked tirelessly to connect sites and schools together to create place-based curriculum that can be replicated and used by others through a website that provides academic resources regarding the heritage and culture of the Hudson River Valley. The staff has facilitated the creation of region-wide “shows” focusing on the NHA's nature and culture sub-themes, printed map and guides, and advanced a graphic identity at partner sites. They continue to help communities and trail groups establish a system of trails that link cultural and historic sites, parks, open spaces, and community centers as well as providing public access to the Hudson River.

We recommend a technical amendment to the long title of the bill to make it clear that the bill would extend the authorization for Federal funding for the heritage area instead of reauthorizing the heritage area. While the Hudson River Valley National Heritage Area faces a sunset for its Federal funding, its National Heritage Area designation will not sunset.

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

S. 2272

Mr. Chairman, thank you for the opportunity to present the Department of the Interior's views on S. 2272, a bill to designate a mountain in the State of Alaska as Mount Denali.

The National Park Service appreciates the long history and public interest for both the name Mount McKinley and the traditional Athabascan name, Denali. The Department respects the choice made by this legislation, and does not object to S. 2272.

Located in what is now Denali National Park and Preserve, the highest peak in North America has been known by many names. The National Park Service's administrative history of the park notes that, "The Koyukon called it Deenaalee, the Lower Tanana named it Deenaadheet or Deennadhee, the Dena'ina called it Dghelay Ka'a, and at least six other Native groups had their own names for it.

"In the late 18th century various Europeans came calling, and virtually everyone who passed by was moved to comment on it. The Russians called it Bulshaia or Tenada, and though explorers from other nations were less specific, even the most hard-bitten adventurers were in awe of its height and majesty.

"No American gave it a name until Densmore's Mountain appeared in the late 1880s, and the name that eventually stuck—Mount McKinley—was not applied until the waning days of the nineteenth century," a gesture of support to then-President William McKinley.

In 1975, the State of Alaska officially recognized Denali as the name of the peak, and requested action by the U.S. Board on Geographic Names to do the same.

In 1980, Congress changed the name of Mount McKinley National Park to Denali National Park and Preserve (P.L. 96-487, Section 202), but did not act on the name change for the mountain.

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

S. 2273

Mr. Chairman, thank you for the opportunity to testify on S. 2273, which would designate the Talkeetna Ranger Station in Talkeetna, Alaska, as the Walter Harper Talkeetna Ranger Station.

As the 100th anniversary of the 1913 summit climb of Walter Harper approaches, the National Park Service has no objection to S. 2273, which would name the Denali National Park and Preserve's South District Ranger Station in Talkeetna, Alaska, as the Walter Harper Talkeetna Ranger Station.

Mr. Harper grew up in Alaska, a child of Arthur Harper, a Scottish trader and prospector, and Jennie Harper, an Athabascan Indian from the Koyukuk region. As a young man, he served as an interpreter and guide for the far-flung ministry of Hudson Stuck, an Episcopal archdeacon.

He joined Stuck on an arduous trip in 1913 to reach the summit of North America's highest peak. For nearly three months, the group moved slowly south from Fairbanks and into the high mountains of the Alaska Range. On June 7, 1913, Walter Harper, 21, became the first man to set foot on the summit of Denali, the Athabascan name for the peak, meaning the High One. The archdeacon's journal described their approach: "With keen excitement we pushed on. Walter, who had been in the lead all day, was the first to scramble up; a Native Alaskan, he is the first human being to set foot upon the top of Alaska's greatest mountain, and he had well earned the honor."

Since 1913, thousands of climbers have aimed for the summit. Unlike Mr. Harper, today the vast majority begin their expeditions with an airplane ride out of Talkeetna on the south side of the Alaska Range. The National Park Service ranger station there serves as an orientation center for climbers and other visitors to the Denali region. The community is proud of its varied history as a railroad town, a jumping off point for miners, and in the past several decades as the take-off point for climbing expeditions.

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

S. 2286

Mr. Chairman, thank you for the opportunity to appear before your committee today to present the views of the Department of the Interior on S. 2286, a bill to amend the Wild and Scenic Rivers Act to designate certain segments of the Farmington River and Salmon Brook in the State of Connecticut as components of the Wild and Scenic Rivers System, and for other purposes.

The Department has preliminarily concluded through the National Park Service's draft study of the Lower Farmington River and Salmon Brook that the segments proposed for designation under this bill are eligible for inclusion into the National Wild and Scenic Rivers System. However, we recommend that the committee defer action on S. 2286 until the study is completed, which is consistent with the Department's general policy on legislation designating additions to the Wild and Scenic Rivers System when a study of the subject is pending.

S. 2286 would designate 35.3 miles of the Farmington River and the entire 26.4 miles of its major tributary, Salmon Brook, as part of the Wild and Scenic Rivers

System, to be administered by the Secretary of the Interior. The segments would be managed in accordance with the Lower Farmington River and Salmon Brook Management Plan (June 2011) with the Secretary coordinating administration and management with a locally based management committee, as specified in the plan. The bill would authorize the Secretary to enter into cooperative agreements with the State of Connecticut, the adjoining communities, and appropriate local planning and environmental organizations. S. 2286 would also make an adjustment to the upper Farmington Wild and Scenic River, which was designated in 1994, by adding 1.1 miles to the lower end of that 14-mile designation.

S. 2286 would complete the wild and scenic river designation of the Farmington River in Connecticut by designating all of the mainstem Farmington River segments found to meet the criteria of eligibility and suitability. At the same time, S. 2286 would provide for the continued operation of one existing hydroelectric facility—Rainbow Dam in Windsor—and allow for potential hydroelectric development of existing dams in the Collinsville stretch of the river, which is currently the subject of an active Federal Energy Regulatory Commission (FERC) licensing proceeding sponsored by the Town of Canton.

P.L. 109-370, the Lower Farmington River and Salmon Brook Study Act of 2005, authorized the study of the segments proposed for designation in S. 2286. The National Park Service conducted the study in close cooperation with the adjoining communities, the State of Connecticut, the Farmington River Watershed Association, the Stanley Black & Decker Corporation (owner of Rainbow Dam) and other interested local parties. Although the Wild and Scenic Rivers Act requires the development of a comprehensive river management plan within three years of the date of designation, it has become the practice of the National Park Service to prepare this plan as part of a study of potential wild and scenic rivers when much of the river runs through private lands. This allows the National Park Service to consult widely with local landowners, federal and state land management agencies, local governments, river authorities, and other groups that have interests related to the river prior to any recommendation for designation. Early preparation of the plan also assures input from these entities as well as users of the river on the management strategies that would be needed to protect the river's resources.

Technical assistance provided as a part of the study made possible the development of the Lower Farmington River and Salmon Brook Management Plan (June 2011). This plan is based primarily around local partner actions designed to guide the management of the Lower Farmington River and Salmon Brook with or without a National Wild and Scenic River designation.

While the study has not been finalized, it has preliminarily concluded that the proposed segments of the Lower Farmington River and Salmon Brook are eligible and suitable for inclusion in the National Wild and Scenic Rivers System because of their free-flowing nature and outstandingly remarkable geology, water quality, biological diversity, cultural landscape, recreation values and local authority to protect and enhance these values. These findings substantiate the widely held view of the Farmington River as Connecticut's premier free-flowing river resource for a diversity of natural and cultural values, including one of New England's most significant whitewater boating runs, regionally unique freshwater mussel populations, and outstanding examples of archaeological and historical sites and districts spanning Native American, colonial and early manufacturing periods. Salmon Brook is, in its own right, highly significant for outstanding water quality, significant cold water fishery, and Atlantic salmon restoration potential.

If S. 2286 is enacted, the Lower Farmington River and Salmon Brook would be administered as a partnership wild and scenic river, similar to several other designations in the Northeast, including the upper Farmington River and the Eightmile River in Connecticut. This approach emphasizes local and state management solutions, and has proven effective as a means of protecting outstandingly remarkable natural, cultural and recreational resource values without the need for direct federal management or land acquisition.

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

S. 2316

Mr. Chairman and members of the subcommittee, thank you for the opportunity to appear before you to present the views of the Department of the Interior on S. 2316, a bill to designate the Salt Pond Visitor Center at Cape Cod National Seashore as the "Thomas P. O'Neill, Jr. Salt Pond Visitor Center", and for other purposes.

The Department supports enactment of S. 2316.

S. 2316 would recognize the contributions that former Speaker Thomas (Tip) P. O'Neill, Jr. made toward the protection of the Cape Cod National Seashore by naming the Salt Pond Visitor Center after him. In 1958, Representative Tip O'Neill became one of the first members to support protection of lands on Cape Cod as a national seashore through introduction of legislation in the 85th Congress. This important legislation proposed establishing a 40-mile long national park so every American had the ability to enjoy the marshes, ponds, and wildlife, and pristine sandy beach of Cape Cod.

Representative O'Neill continued these efforts by cosponsoring bills in the 86th and 87th Congress, testifying at hearings, and advocating for support of the legislation that led to Public Law 87-126, which established Cape Cod National Seashore when it was signed into law by President John F. Kennedy on August 7, 1961. Tip O'Neill publicly acknowledged that the legislation to establish the national seashore was a group effort and praised the commitment and the contributions of Rep. Edward Boland, Rep. James Burke, Rep. Hastings Keith and President Kennedy.

The national seashore was formally established in 1966 and Representative O'Neill attended the May 30, 1966 dedication of the Salt Pond Visitor Center. Tip O'Neill, Jr. and his family maintained a home in Harwich Port, on Cape Cod and he was a frequent visitor to the national seashore during his tenure in Congress and during his retirement years.

While the National Park Service Management Policies 2006 state that the National Park Service will discourage and curtail the use and proliferation of commemorative works, there are two exceptions. One is when Congress specifically authorizes an exception and the other is when there is a compelling justification for the recognition, there is a strong association between the park and the person being commemorated, and at least five years have elapsed since the death of the person.

Tip O'Neill's more than fifty-year commitment to public service, including 34 years as a Member of Congress has made him an honored and esteemed friend to the mission of the National Park Service in preserving and protecting our nation's natural, historic, and cultural resources. We believe this legislation is an appropriate way to recognize Thomas P. O'Neill's role in protecting the national parks of Massachusetts and his relationship to Cape Cod National Seashore.

Mr. Chairman this concludes my statement and I will be happy to answer any questions that members of the committee may have.

S. 2324

Mr. Chairman, thank you for the opportunity to appear before your committee to present the views of the Department of the Interior on S. 2324, a bill to amend the Wild and Scenic Rivers Act to designate a segment of the Neches River in the State of Texas for potential addition to the National Wild and Scenic River System, and for other purposes.

The Department supports S. 2324, with amendments. The river segment proposed for study exhibits the types of qualities and resource values that could make it a worthy and important candidate for potential addition to the National Wild and Scenic Rivers System. However, we believe priority should be given to the 36 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.

This bill would designate a 225-mile segment of the main stem of the Neches River from the dam forming Lake Palestine in Anderson and Cherokee Counties, Texas, to the flood pool elevation of the B.A. Steinhagen Reservoir in Jasper and Tyler Counties, Texas, to be studied for potential addition to the National Wild and Scenic Rivers System. This portion of the Neches River retains much of its wild character, and is mostly in a free-flowing state. The upper Neches River corridor contains exceptional wildlife habitat and its location in the heart of the Central Flyway makes it a crucial migratory pathway for ducks, geese, and songbirds. While portions of the river's bottomland hardwood forests have produced timber for decades, they are among the least disturbed in Texas. This section of the Neches River also provides vital habitat for fish and other aquatic animals and supports high-quality boating, fishing and a variety of outdoor recreational activities. Wild and Scenic River designation could support all these attributes.

While the segment of the river that is proposed for study flows through the Neches River National Wildlife Refuge, the Angelina and Davey Crockett National Forests, and State-managed lands, much of this segment of the river runs through private lands. If this portion of the Neches River were designated as a Wild and Scenic River, a comprehensive management plan would be needed and would be de-

veloped as part of the study. Although the Wild and Scenic Rivers Act requires the development of a comprehensive river management plan within three years of the date of designation, it has become the practice of the National Park Service to prepare this plan as part of a study of potential wild and scenic rivers when much of the river runs through private lands. This allows the National Park Service to consult widely with local landowners, federal and state land management agencies, local governments, river authorities, and other groups that have interests related to the river prior to any recommendation for designation. Early preparation of the plan also assures input from these entities as well as users of the river on the management strategies that would be needed to protect the river's resources.

We believe there is strong local support for protecting the river system and for studying the river for potential inclusion in the National Wild and Scenic Rivers System. Based on this local support and the presence of significant natural, cultural and recreational resources, the National Park Service believes that a Wild and Scenic River study conducted in close partnership with local communities and established partners is consistent with the purposes of the Wild and Scenic Rivers Act.

We recommend amending the legislation by removing the provisions under Section 2 related to private property and recreation. It is premature to place restrictions on the ability of the National Park Service to administer the river before we have completed a study determining whether the river can meet the requirements for designation and before we have identified the types of preservation or management strategies that are necessary and appropriate to protect the river's resources. We would be happy to provide the Committee with suggested language for these amendments.

Mr. Chairman, that concludes my statement. I would be happy to answer any additional questions you may have.

S. 2372

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. 2372, a bill entitled "to authorize pedestrian and motorized vehicular access in Cape Hatteras National Seashore Recreational Area, and for other purposes."

The Department strongly opposes S. 2372. This bill would reinstate the 2007 Interim Protected Species Management Strategy (Interim Strategy) governing off-road vehicle (ORV) use at Cape Hatteras National Seashore (Seashore). In response to a lawsuit challenging its adequacy, the Interim Strategy was modified by a court-approved Consent Decree on April 30, 2008. The Seashore was managed under the Consent Decree through 2011. Meanwhile, the final ORV Management Plan / Environmental Impact Statement (EIS), and special regulation went into effect on February 15, 2012.

The Department supports allowing appropriate public use and access at the Seashore to the greatest extent possible, while also ensuring protection for the Seashore's wildlife and providing a variety of visitor use experiences, minimizing conflicts among various users, and promoting the safety of all visitors. We strongly believe that the final ORV management plan and special regulation will accomplish these objectives far better than the defunct Interim Strategy.

The final ORV management plan for the first time provides long-term guidance for the management of ORV use and the protection of affected wildlife species at the Seashore. The plan is designed to not only provide diverse visitor experience opportunities, manage ORV use in a manner appropriate to a unit of the National Park System, and provide a science-based approach to the conservation of protected wildlife species, but also to adapt to changing conditions over the life-span of the plan. It includes a five-year periodic review process that will enable the NPS to systematically evaluate the plan's effectiveness and make any necessary changes.

The Seashore's dynamic coastal processes create important habitats, including breeding sites for many species of beach-nesting birds, among them the federally listed threatened piping plover, the state-listed threatened gull-billed tern, and a number of species of concern including the common tern, least tern, black skimmer, and the American oystercatcher. All of these species experienced declines in breeding population at Cape Hatteras over the 10-20 years prior to the implementation of the Consent Decree in 2008. For example, in 1989 the Seashore had 15 breeding pairs of piping plovers; and by 2001-2005, that number had dropped to only 2-3 pairs attempting to nest each year. The numbers of colonial waterbird nests within the Seashore also plummeted from 1,204 nests in 1999 to 320 nests in 2007.

Under the National Park Service Organic Act, the Endangered Species Act, the Migratory Bird Treaty Act, the Seashore's enabling act, and National Park Service (NPS) regulations and policies, the NPS has an affirmative responsibility to con-

serve and protect all of these species, as well as the other resources and values of the Seashore. Executive Order 11644 (1972), amended by Executive Order 11989 (1977), requires the NPS to issue regulations to designate specific trails and areas for ORV use based upon resource protection, visitor safety, and minimization of conflicts among uses of agency lands. The regulation that the NPS subsequently promulgated (36 C.F.R. § 4.10) requires the NPS to designate any routes or areas for ORV use by special regulation and in compliance with Executive Order 11644.

The special regulation that went into effect on February 15 brings the Seashore into compliance with that regulation and with the Executive Orders and other applicable laws and policies, after many years of non-compliance. In addition to resource impacts, the approved plan addresses past inconsistent management of ORV use, user conflicts, and safety concerns in a comprehensive and consistent manner.

The Interim Strategy was never intended to be in place over the long-term. At the time it was developed, the Seashore had no consistent approach to species protection and no ORV management plan or special regulation in place. While the Interim Strategy took an initial step toward establishing a science-based approach, key elements such as buffer distances for American oystercatchers and colonial waterbirds, and the lack of night driving restrictions during sea turtle nesting season, were inconsistent with the best available science. The 2006 USFWS biological opinion for the Interim Strategy indicated that it would cause adverse effects to federally listed species, but found no jeopardy to those species mainly because of the limited duration of implementation (expected to be no later than the end of 2009). Similarly, the 2007 NPS Finding of No Significant Impact (FONSI) for the Interim Strategy indicated the action had the potential to adversely impact federally listed species and state-listed species of concern, but found that a more detailed analysis (an EIS) was not needed because of the limited period of time that the Interim Strategy would be implemented.

By contrast, the species-specific buffer distances and the night driving restrictions contained in both the Consent Decree and in the plan/EIS are based on scientific studies and peer-reviewed management guidelines such as the U.S. Fish and Wildlife Service (USFWS) Piping Plover and Loggerhead Turtle Recovery Plans, and the U.S. Geological Survey (USGS) Open-File Report 2009-1262 (also referred to as the "USGS protocols,") on the management of species of special concern at the Seashore. Buffer distances for state-listed species are based on relevant scientific studies recommended by the North Carolina Wildlife Resources Commission, USFWS, and USGS.

Although breeding success depends on a number of factors, with the measures in place under the Consent Decree, there has been a striking improvement in the condition of protected beach-nesting wildlife species. The Seashore has experienced a record number of piping plover pairs and fledged chicks, American oystercatcher fledged chicks, least tern nests, and improved nesting results for other species of colonial waterbirds. The number of sea turtle nests also significantly increased, from an annual average of 77.3 between 2000-2007 to an average of 129 between 2008-2011. These improvements occurred even though many miles of beach remained open, unaffected by species protection measures, and Seashore visitation numbers remained stable.

During the preparation of the EIS for the management plan, the NPS evaluated the potential environmental impacts of long-term implementation of the Interim Strategy. The analysis determined that if the Interim Strategy were continued into the future, it would result in long-term, moderate to major adverse impacts to piping plovers, American oystercatchers, and colonial waterbirds, and long-term, major adverse impacts to sea turtles. Impacts to sea turtles and three species of colonial waterbirds had the potential to rise to the level of "impairment," which would violate the National Park Service Organic Act.

Because the number of nesting birds has increased significantly since 2007, if the Interim Strategy were to be reinstated, it could be counterproductive to visitor access. Many popular destinations, such as Cape Point and the inlet spits, would still experience resource protection closures, particularly when highly mobile piping plover and American oystercatcher chicks are present. Several of the beach-nesting bird species at the Seashore may renest several times during the same season if eggs or very young chicks are lost. Under the Consent Decree, with its science-based buffers, there has been a noticeable reduction in the number of renesting attempts for piping plovers and American oystercatchers, which means the duration of closures is typically shorter. No matter which management approach is in effect, the birds will continue to attempt to nest at these sites, even if resource protection is inadequate, because that is where the most suitable habitat is located. The Interim Strategy would allow a higher level of human disturbance in proximity to nests and chicks at these key sites, which increases the chances that nests and young chicks

will be lost, which in turn increases the likelihood that birds will re-nest one or more times at those sites. This could extend the length of time that any particular site would be closed due to breeding activity, even if the apparent size of the closure is smaller than that under the ORV plan or Consent Decree.

In addition to reinstating the Interim Strategy, S. 2372 provides authority for additional restrictions only for species listed as "endangered" under the Endangered Species Act of 1973, and only for the shortest possible time and on the smallest possible portions of the Seashore. This would conflict with numerous other laws and mandates including the National Park Service Organic Act, the Migratory Bird Treaty Act, the Seashore's enabling act, the aforementioned Executive Orders, and NPS regulations implementing these laws, which provide for the protection of other migratory bird species and other park resources.

S. 2372 also provides that the protection of endangered species at Cape Hatteras shall not be greater than the restrictions in effect for that species at any other national seashore. Species protection measures cannot reasonably be compared from seashore to seashore without considering the specific circumstances at each site and the context provided by the number and variety of protected species involved, the levels of ORV use, and the underlying restrictions provided by the respective ORV management plans and special regulations. Even though Cape Hatteras has a wider variety of beach nesting wildlife species than Cape Cod or Assateague, for example, its plan actually allows for a much higher level of ORV use on larger portions of the Seashore. It would be neither reasonable nor biologically sound for Cape Hatteras to use less protective measures if they were designed for a location where the level of ORV use is much lower to begin with. Nor does it appear that such an arbitrary approach could possibly comply with the "peer-reviewed science" requirement imposed elsewhere in the bill. The Cape Hatteras plan was specifically designed to be effective for the circumstances at Cape Hatteras.

The bill would require, to the maximum extent possible, that pedestrian and vehicle access corridors be provided around closures implemented to protect wildlife nesting areas. This concept was thoroughly considered during the preparation of the plan and EIS. The plan already allows for such access corridors when not in conflict with species protection measures. But because of the Seashore's typically narrow beaches, and the concentrations of nests at the best available habitat near the inlets and Cape Point, nesting areas are often close to the shoreline, and access corridors cannot always be allowed without defeating the fundamental purpose of such closures, which is to protect beach-nesting wildlife. Several species of shorebirds that nest at the Seashore have highly mobile chicks, which can move considerable distances from nests to foraging sites. Inadequate resource closures in the past have resulted in documented cases of human-caused loss or abandonment of nests and chick fatalities. Corridors that cut through a resource closure area would essentially undermine the function of the closure and render it compromised or even useless.

Finally, the final ORV management plan/EIS and special regulation, are the products of an intensive five-year long planning process that included a high level of public participation through both the National Environmental Policy Act (NEPA) process and negotiated rulemaking, including four rounds of public comment opportunities. The NPS received more than 15,000 individual comments on the draft plan/EIS and more than 21,000 individual comments on the proposed special regulation. In completing the final ORV management plan/EIS and special regulation, the NPS considered all comments, weighed competing interests and ensured compliance with all applicable laws.

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

S. 3078

Mr. Chairman, thank you for the opportunity to appear before your committee to present the views of the Department of the Interior on S. 3078, a bill which directs the Secretary of the Interior to install in the area of the World War II Memorial in the District of Columbia a suitable plaque or an inscription with the words that President Franklin Delano Roosevelt prayed with the United States on June 6, 1944, the morning of D-Day.

The Department appreciates the importance of faith in the lives of Americans across this country, the leadership of President Roosevelt, and the courage and sacrifices of Americans during World War II and today. The World War II Memorial recognizes a period of unprecedented national unity during the defining moment of the twentieth century, and is devoted to the service, commitment, and shared sacrifice of Americans.

The Department appreciates the efforts by the sponsor, Senator Rob Portman, to work with the National Park Service (NPS) on this legislation. S. 3078 proposes adding a commemorative work in the area of the existing World War II Memorial. We support the continued application of the Commemorative Works Act (CWA). Section 2 of this bill states that the Secretary of the Interior shall design, procure, prepare and install the plaque or inscription, thus allowing the NPS to determine the placement and design of the plaque. However, Section 3 of the bill requires a different method of designing and locating the memorial through the CWA. The CWA process incorporates important design reviews and public consultation. We support retaining the CWA as the vehicle for siting and designing this plaque.

The World War II Memorial was authorized on May 23, 1993, by Public Law 103-32. In 1994, Congress approved its placement in the area containing the National Mall in Public Law 103-422. Its location at the site of the Rainbow Pool was approved in 1995 by the NPS on behalf of the Secretary of the Interior, the Commission of Fine Arts (CFA), and the National Capital Planning Commission (NCPC). In July 1997, the CFA and the NCPC reaffirmed prior approvals of the Rainbow Pool site in recognition of the significance of World War II as the single-most defining event of the 20th Century for Americans and the world. Even so, there were challenges to the establishment of this memorial. The design we see today was painstakingly arrived upon after years of public deliberations and spirited public debate.

The National Capital Memorial Advisory Commission (NCMAC) reviewed a proposal similar to the one before the Committee today at its meeting on September 14, 2011, and determined that no additional elements should be inserted into this carefully designed Memorial. The American Battle Monuments Commission (ABMC), charged by the Congress in Public Law 103-32 to design and build the World War II Memorial, is represented on the NCMAC, and thus concurred with that determination.

If directed by Congress pursuant to this legislation, the NPS will work to find an appropriate location for the plaque in accordance with the CWA process, as directed in Section 3 of this legislation.

That concludes our prepared testimony on S. 3078, and we would be happy to answer any questions you may have.

S. 3300

Mr. Chairman, thank you for the opportunity to present the views of the Department of the Interior on S. 3300, a bill to establish the Manhattan Project National Historical Park in Oak Ridge, Tennessee, Los Alamos, New Mexico, and Hanford, Washington, and for other purposes.

The Administration supports S. 3300. The development of the atomic bomb through the Manhattan Project was one of the most transformative events in our nation's history: it ushered in the atomic age, changed the role of the United States in the world community, and set the stage for the Cold War. This legislation would enable the National Park Service to work in partnership with Department of Energy to ensure the preservation of key resources associated with the Manhattan Project and to increase public awareness and understanding of this consequential effort.

S. 3300 would require the establishment of the Manhattan Project National Historical Park as a unit of the National Park System within one year of enactment, during which time the Secretary of the Interior and the Secretary of Energy would enter into an agreement on the respective roles of the two departments. The unit would consist of one or more named resources located in Oak Ridge, Los Alamos, or Hanford. The National Historical Park would be established by the Secretary of the Interior by publication of a Federal Register notice within 30 days after the agreement is made between the two secretaries.

The bill would authorize the Secretary of the Interior to acquire the named resources in Oak Ridge, Los Alamos, or Hanford. It would also allow the Secretary to acquire land in the vicinity of the park for visitor and administrative facilities. The bill would provide authority for the Secretary to enter into agreements with other Federal agencies to provide public access to, and management, interpretation, and historic preservation of, historically significant resources associated with the Manhattan Project; to provide technical assistance for Manhattan Project resources not included within the park; and to enter into cooperative agreements and accept donations related to park purposes. The Secretary of Energy would be authorized to accept donations to help preserve and provide access to Manhattan Project resources.

S. 3300 is based on the recommendations developed through the special resource study for the Manhattan Project Sites that was authorized by Congress in 2004 and

transmitted to Congress in July 2011. The study, which was conducted by the National Park Service in consultation with the Department of Energy, determined that resources at Oak Ridge, Los Alamos, and Hanford, met the National Park Service's criteria of national significance, suitability, feasibility, and the need for Federal management for designation as a unit of the National Park System. S. 3300 assigns the respective roles and responsibilities of the National Park Service and the Department of Energy as envisioned in the study: the National Park Service would use its expertise in the areas of interpretation and education to increase public awareness and understanding of the story, while the Department of Energy would maintain full responsibility for operations, maintenance, and preservation of historic Manhattan Project properties already under its jurisdiction, along with full responsibility for any environmental and safety hazards related to the properties.

Because the Department of Energy would maintain and operate the primary facilities associated with the Manhattan Project National Historical Park, the study estimated that the National Park Service's annual operation and maintenance costs for the three sites together would range from \$2.45 million to \$4 million. It also estimated that completing the General Management Plan for the park would cost an estimated \$750,000. Costs of acquiring lands or interests in land, or developing facilities, would be estimated during the development of the General Management Plan. The Department of Energy has not yet assessed fully the operational difficulties in terms of security and public health and safety, applicable statutory and regulatory requirements, and the potential new cost of national park designation at the sensitive national security and cleanup sites.

The Department anticipates that the initial agreement between the two departments likely would be fairly limited in scope, given the bill's one-year timeframe for executing an agreement that would enable the Secretary of the Interior to establish the Manhattan Project National Historical Park. We appreciate the language specifically providing for amendments to the agreement and a broad range of authorities for the Secretary of the Interior, as these provisions would give the National Park Service the flexibility to shape the park over time and to maximize the promotion of education and interpretation related to the park's purpose.

The flexibility is particularly important because managing a park with such complex resources, in partnership with another Federal agency, at three sites across the country, will likely bring unanticipated challenges. Fortunately, we have already begun a partnership with the Department of Energy regarding the Manhattan Project resources through our coordinated work on the study. If this legislation is enacted, we look forward to building a stronger partnership that will enable us to meet the challenges ahead.

While we support S. 3300, there are some areas where we would like to recommend amendments, and we are continuing to review the bill for any technical issues. We would be happy to work with the committee to develop the appropriate language and will provide our recommendations in the near future.

Mr. Chairman, that concludes my statement. I would be happy to answer any questions you may have.

The CHAIRMAN. Thank you very much.

Ms. Kolb, go right ahead.

**STATEMENT OF INGRID KOLB, DIRECTOR OF THE OFFICE OF
MANAGEMENT, DEPARTMENT OF ENERGY**

Ms. KOLB. Thanks.

Mr. Chairman and members of the subcommittee, my name is Ingrid Kolb. I serve as the Director of the Office of Management at the U.S. Department of Energy. One of the primary responsibilities of my organization is to ensure that the cultural resources and historic preservation activities across the Department are coordinated.

We are also the office that's leading the effort to coordinate with the National Park Service on the proposed Manhattan Project National Historical Park. I'm very pleased to be here today to discuss the proposed park and the proposed S. 3300.

The Manhattan Project National Park Study Act, Public Law 108-340 directed the Secretary of the Interior, in consultation with

the Department of Energy, to conduct a special resource study to determine the flexibility of designating one or more Manhattan Project sites as a unit of the National Park Service. A park, the legislation noted, would have to be compatible with maintaining the security, productivity and management goals of the Department of Energy as well as public health, safety and security.

In preparing the study the Department's Office of Management was an active partner with the National Park Service and our staff fully participated by providing information, input, advice and comments. Following public meetings, extensive assessments of potential Park boundaries and assessments of the integrity of the historical resources, the Department and the National Park Service agreed that a park was feasible, that it met the suitability requirements for creating a new park and that it should be established.

In October 2010 the National Park Service Director, Jonathan Jarvis, concurred on the study which contained a recommendation for a 3 site park at Oak Ridge, Tennessee, Hanford, Washington and Los Alamos, New Mexico. The Department of Energy would continue to manage and maintain its properties and control access to them and ensure safety and security. The National Park Service would provide interpretation, consult with the Department on preservation issues and establish visitor center and station rangers within the 3 communities.

In March 2011, Deputy Secretary of Energy, Dan Poneman, concurred on the findings of the study and provided assurances to the National Park Service that the Department would retain full access control to its properties in accordance with its mission and security requirements.

In a letter to the Park Service the Deputy Secretary wrote and I quote. "We look forward to collaborating with the National Park Service should Congress pass legislation establishing a Manhattan Project Park." He also noted that the Department of Energy is proud of its Manhattan Project heritage and recognizes that this partnership with the National Park Service would bring one of the most significant events in the 20th Century to a wider public audience.

In July 2011, the Secretary of the Interior, along with the Department of Energy's concurrence, submitted a letter to the Congress recommending the establishment of the Manhattan Project National Historic Park. The establishment of this park will represent a new era for the Department of Energy particularly in certain areas of our sites that have been largely off limits to the public to date due to national security concerns and potential impacts to our ongoing missions. The Department has not yet assessed fully the operational difficulties in terms of security and public health and safety and applicable statutory and regulatory requirements and the potential new costs of such a park.

However, the proposed legislation, we believe, would provide the Department and the Department of the Interior with the necessary flexibility to establish timelines, boundaries and a suitable management plan for establishing the park. We welcome the leadership, Mr. Chairman, that you have shown in this area and the subcommittee in telling the important story of the Manhattan Project.

We look forward to working with you and the Subcommittee as this legislation advances.

That concludes my testimony. I'm happy to answer any questions you may have.

[The prepared statement of Ms. Kolb follows:]

PREPARED STATEMENT OF INGRID KOLB, DIRECTOR, OFFICE OF MANAGEMENT,
DEPARTMENT OF ENERGY

Mr. Chairman and Members of the Subcommittee, my name is Ingrid Kolb. I serve as the Director, Office of Management at the U.S. Department of Energy. As part of our programmatic responsibilities, the Office of Management coordinates cultural resources and historic preservation activities across the Department and is the lead office coordinating DOE participation in the proposed Manhattan Project National Historical Park. I am pleased to be here today to discuss the proposed park and S. 3300, a bill to establish the Manhattan Project National Historical Park.

The Manhattan Project National Park Study Act, Public Law 108-340, directed the Secretary of the Interior, in consultation with the Secretary of Energy, to conduct a special resource study to determine the feasibility of designating one or more Manhattan Project sites as a unit of the National Park Service. A park, the legislation noted, would have to be compatible with "maintaining the security, productivity, and management goals of the Department of Energy," as well as public health and safety. In preparing the study, the Department's Office of Management was an active partner with the National Park Service, and its staff participated fully, providing information, input, and comments.

Following public meetings at the sites, extensive assessments of potential park boundaries and integrity of historical resources, the Department and the National Park Service agreed that a park was feasible, met the suitability requirement for creating a new park, and should be established. In October 2010, National Park Service Director concurred on the study, which contained the recommendation for a three-site park in Oak Ridge Tennessee, Hanford, Washington, and Los Alamos, New Mexico, in partnership with the Department of Energy. The Department of Energy would continue to manage and maintain its properties and control access to them. The National Park Service would provide interpretation, consult with the Department on preservation issues, and establish a visitor center and station rangers in each of the three communities. In March 2011, Deputy Secretary of Energy concurred on the findings of the study and provided assurances to the National Park Service that the Department would retain full access control to its properties in accordance with its missions and security requirements. "The Department of Energy is proud of its Manhattan Project heritage and recognizes that this partnership with the National Park Service would bring one of the most significant events in 20th century America to a wider public audience."

The establishment of a National Historical Park will represent a new era for the Department of Energy, particularly in certain areas of our sites that have been largely off-limits to the public to date due to national security concerns and potential impacts to our ongoing missions. The Department has not yet assessed fully the operational difficulties in terms of security and public health and safety, applicable statutory and regulatory requirements, and the potential new cost of national park designation at our sensitive national security and cleanup sites. The proposed legislation, S. 3300, would give the Department of Energy and Department of the Interior the flexibility to establish the timeline, boundaries, and a suitable management plan for a National Historical Park that would allow us to ensure the continuance of public safety, national security, and the ongoing missions at our sites. We welcome the leadership of Chairman Bingaman and the National Parks Subcommittee in telling this important story, and we look forward to working with you as this legislation advances.

Again, thank you for this opportunity to testify before the Subcommittee. This completes my prepared statement. I would be happy to answer any questions you may have.

The CHAIRMAN. Thank you very much. Let me just indicate for the record we have various statements. Senator Alexander has a statement that he would like included in the record related to S. 3300.

Senator Hutchison has a statement to include in the record related to S. 2324.

Senator Lieberman has a statement related to S. 2286 that he would like included in the record.

With regard to S. 3300 we also have statements for the record from the Atomic Heritage Foundation, the Los Alamos Historical Society and the National Park's Conservation Association.

So we'll include all of those items in the record.

The CHAIRMAN. Let me ask a few questions.

Maybe you're the right one, Ms. Kolb, to answer this. I would assume that if the Park Service goes ahead with this park at these 3 Department of Energy sites, there's going to be a lot of increased visitation to those locations.

How does this square, as you understand it, is that going to be the problem with the Park Service? Is that going to be the problem of the Department of Energy? Who—how does that all work?

Ms. KOLB. First of all we hope that there is an increase in visitation. That is our expectation. We will work in partnership with the National Park Service.

We have been doing so for the past couple of years as we conducted the study. We certainly will continue that relationship in developing the management plan. As we operate the National Park, if one is established.

One of the things that I want to emphasize is that while we're really hoping to provide additional public access—and we are certain that the public will be interested in visiting these sites—we do, at the Department of Energy, need to make certain that we maintain security and that we maintain safety protocols. We have very rigorous safety protocols and security protocols, as you know. We are absolutely committed to maintaining those regardless to the amount of public access that is available.

The CHAIRMAN. Did you have any thoughts about that, Mr. Frost?

Mr. FROST. I would just echo Ms. Kolb's comments that we anticipate that visitation would increase and that the protocols that the Department of Energy have in place would be retained. It would be their responsibility to make sure that the security and the safety and all those things are taken care of in an appropriate manner, while we use our expertise which is the interpretation part, talking, telling the stories and interpreting the site and helping with the Department of Energy on the restoration of the buildings and things like that.

The CHAIRMAN. Let me ask on another one of these bills, S. 2229, Glacier National Park Pipeline. As I understand it this is a pipeline that is operating today, has been for a long time. Renewal for the operation and maintenance of the pipeline was sought in 1990, but now we're just considering legislation that would actually provide the authority to do that.

So I guess I'm just trying to understand how this pipeline has continued to operate and be maintained and why it's taken so long to get to this point.

Mr. Frost.

Mr. FROST. I can give you a little history. I don't know if I can tell you why it's taken so long to get here. But I can, at least, give a little bit of history.

The pipeline was initially authorized by the superintendent of the park. He's not around anymore. But we think that he didn't realize that he didn't have the authority to authorize it. But he authorized it anyway and the pipeline went in.

Over the course of several years the right of way was renewed by the park assuming that it had the authority to do so. It wasn't until 1990 that the current superintendent started to look into the situation and got a solicitor's opinion. The solicitors told him that we didn't have the authority to actually have the pipeline in the park.

At the same time, the solicitors also authorized it because the pipeline had been established. It had been operating. If we would have said you've got to take the pipeline out, it would have caused some pretty dire straits in the city of Kalispell. But the solicitor felt that in his opinion we could go ahead and continue the use of the pipeline until we got the proper legislation in place.

So here we are trying to get the legislation in place so that we can get our ducks in a row and get back on track.

The CHAIRMAN. Let me ask also, Mr. Frost, about S. 2372, the Cape Hatteras Off Road Vehicle legislation. Is it true that the Park Service is required to complete a rulemaking to allow off road vehicles at Cape Hatteras in order to be in compliance with Executive Orders and applicable laws?

How does this relate to those Executive Orders? I'm just unclear as to why we're doing this legislation.

Mr. FROST. I don't have the Executive Order number off the top of my head. But the Executive Order basically prohibited the use of ORVs in National Park units unless there was a special regulation promulgated. It said that we had to do regulations to have ORV use.

The Park Service promulgated a general regulation that stated that ORV use is prohibited unless a special regulation is enacted to allow some level of use. The Park has been, again, like in Glacier, out of compliance for a number of years with the Park Service general regulation. We have been allowing the ORV use pretty much unfettered at Cape Hatteras.

It's taken a series of years to try and get this special regulation in place. We went through a 5-year NEPA process and negotiated rulemaking process to work with the community, to come up with a plan. The opinions are all over the board both for and against for what level of use should occur.

We think we've struck somewhat of a middle place where we can still allow a high amount of ORV use, but at the same time protect the species and the resources that we're required to protect through our organic legislation and the Endangered Species Act and other regulatory vehicles.

The CHAIRMAN. Senator Murkowski.

Senator MURKOWSKI. Thank you, Mr. Chairman.

Mr. Frost, in looking at your testimony on S. 2316, this is the renaming of the Salt Pond Visitor Center, Cape Cod, after Tip

O'Neill. In that case the National Park Service actually states that they support the bill.

You state that one of the 2 circumstances that allows the Park Service to come out in favor of a bill is when there is a strong association between the park and the person being commemorated and at least 5 years have elapsed since the death of that person. Clearly that fits the case with Speaker O'Neill.

It's also the case then, with Walter Harper, the person in my bill, S. 2273, that we're going to propose to name the Talkeetna Ranger Station for.

So the question to you is you've got an official position taken by the Park Service with my legislation of no objection. But yet, with S. 2316 you are actually coming out and saying that you support the bill.

What's the difference between the two? Why is mine, no objection, when the other which is based on the same circumstances, as best I can tell, a support?

Mr. FROST. Yes. You're absolutely right in terms of the criteria that we use to designate or to name buildings. At the Cape Cod Visitor Center, Congressman O'Neill was very actively engaged in the development of the legislation. He had a second house on the Cape. He spent a lot of time there. He was directly involved in the creation of Cape Cod National Seashore.

The difference between there and the Talkeetna Ranger Station is while the gentleman that it is proposed to be named for was the first person to summit Denali, it happened before the Park was established. It wasn't a Park Service site. So there was no relation to the Park Service per se.

He had a direct connection to the mountain, absolutely. That feat should be recognized. There's no doubt about it and that the ranger station is a building, as you stated in your opening comments, where people have to go to get permits and things like that.

The individual had no direct relationship with that area specifically other than summiting the mountain. So it's a subtle difference. But that's the objection that we had.

Senator MURKOWSKI. It is a subtle difference. I certainly hope that the difference is not that in order to have the support from the Park Service you actually have had to have been a legislator, who affected that change. Because if that's the case, that's not a very good standard.

Mr. FROST. No, I don't think that's the case.

Senator MURKOWSKI. OK. Alright.

I will accept the fact that there is a subtle distinction. I interpret that to mean that Mr. Harper, when he summated was before we actually had a National Park. I will accept that.

But I think we should be careful about inferring that you've got to be a Senator, a Congressman, in order to gain the support for naming legislation.

Let me ask you about maintenance backlog because this is an important issue for us. I'm on the Appropriations Committee. We look very carefully at where the National Park Service is with its maintenance backlog, about \$11 billion in backlog.

But a number of the bills that are in front of the subcommittee today, they've got the support of the Park Service despite the fact

that they expand existing units or they create new units which would increase Park Service liabilities and responsibilities. So the question to you is at a time when the Park Service is having a difficult time keeping up with the property that it currently, well, owns, do you think that it's sound investment for Park Service to acquire more land? Many make the case that it's pretty common sense that we don't buy more property when we can't afford to maintain that which we already have.

So if you could address that.

Mr. FROST. Sure. I think that you're absolutely right. We do have a very high maintenance backlog. There's no doubt about it.

But I think the question is, are there still areas that have national significance that the country and the Congress think are important and need to be designated as National Parks? That's the crux of the question. We think that there are other places that deserve national recognition as a unit of the National Park System. As the list of bills shows, it appears that Congress also feels that way because we continue to have new sites suggested to us.

So we need to continue to work on the backlog. We are. We're putting high priority on the maintenance backlog. We're knocking that down little by little, obviously not as fast as we'd like.

But at the same time, do we throw everything else out just to deal with the maintenance backlog and not establish new sites or not do the level of interpretation we should do or not protect the resources at the level we use to at the expense of the maintenance backlog or do we weigh those different priorities and try and make the best decisions that we can.

Senator MURKOWSKI. I appreciate that it is absolutely a balancing that goes on. But I'm concerned that we may actually be putting some maintenance projects on hold as we bring in new units as we see an expansion. You know, that's not fair to the existing parks that we have.

It's something that we need to be working on. Perhaps if you have any ideas as we look at it from an appropriations perspective. If there are projects that need to be put on hold because we're going to be advancing some new ones, if you have any kind of a list, I'd be happy if you would share that with me.

Mr. FROST. I will surely go back and have that discussion with our Director and our Comptroller and our facilities folks and see what we can come up with.

Senator MURKOWSKI. Good. I appreciate it.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Manchin.

Senator MANCHIN. Thank you, Mr. Chairman. Thank both of you and sorry if you feel like we're skipping over you, Ms. Kolb. But I think we're getting on Mr. Frost pretty good here.

Ms. KOLB. That's OK.

[Laughter.]

Senator MANCHIN. You don't mind at all, do you?

Let me just say very quickly that my concern is with S. 2372. An awful lot of West Virginians have been going for generations down to the Cape. That's their vacation.

That's where they love to go. That's where they've been migrating to for many, many years. They're very, very concerned about

the rule or the way that you all have implied and stop the things that they have done for so long and basically put off limits some of the areas that most prestigious off shore—or the shore fishing, if you will.

With that the 23—in 2007 there was a decree that, the final consent decree, of an ORV plan which was tough compromise, I understand. I know you've talked about that things have changed and there was a lawsuit. Now you're absolutely opposed to 2372.

Sir, I've been in that area quite a few times. The majority of the people that live there that are affected are totally in support of S. 2372. As a matter of fact, that's why there is a S. 2372. Most of the protests and lawsuits are coming from people that don't even live there.

Is that correct?

Is it fair?

Mr. FROST. I don't know if I know that as a fact.

Senator MANCHIN. You've been in public hearings down there, sir. You all know that.

Mr. FROST. Let me tell you what I do know. Through the negotiated rulemaking process and through the NEPA process, we got—I don't have the number right off the top of my head, but it's around 50,000 comments. As a result of that—and as we all know NEPA is not—

Senator MANCHIN. Look at the comments. Look where they come from.

Mr. FROST. They came from all over. That's a good point though because this is a National Seashore.

Senator MANCHIN. Right.

Mr. FROST. We understand that the rule will have an effect.

Senator MANCHIN. Let me read one thing to you.

Mr. FROST. OK.

Senator MANCHIN. This Administration has been tallying its America's Great Outdoors Initiative which promotes increasing public access to outdoor opportunities and reconnecting Americans with our public lands. How are the restrictions currently in place at Cape Hatteras compatible with the Administration's mission to increase public access for the sportsmen? It sure is taking away what they've done for years.

The only alternative we have is the pass S. 2372 to try to create the balance that you all found in 2007 when you negotiated it.

Mr. FROST. The 2007—

Senator MANCHIN. Now since you've got a lawsuit, you said, well, we'll just really stick it to them now.

Mr. FROST. I think that the 2007 Consent Decree was a result of a lawsuit. The rulemaking was a process that was in place before the lawsuit ever took place.

Senator MANCHIN. Then you should support, since you all negotiated 2007, that's what we're working with on S. 2372. You all should support this approach to get back to where there's a balance.

Mr. FROST. I understand.

Senator MANCHIN. You're taking the most stringent approach right now saying that you all, basically, are totally opposed to S.

2372. That means you never did agree with your 2007 negotiated proposal.

Mr. FROST. So there were a couple steps. There were the interim guidelines that were in place when we began the negotiated rule-making process and the NEPA process.

Then, as the negotiated rulemaking process sort of fell apart, there was a lawsuit. We get the consent decree from the court.

Those were the guidelines that we were using while we finished the NEPA process and we finished the NEPA process in late 2011.

Then we completed the final rule in 2012.

Both pieces of legislation, both the House bill and the Senate bill have been introduced subsequent to the final rulemaking.

So the chronology is a little bit off, but it's—

Senator MANCHIN. Don't you all take into consideration the people that live there, the livelihood that comes from it. They've had 15 to 50 percent reduction in business, employment, creating tremendous hardships. They're willing to meet the decree that you all negotiated.

We've got no alternative but to pass this. It's the only way to put balance back in so the people have a chance to survive there.

Mr. FROST. We, again, we feel that through the NEPA process and through the rulemaking process that we've reached out to the local community and to the other communities.

Senator MANCHIN. You think the local community is happy with what you've done?

Mr. FROST. I would say some people are but—

Senator MANCHIN. Do you want the majority of people to come? We can bring them all probably.

[Laughter.]

Senator MANCHIN. Sir, it's unbelievable the hardship you're placing. That's not government's role. We're supposed to be a partnership, an ally, not an adversary and an enemy. That's what we've ended up being down there with this, with the way you all handled yourself.

I'm sorry to say that, but it really is.

Thank you. My time is up.

The CHAIRMAN. Senator Cantwell.

Senator CANTWELL. Thank you, Mr. Chairman. Thank you for having this hearing. It's been great to work with you and Representative Hastings in the House for some time on these critical Manhattan Projects and making sure that they're preserved and made accessible to the public. So thank you for that.

I know that in many cases our communities have been working on this for an even longer period of time, trying to make sure that the history is preserved and the scientific work that's been done is recognized. I know for us in the Northwest, with the B Reactor at the Hanford site, we've had over 20,000 visitors since 2009; and I think something like 10,000 people just in this past year. So the region really does see this as a very big potential for attracting visitors and impacting our local economy with people spending more dollars. Elevating the reactor from a National Historic Landmark to National Park status will take that to the next level.

So I know Chairman Bingaman asked a question about visitation related to security. But I'd like to know if, Mr. Frost, you believe

that the B Reactor—as part of a National Historic Park System, once it’s finalized—will experience increase visitation? How do you look at that? How do you understand how designation impacts visitation, and what do you expect from this park?

Mr. FROST. Yes, I don’t think we have any really hard numbers in terms of that. We do anticipate that visitation would increase by bringing that higher visibility to not only Hanford, but also Los Alamos and Oak Ridge.

People are going to want to understand what this was all about, why we did what we did, how the technology improved over time, and how the technology helped us to eventually get to where we did.

So there’s no doubt in our minds that we think visitation will increase and the curiosity of the public will be, hopefully, satisfied.

Senator CANTWELL. So either to you or Ms. Kolb, the legislation provides for 1 year for the Department of Energy and National Park Service to enter an agreement in the respective administrative roles. Are your Departments committed to meeting that deadline?

Ms. KOLB. Yes, absolutely. We would be committed to meeting that deadline. We have had some discussions about this. It may be that we need more time to make sure that, you know, we have a thorough agreement in place. That’s something that we can talk with the Subcommittee about as we move forward.

But absolutely, if the 1-year deadline is what’s in the legislation that is what we will follow.

Senator CANTWELL. The bill also requires a management plan to be developed within 3 years of receiving funding. Do you think your agencies would take that long or do you think there’s more interim work?

Ms. KOLB. Three years certainly we believe is appropriate. Our goal would, of course, be to complete it sooner than that. But we may need the 3 years given the fact that we’re talking about 3 different sites. We’re talking about a lot of security and safety issues.

So we want to make sure that as we stand up this park it is all done correctly keeping in mind the safety and security and the fact that the Department of Energy has an ongoing mission at many of these facilities that would be involved.

Senator CANTWELL. The land will remain under DOE right?

Ms. KOLB. Yes, most of it would be. But some of the sites that are contemplated are privately owned.

Senator CANTWELL. OK.

Is there anything that’s changed between the reports? I know all 3 sites were recommended for inclusion as part of the Manhattan Project Historical Park.

Ms. KOLB. Yes.

Senator CANTWELL. So is there anything that’s?

Ms. KOLB. Yes, that is right. All 3 of these sites were recommended.

Senator CANTWELL. OK.

Ms. KOLB. Which is consistent with the proposed legislation.

Senator CANTWELL. OK.

Is there anything that’s going to be done to try to promote them in a conglomerate way? I mean, obviously, these individual States

feel like there are very, very important stories to be told here; but is there a way that all of that is pulled together?

Ms. KOLB. It would be pulled together. I think that we would be working with the National Park Service on that. But it would be one park, just at 3 different locations. At least that's the vision that we have at this time.

Certainly we would present it as one story because the reason we would have the 3 sites is all 3 were integral to the Manhattan Project. You can't just pull one out, so all 3 would be presented as a whole. What we would envision is at Hanford, for example, we would also be talking about the story at Los Alamos and Oak Ridge and vice versa for all 3 of the sites.

So that the people understand the connection.

Senator CANTWELL. I hope we certainly can meet these deadlines. There is a lot of information there, in individuals who still remain in the area, who were part of the project and know a lot about what transpired during that time period. So I hope we can capture much of that.

Ms. KOLB. Yes, absolutely. We want to tap into that knowledge.

Senator CANTWELL. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Corker.

Senator CORKER. I have no questions at this point.

The CHAIRMAN. Alright. We thank both of you very much for your testimony.

Why don't we go ahead with the second panel. I'll introduce them.

The first is the Honorable Thomas L. Beehan, who is the Mayor of the city of Oak Ridge, also Chairman of the Energy Communities Alliance in Oak Ridge, Tennessee.

The second witness is the Honorable Warren Judge, Chairman of the Dare County, North Carolina Board of Commissioners from Manteo, North Carolina.

Third is Mr. Derb S. Carter, Jr., who is Director of the Carolinas Office in the Southern Environmental Law Center in Chapel Hill, North Carolina.

Thank you all for being here.

Oh, OK. Senator Corker wanted to make a statement at this point before we start hearing your testimonies. So go right ahead.

Senator CORKER. Thank you, Mr. Chairman. As usual I'll be very brief.

But I wanted to welcome Mayor Beehan. He is someone who serves as the leader of Oak Ridge as Mayor but he's done so through much civic activity, somebody that for years and years and years has promoted the area. He's risen to the place that he is just out of the deep respect that people have for the many efforts that he's been involved in.

He's someone that I greatly respect. I'm glad he's here in the U.S. Senate giving testimony. I assure you that what he says you can bank on.

I just want to welcome him here. I'm glad to be a part of this. Again, I'll be brief and turn it back over to you. But thank you very much.

Thank you, sir.

The CHAIRMAN. Thank you very much for that high recommendation.

Mr. Mayor, why don't you start? As I indicated before, we'll take your full written statement and put it in the record. So if you could just make the main points you think we need to understand we'll hear from each of you and then have a few questions.

STATEMENT OF THOMAS L. BEEHAN, MAYOR, CITY OF OAK RIDGE, AND CHAIRMAN, ENERGY COMMUNITIES ALLIANCE, OAK RIDGE, TN

Mr. BEEHAN. Thank you, Senator Bingaman. Senator Corker, thank you for the welcome. I really appreciate that.

Chairman Bingaman and members of the committee, I thank you for inviting me to testify on S. 3300, a bill to establish the Manhattan Project National Historical Park in Oak Ridge, Tennessee, Los Alamos, New Mexico and Hanford, Washington. I would also like to thank the co-sponsors of the bill, yourself, Senator Bingaman, Lamar Alexander, Maria Cantwell, Tom Udall and Patty Murray.

I am Tom Beehan, the Mayor of the city of Oak Ridge, Tennessee and Chairman of the Energy Community Alliance. Our members include local governments and other community organizations from Oak Ridge, Los Alamos and the Tri-Cities areas. All 3 communities have jointly prepared the testimony I will be presenting today.

First and most importantly I would like to stress that all 3 communities are united in support of the passage of the bill to establish a 3 unit historical park in Tennessee, New Mexico and Washington. There's also bipartisan support for this bill in the House and the Senate. Our communities have been working for many years to preserve the history of the Manhattan Project at our sites. We feel that now is the time to pass a bill that will lead to the establishment of the National Historical Park.

It is easy for us, who live in those communities of Oak Ridge, Los Alamos and the Tri-Cities, to site that the Manhattan Project changed the world. It began in secrecy in 1942. The original mission was exceptionally completed in August 1945 when the Japanese surrendered.

The Manhattan Project is an incredible story that deserves to be preserved and told. Let me be clear. The interpretation of these sites will be about giving current and future generations an understanding of the indisputable turning point in America and in world history.

Despite what some distracters may claim, this is not a park about weapons. I believe this historical park is about scientific and engineering accomplishments at a time when our country was defending itself both during World War II and the cold war. This historic park will tell all sides of the story of what occurred in our 3 communities and has been identified by the National Park Service in their special resource study. The National Park interprets all sites and attempts to address all viewpoints to give a full and fair picture. We support such actions.

Recently the Energy Community Alliance held a meeting in Richland, Washington to discuss the need to work together to get this park established. The 3 communities have not only partnered to-

gether on this important initiative. But we have also worked with the Department of Energy, the Department of Interior, State Historic Preservation Officers and many others to provide comments on the various drafts of this bill for the National Park unit at our sites.

While in Richland our group toured the B reactor, the world's first full scale, production nuclear reactor. When visiting the B reactor one really gets an appreciation of the potential of the site to attract thousands of visitors a year. Already a few public tours are available for the B reactor. They fill up almost immediately.

Last year, 8,000 seats were filled in less than 5 hours. This year 10,000 people will go on the tour.

Oak Ridge has many assets also. It gives us a glimpse behind the gates. In 2011, around 8,000 people visited the Graphite Reactor at ORNL. Close to 5,000 people came through the Y-12 New Hope Center. Additional tours are held every year at the "Secret City Festival" where some 30,000 people come.

In Los Alamos, the industrial work at the laboratory is such as the Gun Site, the work where Little Boy was done and the V Site where the work on the Gadget was completed. Visitors get a sense of the creative equipment in the Los Alamos Historic District. Visitors can walk the same paths as the Manhattan Project physicists, known as the Bathtub Row.

The Manhattan Project Historical Park is needed to preserve the history of the most significant event of the 20th Century. As you proceed we ask you to consider the following recommendations.

Establish the park now so that we can honor the veterans who were there.

Protect the ongoing mission of the Department of Energy.

Authorize User Fees/Entrance Fees.

Donations should be broad.

Allow the inclusion of significant sites.

I thank you for allowing me to testify.

[The prepared statement of Mr. Beehan follows:]

PREPARED STATEMENT OF THOMAS L. BEEHAN, MAYOR, CITY OF OAK RIDGE, AND
CHAIRMAN, ENERGY COMMUNITIES ALLIANCE, OAK RIDGE, TN

S. 3300

Chairman Udall and Ranking Member Paul and Members of the Committee, I thank you for inviting me to testify on S. 3300, a bill to establish the Manhattan Project National Historical Park in Oak Ridge, Tennessee, Los Alamos, New Mexico and Hanford, Washington. I would also like to thank the co-sponsors of this bill: Senators Jeff Bingaman (D-NM), Lamar Alexander (R-TN), Maria Cantwell (D-WA), Tom Udall (D-NM) and Patty Murray (D-WA). I am Tom Beehan, the Mayor of the City of Oak Ridge, Tennessee and as the Chairman of the Energy Communities Alliance (ECA), the association of local governments that are adjacent to or impacted by Department of Energy (DOE) activities. Our members include local governments and other community organizations from the Oak Ridge, Los Alamos and the Tri-Cities (Hanford) areas, and all three communities have passed resolutions supporting the Manhattan Project National Historical Park and have jointly prepared the testimony I will present to you today.

ENERGY COMMUNITIES ALLIANCE SUPPORTS THE BILL TO ESTABLISH THE MANHATTAN
PROJECT NATIONAL HISTORICAL PARK IN OAK RIDGE, LOS ALAMOS AND HANFORD

First, and most importantly, I would like to stress that all three of our communities are united in our support for the passage of this bill to establish a 3-unit National Historical Park in Tennessee, New Mexico and Washington. There is also bi-

partisan support for this bill from the Senators and Members of Congress from all three of our states. Last week, House Energy and Natural Resources Chair Doc Hastings, along with Congressmen Chuck Fleischmann and Ben Lujan also introduced a bill to establish a park at all three sites (HR 5987). Our communities have been working for many years to preserve the history of the Manhattan Project at our sites, and we feel that now is the time to pass a bill that will lead to the establishment of a National Historical Park. In addition, there is support for both bills among the state and local elected officials, historic preservation organizations, National Park Service officials, Department of Energy officials, business leaders, environmental cleanup advocates, chambers of commerce, museum officials, librarians and many others.

Among the biggest advocates of the National Historic Park are the people who worked at the three sites during World War II. It is important to remember that no one in our country knew what the workers were building at the sites—they were truly “Secret Cities.” Most of the young men and women working in these communities did not even know what the project was. These were among the nation’s best and brightest citizens from all walks of life.

National Historical Parks are developed to ensure that we protect our country’s assets and open them to the public to learn about our nation’s history. We should work to open this park while some of the Manhattan Project Veterans are still alive and able to see their work recognized by our nation. These people played a valuable role in ending World War II and defending not only the United States but also democracies throughout the world. These true heroes, who dedicated their wartime service to the Manhattan Project, appreciate the legislation developed by your committee.

THE IMPORTANT HISTORY OF THE MANHATTAN PROJECT SITES MUST BE PRESERVED

As an expert panel of historians reported in 2001, the top-secret Manhattan Project program during World War II, centered in Los Alamos, NM, Oak Ridge, TN, and Hanford, WA, has been called “the single most significant event of the 20th Century.” Operating from December 1942 until September 1945, the Manhattan Project was a \$2.2 billion effort that employed 130,000 workers at its peak, but was kept secret and out of public view.

It is easy for those of us who live in the communities of Oak Ridge, Los Alamos and the Tri-Cities to say that the Manhattan Project changed the world. The Manhattan Project began in great secrecy in 1942, and the original mission was successfully completed by August of 1945 when the Japanese surrendered. The engineering and construction feats of the more than 100,000 men and women who were brought to these three sites from all over the world to build and operate first-of-a-kind nuclear plants, is an incredible story that deserves to be preserved and told.

On August 13, 1942 at the direction of FDR, the Manhattan Engineer District was established under the command of Colonel Leslie R. Groves. By September of 1942 Groves had selected Oak Ridge, Tennessee as the site for uranium isotope separation. In November 1942 Los Alamos was chosen as the laboratory to build the integral parts, under the direction of J. Robert Oppenheimer. And in January 1943 Hanford was selected for plutonium production. In 1945, just three years after the start of the project, the war with Japan was over. This was an incredible wartime achievement.

In today’s world, it is mind-boggling to think of what happened in these three short years. First, the actual land had to be acquired and existing homes and landowners had to be relocated. Then, workers of all types had to be recruited—engineers, physicists, chemists, mathematicians, as well as carpenters, electricians, iron workers, cement masons, and a multitude of office workers, cooks, guards and truck drivers. These individuals had to first build their own towns with dormitories and barracks, mess halls, utilities roads and railroads and even shower houses. Now almost 70 years later, these sites are being reindustrialized, and many ancillary buildings have been demolished and removed. The history of these human scientific and engineering achievements at the birth of the Atomic Age must be interpreted and preserved.

Let me be clear. Interpretation at these sites will be about giving current and future generations an understanding of this indisputable turning point in American, and indeed world history. Despite what some detractors may claim, this is not a Park about weapons. I believe this Historic Park is about the feats of scientific and engineering accomplishments developed at a time when our country was defending itself, both during World War II and the Cold War. The construction and operation of the first generation reactors in total secrecy was an astounding development. Now, the science of the Manhattan Project has transformed contemporary society

with significant contributions in fields such as nuclear medicine and nanotechnology. This Historic Park will tell all sides of the story of what occurred at Oak Ridge, Los Alamos and the Tri-cities, as has been identified in the National Park Service Special Resource Study released last year. The National Park Service interprets all sites and attempts to address all viewpoints to give a full and fair picture, and we support such actions.

BACKGROUND OF LEGISLATION

The National Park Service, at the direction of Congress, conducted a special resource study on several Manhattan Project sites for possible inclusion in the National Park System. The study recommends that the best way to preserve and interpret the Manhattan Project is for Congress to establish a national historical park at the three sites where a majority of the key scientific activity associated with the project occurred: Los Alamos, Oak Ridge and Hanford. The study acknowledged the significant Department of Energy investment in preservation of its assets, which played a role in the Park Service recommendation to proceed with a park designation. The DOE support provides the foundation for National Park Service interpretation of these assets for the public to see.

According to the National Park Service study, "Cultural resources associated with the Manhattan Project are not currently represented in the national park system, and comparably managed areas are not protected . . . the comprehensive story of the nationally significant Manhattan Project is not told anywhere . . . Including Manhattan Project-related sites in the national park system will provide for comprehensive interpretation and public understanding of this nationally significant story in 20th century American history."

Furthermore, as Senator Bingaman said in a recent press release for this bill: "Providing visitors with opportunities to form their own intellectual and emotional connections with the significance of sites to be included in the Manhattan Project National Historical Park helps them understand its relevance to our shared national heritage. There is no better place to understand history than where it happened, and that's what national parks and the National Park Service do best." We agree.

OAK RIDGE, LOS ALAMOS, THE TRI-CITIES COMMUNITIES ARE COMMITTED TO WORKING TOGETHER TO ESTABLISH A NATIONAL HISTORICAL PARK

Since the Department of Interior's final study and recommendation was announced in July of last year, our state, city and county officials, business leaders, historical societies and groups, various community groups and individuals in our communities and throughout the country have been working diligently with you and your staffs to support this legislative process; and we come here to support the legislation introduced in both the Senate and the House.

Most recently, many of us participated in an Energy Communities Alliance "Peer Exchange" meeting in Richland, Washington to discuss many of the issues surrounding the establishment of a National Historical Park at our sites. At the meeting, all the participants stressed the need to work together to get this park established. The three communities have not only partnered together to work on this important initiative, but we have also worked with DOE, the Department of the Interior, State Historical Preservation Officers, The National Trust for Historic Preservation, the National Parks Conservation Association, the Atomic Heritage Foundation and many others to provide comments on various drafts of this bill and visions for a National Park Unit at our sites. The meeting in Richland provided us with an opportunity to meet many of the involved parties and discuss the potential for a National Park at our sites.

While in Richland, our group also toured the B Reactor, the incredible engineering accomplishment that is the world's first full scale production nuclear reactor. The B Reactor was built in just 11 months. The design was based on the success of Enrico Fermi's "Chicago Pile 1" and a pilot plant, the X-10 Graphite Reactor, located at what is now the Oak Ridge National Laboratory. This tour provided the potential experience that a visitor to a National Park would have when visiting the site, and the National Park Service has not even started their interpretative work. When visiting the B Reactor, one really gets an appreciation for the potential of the site to attract thousands of visitors a year. Already the few public tours that are available for the B Reactor fill up almost as soon as they become available. Last year, more than 8,000 seats were filled in less than 5 hours. This year more than 10,000 people will go on the tour. The B Reactor has had visitors from all 50 states and 48 countries.

Oak Ridge has many assets that are open to visitors and community members who want to learn more and get a glimpse of what life was like "behind the gate".

The Department Of Energy Facilities Public Bus Tours, held from June through August each summer, highlight the Graphite Reactor at the Oak Ridge National Laboratory, the New Hope Center at Y-12, the DOE operated American Museum of Science and Energy, and portions of the City of Oak Ridge, where housing and other structures from the Manhattan Project era remain.

In 2011, around eight thousand people visited the Graphite Reactor at ORNL and close to five thousand people came through the Y-12 New Hope Center. Additional special tours of these facilities, along with the Y-12 facility are held each year during the "Secret City Festival," which attracts between 20-30 thousand people. These tours are one of the most popular events during the festival weekend and over 700 people recently participated in the tour in a single day.

In Los Alamos, the industrial work at the laboratory was on a smaller scale than at Oak Ridge or Hanford. Properties, such as the Gun Site, where the work on Little Boy was done, and at the V Site, where work on the "Gadget" was accomplished, visitors get a sense of the "can-do" spirit of the scientists and technicians who had to make do in make-shift buildings with some rather creative equipment. We are confident the Department of Energy and Department of Interior can work out visitor access issues to these sites. At the same time, in the Los Alamos' historic center, visitors can walk the same paths as the giants of 20th century physicists, and see the homes where J. Robert Oppenheimer, Hans Bethe, and other talented scientists once lived and socialized.

Recommendations

The Manhattan Project National Historical Park is needed to preserve the history of the most significant event of the 20th Century. As you proceed, we ask that you consider the following recommendations:

- Establish the Park Now to Honor Our Manhattan Project Veterans. There is unanimity among the three communities that the Park should be established in the near term in order to honor our Manhattan Project and Cold War veterans.
- Protect ongoing Missions of DOE. We support legislative language that protects the ongoing missions of DOE, and recognize the need for appropriate flexibility in the partnership among the stakeholders.
- Authorize User/Entrance Fees. Although the legislation should recognize DOE's responsibility to maintain its assets, authorization for a modest entry/user fee should be included to assist in the long term stewardship of non-DOE-owned assets.
- Donations authority should be broad. We want to ensure that the National Park is permitted to accept both personal property and financial donations to support the park and the tours of the sites. The bill should include language that "The Secretary may accept, hold, administer, and use gifts, bequests, and devises (including real and personal property, labor and services), for the purpose of preserving and providing access to, historically significant resources relating to the Department."
- Allow inclusion of Nationally Significant Sites. We need flexibility to permit the NPS to work with communities to be able to add sites that are nationally significant and suitable for inclusion in the Historic Park.

CONCLUSION

In closing, we believe the proposed Historical Park will serve as a 21st Century model for the National Park Service, or as the National Park Service study calls it "A new innovative Manhattan Project National Historical Park," one that is based on federal, state and community partnerships. We look forward to working with you, and urge that this Congress pass the National Park legislation. The Energy Communities Alliance and our individual communities support this important legislation Senate Bill 3300. We thank you and the full committee for your leadership and support.

The CHAIRMAN. Thank you very much for your testimony.
Mr. Judge, go right ahead.

STATEMENT OF WARREN JUDGE, CHAIRMAN, DARE COUNTY BOARD OF COMMISSIONERS, COUNTY OF DAREO, NC

Mr. JUDGE. Thank you, Mr. Chairman. I appreciate this opportunity today on behalf of the 33,000 local people who call Dare

County their home and the millions who visit the Outer Banks of North Carolina each year.

Dare County is proud to be the site of the Cape Hatteras National Seashore Recreational Area which has the distinction of being America's first National Seashore. It is unique that it was created by Congress and designed by the National Park Service to be a recreational area. Our people sacrificed and cooperated with the Federal Government through the gifts of land and favorable sales of property to help develop this special place. This was done in good faith based upon solemn promises that were made that there would always be recreational access.

Today I ask you to enact S. 2372. This bill represents a practical and proven solution for providing access to the seashore while assuring science based protection of shore birds and turtles.

S. 2372 would reinstate a National Park Service management tool known as the Interim Plan. This was a fully vetted, comprehensive plan that provided reasonable recreational access while at the same time safeguard it and protect resources. The other management plan had a NEPA review and was born in the light of public involvement and participation. The Interim Plan worked. It gave the Superintendent the authority to use his or her professional judgment to make timely and practical adjustments in direct response to actual conditions at the seashore on a real time basis.

Unfortunately after a lawsuit by special interest groups the Interim Management Plan was set aside and a rigid and arbitrary Consent Decree was mandated by a court. This Consent Decree never had a NEPA review. Because it was prepared behind closed doors by special interest groups, it never had the benefit of healthy public participation through public hearings.

Under S. 2372 access decisions would be made a Park Superintendent, who is ultimately accountable to Congress rather than to the courts or a rigid, arbitrary and floored ORV plan.

S. 2372 does not strip away all regulations and leave the seashore unprotected. Far from it. The Interim Plan has comprehensive and effective rules that can be actively managed by the Superintendent to better protect wildlife.

The people of Cape, the people of Hatteras Island and those who cherish Cape Hatteras National Seashore Recreational Area have a vested and vibrant interest in preserving this magnificent seashore for all generations to come. Our residents and visitors have proven that people and nature can live in harmony. I have seen it work first hand.

As Chairman of the Dare County Board of Commissioners I have also seen how people have suffered under the Consent Decree. The recently implemented National Park Service ORV rule that imposes even greater restrictions. Dare County, like some places you call home, is a rural area where small businesses are the economic backbone of our community. Hard working men and women have for generations created jobs and sustained economic growth for our area by offering outstanding service and hospitality to those who travel from around the Nation and the world to enjoy our family oriented beaches and rich heritage of historical and cultural attractions.

Tourism is our primary industry. It is the engine that drives our economy. Since the Consent Decree was enacted in the spring of 2008, our people have suffered. Many have seen a dramatic drop in revenue directly related to heavy handed, beach access restrictions. This has taken a harsh toll on their businesses, their employees and their families. This impact has been most vivid for those near the closure areas because Dare County is such a large geographical area even when tourism may be up in some neighborhoods that are far removed from Hatteras Island, it is still a fact that people near the closures are struggling to hold on to the American dream.

Recently during the week of June 14, only 27 percent of the seashore miles were open to everyone. Unfortunately this did not include Oregon Inlet, Cape Point and other popular destinations for affordable, family oriented recreation. This turmoil was centered around the Piping Plover, a species that is not endangered in North Carolina and is only listed as threatened on its migratory path through the Outer Banks.

Our community has suffered long enough. We need your help. Here in Washington if one Piping Plover were to nest on the Mall in front of the Smithsonian under the rules now in place, it would shut down the entire Mall from the edge of the Capital Building grounds to just east of the Washington Monument.

To conclude, Mr. Chairman, this is why I'm asking you today, urging you, to enact S. 2372, to reinstate the Interim Management Plan. As a long time resident, native, a World War II veteran, Dan Willis put it recently as a tank commander in the Battle of the Bulge in old Normandy. "My country had no problem sending me to the beaches of Normandy, but I cannot go to the beach in my beloved Hatteras village."

Thank you.

[The prepared statement of Mr. Judge follows:]

PREPARED STATEMENT OF WARREN JUDGE, CHAIRMAN, DARE COUNTY BOARD OF
COMMISSIONERS, COUNTY OF DAREO, NC

S. 2372

Dare County North Carolina, known as the Outer Banks, is home to the Cape Hatteras National Seashore Recreational Area (CHNSRA), which has the distinction of being America's first national seashore. The CHNSRA is unique in that it was created to be a recreational area. In the wake of the Great Depression, the Federal Government launched this new recreational concept as a bold and innovative endeavor to stimulate tourism and bolster the economy.

The people of Dare County cooperated with the Federal Government in creating this new national seashore. People sacrificed through gifts of land and favorable sales of property to the National Park Service. This was done in good faith based on solemn promises made by Washington that there would always be recreational access for the people.

At the urging of the National Park Service, people built businesses and infrastructure to support and promote tourism to the area. For generations the area flourished and the area became a popular tourism destination because of its world-class fishing and a host of family-oriented recreational activities.

The County of Dare through its elected leaders, and in concert with grassroots community partners, has been involved in every phase of the Federal Government's planning and rulemaking for the seashore. Throughout this process we have participated in the negotiated rulemaking process, and engaged in Public Hearings on the Draft Environmental Impact Statement (DEIS), Final Environmental Impact Statement, (FEIS) and the ORV Management Plan. Along with others, we have repeat-

edly offered practical solutions to address the concerns required by Executive Orders 11644 and 11989 without compromising the area's unique culture and economy.

Based on decades of experience working with the National Park Service, we have concluded that S. 2372 is a practical solution for providing access to the seashore while assuring that science-based measures will protect shorebirds and turtles.

Following are reasons why S. 2372 makes sense today for the Cape Hatteras National Seashore Recreation Area—

PROVIDES FLEXIBILITY FOR THE SUPERINTENDENT TO BETTER MANAGE THE SEASHORE

The passage of S. 2372 would reinstate the "Interim Management Plan," a tool developed by the National Park Service that was in place before the consent decree and proven effective in balancing resource protection with responsible recreational access. The Interim Management Plan was fully vetted and had a National Environmental Policy Act (NEPA) review.

A key provision of the Interim Plan is that it provides adaptive management techniques that give the Superintendent authority to use his or her best professional judgment in adapting corridors and routes as the physical characteristics of the beach change on a dynamic basis. This common sense approach allows the Superintendent to modify access by responding directly to changing conditions on a real time basis, rather than arbitrarily written mandates.

For example, when buffers are established to protect a resource, once the species have begun moving away from the nesting area, the Superintendent could monitor and modify the established buffer on an on-going basis. This would ultimately provide more effective resource protection, while at the same time providing more access. This represents a win-win situation for both protected resources and the American public.

This flexibility is vital because conditions at the seashore are dynamic and in a constant state of flux. As the landscape of the seashore changes due to weather and tide conditions the natural environment of the area changes as well. These changes can be assessed, analyzed, and adjusted as needed by the Superintendent.

We believe the Superintendents of the CHNSRA, including the current one, are dedicated professionals with the ability and experience to manage the seashore in a responsible way. Depriving the Superintendent of this flexibility denies reasonable access without affording any resource protection benefit.

Reinstating the Interim Management Plan will not remove all regulatory controls and create a reckless situation where the seashore is unprotected. Nothing could be further from the truth. The Interim Plan has comprehensive rules that will allow the Superintendent to actively manage the seashore and better protect all species of wildlife.

The Interim Plan also had the benefit of citizen participation through Public Hearings. As a matter of principle, we believe the development of environmental policy is best done openly in the sunshine of full and transparent public review. The consent decree, put in place after a lawsuit by special interest groups, never enjoyed public support due in large part that it was prepared behind closed doors without taxpayer input.

RESPONSIBLE ORV ACCESS IS A MATTER OF PRACTICAL NECESSITY

Dare County has championed the cause of providing access for all users of the seashore. We strongly support pedestrian access and have long encouraged the National Park Service to add additional parking, walkovers and other infrastructure to enhance and improve the pedestrian visitor experience.

We also recognize the physical reality that ORV use is the only practical way to gain access to some of the key recreational sites within this uniquely designed seashore. On first visit to the Cape Hatteras National Seashore Recreational Area, many are surprised to discover that without ORV access, people of all ages would have to hike large distances, of over a mile, to reach some of the remote recreational areas. Only the most athletic can traverse the hot sand carrying small children, recreational equipment, water and other vital supplies.

Without ORV access, the physically disabled, the elderly, and the many who suffer from chronic medical conditions are unable to reach the seashore and enjoy the place that is supported by their tax dollars. This is inconsistent with the recreational purpose for which the CHNSRA was originally created.

Mobility impaired visitors depend upon their vehicle not only for transportation to the seashore, but as a necessary lifeline in the event of a medical emergency, a sudden change of weather or temperature conditions, or need for toilet facilities. It is unfair that these people be restricted to the areas directly in front of the villages as is now provided in the ORV Management Plan.

At the Cape Hatteras National Seashore Recreational Area, ORV access is a matter of practical necessity.

RESOURCE PROTECTION MUST BE BALANCED WITH RECREATIONAL ACCESS

We believe people and nature can live in harmony in the Cape Hatteras National Seashore Recreational Area. For generations our community has been on the vanguard of sustaining the natural resources in order to preserve them for our children, and grandchildren, and generations to come. No one is more committed to preserving a solid, long-term, ecological future for the beaches of the Outer Banks than the people of Dare County.

The public is often surprised to learn that none of the birds protected at the CHNSRA are endangered. While the piping plover is considered threatened on its migratory path through the Outer Banks, it is not indigenous to the area, and it is not endangered.

Other shorebirds that are afforded protection are not endangered, but listed as species of concern. This is an important distinction because non-endangered birds at the Cape Hatteras National Seashore Recreational Area are being given greater levels of protection than is given to the same species at other National Parks and Seashores.

Those who oppose recreational access fail to disclose the truth that the greatest threat to wildlife at the CHNSRA is from weather and natural predators. As they herald the rise and fall of breeding numbers from year to year, they imply that ORV access is the villain. In reality, it is weather conditions, including severe nor'easters and hurricanes that frequent the Carolina coast, that destroy bird and turtle nests.

Furthermore, the National Park Service has implemented a highly controversial "Predator Removal Program" that traps and kills hundreds of mammals each year to prevent raccoons, otters, foxes and other natural predators from robbing nests of their eggs. People who love all animals are shocked to discover that NPS disrupts the natural balance of nature by annihilating one species in a misguided attempt to save another.

Sadly, none of the special interest groups, who claim to defend wildlife, have raised their voice as advocates for the hundreds of mammals that have been systematically murdered each year. Instead, they would have you believe that ORV access is destroying shorebirds and sea turtles rather than admit the truth that the greatest threat to wildlife is from weather and natural predators.

To truly understand the dynamics of the Cape Hatteras National Seashore Recreational Area, it is important to note that restrictive closures have shut down vast geographical areas to protect a very small number of birds.

For example, during the recent week of June 14, 2012, only 27% of the seashore's miles were open to everyone. Unfortunately, this did not include Oregon Inlet, Cape Point, and other popular destinations for affordable, family-oriented recreation. During this same time, the National Park Service documented only 5 active Piping Plover nests in the entire Cape Hatteras National Seashore Recreational Area.

Let there be no doubt, Dare County is seriously committed to protecting those 5 nests in a responsible way. However, we believe they can be adequately protected by the Superintendent without shutting down most of the seashore. Here again, it is a matter of balance and avoiding extremist approaches.

It is also worth noting that because bird counts at the CHNSRA consist of such relatively small numbers, even modest gains are often distorted. For example, with a total population of only 5 nests, an increase of 1 nest yields a 20% increase. Special interest groups fan public sentiment by quoting these percentages and claiming that wildlife is thriving, instead of putting the actual number of non-endangered birds in its proper perspective.

Those who oppose reasonable recreational access justify it by claiming that a significant portion of the seashore is designated as a year-round ORV route. However, they leave out an important part of the truth. They fail to disclose that although an area may be designated as open for access, it is only theoretically open, because if any bird activity is observed, that area is immediately closed.

Although a route may be designated on a map for year-round ORV use, the appearance of one bird can shut down an entire area. Designated ORV routes do not guarantee access. They are only open until a bird appears at which time they are immediately closed.

CORRIDORS ARE NEEDED TO PROVIDE ACCESS IN A WAY THAT DOES NOT DISTURB
WILDLIFE

Corridors are a vital tool in providing access while managing resources. The National Park Service should incorporate the use of corridors through and around buffers so the public is not unnecessarily denied access to an otherwise open area.

Corridors effectively provide a small path around resource closures in order to provide access to open areas that would otherwise be blocked. Corridors allow visitor access to an open area that may be sandwiched between two closed areas. These corridors have limited negative impacts to the protected species, but they are crucial to providing access during closure periods.

In some instances, corridors can be made through or around closure areas. In other places, corridors can be established below the high tide line. Since unfledged chicks are not found in nests between the ocean and the high tide line, this type of pass through corridor would have no negative effect on wildlife and should be established throughout the seashore.

In the example* below, the visitors intended recreational area would be accessible through a small pass through corridor. Without this corridor, the area marked "Open" would actually be closed because it would otherwise be impossible to get there.

Corridors are vital to providing access in a way that does not hinder resource protection. Therefore, Dare County believes pass through corridors should be maintained for pedestrians and ORVs in all areas of the Cape Hatteras National Seashore Recreational Area throughout the entire breeding and nesting season.

RESTRICTIVE CLOSURES HAVE CAUSED ECONOMIC HARM FOR THE AREA

Highly restrictive beach closures have had a devastating impact on the community surrounding the seashore. Excessive and extreme closures have consequences. Sadly, at the Cape Hatteras National Seashore Recreational Area, these consequences have caused hard working, small businesses to suffer irreparable harm.

Tourism is our primary industry. It is the engine that drives our economy. Family-owned businesses are the backbone of Dare County and those who offer service and hospitality to Outer Banks visitors are suffering because of restrictive closures.

Closures have taken a heavy toll on a wide range of businesses including automotive parts & repair, bait & tackle shops, campgrounds, charitable service providers, child care centers, fishing rod builders, marinas, motels and cottages, professional artists, restaurants, and retail shops.

The negative impact has been the most vivid for those near the closure areas. When special interest groups claim that tourism has increased under the consent decree, they are guilty of not telling the entire story. Dare County is a large geographical area and even when tourism is up in a neighborhood that may be over an hour away from Hatteras Island, it is still a fact that people near the closures are struggling to survive.

Our people are being forced to work harder, deplete their savings, and short-change their family's future. Meanwhile, by cherry-picking economic indicators, the special interest groups rationalize that tourism is up in spite of unprecedented closures.

Sadly, even businesses whose revenue has stayed level or showed a modest increase have accomplished this at a costly price. Many have had to cut back employee hours, forego much-needed capital improvements, and sacrifice profits.

Our small business owners do not ask for special favors or government handouts, just a fair opportunity to earn their part of the American dream.

ADDITIONAL CONCERNS

User Fees Impose a Burden on the People

The Cape Hatteras National Seashore Recreational Area rightly belongs to the American people. For generations, families have depended on access to the seashore for recreation. This access has historically been provided at no cost for the residents and visitors of the CHNSRA.

Families plan all year long to visit Cape Hatteras. They save diligently in order to afford a destination where an American family can still enjoy a wholesome recreational experience at a reasonable price. This budgetary dynamic is a crucial one for the working people that frequent the CHNSRA. For these visitors, adding a fee to access the beach is akin to charging a fee to breathe the air.

*Graphic has been retained in subcommittee files.

Instituting fees for use of the CHNSRA threatens to hurt tourism and adversely affect the visitor experience. This applies not only to the National Park Service properties on the Outer Banks, but to the overall tourism-based economy on which Dare County depends.

User fees disproportionately affect those on fixed incomes, single parents, low-income visitors, and minorities. A \$120 user fee for someone earning the minimum wage of \$7.25 per hour is more greatly affected than someone earning an upper class income. We believe high user fees favor the rich and privileged over the poor and working middle class families that depend on free access to the Cape Hatteras National Seashore Recreational Area.

The yearly and weekly fees, as imposed by the National Park Service, are excessively high and make no provision for the many who visit the seashore for a length of stay of less than one week. By ignoring the needs of those who make day trips and weekend excursions to the Outer Banks, the Park Service further impairs the visitor experience.

Training and Permits Must Be Available Online and Highly Accessible

The American public and the visitors to the CHNSRA have responded well to educational efforts done by a variety of user groups and the County of Dare. Our residents and visitors have a long-standing position of promoting and supporting responsible stewardship of the Cape Hatteras National Seashore Recreational Area.

While additional education and training is desirable in any endeavor, we believe that requiring mandated training prior to the issuance of a permit is unwarranted in this case because of the effective job that has been done to promote and sustain responsible use of the CHNSRA.

If NPS continues to impose a training requirement, over our objection, then the following practical issues must be considered: Training and permits must be available online.

Visitors to the CHNSRA generally have one (1) week in which to pack in as much vacation as possible. Most arrive on Saturday afternoon and stay through the calendar week. This long established pattern sets in place a weekly cycle that threatens to choke the resources of NPS in handling a long line of incoming visitors each Saturday. Furthermore, the NPS permit office needs to be open well into the evening hours in order to accommodate those traveling tremendous distances to reach Dare County.

NPS Must Create New Infrastructure to Support their New Rules

In their ORV Management Plan, the National Park Service mandates new routes and vehicle free areas (VFA's). However, they have not embarked on a program to create the additional off beach parking and ramps that are needed for those who want pedestrian access to these areas.

To impose new guidelines without the support system in place will only impede and restrict access and risk further harm to the visitor experience.

Seasonal Village Closures Should Be Based on Conditions Not Arbitrary Dates

We believe that the seasonal closings of Village beaches has not been a problem that warrants the arbitrary and inconsistent dates outlined in the Final Environment Impact Statement (FEIS) upon which the ORV Management Plan was written.

Seasonal closures, in front of Hatteras Island Villages, should be based and depend on the season rather than arbitrary dates. This can be effectively developed, on an annual basis, by the Superintendent in partnership with officials from Dare and neighboring Hyde Counties.

Several Items to Set the Record Straight

The National Park Service in preparing its ORV Management Plan has made false, misleading and deceptive statements that warrant comment. We offer these as additional comments to establish a clear and consistent record that reflects the position of Dare County—

- NPS said in its summary of the proposed ORV rule—"minimizing conflicts among various users." In this comment, and in others like it, NPS would have everyone believe that the people who use the Cape Hatteras National Seashore Recreation Area are in conflict with each other. We find this not to be true. It is our experience that those who favor responsible ORV access, which represents the overwhelming majority, have taken great strides to accommodate the few who disagree. We believe there is something for everyone at America's first national seashore and have a documented track record of willingness to compromise and accommodate the needs of all user groups.

- NPS stated that, “A consent decree agreed to by the plaintiffs, the NPS, and the interveners, Dare and Hyde counties.” Here again, the National Park Service makes a statement that warrants additional information. The County of Dare did in fact join as an intervener in the consent decree. However, NPS fails to disclose that our involvement was as a matter of practical necessity in order to best represent the people of Dare County. The consent decree, prepared by a few special interest groups behind closed doors, was never exposed to the light of public comment and review. We entered the case as an intervener rather than risk letting the special interest groups and a sympathetic Federal Judge close the seashore entirely. It was a situation where we had to choose the lesser of two evils. As Dare County Vice-Chairman Allen Burrus asked, “Do we choose to get shot in the foot, or in the head?” Although Dare County was a party to the consent decree as an intervener, for NPS to imply that Dare County was in any way in conceptual agreement with the consent decree is disingenuous.
- The National Park Service claimed it conducted a “small business survey.” However, the work, which was done by contractor RTI, was never concluded or published prior to the close of public comments on the Environmental Impact Statements. This prevented the public from having access to the survey and being able to make informed comments about it. Following the eventual release of the small business survey, we determined it was based upon a small sample size with a poor rate of return. The skewed results of this survey stand in stark contrast to sworn, notarized statements from business owners that were submitted by Dare County during the public comment process. Our survey of business owners documents a consistent pattern of how the Consent Decree has hurt small businesses.
- Finally, we challenge the NPS conclusion in saying that the economic impact: “will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety or State, local, or Tribal governments or communities.” The National Park Service has dismissed and ignored the concerns of the local business community. The hard-working small business owners of Dare County have indeed suffered harm and will continue to do so under the ORV Management Plan. NPS may take comfort in saying the negative impact will not be harmful in a “material way.” This statement is untrue and insensitive to those in our community who have seen their savings depleted, businesses ruined and have had to lay-off valuable, long-term employees.

CONCLUSION

Dare County supports S. 2372 as sound legislation that will benefit the residents and visitors of the Cape Hatteras National Seashore Recreational Area. At the same time, we are deeply committed to protecting shorebirds and turtles with adaptive management tools that are based on peer reviewed science.

We believe the Interim Management Strategy, which would be reinstated upon passage of S. 2372, best balances resource protection with recreational access. It would allow access decisions to be made by the Park Superintendent, who is ultimately accountable to Congress, rather than the courts or a rigid and flawed ORV Management Plan.

On behalf of the residents and visitors of Dare County North Carolina, we respectfully ask you to help us preserve our culture, our history, and our way of life by supporting S. 2372.

The CHAIRMAN. Thank you very much.
Mr. Carter.

STATEMENT OF DERB S. CARTER, JR., DIRECTOR, NORTH CAROLINA OFFICE, SOUTHERN ENVIRONMENTAL LAW CENTER

Mr. CARTER. Chairman Bingaman, members of the committee, I'm the Director of the North Carolina Office of the Southern Environmental Law Center. I present this testimony on behalf of the National Audubon Society, Defenders of Wildlife and National Parks Conservation Association.

Our organizations and the 2.6 million members and supporters we represent oppose S. 2372. If enacted the bill would overturn an

off road vehicle management plan developed by the Park Service with extensive public participation and input. The plan and rule were 4 years in the making and 4 decades overdue.

The Park Service's final rule for managing ORV use on Cape Hatteras is supported by facts, reason and science and consistent with the goals of the Organic Act to conserve wildlife in our National Parks and provide for uses that will leave these areas unimpaired for future generations to enjoy.

I grew up in North Carolina. I visited Cape Hatteras multiple times every year. I've driven on the beaches of Cape Hatteras for over 40 years.

Over those years I've observed many changes. In the past there were a few vehicles on the beach, mostly recreational fishermen and a few commercial fishermen pulling nets. In recent years, as more and more people acquired vehicles capable of off road use, the numbers of vehicles began to overwhelm the beach.

As the number of vehicles on the beaches increased I observed dramatic declines in wildlife which have also been documented by State and Federal biologists. Our organizations have not proposed or supported prohibition of driving on the beaches, on the seashore. The Cape Hatteras ORV Management Plan and final rule creates a balanced access for all visitors to the seashore while providing an enhanced protection for wildlife.

It builds on the management measures in place at Cape Hatteras for the last 4 years under the Consent Decree that's been mentioned. This Consent Decree was developed and recommended to the court by ORV advocates, Dare County, conservation groups and the Park Service. The Consent Decree imposed beach driving restrictions and wildlife protections that are very similar to those in the final rule. As such the past 4 years leading up to the final rule previews the potential environmental benefits and economic effects of these restrictions.

Over the past 4 years management under the measures recommended by the parties to the Consent Decree, in our view, has been a resounding success. Wildlife has rebounded. It's in our written testimony.

Tourism has also thrived. Park visitation has held steady or increased over the last 4 years except for 2011 when Hurricane Irene cutoff the island road access for nearly 2 months. Tourism revenues have actually grown since the Consent Decree and additional ORV restrictions were in place.

According to Dare County occupancy tax reports, in the last 2 years new records were set for visitor occupancy and tourism revenue in Dare County. On Hatteras Island, the area that encompasses most of the seashore, visitors spent a record setting 27.8 million on lodging during July 2010 which was broken again as a new record in July 2011.

The Final Rule provides a balanced approach to seashore visitation designating 28 miles of the seashore as year round ORV routes and an additional 13 miles as seasonal ORV routes. Sixty-two percent of the seashore's beaches are designated ORV routes. The vast majority of visitors to the seashore, however, do not come to drive on the beach. Twenty-six miles are designated as vehicle free areas. If you want to drive on the beach you can. Since this plan went

into effect in February over 11,500 ORV permits have been sold by the Park Service for those that want to drive on the beach.

The Wildlife Management Plan measures in the Final Rule are based on peer reviewed recommendation of scientists, government scientists. Buffers are established only when birds attempt to nest in an area and are only put in place for the time necessary for those birds either to successfully nest or abandon the site. Sea turtles are protected by prohibiting driving at night only during the sea turtle nesting season.

In sum, we oppose legislating management under an interim strategy that will harm wildlife. This strategy also reserves an extraordinary percentage of the miles of the seashore beaches for the small minority of seashore users, like me, that drive on the beach and contradicts the wishes of the vast majority of the people who commented on the Final Rule.

We support the Final Rule adopted by the National Park Service that provides for reasonable ORV use of the beaches of Cape Hatteras while providing some minimum protections for wildlife. We oppose S. 2372 which would overturn that rule.

I appreciate the opportunity to appear and testify on this bill today.

[The prepared statement of Mr. Carter follows:]

PREPARED STATEMENT OF DERB S. CARTER, JR., DIRECTOR, NORTH CAROLINA
OFFICE, SOUTHERN ENVIRONMENTAL LAW CENTER

My name is Derb S. Carter, Jr. I am an attorney and Director of the North Carolina office of the Southern Environmental Law Center. I present this testimony on behalf of the National Audubon Society, Defenders of Wildlife, and National Parks and Conservation Association. We strongly oppose S 2372. If enacted, the bill would eliminate sensible safeguards to preserve Cape Hatteras National Seashore for future generations to explore and enjoy. Those safeguards are embodied in a Final Rule duly adopted by the National Park Service following many years of input from visitors to the National Seashore and local residents, as well as science-based measures to protect the wildlife and natural resources of the Seashore.

I grew up in North Carolina, and I have driven on the beaches of Cape Hatteras for over forty years. Over the years, I have observed many changes to the Seashore. In the past, there were few vehicles on the beaches, mostly recreational fishermen in rusted vehicles and a few commercial fishermen pulling nets. In recent years, though, as more and more people acquired vehicles capable of off-road use, or ORVs, the numbers of vehicles began to overwhelm the beaches. See attached photographs 1, 3. As the numbers of vehicles on the beaches increased, I observed dramatic declines in wildlife. Several species of waterbirds nest directly on the dry sand beaches of Cape Hatteras. Repeated disturbance of birds during the nesting season, and in some cases direct mortality from being crushed by vehicles, contributed to significant declines in some species, and some disappeared from the Seashore entirely. The same is true for several threatened and endangered species of sea turtles that nest on the beaches of Cape Hatteras. See attached photographs 2, 3, 5-7.*

Some are surprised that driving is allowed at all on the beaches of a national seashore, but it has long been part of the culture at Cape Hatteras. Our organizations have not proposed or supported a complete prohibition of driving on Cape Hatteras. Rather, we have supported sensible protections for wildlife that relies on the Seashore's beaches and the designation of some areas for pedestrians to enjoy beaches without vehicles. The Final Rule struck a balance between ORV use, pedestrian use, and resource protection that should be preserved.

We support the Final Rule adopted by the National Park Service that provides for reasonable ORV use of the beaches of Cape Hatteras National Seashore while providing some minimum protections for wildlife, and we oppose S 2372, which would abolish that Rule.

*Photos have been retained in subcommittee files.

BACKGROUND

Congress established Cape Hatteras National Seashore as the nation's first national seashore in 1937. The enabling legislation for Cape Hatteras National Seashore declares that it shall be "permanently preserved as a primitive wilderness" and that "no development of the project or plan for the convenience of visitors shall be undertaken which would be incompatible [] with the preservation of the unique flora and fauna of the physiographic conditions now prevailing in the area." 16 U.S.C. § 459a-2.

The Park Service Organic Act declares that national parks and seashores must be managed "to conserve the scenery and the natural and historical objects and the wildlife therein and to provide for the enjoyment of the same in such a manner and by such means as will leave them unimpaired for the enjoyment of future generations." 16 U.S.C. § 1. If a conflict exists between recreational uses and natural resource protection, natural resource protection predominates.

Executive Order 11644, issued by President Nixon in 1972, directs all federal land managers to adopt plans to manage ORV use and requires that those plans not harm wildlife or degrade wildlife habitat. National Park Service regulations require adoption of special regulations to authorize ORV use in national parks and seashores. 36 C.F.R. § 4.10. The National Park Service neglected adopting an ORV management plan and special regulation for Cape Hatteras National Seashore until a final rule was published earlier this year. It is this special regulation (the "Final Rule") that this bill seeks to overturn.

THE CONSENT DECREE: BOTH TOURISM AND WILDLIFE THRIVED UNDER ITS TERMS

In April 2008, conservation organizations, ORV users, two counties, and the National Park Service recommended in a federal lawsuit¹ that the U.S. District Court for the Eastern District of North Carolina enter a consent decree that included beach driving restrictions and minimum wildlife protection measures on Cape Hatteras National Seashore until an ORV management plan and special regulation was put in place. The Consent Decree recommended by the parties imposed beach driving restrictions and wildlife protections beginning in 2008 that are very similar to those in the Final Rule. As such, the past four years leading up to the Final Rule adopted in February 2012 previews the potential environmental benefits and potential economic effects of additional restrictions on beach driving on the Seashore.

Prior to the Consent Decree, beach driving restrictions and wildlife protections on the Seashore were somewhat ad hoc, more responsive than pro-active, and implemented primarily by Superintendent's Orders and on-the-ground decisions. These approaches and measures to address the impacts of ORV use on wildlife were pulled together in an "Interim Protected Species Management Strategy" in 2007. The strategy was "interim" because the Park Service planned to use it only as long as it took to meet its longstanding obligation to develop an ORV management plan and Final Rule, which would supplant the interim strategy. The Interim Strategy generally reflected ongoing Park Service approaches and attempts to manage the conflicts between ORV use and wildlife on the Seashore, approaches and attempts that had not stopped precipitous declines in many species.

Over the past four years, management under the measures recommended by the parties to the Consent Decree has been a resounding success. Wildlife has returned to the Seashore. The various federally endangered, federally threatened, and state-protected species of shorebirds, water birds, and sea turtles that live and breed at Cape Hatteras National Seashore have rebounded. In the last two years (under protections that are very similar to the Final Rule's), records have been set for the number of sea turtle nests, piping plover breeding pairs, piping plover fledged chicks, American oystercatcher fledged chicks, least tern nests, and gull-billed tern nests. Under the Consent Decree, two species, gull-billed terns and black skimmers, have returned to the Seashore to nest after disappearing for several years.

Endangered and threatened sea turtle nests have increased dramatically with record nesting years in 2010 and 2011. Nests have exceeded abandoned nests or false crawls every year since 2007, reversing the previous trend.

Tourism has also thrived in the four years under reasonable wildlife protections and ORV restrictions similar to those implemented in the Final Rule. Park visitation has held steady and increased in some years, and tourism revenues grew. Notably, in the last two years, new records have been set for visitor occupancy and tourism revenue in Dare County, North Carolina, where most of the Cape Hatteras Na-

¹Defenders of Wildlife et al. v. National Park Service et al. (E.D.N.C. case no. 2:07-CV-45)

tional Seashore land is located. This economic success has been enjoyed despite a nationwide recession, high gas prices, and hurricanes.

ORV restrictions have not hurt park visitation. For the past eight years, Cape Hatteras visitation has held steady between a low of 2,125,005 (in 2006) and a high of 2,282,543 (in 2009). In 2011, visitation dipped to 1,960,711, when Hurricane Irene cut off access to Hatteras Island for nearly seven weeks from August 24 to October 11. Dare County, NC, visitor occupancy receipts for each year under the Consent Decree's ORV restrictions (2008 to 2011) exceeded receipts in 2007 and prior years, with 2008, 2010, and 2011 setting successive records for all-time high receipts. Hatteras Island visitors spent a record-setting \$27.8 million on lodging during the month of July 2010 (surpassing July 2009 by 18.5 %). July 2011 occupancy receipts on Hatteras Island then set a new high of \$29,587,938 (surpassing July 2010 by 6.26%).

The NPS commissioned a study of the economic impact of the Final Rule, which concluded among other things that the local economy would likely adapt to the Final Rule. Several other studies show that the large majority visitors to Cape Hatteras prefer numerous non-vehicular activities such as swimming, sunbathing, visiting historic sites, walking, enjoying solitude, photography, and bird watching/wildlife viewing, over beach driving, and the majority of people who visit Cape Hatteras come to engage in these other activities rather than beach driving. A 2008 study by the US Fish and Wildlife Service concluded that only 2.7% to 4% of Cape Hatteras visitors each year are ORV users and that restrictions on beach driving would likely significantly increase visitation by other categories of visitors. In sum, there is little to no support for predictions that the Final Rule will harm tourism and the local economy.

Moreover, those who want to drive on the beach continue to visit the Seashore in large numbers. Over 11,500 ORV permits have been sold since the Final Rule went into effect on February 15, 2012

THE FINAL RULE

The Final Rule this bill would overturn should be given a chance to build on the Consent Decree's success. The public process informing the National Park Service's management plan included numerous public meetings, a negotiated rulemaking process that included opportunity for public comment at each monthly meeting, and two public comment periods, during which tens of thousands of people commented on the draft Final Rule and its supporting environmental impact statement. The NPS received 21,258 written comments on the draft rule, the vast majority of which were in favor of greater wildlife protections and ORV restrictions.

The Park Service's extensive review culminated in lengthy economic reports and cost-benefit analyses, an environmental impact statement that examined six alternatives to the Final Rule, and a detailed biological opinion issued by the U.S. Fish & Wildlife Service, all of which supported the Final Rule as it was written. The management measures in the Final Rule are based on a robust scientific record supported by leading experts. In contrast, the Interim Strategy that this Bill would reinstate is not supported by science and would cause wildlife to decline.

The Final Rule provides a balanced approach to Seashore visitation, reserving 28 miles of Seashore beaches as year-round ORV routes and an additional 13 miles as seasonally open to ORVs, but reserved for pedestrians during the peak tourism seasons. Sixty two percent of the Seashore's beaches are designated ORV routes. Most other national seashores either have regulations in place to manage and restrict ORV use or do not allow ORV use at all; only one national seashore continues to allow beach driving without a regulation in place, and it is working on one. Four national seashores have long prohibited ORVs entirely, while the remaining ones have regulations restricting ORV use. All of those (except Padre Island, by operation of Texas state law), allow driving on a much smaller percentage of their beaches than does the Hatteras Final Rule. Thus, if anything, the number of miles Cape Hatteras's beach set aside for ORV use in the Final Rule is unreasonably large rather than overly restrictive.

The Rule designates 26 miles as year-round vehicle-free areas for pedestrians, families, and wildlife, to promote pedestrian access and reduce user conflicts between motorized and non-motorized visitors. The new plan also proposes new parking facilities, access ramps, and water shuttles to increase visitor access to beaches. We have supported the NPS's proposal of, and planning for, those facilities, and support additional appropriations to make those proposals a reality.

Wildlife protection measures in the Final Rule generally follow those in place for four years under the Consent Decree and are designed to allow ORV and pedestrian access consistent with giving a chance to birds and turtles that nest on the beach.

U.S. Geological Survey recommendations for wildlife management at Cape Hatteras National Seashore used “best available information,” including “published research as well as practical experience of scientists and wildlife managers” and were peer reviewed by more than 15 experts. Buffers to prevent disturbance are set up and closed to ORV or pedestrian entry only when birds attempt to nest and are removed once the nest fails or the chicks fledge. The buffers are species-specific and based on the peer-reviewed recommendations of scientists at the U.S. Geological Survey. Sea turtles are protected by prohibiting night driving on the beaches during turtle nesting season, posting nests, and establishing corridors to the beach for hatchlings just prior to hatching.

In sum, the Final Rule designates nearly two-thirds of the Seashore beaches as year-round or seasonal ORV routes, provides some pedestrian-only areas for the vast majority of visitors who are non-ORV users, and allows pedestrians access to all the beaches except for minimal disturbance buffers around nesting birds during the breeding season.

INTERIM STRATEGY

S 2372 would ignore four years of planning, the comments of tens of thousands of citizens, and the best available science, and it would return Cape Hatteras National Seashore to the failed protocols of the Interim Protected Species Management Strategy that proved to be devastating to birds, sea turtles, other natural resources, and the public’s enjoyment of the Cape Hatteras National Seashore beaches prior to the introduction of the Consent Decree.

The Interim Strategy, to which S 2372 seeks to revert, was not developed as a long-term solution for managing ORV use at Cape Hatteras, but rather expressly and repeatedly states that it was intended only to be implemented temporarily “while a long-term ORV management plan is developed.” The Interim Strategy references specific guidance on species management developed for the Seashore by U.S. Geological Survey scientists and then explains this “best scientific information” is not fully incorporated in the Interim Strategy. In sum, management under the Interim Strategy will harm wildlife.

The USFWS Biological Assessment for the Interim Strategy reiterates that it will negatively impact the natural resources of the Seashore in the long-term. It concludes that under the Interim Strategy “there may be risk of disturbance, injury or death if the ORV by-pass is within the area utilized by the [piping plover] brood” and that “[t]here could also be negative impacts if disturbance from the ORV route restricted the brood’s movements.” The Biological Assessment of the Interim Strategy’s analysis of the Strategy’s effect on sea turtles states that “negative impacts [of night driving] on nesting females in the surf zone may be particularly severe” and observed that the NPS at Cape Hatteras and Cape Lookout are “the only federal agencies within the nesting range allowing night time driving on beaches.”

In contrast to the Final Rule, the Interim Strategy that S 2372 seeks to reinstate:

1. Was not supported by the same degree of public participation and contradicts the wishes of the vast majority of people who commented on the Final Rule;
2. Is not supported by any data or evidence that it will have a greater positive impact (or avoid a negative impact) on tourism than the Final Rule;
3. Is not supported by an environmental impact statement or extensive economic studies;
4. Will reserve an extraordinary percentage of the miles of Seashore beaches for a small minority of park users, to the exclusion of the majority of park users who do not visit the Seashore to drive ORVs on the beaches;
5. Is not supported by the great weight of scientific literature is;
6. Was responsible, in part, for the decline in population of the many protected species at the Seashore by 2007; and
7. Will undermine the goals and requirements of the Park Service Organic Act to manage our parks so as to leave them unimpaired for future generations, and the enabling act for the Seashore to preserve the unique flora and fauna of the region.

CONCLUSION

The National Park Service’s Final Rule for managing ORV use on Cape Hatteras National Seashore is supported by facts and reason, and will maintain balanced access for all visitors to the Seashore while providing enhanced protection to wildlife. The Final Rule is the outgrowth of several years of planning and public participation. It builds on the management measures in place at Cape Hatteras for the last four years during which visitation and tourism flourished and wildlife began to re-

bound on the Seashore. Please oppose S 2372, and instead support the National Park Service's common sense management plan.

Senator MANCHIN [presiding]. Thank you, Mr. Carter. To all 3, thank you very much. At this time I'm going to ask Senator Portman if he has any questions.

Senator PORTMAN. Thank you, Mr. Chairman.

I just have a statement in support of one of the pieces of legislation under consideration today.

I thank the witnesses. I don't have any questions for you. I don't want to make you have to stay at the panel if you don't have a desire to.

Do you have any questions for the witnesses?

Senator MANCHIN. I do.

Senator PORTMAN. OK, why don't we go with that?

Senator MANCHIN. About the questions, OK.

First of all, I want to thank you, all 3 of you for being here. On S. 2372, I think as I stated before and I think you know my position on that. I respect your position also, sir.

I think first of all, the thing that intrigues us, both from the Democrat and Republican side, this is a bipartisan proposal from a Democrat and a Republican. We don't get that too often here anymore. So we're really excited when we saw Senator Burr and Senator Hagan both be for something. So it gets all of us, as far as colleagues, a little bit more excited, if you will.

Then for myself and being spending many, many years down there also, as yourself, I've really enjoyed the area, enjoy the people very much. I would ask, I guess, Mr. Carter, did you participate in the compromise 2007, the compromise that was worked out?

Were you part of that involvement?

Mr. CARTER. The organizations that we have worked with were involved in the interim strategy, development of the interim strategy, if that's what you're referring to.

Senator MANCHIN. Yes, the interim strategy. Right.

Mr. CARTER. Yes, sir.

Senator MANCHIN. That seemed to be a pretty good compromise that they'd worked out and a pretty good strategy everybody was working on.

Mr. CARTER. Senator, the problem with the interim strategy was that what it did was formalize the management measures that were already in place on the seashore and had been in place for several years. What was clear was that those measures were not protecting wildlife because during that period of time wildlife was declining precipitously on the seashore. So the problem is it just formalized that were already harming wildlife.

It ignored the recommendations that the Park Service sought from government scientists on what needed to be done to protect the wildlife on the seashore. It was intended only to be interim until a final plan could be adopted. I don't think anyone—it was called an interim plan. I don't think anyone felt that that was to be the final plan that would go through the full amount of public participation that this final rule has to really, fully address the issues related to ORV use and natural resources that needed to be addressed.

Senator MANCHIN. Mr. Judge, if I may. I appreciate so much of your testimony.

Mr. JUDGE. Yes, sir.

Senator MANCHIN. It sounds to me like, you know, being responsible for the citizens, 33,000, in that county. That you're trying to find a balance between the people.

Mr. JUDGE. Absolutely. Yes, sir.

Senator MANCHIN. The environment.

Mr. JUDGE. Yes, sir. Absolutely. Dare County—

Senator MANCHIN. How much of an impact has this had on the local residents there and the—I know he's telling me that, Mr. Carter, respectfully said that it's thriving.

Mr. JUDGE. Dare County is about 100 miles long. We've got beaches that stretch from the Dare County/Currituck County line. You may be familiar with the names of Sanderling and Duck, all the way down through Southern Shores, Kitty Hawk, Kill Devil Hills and Nags Head over on to Roanoke Island, Villages of Wanchese and then Hatteras Island. While, yes, business is good, the business of commerce and tourism in Dare County is good. That's good for us because our own building and real estate industry have stopped, just like pretty much all over the country.

But Hatteras Island has suffered significantly. If you go to the Village of Buxton on Hatteras Island, which is right at Cape Point.

Senator MANCHIN. I know it well.

Mr. JUDGE. They suffer greatly from the first week or so of March when the closures go into effect at Cape Point until they are lifted, typically the end of July, the first of August. You're taking away winter fishing, spring fishing and vacationing and you're taking away a good chunk of the summer vacation.

Senator MANCHIN. Would you say a majority—

Mr. JUDGE. These are mom and pops.

Senator MANCHIN. Yes.

Mr. JUDGE. These are people who've built 50 room motels and have cottages and restaurants. You know, we're not a big manufacturing commerce. But these are people who, for generation after generation, my colleague and Vice Chairman of the Board is here with me today. His family has been in the grocery store business since 1850s. It's a struggle to hang on.

Senator MANCHIN. Is it fair to say that the majority of the people of Dare County oppose the—

Mr. JUDGE. The vast majority of Dare County, absolutely. Yes, sir.

Support the Interim Management Plan. We have another colleague in the audience today representing CHAPA and some of the other organizations. They're not wild about the Interim Management Plan. But they were at the table and they participated since the spring of 2005 when public hearing after public hearing, giving our input and offering our—

Senator MANCHIN. I'm sure you are pleased you have both of your Senators, the Democrat and the Republican supporting this.

Mr. JUDGE. Absolutely. It's an issue of access, Senator. It's often referred to as an ORV driving plan. The off road vehicle dominates the discussion. But it's access. It's access whether you're on foot or whether you're on—whether you're inside a car.

When they say beaches are open to driving what they're really saying is routes are designated. Just because it's a designated ORV route, does not mean it's open, sir.

Senator MANCHIN. Thank you, sir.

Senator Portman.

Senator PORTMAN. Thank you, Mr. Chairman. Gentlemen, thank you for your testimony.

I'd like to address briefly, if I could, another bill that's before the committee today. This is the World War II Memorial Prayer Act. It's S. 3078. I want to thank the Chair, for his support and Chairman Bingaman's willingness and Ranking Member Murkowski's willingness to have it included on today's agenda.

This is a bipartisan bill that will lead to the placement of a plaque or inscription at the World War II memorial in Washington, DC, with a prayer that Franklin D. Roosevelt shared with the Nation by radio address on D-Day on June 6, 1944. With D-Day underway President Franklin Delano Roosevelt asked our Nation to come together in prayer for the men who were engaged in this dangerous but very important battle.

He chose a prayer instead of a speech because he viewed it as a solemn occasion. It's a very powerful prayer drawing on our Nation's rich Judeo/Christian heritage and values. It brought strength and inspiration to many on what was a very challenging time for our country.

On June 6, 2012, just a few weeks ago on the 68th anniversary, I had the honor along with Senator Lieberman, who is a co-sponsor of the legislation, to not just introduce the bill but also commemorate that prayer on the floor that day. We worked closely with the National Park Service on this to ensure that the plaque or inscription does not disrupt the World War II memorial or bypass the Commemorative Works Act process which governs monuments in Washington, DC.

The placement design of the plaque would be assigned to a Commemorative Works approval and review process which makes it consistent with legislation that's been passed by previous Congresses. The legislation is adding some historical context to a beautiful memorial, adding another layer of commemoration, not taking anything from a memorial that's already in place.

My friend in the House of Representatives Congressman Bill Johnson introduced the House companion bill which passed the House earlier this year with an overwhelming bipartisan vote of 386 to 26. A lot of outside groups have been very supportive of this.

I'll read you a letter received from the American Legion which says that the World War II Memorial Prayer Act would bolster the already reverential World War II memorial in Washington, DC. This organization, along with others believe that this an apt way to, not just as they say, remember the sacrifices but also inspire Americans.

I do want to address, if I could briefly, Mr. Chairman, a letter which was received by the committee last night. This letter was received from the Americans United for Separation of Church and State in opposition to World War II Memorial Prayer Act. I just want to point out, if I could, a couple of inaccuracies in the letter.

The letter writers might not have known the process that we've gone through with the National Park Service. But the letter claims that the legislation circumvents the Commemorative Works Act when in fact, section three of our bill clearly states that design and placement of the plaque will be subject to the CWA. That's a change from the House bill. Again we work closely with the Park Service on that.

Second, the letter claims that Congress has never added an inscription or a plaque to an existing monument. There is precedent for this. In fact in the 106th Congress, H.R. 2879 was passed into law which provided for a plaque to be placed within the Lincoln Memorial area to commemorate Martin Luther King's iconic, "I have a Dream" speech.

Third, the letter claims that we are quote, "using the World War II memorial prayer bill for political gain." Again, this couldn't be further from the truth except for it's been bipartisan from the start. Both the House and the Senate, 386 Representatives supported the bill's passage on the House side. In the Senate we have already 22 co-sponsors just in the last couple weeks, both Republican and Democrat.

So I hope my other colleagues on the committee will join in encouraging that this important and extraordinary prayer and this example of the power of faith in our history can be added to the World War II memorial.

I also, Mr. Chairman, would like to ask unanimous consent that the entire FDR prayer be able to be placed in the record today.

Thank you, Mr. Chairman. Again, thank you all for your patience here today and coming to testify before other important legislation before us. I'm looking forward to working with the committee on getting this bill reported out and getting it to the floor for a vote and providing this inspirational prayer on our National Mall.

Thank you, Mr. Chairman.

Senator MANCHIN. Thank you, Senator Portman.

Before we conclude if any of you all would like to make another statement, a brief statement. We want to thank you all for coming and participating. I don't see any further questions coming and we do, tremendously, we appreciate.

Mr. CARTER. Senator Manchin, just one point.

Senator MANCHIN. Yes, sir, Mr. Carter.

Mr. CARTER. Just to make sure there's clear understanding on this. In Chairman Judge's statement he said, I believe, that 27 percent of the seashore is open. As of the most recent report from the Park Service there is 65 miles of seashore, approximately. This is the peak of the bird breeding season. Yet, over 50 miles of that seashore, according to the Park Service last week, is open to any pedestrian that wants to walk there.

Senator MANCHIN. If you want to submit that, we will check it and confirm it and you submit that.

Mr. CARTER. OK. We'll submit that for the record.

Senator MANCHIN. Absolutely, sir.

Mr. CARTER. OK.

Senator MANCHIN. Mr. Judge.

Mr. JUDGE. Yes, sir. I believe I cited the date of June 14th, not last week. You know, if you can walk on the beach, but can't get to the beach. It's disingenuous to say that's it's open.

There are only 11 accesses in the Cape Hatteras National Seashore. They were designed as drive over accesses. With those accesses there are 805 parking spaces. So unless you have the means to own or to rent an ocean front house in the villages that gives you direct access from your house down to the beach, you have to use one of those accesses.

Senator MANCHIN. Yes.

Mr. JUDGE. Now, if those accesses are closed because there's an American Oystercatcher nest next to it. It restricts you from getting into it to park and use that access to walk through. You wind up having to cross dunes.

The first thing the NPS does is string up new sticks and new strings and new signs to don't walk on the dunes. Then you wind up parking on the shoulder of the road. They'll go to NCDOT and get no parking signs put up.

Senator, this is restriction of access. Dare County categorically supports open and free access for everyone, however they want to use that seashore as long as it's legal and moral. We absolutely support the preservation of all forms of wildlife. That's why we strongly supported, we participated for 2 years from the spring of 2005 on to work with and testified at public hearings and gave our input on the management plan of 2007.

Senator MANCHIN. How long had it been open up until—27 is when you had to compromise, right?

Mr. JUDGE. That's when they created something called a plan that went through the NEPA process.

Senator MANCHIN. Right.

Mr. JUDGE. Had the U.S. Fish and Wildlife statement. There had been previous plans over the years. We don't dispute the fact that National Park Service had not done what it should have done. We're not here to defend them.

We, you know, but it wasn't done. So—

Senator MANCHIN. Sure.

Mr. JUDGE. I mean, it was done by the Superintendent over the years and his ability to manage and set rules and regulations.

Senator MANCHIN. We'll enter everything that you all, both, have given us. We appreciate and very respectful. You have a beautiful county and a beautiful State to boot. Beautiful seashore.

West Virginia is very appreciative because we do use it.

Mr. JUDGE. We do appreciate West Virginians. We know a lot come down there.

Senator MANCHIN. Thank you, sir.

Mr. JUDGE. Thank you, sir.

Senator MANCHIN. Thank both of you.

[Whereupon, at 4:15 p.m. the hearing was adjourned.]

APPENDIXES

APPENDIX I

Responses to Additional Questions

RESPONSES OF HERBERT FROST TO QUESTIONS FROM SENATOR MURKOWSKI

S. 2273—DESIGNATING THE TALKEETNA RANGER STATION IN TALKEETNA, ALASKA, AS THE WALTER HARPER TALKEETNA RANGER STATION

Question 1. As we discussed at the hearing, the National Park Service's official position on S. 2273 is one of "no objection." My understanding of the reasoning behind a "no objection" position on S. 2273, as opposed to an official position of support, is that because Mr. Harper passed away before Denali National Park actually existed, it is therefore impossible for there to be any real ties between him and the park. Is there anything my office can do to convince the Park Service that regardless of when Mr. Harper passed away, this is a bill the agency should support, not simply hold no objection to? Is the Park Service open to even considering a change in their support level on S. 2273?

Answer. We believe that the position taken by the National Park Service (NPS) on the naming of the Talkeetna Ranger Station for Walter Harper strikes the appropriate balance between recognizing Mr. Harper's historic accomplishment and upholding NPS policy. The NPS policy on commemorative works is to refrain from supporting naming park structures for a person unless the association between the park and the person is of exceptional importance. While the fact that Mr. Harper was the first person to reach the Mt. McKinley summit is noteworthy in the history of Denali National Park, his achievement occurred before the park was established and therefore, there was no direct association between the two.

S. 2372—CAPE HATTERAS NATIONAL SEASHORE RECREATIONAL AREA ACCESS

Question 2. While the Cape Hatteras National Seashore is far from my home state, based on everything I've heard and read about the situation at Cape Hatteras, it appears that the National Park Service has closed large areas of the Cape Hatteras National Seashore far beyond what is needed to address resource challenges, and the impacts on the community have been challenging. Why is the Park Service instituting resource protection buffers at Hatteras far greater than we've seen anywhere else? And why are such massive buffers put in place for species that are not under endangered species act protections?

Answer. Species protection measures cannot reasonably be compared from one site to another without fully considering the specific circumstances at each site and the context provided by the number and variety of protected species involved, the levels of off-road vehicle (ORV) use, and the underlying restrictions provided by the respective ORV management plans and special regulations. The Cape Hatteras plan was specifically designed to be effective with the high level of ORV use that is still allowed at Cape Hatteras. Less protective buffer distances may be adequate at locations where the level of ORV use is much lower to begin with.

The laws, regulations, and policies applicable to Cape Hatteras require the NPS to conserve and protect other species, not just those listed as endangered under the Endangered Species Act. Buffer distances, specific to each species, are designed to minimize the impacts of human disturbance on nesting birds and flightless chicks in the majority of situations, given the level of visitation and recreational use in areas of sensitive wildlife habitat. The buffer distances selected by the NPS were developed after considering the best available science. They will be reevaluated and adjusted, if necessary, through a five-year periodic review process.

Question 3. Executive Order 13474, which amended Executive Order 12962, states that “recreational fishing shall be managed as a sustainable activity in national wildlife refuges, national parks, national monuments, national marine sanctuaries, marine protected areas, or any other relevant conservation or management areas or activities under any Federal authority, consistent with applicable law.” How is the final ORV rule, which essentially closes the majority of the most popular surf fishing areas in the park, compatible with this executive order?

Answer. The final ORV management rule is consistent with the Executive Order on recreational fishing, because the order addresses fishing as a sustainable activity “consistent with applicable law.” In order to be consistent with the laws requiring the NPS to conserve and protect wildlife at Cape Hatteras National Seashore, it has been necessary to restrict ORV access to certain fishing areas at certain times.

The special regulation does not permanently close the majority of the most popular surf fishing areas of the park to visitor access. Temporary seasonal resource protection measures are used to ensure that nesting habitat is available for use by protected species of beach nesting birds and sea turtles during the breeding season. This results in temporary seasonal closures of some popular fishing areas that are located in sensitive wildlife habitat, but it does not close these sites to visitor access during the rest of the year, nor does it restrict all visitor access to these areas during the breeding season.

S. 1897—GETTYSBURG NATIONAL MILITARY PARK EXPANSION

Question 4. Mr. Frost, when reading this bill and your testimony it was made clear that one of the main reasons for this legislation was that the borough government no longer wanted to budget the funds necessary to operate the Train Station property, so they have asked that the National Park Service (Federal Government) take over the property and pay to maintain the property. My question for you is, do you think we should set this type of precedent for state and local governments to rid themselves of property to the Federal Government if they no longer wish to pay to maintain a property?

Answer. While it is true that the Borough of Gettysburg has asked the NPS to take over ownership and operation of the Gettysburg Train Station, the resource is one that the NPS believes is very important to protect, and its preservation, operation, and management, in cooperation with partners, is a goal of the park’s General Management Plan. The anticipated acquisition cost for the completely rehabilitated train station is approximately \$772,000, subject to an appraisal by the federal government. It is expected that funding to acquire this land would not come from federal appropriations, but would be provided by non-governmental entities. The park has a preliminary commitment from the Gettysburg Convention and Visitor Bureau (CVB) to provide all staffing requirements for operations of an information and orientation center in the train station, thereby alleviating the park of staff costs. Anticipated operating costs for the train station that will be the responsibility of the NPS are limited to utility costs, with the rest being paid by the Gettysburg CVB. In the event that the Gettysburg CVB is unable to provide staffing and funding for operations, the NPS would seek another park partner to cover these costs and requirements.

RESPONSES OF HERBERT FROST TO QUESTIONS FROM SENATOR HELLER

S. 2372—CAPE HATTERAS NATIONAL SEASHORE RECREATIONAL AREA ACCESS

Question 1. The Park Service is claiming that the restrictions under the ORV plan are not having significant economic impacts on the community, but this is based off of information for the entirety of Dare County. Why hasn’t the park service conducted an economic study based upon the areas most directly affected by park operations—Hatteras Island and Ocracoke Island?

Answer. The NPS did, in fact, evaluate the potential economic impacts of the proposed ORV management actions on the eight villages of Hatteras and Ocracoke islands in both the November 2010 final Cape Hatteras National Seashore ORV Management Plan I Environmental Impact Statement process and in the Benefit-Cost Analysis of Final ORV Use Regulations in Cape Hatteras National Seashore. These analyses considered the Outer Banks portion of Dare and Hyde counties as the economic region of influence, the geographic area in which the predominant social and economic impacts for the action would likely take place, but the analyses focused on the villages of Ocracoke and Hatteras islands as being the communities most affected by the proposed NPS actions because they are located within the Seashore.

The analyses for the NPS action found that the economic region of influence would experience negligible to minor long-term adverse impacts and small busi-

nesses in the Seashore villages would experience negligible to moderate long-term adverse impacts, with the potential for larger short-term impacts during the breeding season to specific businesses that cater most directly to ORV users. The analyses found that the designation of vehicle-free areas under the final rule would be beneficial for pedestrians and could increase overall visitation, increasing the probability that overall revenue impacts would be at the low rather than the high end of the range. The long-run impact of the NPS action would depend in part on how current and new visitors adjust their trips and spending in response to the management changes and the adaptations made by the business community to these changes.

Question 2. Why is the Park Service instituting resource protection buffers for nesting birds far greater than in other federal or state parks? Any why are such massive buffers put in place for species that are not under endangered species act protections?

Answer. Please see the response to the first Cape Hatteras question from Senator Murkowski, above.

Question 3. Executive Order 13474, which amended Executive Order 12962, states that "recreational fishing shall be managed as a sustainable activity in national wildlife refuges, national parks, national monuments, national marine sanctuaries, marine protected areas, or any other relevant conservation or management areas or activities under any Federal authority, consistent with applicable law." How is the final ORV rule, which essentially closes the majority of the most popular surf fishing areas in the park, compatible with this executive order?

Answer. Please see the response to the second Cape Hatteras question from Senator Murkowski, above.

APPENDIX II

Additional Material Submitted for the Record

STATEMENT OF HON. LAMAR ALEXANDER, U.S. SENATOR FROM TENNESSEE,
ON S. 3300

The Manhattan Project is one of the most significant events in American history, and according to some historians it is the single most significant event of the 20th Century. In 2004, I joined Senator Bingaman as a cosponsor of the Manhattan Project National Historical Park Study Act, which directed the Department of Interior to conduct a study of the Manhattan Project sites to determine the feasibility of including the sites in the National Park System.

In 2011, Ken Salazar, Secretary of the Department of the Interior, recommended the creation of a Manhattan Project National Historical Park with units at Oak Ridge, Tennessee, Los Alamos, New Mexico, and Hanford, Washington. According to Secretary Salazar, “the Manhattan Project ushered in the atomic age, changed the role of the United States in the world community, and set the stage for the Cold War.” Support for the Manhattan Project National Historical Park Act is bipartisan, bicameral, and has the strong support of the Energy Communities Alliance and preservation organizations, including the National Parks Conservation Association.

Today it is impossible to imagine that in September 1942, in a valley in East Tennessee, 3,000 farmers and their families were told to leave their homes to make way for a “secret city” that would bring 100,000 men and women together to help end World War II and forever change the course of human history. The story of the Manhattan Project is not only about World War II, it is about the people who lived and worked at these sites, the scientific achievements they made, and the impact of their work on our nation’s history. I have long supported establishing a national historic park to protect the Manhattan Project sites because of the project’s important role in our history, but also because of its importance to the history and people of Tennessee.

Many have asked how a valley in East Tennessee became the first Manhattan Project site. Ray Smith, Y-12’s Historian, has reason to believe politics might have played a role. According to Mr. Smith, President Roosevelt needed to convince Congress to spend a large amount of money without knowing what is was going to be used for. President Roosevelt asked Senate Budget Committee Chairman Kenneth Douglas McKellar, a Democrat from Tennessee, if this could be done. Senator McKellar is said to have replied, “Yes, Mr. President, I can do that for you ... now just where in Tennessee are you going to put that thang?”

Senator McKellar’s decision to get President Roosevelt to locate the project in Tennessee was not welcome news to everyone. John Rice Irwin’s family lived on a farm in the 59,000 acre area that would soon only be known as the Clinton Engineer Works. John said that one day the family came home from Nash Copeland’s general store, and on the screen door on their front porch was a notice from the War Department. John kept a copy of one of the notices from the War Department that was posted on his neighbor’s door. The notice, dated November 11, 1942, said, “The War Department intends to take possession of your farm on December 1, 1942. It will be necessary for you to move not later than that date.” Wilma Brooks’ family found a similar notice, and her family only had 18 days to leave a farm they had lived and worked on for 200 years.

Oak Ridge, which was not listed on a map until 1949, became the home for 100,000 scientists, engineers, machinists, operators and construction workers. Very few of the scientists knew what they were working on, and even fewer knew anything about uranium. Bill Wilcox, a young chemist tells the story of going to work for Eastman Kodak to do “war work,” and only later learning that he would be working to produce uranium, which he was never allowed to call by its name. Today, Mr. Wilcox is the City of Oak Ridge’s historian and a tireless advocate for the creation of the Manhattan Project National Historical Park. Harvey Kite, an-

other chemist who came to work at Y-12 in 1944 recalled that he and some of his co-workers suspected that the uranium was for a nuclear weapon, but they did not know for sure until the atomic bomb was first used.

Gladys Owens, a "Calutron Girl," worked for eight months operating the massive electromagnetic separation machines in "Beta 2" of Y-12 without knowing anything about her work. All Ms. Owens knew was that if she wore pins in her hair, the machines she operated would pull them out and stick them like glue to any metal surface she came near. The X-10 Graphite Reactor, located at the Oak Ridge National Laboratory, was the world's first full-scale nuclear reactor. X-10 not only produced plutonium, it was also the first reactor used to produce radioactive isotopes for medical therapy which marked the birth of modern nuclear medicine which has saved countless lives. The X-10 Graphite Reactor has been preserved as a National Historical Landmark since 1966, and exists today in virtually the same condition as it did in 1943 when the reactor first achieved criticality. These are stories of our nation's history, and what is remarkable is that the facilities used by workers like Gladys Owens have been preserved and exist today almost exactly as they did so many years ago. I am proud of the Department of Energy for investing in our history and preserving these one-of-a-kind facilities. The Department has also worked closely with the National Park Service and local communities to make this unique national park model a reality.

As Americans we have a special obligation to preserve and protect our heritage, and the Manhattan Project National Historical Park will ensure that all Americans learn about the significance of the Manhattan Project and how it continues to shape our history. Tom Beehan, the Mayor of the City of Oak Ridge, who testified on behalf of the Energy Communities Alliance, made several recommendations which I hope the Committee will consider. I look forward to working with the Committee to address these recommendations, and to make sure that there is enough flexibility in the legislation so that communities can work with the National Park Service and the Department of Energy to protect nationally significant sites that are critical to understanding the role the Manhattan Project played in our nation's history.

STATEMENT OF HON. KAY BAILEY HUTCHISON, U.S. SENATOR FROM TEXAS,
ON S. 2324

I want to thank Chairman Bingaman and Ranking Member Murkowski of the Senate Energy and Natural Resources Committee for holding today's hearing in the Subcommittee on National Parks to consider lands bills that impact Texas. S. 2324, the Upper Neches River Wild and Scenic Study Act, is of particular concern to many of my constituents.

My bill, the Upper Neches River Wild and Scenic Study Act, would direct the Secretary of the Interior to do a study of an approximately 225-mile segment of the main stem of the Neches River and to report to Congress on the results of the study.

The Neches River is an important Texas river that provides a habitat for a variety of wildlife. The free-flowing state of the river creates an ideal environment for aquatic animals. In addition, its location in the heart of the Central Flyway makes the river an important area for migrating birds.

The purpose of the study is to ensure private property rights and recreational activities on the river are protected.

This legislation enjoys the strong support of the Texas Conservation Alliance, Friends of the Neches River, Houston Audubon, and many other groups. This bill would further the conservation of the Neches River for current and future generations.

Chairman Bingaman and Ranking Member Murkowski, I am certain today's hearing will provide the committee a better understanding of my legislation and the Neches River. I thank you for your attention to this legislation.

Thank you.

STATEMENT OF HON. JOSEPH I. LIEBERMAN, U.S. SENATOR FROM CONNECTICUT,
ON S. 2286

Mr. Chairman, thank you for the opportunity to offer a statement in support of this important legislation, the Lower Farmington River and Salmon Brook Wild and Scenic River Act.

I can praise this bill at length, but I would like to begin by nothing that, for me, the passage of the Lower Farmington River and Salmon Brook Wild and Scenic River Act would be meaningful capstone to an effort that has spanned my entire Senate career. In 1993 and 1994, I worked alongside Congresswoman Nancy John-

son to successfully introduce and pass legislation that added 14 miles of the Upper Farmington River to the National Wild and Scenic River System. That initiative brought town, state and federal officials, conservation groups, and recreational and energy interests together in a partnership to achieve Connecticut's first contribution to the National Wild and Scenic River System.

In the years that followed, I worked with Representative Johnson and Senator Chris Dodd to introduce and pass the Lower Farmington River and Salmon Brook Wild and Scenic River Study Act in 2006. That legislation initiated the study of the Lower Farmington River, which has since been completed and has confirmed the river's substantial natural, cultural, and recreational value to the state of Connecticut. Now, it is critical that we add the Lower Farmington River and Salmon Brook to the Wild and Scenic Rivers System in order to preserve its extraordinary ecological and recreational heritage.

Passing through ten towns in northwestern Connecticut, the Lower Farmington River and Salmon Brook is home to extensive wetlands, unique geology, and stunning vistas. The pristine and unique qualities of this river system and the surrounding landscape provide visitors and residents alike with a special location for hiking, paddling, and fishing. This unspoiled natural retreat and its stunning biodiversity have literally been a part of our history in Connecticut for millennia, as archeologists have found evidence of human activity surrounding the river that date back over 11,000 years. From prehistoric campsites, to the Underground Railroad network, and the birth of manufacturing that sent goods to markets across the world, the river and its banks are an essential component of our nation's history.

But the importance of the Lower Farmington River and Salmon Brook goes beyond its contribution to our nation's history. Among the country's most biologically diverse ecosystem, the river is home to 30 species of finfish, 105 bird species, and the only river in New England that is home to all 12 of the freshwater mussel species native to the region, one of which is a federally listed endangered species. The unique qualities of the soil surrounding the river has allowed Native Americans, colonists and Connecticut residents today to grow tobacco that is reckoned the world over for its superior quality.

As the Committee is aware, this legislation would add the Lower Farmington and Salmon Brook to the Wild and Scenic River System. This has the support of all the communities in the study area, the state, and the civic organizations that have actively preserved the Farmington River, and has been championed by the Farmington River Watershed Association. I am thankful for Representative Chris Murphy working so hard in the House to preserve the Farmington River, and I appreciate the strong support of Senator Blumenthal and Representative John Larson for this bill. I would also like to thank the National Park Service for its efforts during the course of its study describing the great importance of this watershed. I understand NPS would prefer to publish its final report on this study before Congress acts on the bill. The study was completed last summer, and the final report has been cleared by the administration for public release and commencement of the formal 90 day review period. Though I look forward to reviewing the final report, which will recommend designation, I do not believe this should delay Senate action.

In sum, I am confident that if examined, the Lower Farmington River and Salmon Brook will receive the federal recognition that they deserve. While we may not be Colorado, I would welcome the Chairman to come kayak down the beautiful Farmington River so we can show off the natural beauty of our state.

Thank you, Mr. Chairman.

STATEMENT OF THE ATOMIC HERITAGE FOUNDATION, ON S. 3300

The Atomic Heritage Foundation thanks Chairman Jeff Bingaman and co-sponsors Senators Lamar Alexander (R-TN), Maria Cantwell (D-WA), Tom Udall (D-NM) and Patty Murray (D-WA) for joining in introducing S. 3300 to create a Manhattan Project National Historical Park. The Atomic Heritage Foundation has long advocated the creation of a Manhattan Project National Historical Park and is extremely grateful for your invaluable leadership and support.

The proposed park would preserve Manhattan Project properties at the three major sites at Los Alamos, Oak Ridge and Hanford. This is the first recognition of the Manhattan Project, the top-secret effort to make an atomic bomb in World War II, in the national park system. As Secretary Salazar said in support of the new park, "The development of the atomic bomb in multiple locations across the United States is an important story and one of the most transformative events in our nation's history."

NATIONAL PARK SERVICE IS AMERICA'S STORYTELLER

The National Park Service will tell the Manhattan Project story and give voice to the creators and eyewitnesses to the project that irreversibly changed the history of the world. With 130,000 people working in secret locations, the Manhattan Project was a great work of human collaboration.

A culturally diverse group, the workforce included recent immigrants who fled anti-Semitism in Europe as well as numerous Hispanics, Native Americans, and African-Americans. Young women who had just graduated from high school were recruited to operate the controls of uranium enrichment facilities while young men who joined the Army's Special Engineer Detachment found themselves working on explosive lenses and detonation devices. The contributions of each of these diverse groups and the communities surrounding the sites will be part of the interpretation.

While some anti-nuclear groups fear that the new park will glorify the bomb, the National Park Service's presentation will be balanced, recognizing diverse perspectives on the atomic bomb project and its legacy. Many other controversial chapters of our history such as the Civil War and Japanese-American internment camps are interpreted in an unbiased and professional manner by the National Park Service. The Manhattan Project history and its legacy should be no different. As America's storyteller, the National Park Service has honed its skills for nearly a century.

MODEL FOR SECOND CENTURY PARK

On the eve of the National Park Service's centennial in 2016, the Second Century Commission recommended creating new parks that will strengthen education and reflect the diversity of the American experience. The Manhattan Project National Historical Park could be a model for a Second Century Park.

The park could improve the American public's understanding of nuclear science and the history of nuclear weapons development. Given the significance of nuclear weapons issues in world affairs today, the public should have a better grasp of these issues.

The park could also help revive American youth's interest in science and engineering by celebrating innovators who harnessed atomic energy for the first time. Tracing this history to the present, students will learn about the new fields that emerged from the Manhattan Project, including nuclear energy and medicine, high-speed scientific computing and outer space exploration.

The Manhattan Project demonstrated that scientific discoveries and technological advances can become key drivers of economic growth. On July 15, 2011, MIT President Susan Hockfield called for reinvigorating "America's innovation system," a "direct descendant" from the Manhattan Project, as a means to stimulate the economy today.

ECONOMIC IMPACT OF THE NEW PARK

One of the greatest economic benefits of the new park will be to increase heritage tourism to the former Manhattan Project sites. For much of the past seventy years, the economies of the local communities have been dominated by the Department of Energy and its contractors. The new park will help diversify the local and regional economies.

Studies in the travel industry have shown that people want to see something authentic. With an increasing number of stores and restaurants now part of national chains, travelers are hard pressed to find something unique. The fascinating story of the "Secret Cities" and resources such as the B Reactor at Hanford and the V Site at Los Alamos will be a great draw for visitors.

On average, for every dollar that is invested in a national park, there are four dollars generated in the local economy. Many parks have ratios that are far greater, such as Acadia National Park in Maine. Considering the ten thousand people from all 50 states and 39 countries who have signed up to tour the B Reactor alone, we are confident that the new Manhattan Project National Historical Park will exceed expectations and be an engine for the economies of the three sites and their regions.

LEGISLATIVE RECOMMENDATIONS

We have watched the draft legislation emerge over the past several months and are very pleased that the Senate and House bills are now in close harmony. There are a few differences that will no doubt be resolved in conference. We would like to highlight a few issues as the Committee considers amendments to the current bill.

1. Allow Inclusion of Nationally Significant Sites. We suggest that the Committee consider providing the Secretary of Interior authority to add sites that

are nationally significant and suitable for inclusion in the Historic Park. Currently, only those properties listed in Section 5(b) and those properties that are under the jurisdiction of the Secretary of Energy can be added under Section 5(d). The authority to add Manhattan Project resources that are not under the jurisdiction of the Secretary of Energy, such as Jackson Square in Oak Ridge, would be very valuable as the park is created and takes shape over the next several years.

2. Secretary of Energy Responsibility for Maintenance. The House version adds Section 6(c)(4) that the Secretary of Energy “shall retain authority and legal obligations for historic preservation and general maintenance, including to ensure safe access, in connection with the Department’s Manhattan Project resources.” This reinforces the agreement between the Departments of Interior and Energy that led to their joint recommendation of the park in July 2011. Having this provision in the legislation would be helpful.

3. Purchase from Willing Sellers. Section 8(d) in the House bill does not provide authority for the Secretary of the Interior to “purchase from willing sellers,” but only to acquire properties through donation or exchange. We believe that the Senate bill is preferable so that owners will be able to be compensated for their land or properties where donation and exchange are not reasonable alternatives.

4. Acquisition for Visitor and Administrative Facilities The Senate bill’s Section 8(d)(2) provides that “The Secretary may acquire land or interests in land in the vicinity of the Historical Park for visitor and administrative facilities.” The House bill in Section 8(e)(1)(B) provides authority for the Secretary to accept donations and enter into cooperative agreements with governments and others for visitor services and administrative facilities. We prefer the Senate approach that provides the authority for acquiring the land or interests in land. This opens up more possibilities for the future park’s visitor and administrative facilities.

CONCLUSION

For ten years, the Atomic Heritage Foundation has worked closely with colleagues from the Manhattan Project sites, Manhattan Project veterans, historians and scholars, Federal, State and local government officials and others to preserve and interpret the Manhattan Project. We would be pleased to assist you and your staff in whatever way we can to see the legislation creating a park enacted by the 112th Congress.

Thank you and all of the members of the Committee and its staff for your dedication and hard work to make the Manhattan Project National Historical Park a reality.

STATEMENT OF HEATHER McCLENAHAN, EXECUTIVE DIRECTOR, LOS ALAMOS
HISTORICAL SOCIETY, ON S. 3300

SUMMARY

Historians have called the Manhattan Project the most significant undertaking of the 20th century. Employing hundreds of thousands at its peak, located in widely scattered, secret communities, the project brought an end to World War II and ushered in the atomic age. As an organization that has preserved Manhattan Project history for nearly fifty years, the Los Alamos Historical Society is pleased to support this legislation. Key points in our testimony include:

- The significance of this history and why it should justify a national historical park
- The broad support and cooperation this park has generated
- The positive economic impact the park will have on northern New Mexico
- The importance of partnerships in making this park a reality

At its heart, the story of the Manhattan Project is an amazing episode of our great nation’s history. It brought together the brightest scientists, many of them immigrants who came to this country seeking freedom. They faced pressure to end the world’s most horrible war by creating something that had only existed in theory. It is a story about young people with a can-do spirit who brought about a great technological achievement. It is the story of unleashing a mysterious force of nature and of fostering fear and uncertainty about the future of humankind. It is a story about creativity and about destruction. It is a scientific story, a soldier’s story, a spy story,

and a human story. The story of the Manhattan Project is one that, from the perspectives of all who participated and all who were affected, must be told.

Senators,

The Los Alamos Historical Society appreciates the Committee on Energy and Natural Resources' Chairman Jeff Bingaman's leadership in considering S. 3300, the Manhattan Project National Historical Park. We are also grateful for the leadership of Senators Alexander, Cantwell, Udall, and Murray in championing this legislation.

I am Heather McClenahan, executive director of the Los Alamos Historical Society a non-profit organization whose mission is to preserve, promote, and communicate the remarkable history and inspiring stories of Los Alamos and its people for our community, for the global audience, and for future generations. Among our many activities, we operate the Los Alamos Historical Museum and own, in a life trust, the World War II home of Dr. J. Robert Oppenheimer, scientific director of the Manhattan Project. As the owner of this home in the Los Alamos Historic District, we are property owners within the potential boundary of the park. Additionally, helping to establish the Manhattan Project National Historical Park is one of seven planks in our strategic plan.

My testimony is in support of S. 3300, a bill to establish the Manhattan Project National Historical Park. As long-time keepers of the history of Los Alamos, we fully support this bill's efforts to "enhance the protection and preservation of such resources and provide for comprehensive interpretation and public understanding of this nationally significant story in 20th century American history."

I will make four key points. One, why this history should be commemorated in a national park; two, the broad community support this park enjoys; three, why this will have positive impact on northern New Mexico; and four, why partnerships will be critical to making this park become a reality.

In 2007, recognizing the impact of a possible national park on our community, the Los Alamos County Council appointed an ad hoc committee to determine what such a park might look like in Los Alamos. I served on that committee, and the details of our recommendations are included in pages seven through nine of this document. In summary, we envisioned a downtown national park visitor center where guests would learn about the Manhattan Project and then be sent to existing venues to learn more, a recommendation the National Park Service adopted in its final report to Congress.

Tied together under the auspices of a national park, the Manhattan Project industrial sites in Los Alamos, Oak Ridge, and Hanford, along with the places where soldiers and scientists lived and formed communities, will create a full picture of the history.

Some critics have said that a national park dedicated to the Manhattan Project will glorify the atomic bomb or create a theme park for weapons of mass destruction. I disagree. I have never visited a national park that was anything like a Disneyland. In fact, the National Park Service, of all government agencies, is the most trusted for telling complete stories from all sides—the good and bad, the painful and the poignant. Parks and monuments that commemorate battles or massacres do not celebrate ugly moments in American history. They teach about them; they help us, as a nation, to reflect and learn.

So, in the rich tradition of our national park system, the Manhattan Project National Historical Park will need to include stories about the devastation in Hiroshima and Nagasaki, environmental damage, and the fear of atomic annihilation that are its legacies, along with the stories of great technical and scientific achievement and the decisive ending of World War II. The nation needs to understand the Manhattan Project from all sides.

The communities called out in this legislation—Los Alamos, Oak Ridge, and Hanford—fully support this park. In 2008, our ad hoc committee held public meetings in Los Alamos as well as meetings with potential partners, from tour guides to the nearby pueblos. After some initial—and false—concern that the park service might take over the iconic Fuller Lodge in downtown Los Alamos as a park headquarters was resolved, the community came out fully in support of the park. The County Council passed a resolution to that effect in February 2010 (see pages ten and eleven of this document), and, most recently, a group of community leaders sent a letter to Senator Bingaman in support of this legislation (pages twelve and thirteen of this document).^{*} We have had several meetings with our counterparts in Hanford and Oak Ridge to discuss park possibilities. In short, we are excited about this park and are happy to assist the Department of Interior, the Department of Energy, Los Ala-

^{*}Documents have been retained in subcommittee files.

mos National Laboratory, and others to make it happen. We believe it will be a benefit not only to Los Alamos but to nearby communities, as well.

That leads to my third point, that the Manhattan Project National Historical Park will provide economic benefits to northern New Mexico. With, by the Park Services own estimate, hundreds of thousands of additional annual visitors, the region will need workers not only in tourism and service industries but in construction and other related industries.

As our ad hoc committee suggested, the story of the Manhattan Project isn't just about world-class scientists. The story includes people from the rural communities and pueblos surrounding Los Alamos, mostly Native Americans and Hispanics, who provided the backbone of a labor force that built and maintained the laboratories and facilities, cleaned the houses, and drove the trucks. The Manhattan Project forever changed rustic northern New Mexico. In fact, the Manhattan Project National Historical Park will, once again, transform these communities, creating an economic driver based on heritage tourism that provides jobs, educational opportunities, and improved futures to traditionally under-served communities.

Finally, we appreciate with enthusiasm the statement in Section 3 of this bill that one purpose of the park is "to assist the Department of Energy, Historical Park communities, historical societies, and other interested organizations and individuals in efforts to preserve and protect the historically significant resources associated with the Manhattan Project." Protecting these resources is something the Los Alamos Historical Society has been working on for nearly fifty years. Partnerships and cooperative agreements between agencies, non-profit groups such as ours, and even private property owners will make this park happen, bringing together widespread resources for the benefit of our nation as the Manhattan Project did years ago.

Again, I urge you to view the recommendations from the ad hoc committee, specifically the section about partnerships. Manhattan Project resources, from museums to the laboratory and from tour guides to the famous "gatekeeper" office at 109 E. Palace Avenue in Santa Fe, are dispersed and disorganized when it comes to the theme of Manhattan Project history. The national park will bring these resources together, along with those of Hanford and Oak Ridge, for visitors to understand a bigger picture.

We are also especially pleased to see in the final section of the bill that both the Department of Interior and the Department of Energy will be able to accept monetary or service donations for the park. This is particularly important to restoration work at Los Alamos National Laboratory and will assist the lab in preserving a significant historic site. One individual has been waiting in the wings for years to donate to the site's restoration but has had no mechanism for giving the money. The park will allow this preservation project to take place.

We sincerely hope the differences between S. 3300 and H.R. 5987 can be worked out. Specifically, Section 8(d) in the House bill specifies that the National Park Service can only accept donated lands for inclusion in the park while Section 8(d)(1)(B) of the Senate bill allows the park service to purchase from "willing sellers." Knowing the historic neighborhood as we do, we are concerned that these historically significant homes where the top scientists of the Manhattan Project lived may be excluded with the "donation only" requirement. The Park Service feasibility study recommended a central visitors center located in or near the Los Alamos Historic District, and the language in the House bill makes that difficult to accomplish. We fear it could significantly delay the park.

Therefore, we hope the Senate and House committee members will work together to produce language that allows the National Park Service to work with willing sellers on acquisitions for the park. A park service location on or near historic Bathtub Row will benefit visitors by creating a better sense of place and historical experience.

In sum, along with many community partners who have worked on this project, the Los Alamos Historical Society fully supports the establishment of the Manhattan Project National Historical Park in order to preserve and teach this important history. The park has tremendous support in our community. We believe it will have economic benefit to northern New Mexico. We are heartened to see the Department of Energy willing to work with the Department of Interior and other partners to make this world-changing history accessible.

The Los Alamos Historical Museum is located in the building where Gen. Leslie Groves stayed when he came to Project Y, and it serves as the focal point of the community's Historic District. We look forward to sharing our stories with the many visitors a national historical park will bring in addition to sharing our resources with the National Park Service to assist in creation of the park. Working with local, state, and national partners to help create the Manhattan Project National Histor-

ical Park is a long-term goal in the Los Alamos Historical Society's strategic plan. We look forward to working with you to achieve that goal.

RECOMMENDATIONS TO THE LOS ALAMOS COUNTY COUNCIL FROM THE MANHATTAN
PROJECT NATIONAL HISTORICAL PARK (MPNHP) AD HOC COMMITTEE

04/02/2008

I. PURPOSE

In 2004, Congress approved and the President signed legislation directing the NPS to conduct a special resource study to determine the national significance, suitability, and feasibility of designating one or more historic sites of the Manhattan Project for potential inclusion in the National Park System. This park could include non-contiguous sites in Los Alamos, Oak Ridge, Hanford, and Dayton. The NPS held meetings in each of the communities during the spring and summer of 2006 to gather public input.

In August 2007, Los Alamos County Council approved the establishment of an ad hoc committee to help determine what the proposed non-contiguous Manhattan Project National Historical Park might look like in Los Alamos. This committee is comprised of representatives involved in historic preservation and tourism from throughout the community, including Los Alamos National Laboratory (LANL). After approval by Council, the committee will present its plan to NPS representatives when they come to Los Alamos for a second round of community meetings in 2008.

II. COMMITTEE CONDUCT

The committee began meeting bi-weekly in August 2007 and discussed several ideas, such as what "attractions" might be included in a national park and who locally might participate. These ideas were expanded upon and refined over time. A great deal of Manhattan Project history has already been preserved in our community in places such as the Los Alamos Historical Museum, the Bradbury Science Museum, and the Oppenheimer House. The committee members do not believe that the NPS needs to "reinvent the wheel."

In October, the committee took a special "behind the fence" tour of sites at LANL which may be included in the park, either as part of periodic tours or which may be open to more public access in the future.

On Nov. 6 and 9, the committee held meetings by invitation and word of mouth for potential partners in the park. Approximately fifteen people attended the first meeting and ten attended the second. At both meetings, ad hoc committee members shared their vision for the park site (see III. below) Most of these potential partners were intrigued with the idea of a Manhattan Project National Historical Park within the community and looked forward to getting more information from the NPS.

On November 13, the committee held an advertised public meeting in Fuller Lodge to discuss this vision for the park. Another fifteen people attended and added to the committee's ideas.

Based on input from these meetings, the committee has refined its vision and proposes the following:

III. PARK VISION

A. *Centralized Park Headquarters*

At a central Visitor Center, which would include information and interpretation, a Park Ranger would greet visitors, tell them about the National Park and then direct them to other sites in the area where they would be able to see tangible historical sites and objects from the Manhattan Project (Ashley Pond, Lamy Train Station) as well as interpretation and information that is already taking place in the community (LA Historical Museum, Bradbury Science Museum).

B. *Tours*

a. *Guided and Self-Guided:* These would include ranger-guided walking tours through the downtown historic district and other sites; driving and walking audio tours; as well as guided tours that would show visitors accessible areas of LANL, historic downtown, the old Main Gate location, and other sites.

b. *LANL:* With approval and coordination of LANL and the Department of Energy officials, periodic "Behind the Fence Tours" to V-Site, Gun Site, and other restored Manhattan Project-era buildings, similar to the tours held at Trinity Site.

C. Partners

Potential partners in this project are those who own, maintain or have some other association (such as tourist services or items) with tangible historical objects or buildings from the Manhattan Project—something that will enhance visitors' experiences and increase their understanding of this time in history. The lists below are not all-inclusive.

D. Potential Themes of Interpretation

1. People/Social History
 - a. Scientists and their families
 - b. Military
 - i. In Los Alamos (SEDs, MPs, etc.)
 - ii. In the Pacific, including POWs
 - c. Local Pueblo and Hispanic populations whose lives were affected and who were an essential part of the project (stet)
 - d. Local historical figures such as Edith Warner, Dorothy McKibbin, Evelyn Frey
 - e. Stories of people affected by the bombings, both American and Japanese
 - f. Responses to the bomb
2. Science
 - a. Bradbury Science Museum
3. Impacts
 - a. Science
 - b. Northern New Mexico
 - c. Military
 - d. International Relations
 - e. Cold War
 - f. Environmental/Health
 - g. Government
 - i. Civilian control of nuclear resources (AEC, DOE)
 - ii. The growth of government-run, multi-disciplinary science labs
4. Growth of the town of Los Alamos
5. What happened to people after the war?

E. Potential Visitor Sites

1. Local
 - a. The Los Alamos Historical Museum
 - b. The Bradbury Science Museum
 - c. Oppenheimer House
 - d. Ashley Pond
 - e. Ice House Memorial
 - f. Fuller Lodge
 - g. Historic Walking Tour of Bathtub Row
 - h. Periodic "Behind the Fence" Tours to V-Site, Gun Site, and other restored Manhattan-era buildings at LANL
 - i. Unitarian Church (former dorm)
 - j. Little Theater (former Rec Hall)
 - k. Christian Science Church (former dorm)
 - l. Hill Diner (WWII-era building)
 - m. Main Hill Road/Main Gate area
 - n. Last Sundt apartment building in Los Alamos (Dentist office on Trinity)
 - o. Crossroads Bible Church (WW II-era Theater)
2. Nearby
 - a. Bandelier National Monument
 - b. Pajarito Mountain Ski Area
 - c. Valles Caldera
 - d. Otowi Bridge
 - e. Sundt apartments in Espanola on Railroad Avenue
3. Santa Fe

- a. 109 E. Palace Ave.
 - b. La Fonda
 - c. Lamy Train Station
 - d. Delgado Street Bridge and other spy-related sites
4. Albuquerque
- a. Oxnard Air Field (Kirtland AFB)
 - b. National Atomic Museum
5. Future considerations
- a. Sculptures, outdoor art, and other monuments to the Manhattan Project era that are currently under consideration

NATIONAL PARKS CONSERVATION ASSOCIATION,
Washington, DC, June 25, 2012.

Hon. JEFF BINGAMAN,
*Senate Energy and Natural Resources Committee, 304 Dirksen Senate Building,
Washington, DC.*

RE: Testimony in Support of S. 3300, the Manhattan Project National Historical Park Act

DEAR CHAIRMAN BINGAMAN: On behalf of the National Parks Conservation Association (NPCA) and the more than 600,000 members and supporters we have nationwide, I appreciate the opportunity to submit testimony on S. 3300, a bill to establish the Manhattan Project National Historical Park.

NPCA supports this legislation, which will establish a national historical park with sites in New Mexico, Tennessee, and Washington to preserve, interpret and make accessible buildings, locations, and artifacts related to the development of the atomic bomb. In addition, this park will provide the unique opportunity to improve public understanding of the Manhattan Project, the legacy of the United States of America's splitting of the atom—including the devastation caused by the atomic bombs used to attack Japan, the role this decision played in bringing an end to World War II, and the impact the harnessing of the atom has had on our country and the world.

The development of the atomic bomb is an American story of ingenuity and scientific discovery, an achievement that some have called "the single most significant event of the 20th century." The splitting of the atom has led to new advancements in medicine and physics, yet it also produced grave moral questions and decisions with enormous human and environmental costs. As such, we support your effort, through S. 3300, to call for the National Park Service to interpret both the Manhattan Project and the full measure of its legacy.

Our National Park System may be unique in the world in that it contains some of our country's most special places and commemorates some of our crowning achievements. Yet, it also memorializes and commemorates some of our most controversial and difficult events, allowing future generations to learn from past experience.

For these reasons, the Manhattan Project National Historical Park would make an excellent addition to our nation's park system. The National Parks Second Century Commission recommended creating parks that reflect the diversity of the American experience as the National Park Service approaches its 100th birthday in 2016 and beyond. The Manhattan Project's multifaceted story embraces aspects of our nation's scientific, industrial, military, economic, social, moral and cultural history, and merits inclusion in our national storybook. A strong showing of Americans from across the country support such a site, according to the National Park Service Special Resource study, which says, "Public response to the study was overwhelmingly in favor of a national park unit..."

NPCA and our more than 600,000 members and supporters encourage the Senate to pass S. 3300, to preserve and protect the historic Manhattan Project sites deemed nationally significant by the National Park Service, deepen public understanding of the role our nation played in ushering in of the atomic age, and educate future generations about the awesome power, consequences and moral responsibility wrought through this legacy.

Sincerely,

CRAIG D. OBEY,
Sr. Vice President, Government Affairs.

PRAYER OF PRESIDENT FRANKLIN D. ROOSEVELT

June 6, 1944

My Fellow Americans:

Last night, when I spoke with you about the fall of Rome, I knew at that moment that troops of the United States and our Allies were crossing the Channel in another and greater operation. It has come to pass with success thus far.

And so, in this poignant hour, I ask you to join with me in prayer:

Almighty God: Our sons, pride of our nation, this day have set upon a mighty endeavor, a struggle to preserve our Republic, our religion, and our civilization, and to set free a suffering humanity.

Lead them straight and true; give strength to their arms, stoutness to their hearts, steadfastness in their faith.

They will need Thy blessings. Their road will be long and hard. For the enemy is strong. He may hurl back our forces. Success may not come with rushing speed, but we shall return again and again; and we know that by Thy grace, and by the righteousness of our cause, our sons will triumph.

They will be sore tried, by night and by day, without rest—until the victory is won. The darkness will be rent by noise and flame. Men's souls will be shaken with the violences of war. For these men are lately drawn from the ways of peace. They fight not for the lust of conquest. They fight to end conquest. They fight to liberate. They fight to let justice arise, and tolerance and goodwill among all Thy people. They yearn but for the end of battle, for their return to the haven of home.

Some will never return. Embrace these, Father, and receive them, Thy heroic servants, into Thy kingdom.

And for us at home—fathers, mothers, children, wives, sisters, and brothers of brave men overseas, whose thoughts and prayers are ever with them—help us, Almighty God, to rededicate ourselves in renewed faith in Thee in this hour of great sacrifice.

Many people have urged that I call the nation into a single day of special prayer. But because the road is long and the desire is great, I ask that our people devote themselves in a continuance of prayer. As we rise to each new day, and again when each day is spent, let words of prayer be on our lips, invoking Thy help to our efforts.

Give us strength, too—strength in our daily tasks, to redouble the contributions we make in the physical and the material support of our armed forces.

And let our hearts be stout, to wait out the long travail, to bear sorrows that may come, to impart our courage unto our sons wheresoever they may be.

And, O Lord, give us faith. Give us faith in Thee; faith in our sons; faith in each other; faith in our united crusade. Let not the keenness of our spirit ever be dulled. Let not the impacts of temporary events, of temporal matters of but fleeting moment—let not these deter us in our unconquerable purpose.

With Thy blessing, we shall prevail over the unholy forces of our enemy. Help us to conquer the apostles of greed and racial arrogances. Lead us to the saving of our country, and with our sister nations into a world unity that will spell a sure peace—a peace invulnerable to the schemings of unworthy men. And a peace that will let all of men live in freedom, reaping the just rewards of their honest toil.

Thy will be done, Almighty God.

Amen.

STATEMENT OF NICHOLAS J. LUND, CIVIL WAR ASSOCIATE, NATIONAL PARKS
CONSERVATION ASSOCIATION, ON S. 1897

I write to submit my written statement in strong support of S. 1897, the Gettysburg National Military Park Expansion Act of 2011, introduced by Senator Robert Casey, which would authorize the National Park Service to acquire the Lincoln Train Station in downtown Gettysburg and 45 acres of land at Plum Run for addition to Gettysburg National Military Park.

Opened in 1859, the train station served as the western terminus of the Gettysburg Railroad line to Hanover, Pennsylvania. In June 1863, General Jubal Early's Confederate troops burned a down-rail trestle stopping service until 10 days after the Battle. The station served as a field hospital during the Battle of Gettysburg, with more than 15,000 wounded soldiers transported through the depot once service was restored. However, perhaps the train station's most famous moment came on the evening of November 18, 1863, when President Abraham Lincoln stepped onto its platform on his way to dedicate the Gettysburg National Cemetery and give the Gettysburg Address.

Listed on the National Register of Historic Places, the train station, now owned by the Borough of Gettysburg, was rehabilitated and opened to the public in 2006. Due to funding difficulties, the Borough cannot keep the station staffed and opened to the public. The Borough would like to pass the title to the NPS so the station can remain open to the public. Once acquired by the Park Service, the property will be run in a partnership with the Gettysburg Convention and Visitors Bureau as a downtown information and orientation center.

In April 2009, 45 acres of land adjacent to Gettysburg NMP and within the Battlefield Historic District was donated to the Gettysburg Foundation. This historically significant land sits near the eastern base of Big Round Top at the southern end of the battlefield. The land is known to have historic significance related to the battle; skirmishes and hard fighting took place in the area on July 2nd and 3rd. In addition to its historic value, Plum Run harbors critical wetlands and wildlife habitats, providing habitat for a variety of plants and animals. The Gettysburg Foundation currently owns this land and wants to donate it to the National Park Service.

I appreciate the opportunity to present this statement on behalf of the National Parks Conservation Association. Our mission is to preserve and protect America's National Parks for future generations. Since 1919, NPCA has been the leading voice of the American people working to protect our national parks and historic landmarks from Yellowstone to Gettysburg. Our more than 600,000 members and supporters across the country, including more than 28,000 in Pennsylvania, are everyday Americans who want to preserve our national parks for our children and grandchildren to learn from and enjoy.

STATEMENT OF MARCIA LYONS, ON S. 2372

I am writing in reference to S. 2372 addressing access to Cape Hatteras National Seashore (CHNS). I do not support abandoning the new off-road vehicle (ORV) plan and replacing it with the Interim Species Protection Plan. I worked at CHNS for 32 years before retiring in 2008. Between 1995 and 2005, I worked directly with the management of the Park's natural resources. Over these three decades, CHNS ignored President Nixon's Executive Order to establish an ORV plan. I witnessed a sharp increase in the unlawful and unregulated use of ORVs. All protected species of beach nesting birds sharply declined. The number of aborted nesting attempts by sea turtles increased. A federally threatened plant, sea beach amaranth disappeared. CHNS received many visitor complaints concerning traffic on the beach. It took legal action to force the Park to address the issues. The Interim Species Protection Plan is not a genuine ORV plan. Its purpose was to buy some time before the National Park Service (NPS) adopted a comprehensive plan. It has many shortfalls. It was put together in short order by NPS staff without input from public or field experts. The Interim Plan did not adequately consider many basic biological requirements of protected species impacted by ORV use. Visitor use conflicts were not addressed nor were NPS Values such as soundscape, view shed and solitude. The push for going back to the Interim Plan is all about ORV access. Representatives of ORV groups had little support for pedestrian-only beaches during the NPS negotiated rule-making meetings. Now they seek pedestrian interest claiming that they too are losing access if vehicles are not allowed on a specific stretch of beach. CHNS's weekly access report identifies many miles of vehicle-free beaches open to pedestrians. Dare County Tourist Bureau figures show a continuing growth in visitation. Hatteras Island is incredibly busy at present. If businesses report lower profits, it may be due to the fact that there are just more competing businesses now or visitors may not have as much disposable cash. Last year's growth was curtailed only after Hurricane Irene broke a new inlet on Hatteras Island. People who like to drive on the beach are understandably disappointed. They were used to driving most everywhere day and night. But this is a National Park not a county or state park. Managing it under the Organic Act promotes sustainability—also good for the economy. Congress established CHNS, the first of its kind, because so much of our Nation's wild beaches were being lost. Going back to the Interim Species Protection Plan will promote more loss and put the government back into costly litigation. Thank you for your time.

STATEMENT OF DERB S. CARTER, JR., SOUTHERN ENVIRONMENTAL LAW CENTER,
ON S. 2372

This testimony supplements the testimony previously presented on behalf of the National Audubon Society, Defenders of Wildlife, and National Parks Conservation Association. As we stated previously, we strongly oppose S 2372 because it would

eliminate sensible safeguards to preserve Cape Hatteras National Seashore for future generations to explore and enjoy. It would unreasonably and unjustifiably abolish the Final Rule duly adopted by the National Park Service following many years of input from visitors to the National Seashore and local residents, scientific inquiry, economic study, and environmental analysis. It would return the Seashore to unsustainable management practices that allowed ORV use to dominate the Seashore's beaches at the expense of both wildlife and visitors hoping to enjoy the beach on foot.

We provide this supplemental testimony primarily to clarify several matters raised by testimony before the committee and by questions of committee members at the June 27, 2012 hearing.

1. How much of the Seashore is open for visitors to use?

In the last full paragraph on page 4 of the written testimony of Dare County's representative, he claims that, "during the recent week of June 14, 2012, only 27% of the seashore's miles were open to everyone." In the first full paragraph on page 5, the county's representative goes on to claim that the Cape Hatteras Superintendent has "shut down" "most of the seashore." This is not true and grossly understates the actual availability of the Seashore for visitors to enjoy. In fact, nearly three times as much of the seashore—76.3%—was open to visitors the week of June 14, 2012, which is also the peak of resource closures for breeding birds.

The National Park Service publishes a weekly report delineating which parts of Cape Hatteras National Seashore are open for both ORV driving and pedestrian use, which parts are open to pedestrians only, and which are closed temporarily (usually for natural resource protection). During the week that the county's representative mentioned in his testimony, 49.5 miles (76.3%) of the Seashore's 64.9 miles of beach were open to park visitors (pedestrians and/or ORV users) and only 23.7% were temporarily closed for resource protection. The number cited in the county's testimony was, in fact, only those miles open for ORV drivers (17.8 miles or 27.4%). By consistently disregarding the many miles open to pedestrians, Dare County attempts to perpetuate the myth that the pedestrian visitors, who constitute the majority of visitors to the Seashore, do not matter and that Cape Hatteras National Seashore can only be enjoyed from behind the wheel of an ORV. By claiming that the many miles of seashore that are open for pedestrians to enjoy are, instead, "closed," the county's representative and other ORV proponents are misinforming the public and quite likely suppressing tourism on the Outer Banks by discouraging visitors from coming.

This week, even more miles of beach are available to all visitors to the Seashore: 50.9 miles (78.4%) of the 64.9 miles of beach at Cape Hatteras are open (19.3 miles for both ORVs and pedestrians and 31.6 for pedestrians only.) The areas of the Seashore closed for resource protection will steadily decrease over the next few weeks as bird breeding season winds down. The Park Service's reports for both the week of June 14th and the week of July 5th are attached.

2. What is the truth regarding tourism and visitation trends at Cape Hatteras?

On pages 6-7 of his testimony, Dare County's representative makes numerous unsubstantiated statements regarding the alleged economic harm he claims is being caused by the Final Rule. This section of his testimony is notably devoid of specific facts or verifiable details of any kind. To support his dire predictions of adverse economic impact, Dare County's representative alleges that we were "cherry-picking economic indicators" from distant geographic regions. Yet our prior testimony reported Dare County's own data for the area in the immediate vicinity of Cape Hatteras National Seashore. That data showed that on Hatteras Island, which contains 41 of the Seashore's 65 miles of beaches, tourism is thriving. Dare County has reported that July 2010 set a record for the highest occupancy receipts (in other words, tourist rental income) for Hatteras Island as compared to any month in any prior year. Then July 2011 beat that record, despite the fact that July is the peak of breeding season and thus the peak of beach closures for breeding wildlife protection. This record was set for Hatteras Island, and not some distant portion of the county.

To provide complete clarity on this issue, we have attached a chart showing the trends in tourism spending on Hatteras Island beginning in 2007, the year before ORV restrictions began. The information was provided by the Dare County tourism bureau and speaks for itself.

Likewise, we have attached another chart showing the trends in seashore visitation beginning in 2005, several years before the ORV restrictions began. It shows that, while there have been fluctuations (perhaps caused by such factors as the weather, the number of weekends in a given month, gas prices, and so on), the num-

ber of people visiting and enjoying the seashore has remained steady and even increased in some months since ORV restrictions began. The information is the actual number of visitors to Cape Hatteras National Seashore itself, not some distant beach, and also speaks for itself.

3. How will the Seashore be managed if S 2372 is passed?

Finally, in the first full paragraph on page 3 of his testimony, Dare County's representative erroneously implies that Cape Hatteras National Seashore is currently being managed under a Consent Decree and that the legislation (S 2372) will replace the Consent Decree with the Interim Plan. In reality, the legislation will replace a Final Rule that went through a full rulemaking process, unlike the Interim Strategy that the county's representative supports.

The distinction between the three management policies is an important one. The 2007 Interim Strategy was put together by the Park Service as a temporary measure while it attempted to come into compliance with federal law with a proper regulation to manage ORV use and beach driving for the protection of natural resources. The Interim Strategy did little more than memorialize the Park Service's past failed efforts to manage ORV use and protect resources. It was specifically designed to be a temporary stop-gap measure, and it was not subject to the same rigorous environmental and economic review and rulemaking process as an actual regulation.

In 2008, the parties to a federal lawsuit, including Dare County, Hyde County, a coalition of ORV proponents called CHAPA, the National Park Service, and several conservation organizations, engaged in weeks of settlement negotiations. Those negotiations eventually culminated in a settlement agreement, signed by all those parties and approved by a federal judge in 2008. The agreement became known as the Consent Decree. A court transcript shows that the county's attorneys represented in federal court that the counties and CHAPA "participated in those negotiations in good faith . . . we join with the other parties in asking [the court] to enter the Consent Decree." The 2008 Consent Decree set a deadline for the ORV management rule to be finalized, and it put in place temporary wildlife protections and ORV use restrictions, upon which all parties had agreed, until the Final Rule could be implemented.

During four years of successful management under the Consent Decree (the summers of 2008-2011), the Park Service engaged in a full rulemaking process that culminated in the 2012 Final Rule. That process included numerous public meetings, a negotiated rulemaking with opportunity for public comment at each monthly meeting, and two public comment periods. Tens of thousands of people commented on the draft rule, and the vast majority favored wildlife protections and ORV restrictions that were equal to or greater than the terms of the Final Rule. Although the Final Rule contains some of the same terms that proved successful under four years of the Consent Decree, S 2372 would abolish the 2012 Final Rule despite all that public input (not the 2008 Consent Decree, as Dare County's representative implies).

By implying that S 2372 will replace the 2008 Consent Decree with the 2007 Interim Strategy, the county's representative diverts attention from the fact that the vast weight of public opinion, science, economic study, and law supports the 2012 Final Rule. In sum, the National Park Service's Final Rule alone is supported by facts and reason, and will build on the many successes—for both wildlife and tourism—of the past four years of ORV management while maintaining balanced access for all visitors to Cape Hatteras National Seashore.

CONCLUSION

In sum, for the reasons explained above and in our original testimony, the National Park Service's Final Rule for managing ORV use on Cape Hatteras National Seashore is supported by facts and reason, as well as years of planning and public participation. It will provide balanced access for all visitors to the Seashore while providing the minimum necessary protection for wildlife. It builds on the management measures in place at Cape Hatteras for the last four years during which visitation and tourism flourished and wildlife began to rebound on the Seashore. Please oppose S 2372, and instead support the National Park Service's Final Plan.

STATEMENT OF WARREN JUDGE, CHAIRMAN, DARE COUNTY BOARD OF COMMISSIONERS, ON S. 2372

In order to complete and clarify the record, Dare County is submitting the following as additional testimony to address important issues that were raised at the Hearing before the Senate Subcommittee on National Parks on June 27, 2012. Our

purpose is to shed further light on the pressing need for immediate passage of S. 2372, which would reinstate the Interim Management Plan for the Cape Hatteras National Seashore Recreational Area (CHNSRA).

THE MAJORITY OF PEOPLE SUPPORT RESPONSIBLE RECREATIONAL ACCESS

Dare County has been an active participant in every phase of the long regulatory process for the CHNSRA. Along with others in our community, we attended each public hearing, served on the Negotiated Rulemaking Committee, and submitted formal comments on every Environment Impact Statement prepared by the National Park Service.

Throughout the regulatory process, we have observed that most people share our core belief that resource protection can effectively be balanced with responsible recreational access. The people of our community have overwhelmingly been in agreement with this position. Reflecting the will of the people, the Dare County Board of Commissioners has consistently been in unanimous bi-partisan support of recreational access. Our position has also been enthusiastically endorsed by our delegation to the North Carolina Legislature. Additionally, our Representative to the U.S. House of Representatives, Walter B. Jones, and U.S. Senators Richard Burr and Kay Hagan have joined in bi-partisan support of federal legislation that would restore balance to the Cape Hatteras National Seashore Recreational Area.

In addition to the support that has been expressed locally, in the State Capitol, and in Washington, people in large numbers across America have joined the cause of access and fairness for the Cape Hatteras National Seashore Recreational Area.

At the June 27, 2012 Senate Subcommittee hearing, comments were made by Herbert Frost, representing the National Park Service, and echoed by Derb Carter from the Southern Environmental Law Center (SCLC), claiming that restrictive beach closures have received widespread popular support. As the elected body closest to the epicenter of the seashore, Dare County has found this not to be true. Their claims about the popularity of the consent decree are inaccurate. Furthermore, they show disrespect by discounting the unanimous, bi-partisan support of the Congressman and Senators who represent the Cape Hatteras National Seashore Recreational Area in Washington, D.C.

During the regulatory process, we have encountered a large number of individuals and organizations who share our view. They represent a diverse group of people who treasure the Cape Hatteras National Seashore Recreational Area and want to see wildlife prosper for the benefit of future generations. In addition to bi-partisan support from the Dare County Board of Commissioners, the following have made formal statements in support of our position—

- Hyde County Board of Commissioners
- Outer Banks Chamber of Commerce
- Dare County Tourism Board
- Outer Banks Preservation Association (OBPA)
- North Carolina Beach Buggy Association (NCBBA)
- Cape Hatteras Anglers Club
- American Sportfishing Association (ASA)
- United Mobil Access Preservation Alliance (UMAP)
- United Four Wheel Drive Associations
- Watersports Industry Association, Inc.
- Recreational Fishing Alliance
- Ocracoke Civic and Business Association
- Hatteras Village Civic Association
- Avon Property Owners Association
- Assateague Mobile Sportsfishermen Association
- New Jersey Beach Buggy Association
- Long Island Beach Buggy Association
- Rhode Island Mobile Sportsfishermen
- Davis Island Fishing Federation
- Massachusetts Beach Buggy Association
- Virginia Coastal Access Now
- Virginia Beach Anglers Club
- Tidewater Anglers Club
- Delaware Mobil Surf Fishermen
- Farragut Striper Club
- Association of Surf Angling Clubs
- CCA of North Carolina
- American Motorcyclist Association

WEATHER & NATURAL PREDATORS—THE GREATEST THREAT TO WILDLIFE

The Cape Hatteras National Seashore Recreational Area on the Outer Banks of North Carolina is a vulnerable coastline exposed to severe weather conditions. As such, it is not likely ever to make headlines for protected species breeding results. The reason is clear. The greatest threat to shorebirds and sea turtles is from weather and natural predators.

Those who want to severely restrict human access choose to ignore this basic principle. Instead, whenever breeding results are lacking for a particular year, they would have Congress and the public believe that humans are to blame rather than rightly attributing the failure to adverse weather and natural predators. However, as is explained in the following section, whenever any breeding success occurs, the special interest groups quickly ascribe credit to their far-reaching regulations.

SCIENCE TO REGULATE THE SEASHORE MUST HAVE INTEGRITY

Dare County advocates the use of sound scientific decision making in governing the seashore. Throughout the regulatory process, we have worked closely with informed and dedicated groups such as CHAPA, OBPA, NCBBA, and the Cape Hatteras Anglers Club. These knowledgeable, grassroots organizations have been on the forefront of advancing science-based protection to achieve recovery plan goals while assuring reasonable access for people.

In addition to working in partnership with community groups, Dare County has benefited from the support and council offered by concerned individuals in the scientific community, including Dr. Mike Berry. His views are highly respected and worthy of serious consideration. Dr. Berry was a senior manager and scientist with the U.S. Environmental Protection Agency (EPA) serving as the Deputy Director of the National Center for Environmental Assessment at Research Triangle Park, North Carolina. He also taught environmental science and policy at the University of North Carolina and is currently a writer and science advisor.

Dr. Berry has long been a dedicated champion in advocating that the scientific process be the basis for determining public policy. He explains, "Best available science as touted by environmental groups is opinion disguised as science."

Following are nine (9) items identified by Dr. Berry and Dare County as important scientific principles and rationale to consider in evaluating the success of resource management in the Cape Hatteras National Seashore Recreational Area.

(1) The Interim Management Plan fully titled Interim Protected Species Management Strategy/Environmental Assessment was publically discussed at great length and reviewed under the NEPA provisions in 2006. It was signed into effect in July 2007 and published in the Federal Register.

As indicated at page 30 in the Finding of No Significant Impact Interim Management Strategy (See Attached) "There are no significant adverse impacts on public health, public safety, threatened or endangered species, sites or districts listed in or eligible for listing in the National Register of Historic Places, or other unique characteristics of the region. In addition, no highly uncertain or highly controversial impacts, unique or unknown risks, significant cumulative effects, or elements of precedence have been identified and implementing the selected alternative (modified preferred alternative—Alternative D (Access/Research Component Focus) with Elements of Alternative A) will not violate any federal, state, or local environmental protection law. There will be no impairment of park resources or values resulting from implementation of the selected alternative."

The USFWS reviewed and concurred with the Interim Strategy and the Finding of No Significant Impact. In the Biological Opinion submitted to the NPS, August 14, 2006, USFWS states with regard to the Interim Plan,

"After reviewing the current status of the breeding population of the Atlantic Coast population of the piping plover, wintering population of the Atlantic Coast population of the piping plover, the wintering population of the Great Lakes population of the piping plover, the wintering population of the Great Plains population of the piping plover, seabeach amaranth, and loggerhead, green, leatherback, hawksbill, and kemp's ridley sea turtles, the environmental baseline for the action area, the effects of the proposed action and the cumulative effects, it is the USFWS's biological opinion that implementation of the Strategy, as proposed, is not likely to jeopardize the continued existence of these species." (See "Conclusion" at page 75 of USFWS Opinion)

The NPS rationale for the management provisions of Interim Plan is indicated at page four in the Finding of No Significant Impact.

“SELECTED ALTERNATIVE (MODIFIED PREFERRED ALTERNATIVE—ALTERNATIVE D (ACCESS/RESEARCH COMPONENT FOCUS) WITH ELEMENTS OF ALTERNATIVE A

Based on the analysis presented in the strategy/EA, the NPS identified Alternative D—Access/Research Component Focus as the preferred alternative for implementation. The preferred alternative is described on pages 59-63 and in tables 1, 2, and 3 of the strategy/EA. However, after considering public comment on the strategy/EA; park field experience during the 2006 breeding season; the USFWS Amended Biological Opinion (2007) (attachment 1 to this FONSI); new research (“Effects of human recreation on the incubation behavior of American Oystercatchers” by McGowan C.P. and T.R. Simons, *Wilson Journal of Ornithology* 118(4): 485-293, 2006); and professional judgment, NPS has decided to implement a combination of Alternative D—Access/Research Component Focus and some elements of Alternative A—Continuation of 2004 Management that pertain to managing sensitive species that are not listed under the ESA (see tables 1, 2, and 3 of this document). The basic rationale for this choice is that alternative D, as modified by elements of alternative A, best provides for both protection of federally and non-federally listed species and for continued recreational use and access consistent with required management of protected species during the interim period, until a long-term ORV management plan/EIS/regulation is developed, approved, and implemented. The modified preferred alternative—Alternative D (Access/Research Component Focus) with Elements of Alternative A is incorporated into the strategy/EA by Errata (attachment 2 to this FONSI). All elements of the modified preferred alternative were fully assessed in the strategy/EA under alternative A or alternative D.”

As indicated in the Finding of No Significant Impact, the selected alternative proved for both public access to the seashore and resource protection based on professional judgment of NPS managers, and consistent with management suggestions of USGS.

The Interim Plan established “best professional judgment” closure areas that did not previously exist. (See Pages 34-40 Finding of No Significant Impact.)

(2) Prior to the implementation of the Interim Plan, there was concern voiced mainly by environmental activist organizations that species decline was occurring on the national seashore as the result of increased public access, mainly off road vehicles. For five consecutive years (2001-2006), published resource numbers were low compared to previous years and were often touted to indicate that species populations, particularly birds, were in decline due to anthropogenic causes. However, it is often not mentioned that during this same time period the Cape Hatteras National Seashore Recreational Area experienced back-to-back storms that produced a significant distorting and transforming effect on the seashore ecosystem.

Due to the fact that the National Park Service, resource managers, and researchers had limited habitat specific research and monitoring data, the actual numbers of species, species behavior, and size of species populations at Cape Hatteras National Seashore Recreational Area were unknown and often simply speculated in the form of “professional judgment”. It is important to recognize that “judgments” and “opinions” in the absence of data are not science.

USGS, the research arm of the Department of Interior, in the introduction to the document titled Synthesis of Management, Monitoring, and Protection Protocols for Threatened Species and Species of Special Concern at Cape Hatteras National Seashore, North Carolina made the following observation giving credence to the fact that the low bird counts published for a few years prior to 2007 were most likely not indicative of the actual condition of species.

“Over the past decade, management of these natural resources has been inconsistent at CAHA, partially due to the lack of effective and consistent monitoring of the location, reproductive activity, mortality factors, and winter habitat use of these species.”

Recognizing the lack of effective and consistent monitoring that existed prior to 2007, the Interim Plan established an enhanced and intensive resources monitoring program for birds and turtles that had not previously existed. Starting in 2007, NPS began seeking out, observing, and reporting birds at more heightened level than ever before. Since instituting the enhanced monitoring program in 2007, bird numbers have increased. (See Pages 34-40 in Finding of No Significant Impact.)

(3) In April 2008, environmental activists organizations sued to overturn the Interim Plan, claiming that the plan was not based on sound science and closure boundary distances prescribe by USGS. The Southern Environmental Law Center, the Audubon Society, and Defenders of Wildlife, sued the National Park Service and convinced a federal judge without any oral argument or expert testimony to issue a consent decree to convert the most popular and frequented sections of the Cape

Hatteras National Seashore Recreational Area into mile after mile of “Bird Use Area” for a large part of the visitor season.

The public was given no opportunity to review or comment on the poorly crafted environmental management provisions of the consent decree. The provisions were slapped together in a period of about three weeks in April of 2008, behind closed doors, with no independent technical input and discussion.

Closure boundaries for four bird species (Piping Plover, Least Tern, Colonial Water Birds, American Oystercatcher), none of which are endangered, have prevented thousands of hard working, tax paying citizens and visitors from around the world from entering into large areas of the seashore. Thousands of visitors are channeled into now much overcrowded sections of the seashore, threatening to overrun the carrying capacity of those ecosystems.

The consequence of this non-public involved environmental decision is disastrous. As indicated in testimony this has had a devastating effect on the economy of Hatteras Island.

The access denying provisions of the consent decree provisions, which are unnecessarily restrictive and not based on objective science assessment, have been incorporated with additions into the final ORV management plan that the proposed legislation S. 2372 is designed to overturn.

(4) Environmental activists often referred to National Park Service annual resource reports in their self-promoting press releases, public testimony, and periodic presentations to the federal judge overseeing the consent decree. They use the reports to make claims that the public access restrictive resource closures of the consent decree, which they crafted and imposed without public review, are resulting in “highest ever” bird and turtle observations.

The annual resource reports have never been independently reviewed or verified for accuracy.

The National Park Service and the environmental activists groups are comparing numbers in these recent annual resource reports to questionable low bird count numbers published prior to 2007 that were not observed using the current level of intense and enhanced monitoring and measurement that has been in place since 2007. Such an “apples and oranges” comparison is in no way valid or useful in indicating statistical change.

In the absence of an enhanced monitoring program prior to 2007, it is plausible that various bird counts were not as depleted and low as claimed by environmental activists but that they were simply not being observed, counted, and reported as at the current intense monitoring level.

It is also plausible that any noted increase in bird counts since 2007 are due to a new enhanced program for seeking out, observing, and reporting birds rather than the creation of public access restrictive closures.

At no time in the past four years has any federal official demonstrated through independent audit or review, the validity of these reports or taken a hard look at environmental activists claims. None of the annual reports related to the consent decree for 2008, 2009, 2010, and 2011 were ever peer reviewed or validated by competent independent science advisors in open public forum or openly discussed by interested parties.

The bird and turtle numbers that environmental activists lawyers refer to come from annual National Park Service reports that are not consistent with the Presidential Directive for Science Integrity, and Department of Interior and National Park Service policies for scientific transparency and review. The reports do not indicate an author or a federal scientist who takes responsibility for the validity of the data. The public does not know who—by name, affiliation, and technical qualifications—made the observations and recorded the data. The public has no knowledge of chain of custody or quality assurance of the data. The public does not know who specifically wrote the reports. The public cannot get at the facts and verify claims.

Resource documents indicate that previously in 2007, annual bird reports commissioned by the National Park Service were co-authored by Audubon Society members.

(5) There is no statistically significant environmental benefit indicated because of the restrictive access provisions of the Consent Decree or the Final ORV Plan.

Nowhere in any annual resource report of the past four years does National Park Service demonstrate or claim a cause and effect relationship between overly restrictive closures provided by the consent decree and bird and turtle production.

Environmental activists and the National Park Service cannot demonstrate or prove that wildlife production of birds and turtles was improved under the overly restrictive provisions of the consent decree any more than would have occurred had the provisions of the publicly reviewed Interim ORV Plan been allowed to move forward for four years.

In recent court testimony, without qualification, the Seashore Superintendent said about birds and turtles, “the trend is up”. The statement is something the judge that issued a consent decree that has denied extensive public access to the national seashore wants to hear even though at each of the Status Conferences before the judge, the Seashore Superintendent has explained to the Court that it is in fact too early to ascribe a cause/effect relationship.

For turtles, production and sightings during the years of the consent decree are up all along the Atlantic Coast, not just the region governed by the consent decree. For birds, natural processes and variability alone can produce such a statistically insignificant one or two year “uptrend” for a very small number of birds in previous years. The production and survival trend for two bird species in the current 2012 breeding season appears to be down for this point in the season when compared to the past two years.

(6) Data collected and published by NPS in recent years in no way supports the claim by environmentalists that ORVs reduce the productivity of birds. In fact, the data suggests that the Interim Management Plan, prepared with public input and review in 2005 and published in the federal register, was showing every sign of being effective at protecting birds and natural resources.

Had best professional judgment been allowed, along with reasonable public access, for the last four years under the consent decree we would reasonably expect the same result in bird and turtle production we see today, if not better.

The Interim Management Plan was set aside by the court and replaced by the consent decree that mandated extensive closures. The closures of recent years have been of exorbitantly high cost to the public, but have not contributed to an improvement in species production or safety. The consent decree has produced no natural resource benefit over and above the Interim Plan. In fact, in the same year the consent was issued, the fledge counts were higher under the Interim Plan than under the consent decree. In a matter of weeks after the issuance of the consent decree, the NPS in Washington and environmental activists in Senate testimony disingenuously credited the restrictions of consent decree, which had hardly been implemented, for improved bird counts that were most probably the consequence of the Interim Plan and enhanced monitoring implementation.

Using the same data to which environmental activists and NPS often refer, 7 piping plovers fledged in 2008 under the Interim Plan, 6 in 2009 under the highly restrictive consent decree. 17 American oystercatchers fledged in 2008 under the Interim Plan and 13 in 2009 under the highly access restrictive consent decree, the same management structure now found in final ORV management plan.

(7) From a scientific viewpoint, “best professional judgment” closures are more effective and technically sound than closures imposed by the Consent Decree and Final ORV Regulation. Smaller closures limit the free movement of predators. They do not promote the food chain manipulation and transformation in the ecosystem to the same extent as the larger consent decree closures.

The huge closure distances in the consent decree and final plan restrictions keep pedestrians and ORVs off the seashore while birds are nesting. At the same time, the extensive closures also provide for the proliferation and increased free movement of predators. In effect, the extensive closures create an ecological trap for birds in that large closure areas enhance predation.

Data at page 10 of 2011 American Oystercatchers Report indicates that in 2008 under the Interim Plan, 22% of chicks were lost to predation. Under the consent decree boundary restrictions 58% were lost in 2009; 35% lost in 2010; and 42% lost in 2011. Since the extraordinarily large consent decree boundaries have come into play, the predation tend is “up”.

Food chain manipulation is one way to promote unnatural bird production. The technical provisions of the consent decree have been the basis for the selective trapping and killing of bird predators. Aggressive predator control during the years of the consent decree is altering the ecosystem significantly for the sole benefit of selected bird species.

(8) Over the past 40 years, federal agencies have adopted formal peer review policies to ensure they comply with the “Hard Look Doctrine”. Federal Courts expect agencies to take a “Hard Look” at the science and not be informal or sloppy in their treatment of fact. The National Park Service has failed to ensure a valid science basis to a regulation that restricts public access to the national seashore. An independent review to determine the validity of the so-called “scientific fact” never occurred during the consent decree proceedings of the past four years. As a result, the public lost access to the beaches of its national seashore. Such government inaction in responding to and collaborating with politically powerful special interests will only further public outrage and distrust of government.

Many of the references used to justify the final ORV management plan are those of individuals and activists organizations who have supported litigation that denies public access. The major science references are authored by environmental activist organizations and individuals trying to shut down ORV access to the national seashore: Audubon, Blue Water, Hatteras Island Bird Club, etc. Many of the references are outdated, biased, contain incomplete and misleading information, and few have ever been reviewed in open forum. The main science references are unsuitable and inappropriate as the basis for a government regulation that restricts public access to the national seashore and have significant negative impacts on the Outer Banks economy.

The so-called "USGS Protocols" continue to be touted as "best available science" in the development of the final ORV management plan for the Cape Hatteras Seashore Recreational Area.

The USGS Protocols were cited as being "in press" 5 years after they first appeared on the Park Service website. There was no date on the document, no responsible federal official identified, no government document number. The final publication was not accessible, publicly reviewed, or fully explained by government authority at the time the DEIS was submitted to the public for comment.

In an introduction to the final release of the Protocols in March 2010, USGS states, "Although no new original research or experimental work was conducted, this synthesis of the existing information was peer reviewed by over 15 experts with familiarity with these species. This report does not establish NPS management protocols but does highlight scientific information on the biology of these species to be considered by NPS managers who make resource management decisions at CAHA." <http://pubs.usgs.gov/of/2009/1262/>.

As indicated by USGS, the "Protocols" are really not hard and fast science based protocols but suggested considerations rendered by an ad hoc group. Such ad hoc suggestions can in no way be characterized as "best available science".

The literature reviews found in the "USGS Protocols" as published in final are significantly out of date. Many citations are over 20 years old and most are not related to the Cape Hatteras National Seashore Recreational Area. The public does not have access to the literature reviewed in this essential report and most of the citations are so insignificant they cannot even be found in major university libraries that have extensive environmental and natural resource publications such as the University of North Carolina at Chapel Hill.

The following speaks volumes as to the lack of formality and serious purpose of the "USGS Protocols" currently used as the excuse for beach closures.

- There is no public record that the protocols, which have been the source of closures, have been officially peer reviewed following USGS peer review policy. <http://www.usgs.gov/usgs-manual/500/502-3.html>
- There is no public file, docket, or documentation of peer review questions, comments, or author response.
- There is no indication that the protocols were ever published in a peer reviewed journal or publication or ever referred to as what they are, management guidelines and opinions as opposed to in-depth science assessment.
- Scientists having any kind of conflict of interest association, whether through membership, collegial associations, funding, or grants must disclose the relationship. Some authors and reviewers of the protocols were members and associates of organizations now using the protocols to restrict public access to the beaches of the national park, a fact never disclosed openly and not in compliance with USGS peer review policy.

As has been stated many times in public comment to the National Park Service, the best course of action to resolve the matter of valid science is to turn the science review and update over to the National Academy of Sciences or some other neutral party, to objectively, critically, and comprehensively review all relevant science, disclose the facts and restore some public trust in the scientific process used as the basis for environmental management decisions at Cape Hatteras National Seashore Recreational Area. Most importantly, for the restrictive provisions of the final ORV management plan, there is no indication that NPS ever plans to revisit the USGS Protocols and the science basis for closure boundaries.

The NPS fails to take hard look at the science that might contradict its current justification for denial of public access to the Cape Hatteras National Seashore Recreational Area.

(9) Nowhere is a specific science basis, study or data, ever presented, or published for a given bird management option, established solely for the Cape Hatteras National Seashore Recreational Area.

Closure boundaries are overly restrictive at CHNSRA and are not used at other NPS properties. There has been no administrative or science based explanation given to the public for these uniquely restrictive closures that limit public access to the seashore, other than they are somehow in the primary interest of resource protection and “come down on the side of birds and turtles”.

No deaths of Piping Plover chicks or destruction of eggs by humans are documented at the Cape Hatteras National Seashore Recreational Area. More specifically, no Piping Plovers have been verified as lost to ORVs accessing the national seashore as is often claimed by environmental activists. The majority of nests and hatched birds the past four closure seasons, and before, were lost to predation and storms, one at the hands of a university researcher trying to band a bird.

In the face of no documented Piping Plover loss due to human activity, NPS, USGS and the contributing scientists have failed to explain specifically why, by way of science justification, 1000-meter boundaries, that prohibit public entry into an area up to 770 acres, must be established every time a Plover chick is observed. The literature indicates that on average Plover chick movement is less than 200 meters. The NPS claim in response to public comments that plover chicks run further distances on Hatteras is a ridiculous excuse for sound science. The public access denial consequences of such a subjective management policy for a national seashore, which is set aside for public access, is excessive, does not indicate a balance of responsible usage, and fails to reflect reasonable or professional resource management.

CONCLUSION

The testimony outlined above carefully documents that there is not a cause effect relationship to the restrictive provisions of the consent decree. The special interest groups who want to severely limit recreational access rely on flawed science that lacks integrity, peer review, and without regard to the full consideration of the law, the economy, and public use.

Now, more than ever, the people need federal agencies, such as the National Park Service, to be held accountable for policies that have hurt the people. Regulations at the Cape Hatteras National Seashore Recreational Area are out of balance and unless remedied soon they will have permanent consequences. The livelihood and future of our people depends on the passage of S. 2372.

STATEMENT OF ANNETTE RATZENBERGER, ON S. 2372

This bill will allow responsible human access to the Cape Hatteras National Seashore Recreational Area—note this is not a wildlife preserve but a “Recreational Area”. The current restrictions imposed by NPS as a result of the law suit by environmentalist organizations is too strict and prohibits the intended use of this area. (Much of the land was donated specifically so that future generations could enjoy this beach). The environmentalist organizations have publicly stated that their goal is to remove all humans from Hatteras island as happened with Portsmouth Island. DO not let this happen. The current restrictions are having a huge impact on the economics of Hatteras Island and the families that have called it home for years. I care about the environment and the survival of these shorebirds—they are not endangered by any definition on the Atlantic Coast. The people of Hatteras Island have always been good stewards of the land and environment that surrounds them.... please return the pride and responsibility of this stewardship back to them to work in concert with NPS.

WISCONSIN LEGISLATURE,
Madison, WI, June 22, 2012.

Hon. JEFF BINGAMAN,
*Chairman, Energy and Natural Resources Committee, 304 Dirksen Senate Building
Washington, DC.*

DEAR CHAIRMAN BINGAMAN AND COMMITTEE MEMBERS: We ask that you support Senator Herb Kohl’s S. 2158 to establish the Fox-Wisconsin Heritage Parkway National Heritage Area.

The Fox-Wisconsin Heritage Parkway has been seeking designation as a National Heritage Area (NHA) for many years and if it is granted, it will become the first NHA in Wisconsin. This bill was first brought forward in 2008 but did not pass and has been reintroduced in the Senate by Senator Kohl and in the House by Congressman Tom Petri. We hope that you’ll support the creation of the Fox-Wisconsin Heritage Parkway National Heritage Area.

The Fox-Wisconsin Heritage Parkway would be a great way for the Country as a whole and the State of Wisconsin to help recognize the tremendous importance of these two rivers to our state's history and development. The Fox and Wisconsin Rivers were of great importance to the American Indians and were central to their daily lives. The development of Wisconsin further progressed with the influence of French missionaries, explorers and trappers, whom were told by the natives, the American Indians, of a connection between the Mississippi River and the Great Lakes. This led to Louis Joliet and Jacques Marquette navigating Lake Michigan to Green Bay and nearly to the headwaters of the Fox River, they portaged their canoes at the present day city of Portage and resumed their journey on the Wisconsin River and entered the Mississippi River in 1673. Their journey led to the further exploration by Nicolet, Allouez, Radisson and others, all of whom paved the way for the further exploration and expansion into the American West. The Fox-Wisconsin Heritage Parkway follows Joliet and Marquette's momentous journey from the Mississippi River to Green Bay.

As Wisconsin became settled by European immigrants, the Fox and Wisconsin Rivers became vital transportation routes and vital economic drivers. As the country was spreading west, Wisconsin became an important commercial center and shopping place, providing a link between the Great Lakes and Mississippi River routes. In addition, the Fox and Wisconsin River Corridors became instrumental to the development of many industries that Wisconsin is famous for, including: mining, agriculture, logging, textiles, paper, and milling.

The rivers provided easy transportation of raw materials and finished products and provided the power necessary to run these industries.

In the past century and particular in the past few decades we have begun to recognize and promote the importance of conservation along the corridor. In Appleton and the Fox Cities, after dredging the river and cleaning it up, we are seeing businesses and entertainment return to the river front. All of Wisconsin's "fathers of conservation" got their start along the Fox Wisconsin Rivers. The rivers are now a key part to the tourism and entertainment industries along their banks, we need to make sure that we can properly protect, maintain and restore the Fox-Wisconsin Corridor and having the Fox-Wisconsin Heritage Parkway named a National Heritage Area is a great way to ensure that generations to come can enjoy the fruits and beauty of the Fox and Wisconsin Rivers.

We hope that you'll support Senator Kohl's bill to recognize the tremendous economic and historic value of the Fox-Wisconsin corridor and support the creation of the Fox-Wisconsin Heritage Parkway National Heritage Area.

Sincerely,

FRED CLARK,
State Representative, 42nd Assembly District.
PENNY BERNARD SCHABER,
State Representative, 57th Assembly District.
ALVIN OTT,
State Representative, 3rd Assembly District.

STATEMENT OF TRISH NAU, GIS COORDINATOR/RECREATIONAL PLANNER, EAST
CENTRAL WISCONSIN REGIONAL PLANNING COMMISSION, ON S. 2158

I am writing this letter today in support of SB-2158, establishing the Fox-Wisconsin Heritage Parkway in becoming a National Heritage Area (NHA). For over 10 years, my staff and co-workers have been working diligently on the mapping and reports for the Parkway along with the Friends of the Fox and other partnerships throughout the region.

The Parkway offers a unique perspective to the history of Wisconsin and provides many recreational opportunities for visitors to enjoy. The banks of the Fox and Wisconsin Rivers flow through a mix of urbanized and rural areas. We can still follow the exact route that Marquette and Joliet took centuries ago, stopping at the forts and points of interest along the fur trade. The lock sites along the Fox River have also been starting to be refurbished and with it much history of their lock tenders and houses.

The Parkway should be treated as a National Landmark with all the history and character that accompanies the area. Please consider making this region a National Designation and everything that goes along with that status.

*Additional signatures have been retained in subcommittee files.

STATEMENT OF RICHARD D. SCHRAMER, MAYOR, CITY OF BERLIN, BERLIN, WI,
ON S. 2158

As the mayor of the City of Berlin that is situated on the Fox River, I would like to speak in favor of bill S.2158, to establish the Fox-Wisconsin Heritage Parkway National Heritage Area. The efforts undertaken by the City of Berlin have been to place Berlin back on the Fox as a destination for tourism. This included restoring navigation through the Eureka Lock by the efforts of the Berlin Boat Club and \$300,000 in private funding. This restoration effort of the lock structure that was built in the 1860's, reconnects navigation from the Lower Fox River and the Lake Winnebago system with points up stream including Berlin and Princeton. Berlin is also performing waterfront improvements to promote tourism and recreation as well as to promote economic development of our downtown. Passage of this bill and establishing this national heritage area solidifies our efforts to promote this area's history, not only for Berlin, but for the entire Fox River valley and Wisconsin River that served as the nation's highway in the early days of our country's development.

STATEMENT OF DENNY CANEFF, EXECUTIVE DIRECTOR, RIVER ALLIANCE OF
WISCONSIN, MADISON, WI, ON S. 2158

I am writing in support of SB 2158, a bill, sponsored by Sen. Herb Kohl, to establish the Fox-Wisconsin Heritage Parkway National Heritage Area.

There are few rivers in the country that tell the story of Upper Midwestern settlement and development like the Fox and Wisconsin rivers can. In recent years, the state of Wisconsin, municipalities and local organizations have committed themselves to revealing those stories in compelling ways. Parallel to those efforts is the work of those same local governments and organizations to clean up the water and protect the land associated with these rivers.

All in all, there may be no better candidate river systems for this national designation than the Fox and Wisconsin. Such a designation would not only commemorate the past but would honor the current good works raising the profile and advancing the rich cultural and historic legacy of these two great rivers.

Thank you for your consideration.

STATEMENT OF MARK GEALL, PRINCIPAL, RIVERHEATH, LLC, APPLETON, WI,
ON S. 2158

I am writing to support the Fox-Wisconsin Heritage Parkway. As a child, I lived along the Fox River and used to fish from its banks with my father. As I grew older, I recognized the river as a vital component of Wisconsin's manufacturing operations. Now, many decades later I realize the importance of preserving the rich history of the Fox-Wisconsin river system as it flows across our State. These rivers have played a key role in Wisconsin's history, and it is time to recognize that significance and preserve it for the next generation. Please seize this energy and enthusiasm coming from many different communities across Wisconsin. A designated trail noting all of the historic places would be a tremendous asset to this State and the National Heritage Area system.

STATEMENT OF TRACY HAMES, EXECUTIVE DIRECTOR, WISCONSIN WETLANDS
ASSOCIATION, ON S. 2158

I'm writing in support of Senator Kohl's bill S. 2158, the bill to establish the Fox-Wisconsin Heritage Parkway as a National Heritage Area.

The area delineated to be included in the National Heritage Area contains some of the best examples of intact native wetlands in Wisconsin. These areas include the Lower Wisconsin River & Wyalusing State Park, Page Creek Marsh, Rush Lake, and White River Marsh. All of these sites have been designated as Wetland Gems by Wisconsin Wetlands Association. Designation of the Fox-Wisconsin Heritage Parkway as a National Heritage Area will help call attention to these exceptional wetlands, allowing them to be used as examples for wetland protection and restoration throughout the state.

This bill has received bipartisan support at a federal level, high commendation from the National Park Service and tremendous support from Parkway citizens, communities, organizations, agencies and local officials.

I am pleased to support designation of the Fox-Wisconsin Heritage Parkway as a National Heritage Area and the many positive benefits it will bring to our region

and the State of Wisconsin. I thank Senator Kohl and his effort to recognize our region's rich cultural and natural heritage.

STATEMENT OF CANDICE MORTARA, PRESIDENT, FOX-WISCONSIN HERITAGE PARKWAY,
ON S. 2158

Thank you for taking the time to consider this legislation. I have been a full time volunteer for this effort for the past 4 years and am very passionate about the asset that the Fox-Wisconsin Heritage Parkway, once fulfilled, will be to the State of Wisconsin.

It has been an amazing gift to be involved with the Parkway effort. We have over 55 people spread throughout the state giving countless hours of their time to see this project come to life. They are excited by the prospect of preserving the history and bringing it to the public in a way that will help them identify with it and increase the pride that they already feel for our state.

They are excited about the water trail and increased access to this river that has been industrial most of its life and not something that most wanted to access. To the great credit of the industries along the river, due to their efforts, it has been brought back to lovely once again. The eagles and pelicans are calling it home.

Our volunteers are also excited about the potential economic development that is so important to the founders of this project. We will be running it with a business mind, per se, so that we are fiscally self-sufficient at the earliest possible moment. We will do better by the state by building into our plan multiple revenue-generating ventures so that we are not reliant on grant possibilities. This will allow for greater stability and ease in planning.

We are unique in that we have not waited for the designation or the federal money to begin. Our dedication and passion is so high that we have completed the feasibility study, and will be completing the interpretive master plan, the economic impact plan, the strategic organization plan, and our quantitative measurement matrix prior to even receiving the designation.

This means we will hit the ground running and all National Park Service technical support and funding will go immediately to implementation.

So much has happened since we completed our feasibility study. Please find attached a list of our current partners and our current fundraising effort and total, as well as our 2011 Annual Report.

I thank you for your consideration,

STATEMENT OF SHAHLA M. WERNER, DIRECTOR, AND WILL STAHL, CONSERVATION
CHAIR, SIERRA CLUB—JOHN MUIR CHAPTER

The Sierra Club-John Muir Chapter is honored to have the opportunity to submit comments on S. 2158, to establish the Fox-Wisconsin Heritage Parkway National Heritage Area. We represent 15,000 citizens from throughout Wisconsin who strongly value the native biological diversity, historical sites, and recreation provided by this important public resource. We are, therefore, strongly urging your Committee to support S. 2158.

S. 2158 will establish the Fox-Wisconsin Heritage Parkway as National Heritage Area (NHA) with the National Park Service. This area traces several scenic waterways across Wisconsin from Green Bay to Lake Winnebago to Merrimac and Prairie du Chien. It includes several historic landmarks, from the Appleton and Menasha locks to Aldo Leopold's shack to the Merrimac Ferry to Frank Lloyd Wright's Taliesin. A National Heritage Area (NHA) is a region that has been recognized by the United States Congress for its unique qualities. It is a place where natural, cultural, historic and recreational resources combine to form a cohesive, nationally distinctive landscape that tells an important story about the natural and human history of the United States.

This national designation would bring many tangible and intangible benefits for the Parkway and neighboring communities, including increased protection for natural resources, recognition of the cultural value of the area, increased educational opportunities for people living in the region, and economic growth through tourism.

The unique features of the Fox Wisconsin Heritage Parkway warrant protection as a National Heritage Area. Supporting this designation would bring much-needed jobs to our state while at the same time preserving for future generations natural resources and a historically significant area.

Thank you for considering our comments on this important issue, and please contact us with any question or concerns.

STATEMENT OF LISA PAULY, CHAIR, HISTORIC PRESERVATION COMMISSION,
ON S. 2158

This letter is written on behalf of the City of Fond du Lac Historic Preservation Commission in support of Senate Bill 2158 which would establish the Fox-Wisconsin Heritage National Parkway.

These two significant waterways, the Fox and Wisconsin Rivers, through their connection to Lake Winnebago, have played an important role in the history of the City of Fond du Lac and opening the Midwestern United States to settlement. The establishment of the Fox-Wisconsin Heritage Parkway would exemplify the outstanding natural, recreational and historic resources of the State of Wisconsin from Prairie du Chien to the Port of Green Bay.

A designation as a Heritage Parkway will help create additional opportunities for historic interpretation, education, recreation, and tourism within the City of Fond du Lac. The Historic Preservation Commission supports efforts to establish a year-round heritage tourism destination that will result in an overall boost to Wisconsin's economy and the City of Fond du Lac's economy by enhancing and promoting historic sites; promoting local events; developing scenic routes; providing outdoor enthusiasts with more recreational activities and public access and bringing new businesses and jobs.

There are only 49 heritage parkways in the United States, none of which are in the State of Wisconsin. Senate Bill 2158 to establish the Fox-Wisconsin Heritage Parkway presents a unique and exciting opportunity to highlight Wisconsin's great natural, recreational and historic resources.

STATEMENT OF EILEEN FIELDING, EXECUTIVE DIRECTOR, FARMINGTON RIVER
WATERSHED ASSOCIATION, ON S. 2286

Mr. Chairman, Thank you for the opportunity to comment on this bill. I am submitting remarks on behalf of the Farmington River Watershed Association (FRWA), a private non-profit organization founded in 1953 to preserve, protect, and restore the Farmington River and its watershed, and based in Simsbury, CT. FRWA played a leading role in the designation of 14 miles of the Farmington River's West Branch as a Wild & Scenic River in 1994. FRWA likewise led in promoting Congressional legislation authorizing the Lower Farmington River and Salmon Brook Wild & Scenic Study, and has had a representative on the Lower Farmington Wild & Scenic Study Committee since its inception in 2007.

FRWA supports S. 2286 because we believe strongly that Wild & Scenic designation provides an appropriate and effective way to encourage and support local stakeholders who work cooperatively on river management. With Wild & Scenic designation, representatives from various user groups can work together to implement a plan that all have participated in creating. The Partnership Wild & Scenic model that was pioneered on the Farmington West Branch in the 1990s has proved very successful. It has fostered long-term collaborations among diverse users of the river and has catalyzed local initiatives and matching support for river projects that improve our valley's communities. In a state with no county-level government and many strongly independent townships, a program that brings town representatives together for creative stewardship of a common resource is critically important.

A strong point of the Partnership W&S model on the West Branch is that the federal support is not used exclusively by a single entity, but is parceled out by the W&S coordinating committee to assist many river-related projects undertaken by towns, land trusts, other NGOs, students, and independent contractors as they work together on river protection and management. Augmenting our local resources with W&S funding and Park Service technical help promotes a unified approach and maximum leverage for federal dollars. The same approach will work well in the 10-town area of the Lower Farmington River and Salmon Brook, as demonstrated by the extraordinary success of the Lower Farmington Study Committee over the last five years as they prepared the W&S management plan for the lower river and Salmon Brook, and conducted extensive outreach and education that resulted in widespread support for designation.

Along with our strong support for the bill, we wish to point out that the major purpose of designation through the Wild & Scenic River Act is to maintain the free flow of a river, with exclusions allowed for pre-existing dams and impoundments. FRWA, along with the Wild & Scenic Study Committee, made every effort to accommodate the need to protect Stanley Black & Decker's existing hydro operation, with the understanding that "existing" means no future increase in the height of Rainbow Dam. Maintaining the current height of Rainbow Dam (i.e., the current height of the permanent structure, plus its 6-foot flashboards) was the intention behind

agreeing to the Spoonville Dam site as the upper boundary of the exclusion area. We've been careful to confirm that that location is a very generous allowance for eventual FERC licensing of the existing hydropower dam and impoundment. However, the latitude provided by this boundary should not be interpreted as implied agreement to allow a higher dam or flashboards at some future date. New language in the bill, specifying the present dam height, could clarify this point.

Keeping to the present height of Rainbow Dam has several benefits. It safeguards a nationally-known whitewater recreation run in Simsbury that lies just upstream of the proposed boundary. It will also prevent any permanent rise in average water surface elevation along the river in the towns of Bloomfield, East Granby and Simsbury. These towns supported Wild & Scenic designation with that expectation, and their interests would thus be respected.

As to the downstream boundary for the Rainbow Dam / Rainbow Reservoir exclusion area, FRWA favors the language now in the bill, as most fully protecting the free-flowing condition of the river. In contrast, one proposed alternative boundary would enlarge the exclusion by more than two miles downstream, to retain an option of developing a small hydropower site. Weighed against the cost of development, the likelihood of permitting, and the impact of a new dam on the ongoing restoration of the river's fisheries, the overall community benefit of this option is genuinely debatable.

In conclusion, I would like to express our appreciation for the considerable efforts to reach a fair agreement on the part of all who have participated in the drafting of this bill. We look forward to its passage as an example of far-sighted protection and management of our remarkable river resources for the benefit of the Farmington Valley community.

STATEMENT OF FRANK M. HARVEY, ON BEHALF OF STANLEY, BLACK, & DECKER, ON S. 2286

Mr. Chairman: My name is Frank W. Harvey, Director of Real Estate for Stanley, Black & Decker (SBD). Our company is headquartered in Connecticut and employs 1200 people in state operating tool plants and other facilities. SBD's facilities, property and operations would be impacted by designation of the Lower Farmington River as a component of the Wild and Scenic River (WSR) system. We appreciate this opportunity to present our views regarding S. 2286.

SBD has consistently represented that it would like to be able to support legislation designating the Farmington River and continues to take that position. Support for WSR designation legislation, however, has been contingent on resolution of two specific issues: (1) adequate protection for the operations and maintenance of the existing Rainbow Dam and (2) appropriate treatment of another hydroelectric dam site held by SBD near the Route 75 Bridge across the River.

A hydroelectric dam was constructed at the Rainbow site in the late 1800's and was the world's first hydroelectric plant to transfer power to a remote site—Hartford, some 11 miles away. The dam was rebuilt in 1925 and has provided electricity continuously since then. Today the power generated at Rainbow Dam is used at SBD's New Britain tool plant via a power exchange and provides additional green energy to the local power grid.

Earlier draft versions of S. 2286 (and H.R. 4360) designated portions of the Rainbow site within the WSR and this action would likely have adverse impacts on operations including flowage rights. SBD noted this problem and we appreciate that the sponsors have modified section 3 of the bill to exclude the reach of the River from the old Spoonville Dam downstream to the Rainbow Dam. This exclusion resolves one of SBD's primary concerns.

Even with this exclusion, we remain concerned that the WSR designation upstream and downstream from the Dam could impact its operations. To that end, we suggest that S. 2286 be modified to include language in section 4(e) stating that the designation and administration of the WSR will not affect the management and operation of Rainbow Dam including the storage, management, and release of water. Identical language has been previously enacted to address similar situations and the Snake River WSR designation in Public Law No. 111-11, section 5002(e)(6) employs such language. Incorporation of such language will address SBD's concerns regarding prospective impacts on the Rainbow facility and operations.

SBD's other primary issue is the impact of WSR designation on the use of, or value, of SBD's hydroelectric site near the Route 75 bridge. Plainly, WSR designation of this reach of the River would foreclose future hydroelectric development of this site. SBD acquired this property and site with full expectation that it could be used for hydroelectric development. And while SBD has no immediate plans for a

new dam or other structure on this property, our shareholders' interests are served by maintaining our historic and present ability to license such projects at this site. Given the uncertainties surrounding energy supplies in the U.S. and the world, SBD is also persuaded that the possibility of additional green energy in this part of Connecticut ought not to be foreclosed. Exclusion of this site from the WSR would be accomplished by amending section 3 to designate a 6.1 mile reach of the Farmington River starting 2.5 miles downstream from Rainbow Dam.

We are aware of the strong interest in barring development on this site and including these lands, and reach of the River, within the WSR. As a result, SBD is prepared to consider an alternative approach that ensures it realizes the full value of these interests for its shareholders. A provision could be added to the bill establishing a process for prompt acquisition of the site from SBD and post-acquisition addition of these lands to the WSR. Acquisition would be for fair market value reflecting that the highest and best economic use for the site is hydroelectric development. This would provide for conservation of the site without diminishing the value and expectations presently held by SBD. Modification of S. 2286 to either exclude this hydroelectric site or provide for its prompt acquisition for full value as discussed above are acceptable alternatives for SBD.

SBD has appreciated the attention, time, and good faith efforts of WSR proponents to work with us on these issues and concerns. We are hopeful that incorporating into S. 2286 the additional changes discussed above will enable a Farmington River WSR bill to move quickly with the full support of SBD and the greater Connecticut community. Thank you.

STATEMENT OF HELEN KEITH AND CAROLYN KEITH SILVIA CURRENTLY OF
HUNTINGTON, VERMONT AND BRIDGEWATER, MASSACHUSETTS RESPECTIVELY

(Daughters of the Honorable Hastings Keith (R-MA 1958-1972), who represented Cape Cod and other contiguous areas (then the 9th District) of Massachusetts during the development and passage of the legislation creating the Cape Cod National Seashore.)

ON S. 2316

Thank you very much for allowing my sister and me to put information before the Senate Committee on Energy and Natural Resources and its Sub-Committee on National Parks' June 27th hearing on S 2316. We offer information on the Cape Cod National Seashore, its local history and the effort to bring the park to fruition through the intense negotiations, hard work, much time and worry by many key people, in its creation. What follows is a brief summary, followed by the reasons we believe the Salt Pond Visitor Center should not be renamed at all, and a set of resources for further information on the history and roles of a number of leaders that helped create this national and local treasure.

SOME BACKGROUND

On September 3, 1959, Senator Saltonstall, Senator Kennedy, and U.S. Representative Hastings Keith who represented the Cape, filed concurrent legislation to establish the park. On August 7th 1961, President Kennedy signed the bill and it became law. This piece of work was guided by Kennedy, Saltonstall and Keith (and very importantly their staffs) over a period of several years. For many years prior to this there were efforts to develop a national seashore park that involved a number of people including Tip O'Neill and Congressman Boland and many others too numerous to mention here.

Our Dad, Hastings Keith, entered into his first term as a US Congressman representing Cape Cod, the Islands, most of Plymouth County, and New Bedford and at that time part of Fall River, Massachusetts. The issue of the creation of a national park was a hot one—having the prior Congressman for the Cape state that “there would be no seashore except over his dead body” (Burling’s *The Birth of the Cape Cod National Seashore*, page 17). But the new Congressman Keith was committed to working things out, listening to the towns and the townspeople, creating a locally designed, acceptable, seashore preservation and feeding into the work of the Saltonstall—Kennedy staffs. A relatively young Congressman, in his first term he wanted very much to represent his district well. He took the work of developing legislation for the CCNS very seriously and spent much of his time, in those first years, meeting with town representatives, property owners (pro and con) and others dedicated to preservation of certain lands that would become the heart of the park. Many “tear out your hair” kind of meetings occurred. We didn’t get to see him much

during that time. And—our family is proud that he worked so hard on what was and has become a national treasure.

WHY NOT TO RENAME THE SALT POND VISITOR CENTER IN THE CAPE COD NATIONAL SEASHORE

The reasons we write to you now have to do with the well-intended but not appropriate (somewhat paraphrased from a portion of the June 3, 2012 Cape Cod Times Editorial) push to rename the Salt Pond Visitor Center to the “Thomas P. O’Neill Jr. Salt Pond Visitor Center” to honor Tip on his 100th birthday. We would like the efforts to honor Tip to be redirected.

The following issues outline why we and others think there should be no renaming of anything in the CCNS.

There is opposition to both S 2316 and HR 4400 from those on the Cape and those who know the history of the Cape Cod National Seashore (CCNS) park. Please see attached editorial and articles from Cape Cod.

There has been no public hearing on the Cape to get the views and recommendations of the people who live there. There needs to be a public hearing on the Lower Cape (not in Washington DC) to hear about what the MA delegation has determined to be a good way to honor Tip.

While the current bills (S 2316 and HR 4400) acknowledge Tip’s role in some aspects of the development of the Cape Cod National Seashore, it is only a slice of the truth. The bills appropriately describe many of his wonderful accomplishments. The truth is that many others had a much more direct role in its every day development; and, there are too many to honor in this manner. No one wants a feeding frenzy of re-naming ceremonies that would attempt to decide who needs to be honored the most. The natural names that are a part of the CCNS’ long history, going back to early Native American times should not be changed to honor anyone.

There have been several histories of the Cape Cod National Seashore written including the following two: Francis P. Burling’s 1979 book entitled *The Birth of the Cape Cod National Seashore* published by the Leyden Press, Inc. and Charles H.W. Foster’s 1985 *The Cape Cod National Seashore A Landmark Alliance* published for Tufts University by the University Press of New England. These published histories, in addition to describing the roles and actions of Kennedy, Saltonstall and Keith, illuminate the critical role that the staff members (in particular David Martin of Senator Saltonstall’s office and Fred Holborn of then Senator Kennedy’s office) played in the drafting and negotiating of issues that resulted in the final Kennedy—Saltonstall—Keith bill that was signed into law in 1961.

One of the unique aspects of the legislation included the establishment of the Advisory Commission, a first we believe for a national park. That Advisory Commission exists today. It took no stance on S2316/HR 4400 in its May 2012 meeting. In fact it was not even on the agenda according to Cape Cod Times report of the meeting by Mary Ann Bragg on May 22nd 2012. “The renaming was not listed on the commission’s agenda for the May 21st meeting.” Apparently Superintendent Price brought it up at the end of the meeting and there was brief discussion and no action taken. Please see article attached for conjecture on why no statement was made (the attachments have been sent to Committee staff for the record).

There are other ways to honor Tip’s leadership roles in so many things and especially his dedication to bipartisanship in key actions. This has already happened through the naming of a federal building and parking garage and a tunnel. His legend does live on!

The unintended result of the current S 2316 is an inaccurate and jarring action, disrupting the names in the CCNS. This effort does not reflect the alliances and everyday hard work that really happened to preserve/conservate this natural treasure. There was no local input and little opportunity for true public input. Again we recommend that no action be taken to rename anything in the CCNS.

RECOMMENDED NEXT STEPS

It is our recommendation to let this bill calm down and sleep for a time, perhaps redirecting the honoring part to the naming of another building, the City of Cambridge, or a bridge or have a big celebration in Boston, raise money and donate it to a worthy cause that Tip would have liked, maybe to the CCNS as our Dad did. Hastings Keith directed that donations made in his name upon his death in 2005 be made to the Friends of the Cape Cod National Seashore. However, his name does not need to be on a visitor center.

Again S 2316 is a well-intentioned effort, but the effort needs to be re-directed to honoring Tip in other ways.

Thank you for your thoughtful deliberations on this matter.

We are submitting several attachments to be used with this memo for the record. The attachments support the stance above that there should be no renaming of anything in the Cape Cod National Seashore because so many people shared the work at many different levels in its creation and because we should not put human names into sacred, historic places when we have the chance to not do so.

The attachments cited below, have been sent to Committee staff for the record, are as follows:

Cape Cod Times articles and editorials from May 22nd 2012 Cape Cod National Seashore Advisory Committee meeting article Mary Ann Bragg

June 2nd 2012 Keith's kin: Drop 'Tip' renaming effort for seashore article Mary Ann Bragg

June 3rd 2012 Tip of the hat, editorial staff

June 1961 Washington Report (not printed at government expense) Newsletter from Congressman Keith, 9th District, Massachusetts on the history of the legislation and analysis of its present status.

Cape Cod Today: AP article reprinted on July 11th 2011 in a series of what happened today: House Approves Bill to Create A National Park at Cape Cod. ". . . WASHINGTON, July 10 (AP) The house today passed by a roll-call vote of 278 to 82 a bill sponsored by Representative Hastings Keith, Republican of Massachusetts, to create a 25,700 acre national seashore area along the outer coast of Massachusetts' Cape Cod . . ."

Excerpts from Francis Burling's 1979 book *The Birth of the Cape Cod National Seashore* and Excerpts from Charles H.W. Foster's 1985 *The Cape Cod National Seashore A Landmark Alliance*

Information is also available from the Library of Congress, and several web sites, including those at the Bridgewater State University and the Cape Cod Community College. Please go to <http://www.capecod.edu/files/nickerson/keith.html> and <http://www.capecod.edu/files/nickerson/seashore.html>. These collections include working papers related to the Cape Cod National Seashore of former Congressman Hastings Keith who represented the Cape during these times.

EDITORIAL ARTICLE FROM CAPE COD TIMES.—TIP OF THE HAT

In life, Thomas "Tip" O'Neill was a political force of nature. The late Speaker of the House championed numerous liberal causes and served as the point man for the Democrats, especially during President Ronald Reagan's two terms in office. He sometimes used his position as a bully pulpit, wielding his power more effectively than many presidents.

It therefore comes as little surprise to learn that in this year, the 100th anniversary of his birth, those who knew and respected the man, known to many simply as "Mr. Speaker," would be seeking appropriate ways to keep both his name and legacy alive as a model for the next generation. It is only right and just that this be done.

However, the current effort by some of the state's congressional representatives to rename the Cape Cod National Seashore's Salt Pond Visitor Center in his honor is as misguided as it is well intentioned.

The logic behind the honor is understandable. Although his house in Harwich was a second home, O'Neill often brought his considerable influence to bear on behalf of the Cape. He was a strong and early proponent for the creation of the National Seashore, as well as Chatham's Monomoy National Wildlife Refuge. He advocated for Harwich's town marina and was an erstwhile supporter of the Family Pantry.

O'Neill also believed in compromise in a way that is difficult to imagine when one considers the ideological impasse that Washington, D.C., has become. In the 34 years in which O'Neill served in the House, it was not unusual for political opponents to battle over matters of policy by day and to share a beverage and a laugh or two the same evening. Reagan, who shared O'Neill's gregarious nature, if not his political persuasions, almost certainly respected his rival as much as he disagreed with him at times.

After his death in 1994, O'Neill assumed almost legendary status within the Democratic Party, especially in Massachusetts, where he was particularly beloved for his mantra that "all politics is local." Perhaps better than anyone before or since, O'Neill understood that one needed to look out for one's constituents if he expected to be returned to office. But O'Neill also understood that no one person is responsible for progress; that politics is a team sport, and that it is the team, not the individual, that celebrates any victory, or commiserates over any loss.

The National Seashore Advisory Commission recently declined to take an official stance on the matter. Although a number of representatives said that they opposed the move on principle, some also suggested that it would be politically unwise to challenge the effort.

There were hundreds of people at the local, state and national level, including U.S. Rep. Hastings Keith, Sen. Leverett Saltonstall and President Kennedy, who helped move the National Seashore from vague concept to vibrant reality. There is no question that O'Neill played a vital role in that process and should be remembered for his part in the effort. But to do so to the exclusion of the many others who put their reputations and lives into what can truly be called a national treasure would do a disservice, not only to them, but to a man who truly believed in a team effort.

STATEMENT OF BRENDA J. BOLEYN, TRURO, MA, FORMER MEMBER CCNS ADVISORY COMMISSION (1990-2011), ON S. 2316

To honor the late Tip O'Neill on the 100th anniversary of his birth is a laudable objective; to do so by renaming the Visitor Center at CCNS is a case of misguided site selection.

Those who know the CCNS also know the many players who shaped its history. As I wrote in a letter last month to the House subcommittee reviewing this bill, the honor "will be perceived as inappropriate recognition for work done by others. And I believe that, were he here, Mr. O'Neill would be uncomfortable with that reality."

This bill is ill-advised. I hope that it is not too late for its sponsors to find another way.

Please vote NO on S 2316; leave the name of the Salt Pond Visitor Center unchanged.

Thank you for receiving my testimony.

STATEMENT OF MARY-JO AVELLAR, REPRESENTATIVE TO THE CAPE COD NATIONAL SEASHORE ADVISORY COMMISSION, ON S. 2316

I am Provincetown's representative to the Cape Cod Advisory Commission and served for many years with Brenda Boleyn, whose correspondence follows.

I am in full agreement with Ms. Boleyn and with the daughters of the late Rep. Hastings Keith who have also written you in opposition to the naming of the Salt Pond Visitor's Center in Eastham for the late Speaker Tip O'Neill.

Although I recognize and respect the late Speaker for his enormous contributions to the country and the Commonwealth of Massachusetts, I feel that this bill is ill-advised at best and undermines the memories of so many others who were extremely instrumental in establishing the Cape Cod National Seashore. I cite in particular Pres. John F. Kennedy, Sen. Leverett Saltonstall and Rep. Hastings Keith.

In addition, a federal building and the "big dig" tunnel have already been named in honor of Speaker O'Neill. It is my feeling and belief as Provincetown's representative to the CCNS Advisory Commission that naming this facility in honor of the Speaker without holding public hearings here on Cape Cod is a disservice to my town and to the other five towns who live within the confines of the Seashore. Those of us who live in these six communities remember very well those members of the Congress whose hard work and that of their staff members led to the creation of this beautiful Seashore 51 years ago. In the interests of fairness, citing one member of the Congress over the many others who worked as a team to make the Seashore a reality is an insult to the three primary individuals, namely Pres. Kennedy, Sen. Saltonstall and Rep. Keith.

Please add my testimony to the Subcommittee hearing scheduled for June 27, 2012 and forward this testimony to Sens. Udall, Bingham, Murkowski and Paul.

STATEMENT OF THOMAS J. CASSIDY, JR., VICE PRESIDENT FOR GOVERNMENT RELATIONS AND PUBLIC POLICY, NATIONAL TRUST FOR HISTORIC PRESERVATION, ON S. 3300

The National Trust for Historic Preservation appreciates the Committee on Energy and Natural Resources' Chairman Jeff Bingaman's leadership introducing S. 3300, legislation to establish the Manhattan Project National Historical Park. We are also grateful for Senators Lamar Alexander, Maria Cantwell, Tom Udall, and Patty Murray's leadership in co-sponsoring this legislation.

I am Thomas J. Cassidy, Jr., National Trust for Historic Preservation's Vice President of Government Relations and Public Policy. The National Trust is a privately-funded nonprofit organization, working to protect America's historic places to enrich the lives of future generations. With headquarters in Washington, D.C., 12 field offices, 27 historic sites, and partnering organizations in 50 states, territories, and the District of Columbia, the National Trust provides leadership, education, advocacy and resources to a national network of people, organizations and local communities committed to saving places, connecting us to our history and collectively shaping the future of America's stories. For more than 20 years, the National Trust has advocated for the preservation and enhancement of historic and cultural resources on federal public lands.

The top-secret Manhattan Project has been called "the single most significant event of the 20th century." The Manhattan Project brought an end to World War II, altering the role of the United States in the world community and effectively setting the stage for the Cold War. The creation of the atom bomb brought an end to World War II fostering advances in the newly emergent fields of chemotherapy, high-speed computer technology, genomics, and bioengineering.

The facilities associated with the Manhattan Project were top-secret, hidden in rural locations and their perimeters bound with security fencing. The project's classified status demanded sites be situated beyond the range of enemy aircraft, isolated from population centers yet accessible to a ready labor supply as well as rail and motor transportation. Sites possessed enough land to erect laboratories and secret towns which would house scientists, construction workers, and their families. Specific laboratories—the Los Alamos Laboratory, New Mexico, the Oak Ridge Reservation, Tennessee, and the Hanford Site, Washington—were central to the mission and were established to support research. Constructed of wood-frame, masonry, and poured concrete, the laboratories were where these weapons were to be created and then be dismantled at war's end. The buildings that survive to the present day are important to the interpretation of the Manhattan Project and the round-the-clock drive to complete its mission. The laboratories retaining architectural integrity and are considered eligible for National Register of Historic Places and National Historic Landmark (NHL) designation. These sites, owned and managed by the U.S. Department of Energy (DOE), were listed on the National Trust for Historic Preservation's List of America's 11 Most Endangered Historic Places in 2009, with the Enola Gay Hangar at Utah's Wendover Airfield representing threatened Manhattan-era properties. In 2011, the National Trust named Manhattan Project resources to its National Treasures program, an initiative dedicated to saving the places that tell America's stories through the engagement of a wide range of people and partners in strategic campaigns to protect these irreplaceable places.

MANHATTAN PROJECT BACKGROUND

The Manhattan Project is the unparalleled story of a nation coming together for common cause. Work began modestly, but the initiative quickly grew to employ more than 130,000 people nationwide. Sixty percent of all expenditures for the Manhattan Project supported research occurring at Oak Ridge, Tennessee, which functioned as the project's administrative headquarters. It was the Oak Ridge Reservation which focused exclusively on three methods of uranium enrichment—electromagnetic separation, gaseous diffusion, and liquid thermal diffusion.

In 2000, the DOE named eight "Signature Facilities" of the Manhattan Project. DOE's goal was to move forward in preserving and interpreting these properties by integrating departmental headquarters and field activities and joining in a working partnership with all interested outside entities, organizations, and individuals, including Congress, state and local governments, the Department's contractors, and various other stakeholders. Though certainly a prestigious designation, the listing does not preclude building deterioration or demolition of historic facilities affiliated with the Manhattan Project.

These eight "Signature Facilities" include Hanford's B Reactor and T Plant Chemical Separations Building; Oak Ridge's K-25 gaseous diffusion plant, Y-12 Beta-3 Racetracks, and X-10 Graphite Reactor; Los Alamos' V-Site Assembly Building/Gun Site; the Trinity Site owned by the Department of Defense and the Metallurgical Laboratory at the University of Chicago.

Oak Ridge

Designed in 1943 to produce the enriched uranium necessary to an atomic weapon, K-25 was central to the Manhattan Project's mission and illustrates the enormous scale and ambition of the Manhattan Project. At the time of its construction, K-25 was the largest building in the world located beneath a single roof, its U-shaped footprint encompassing 43 acres. Purposed to enrich Uranium 235, and its

scientists pressed to begin the uranium enrichment process, crews initiated construction before the building's overall design could be completed. However, the footprint and some of the skeletal structures and a small original portion may be preserved to convey the gigantic effort and resources. The small remains left of K-25 are currently threatened with demolition by the DOE.

The Y-12 electromagnetic facility was the first to break ground in 1943. With the region's former farmsteads removed in the fall of 1942, engineers initiated construction of Y-12's nine uranium enrichment buildings and the hundreds of warehouses, cooling towers, office buildings, and laboratories required to support the work. Construction advanced at such a rapid pace that in December 1945, the Engineering News Record described the achievement as the equivalent of having constructed the Panama Canal within a period of 12 months. Building 9731 known as the Y-12 Pilot Plant for isotope separation and research was the first non-administrative building at the Y-12 complex. It was completed in only eight weeks, serving as a pilot building for experimenting with electromagnetic separation techniques. It is eligible for National Historic Landmark designation.

The Y-12 facility which houses the Beta-3 Electromagnetic Separation Racetracks was state of the art technology for fifty years. It is one of only two plants in the world capable of producing over 200 stable isotopes. Building 9204-3 houses working calutrons. The calutrons remaining at Y-12 today represent the only surviving production-level electromagnetic isotope separation facility in the United States. The enriched uranium produced by Y-12's calutrons ultimately created the weapon detonated over Hiroshima.

The X-10 Graphite Reactor construction was begun in 1943. Designed as the pilot plant for reactors later constructed in Hanford, Washington, the Graphite Reactor produced the world's first significant amounts of plutonium, proving that plutonium production could be achieved. Hanford, Washington's B Reactor was subsequently completed in 1944, becoming the world's first reactor to produce plutonium on a large-scale. The X-10 Graphite Reactor is in its original condition and currently serves as a museum where visitors can examine the reactor face and control panels.

Los Alamos

The laboratories erected at Los Alamos, New Mexico, were constructed on the grounds of the former Los Alamos Ranch School, a boy's boarding school which was situated approximately 40 miles from Santa Fe. Established in 1928, the school's 800-acre campus contained Fuller Lodge, a rustic log-constructed building which met the school's administrative needs and a scattering of rustic outbuildings. Acquired by the Army in 1942 for inclusion in the Manhattan Project, the school's rural campus was soon overrun by barracks and chemistry and physics laboratories.

By 1944, Los Alamos was home to the "V-Site," the lab in which the world's first plutonium bombs were assembled. "The Gadget," code name of the prototype "Fat Man" bomb detonated over Nagasaki, was assembled here. Today, the community retains historic residential buildings and public spaces dating from the World War II period. Los Alamos' visitors will have unique opportunity to walk the same paths as the giants of 20th century physics.

Hanford

The B Reactor was completed 1944, becoming the world's first reactor to produce plutonium on a large-scale. The B Reactor was built on a significantly larger scale at 250 megawatts compared with the X-10 Graphite Reactor which produced only 4,000 kilowatts of power. Two additional Reactors, D and F were built and the three lined the banks of the Columbia River in order to have access to the water used as a coolant at the reactors.

The B Reactor has over two-thousand aluminum tubes and two hundred uranium slugs. The water from the Columbia River was first treated and then pumped through the aluminum tubes around the uranium slugs at the rate of 75,000 gallons per minute through huge motor-driven pumps. These three reactors produced plutonium for the Trinity device, the Nagasaki weapon and Cold War weapons. The D and F Reactors have been demolished and entombed, but the B Reactor building is currently accessible via limited, ticketed public tours. The T Plant was one of two chemical separation plants at Hanford designed to remove the plutonium from the uranium slugs. Only one atom in every 4,000 was converted to plutonium in the process so chemical processing was necessary to separate the elements by dissolving the uranium and processing the solution through several process cells. The elements were too radioactive to be handled directly so all processing was through remote control and closed circuit television. The T Plant was later used for other work, but it still stands at Hanford today.

PERMANENT PRESERVATION AND INTERPRETATION

On October 18, 2004, President George W. Bush approved Public Law 108-340, “The Manhattan Project National Historical Park Study Act.” The act directed the Secretary of the Department of the Interior, in consultation with the Department of Energy, to conduct a study for the preservation and interpretation of historic sites associated with the Manhattan Project. At its conclusion in July 2011, the Feasibility Study determined resources located in Los Alamos, Oak Ridge, and Hanford possessed the national significance required for designation and were suitable for inclusion in the National Park System. The National Trust for Historic Preservation fully endorses this conclusion.

We recognize this designation will be accompanied by controversy. History is often fraught with complexity, and it is for this reason the National Trust supports creation of the Manhattan Project National Historical Park. Anyone who has visited National Park Service units like Little Bighorn, Manzanar, Andersonville or Little Rock Central High School, understands that these National Parks are authentic sites—the places where history happened—and not places of celebration. The National Park Service’s mission in these locations is to preserve and objectively interpret what is often complex and contentious history, so current and future Americans have opportunity for a deeper understanding of seminal events.

The National Trust believes historic sites associated with the Manhattan Project are no less worthy of National Park recognition. Present and future generations of Americans all deserve the opportunity to see and learn about our nation’s history through the unbiased and balanced interpretation of the National Park Service and to draw their own conclusions about how the Manhattan Project changed the world. Recognizing that sites associated with the Manhattan Project are places of commemoration, Pulitzer-prize winning historian Richard Rhodes describes these authentic places in this way: “The factories and bombs that Manhattan Project scientists, engineers, and workers built were physical objects that depended for their operation on physics, chemistry, metallurgy, and other natural sciences, but their social reality—their meaning, if you will—was human, social, political. The same is true of Williamsburg and Bandelier and the Declaration of Independence.”

NATIONAL TRUST FOR HISTORIC PRESERVATION RECOMMENDATIONS

We respectfully request the Senate also consider the following recommendations:

- Authorize user/entrance fees. The National Trust supports language recognizing DOE’s responsibility to maintain its assets. We respectfully request legislation authorizing a modest entry/user fee purposed for assisting with the long term stewardship needs of non-DOE-owned assets.
- Donations authority should be broad. The National Trust requests legislation ensure the acceptance of both personal property and financial donations to support the National Historical Park and tours of the sites. We suggest language establish the necessary structure “to accept, hold, administer, and use gifts, bequests, and devises (including real and personal property, labor and services), for the purpose of preserving and providing access to, historically significant resources.”

The National Trust for Historic Preservation applauds the National Park Service and the Department of Energy for their successful collaboration. We anticipate this innovative partnership will bring many benefits to the Manhattan Project National Historical Park, creating a model which may be replicated by other agencies. We look forward to working with you, and request that National Park designation be completed by the close of the 112th Congress.

AMERICAN CIVIL LIBERTIES UNION,
Washington, DC, July 11, 2012.

Hon. MARK UDALL,
Chairman, Subcommittee on National Parks, Committee on Energy & Natural Resources, 304 Dirksen Senate Office Building, Washington, DC.

Hon. RAND PAUL,
Ranking Member, Subcommittee on National Parks, Committee on Energy & Natural Resources, 304 Dirksen Senate Office Building, Washington, DC.

RE: ACLU Concerns with S. 3078, World War II Memorial Prayer Act

DEAR CHAIRMAN UDALL AND RANKING MEMBER PAUL: On behalf of the American Civil Liberties Union (ACLU), a non-partisan organization with more than a half million members, countless additional activists and supporters, and 53 affiliates na-

tionwide dedicated to the principles of individual liberty and justice embodied in the U.S. Constitution, we write to express concerns with S. 3078, which would require that an inscription of President Franklin D. Roosevelt's D-Day prayer be added to the WWII Memorial. This attempt to play politics with religion detracts from the stated purpose of the memorial—national unity.¹

Memorials are designed to bring our country together in a unified reflection of our past. S. 3078, however, endorses the false notion that all veterans are honored by a war memorial that includes a prayer given from a specific religious viewpoint. During this subcommittee's June 27 hearing on S. 3078, the bill's lead sponsor, Senator Rob Portman, stated that the inclusion of the prayer would reflect our country's "Judeo-Christian heritage and values."² But, our nation is, and always has been, extraordinarily religiously diverse; this is one of our nation's great strengths. Department of Defense reports show that nearly one-third of all current members of the U.S. Armed Forces identify as non-Christian.³ Likewise, many of our veterans and citizens come from a variety of religious backgrounds, or have no religious belief. Instead of being something that unites us as we remember the sacrifice of those who served, the inclusion of a prayer on the memorial, which is described as reflective of specific religious beliefs is divisive: It "sends a strong message of . . . exclusion" to those who do not share the same religious beliefs.⁴ The First Amendment affords special protections to freedom of religion. Because of these protections, each of us is free to believe, or not believe, according to the dictates of our conscience. These beliefs are too precious to be used for political purposes, as this bill would do.

The memorial, as it currently stands, appropriately honors those who served and encompasses the entirety of the war. The World War II Memorial Commission and the American Battle Monuments Commission (ABMC) carefully chose the thirteen inscriptions already included on the memorial. The inscriptions contain quotes spanning from the beginning of U.S. involvement in the war following the attacks on Pearl Harbor to the war's end, and already include a quote from D-Day and two quotes from President Roosevelt.⁵ These commissions thoroughly deliberated which inscriptions to include, selecting quotations that honor those who served and commemorate the events of World War II.⁶ "The design we see today was painstakingly arrived upon after years of public deliberations and spirited public debate."⁷ Not surprisingly, the ABMC and National Capital Memorial Advisory Commission, which was designated by Congress to consult on the design of the Memorial,⁸ have

¹American Battle Monuments Commission (AMBC), National WWII Memorial, Facts, <http://www.wwiimemorial.com/default.asp?page=facts.asp&subpage=intro> ("Above all, the memorial stands as an important symbol of American national unity, a timeless reminder of the moral strength and awesome power that can flow when a free people are at once united and bonded together in a common and just cause.").

²Misc. National Parks Bills Hearing Before the Subcomm. on National Parks of the S. Comm. Energy & Natural Resources, 112th Cong. (2012) (Statement of Senator Rob Portman) available at <http://www.energy.senate.gov/public/index.cfm/hearings-and-business-meetings?ID=a64e4f88-18d3-4489-96a0-b1a89b2b51e6> (86:15).

³Religious Diversity in the U.S. Military, Military Leadership Diversity Comm'n, Issue Paper No. 22 (June 2010).

⁴See *Trunk and Jewish War Veterans v. City of San Diego*, 629 F. 3d 1099, 1124-25 (9th Cir. 2011), cert. denied, 567 U. S. ____ (2012). Senator Joseph I. Lieberman, a co-sponsor of this bill, stated on the Senate floor that in offering this prayer, President Franklin D. Roosevelt was "bring[ing] faith and God in a very inclusive and nondiscriminatory way into our public life." 158 Cong. Rec. S3748 (June 6, 2012) (floor statement of Sen. Lieberman). However, including this prayer in the World War II Memorial will exclude those veterans and other visitors who do not share those beliefs.

⁵AMBC, National WWII Memorial Inscriptions, <http://wwiimemorial.com/archives/factsheets/inscriptions.htm>.

⁶National Parks Service, World War II Memorial Inscription Controversy available at <http://www.nps.gov/wwii/photosmultimedia/upload/WWII%20Memorial%20Inscription%20Controversy%20web.pdf>. This is not the first time that religion has generated controversy regarding inscriptions on the WWII Memorial. After the World War II Memorial Commission and the ABMC selected quotations to inscribe in the memorial, there was a "maliciously generated and widely distributed notion" that the phrase "so help us God" was removed from the quote selected from President Roosevelt's address before a joint session of Congress following the Pearl Harbor attacks. In fact that phrase was never part of the speech at all and was, therefore, not omitted from the quotation. *Id.*

⁷Legislative Hearing on H.R. 1980, H.R. 2070, H.R. 2621, and H.R. 3155 Before the Subcomm. on National Parks, Forest and Public Lands of the H. Comm. on Natural Resources, 112th Cong. (2012) (Statement for the Record from National Park Service, U.S. Department of the Interior) available at http://www.doi.gov/ocl/2006/HR2070_110311.htm.

⁸Commemorative Works Act, 40 U.S.C. §§ 8901-09. Although S. 3078 would apply the Commemorative Works Act, it is written to sidestep the Act's provisions. It would either override the authority established under the Act to approve the WWII Memorial's design by adding an additional element nearly a decade after the memorial was dedicated or, if the prayer inscription

stated that “no additional elements should be inserted into this carefully designed Memorial.”⁹ Senator Portman’s assertion that the World War II Memorial needs to be improved to provide “historical context to [the] memorial” and add “another layer of commemoration”¹⁰ is simply not the case. This bill should be seen for what it is, playing politics with religion.

Please contact Legislative Counsel Dena Sher at (202) 715-0829 or dsher@dcaclu.org if you would like to discuss the ACLU’s concerns with S. 3078.

Sincerely,

LAURA W. MURPHY,
Director, Washington Legislative Office.
DENA S. SHER,
Legislative Counsel.

STATEMENT OF CHRIS LONG, PRESIDENT, OHIO CHRISTIAN ALLIANCE, ON S. 3078

We are honored to submit this letter of support for S. 3078, the WWII Memorial Prayer Act, legislation that will include FDR’s D-Day Landing Prayer at the WWII Memorial in Washington, D.C. We would like to express appreciation to Senators Portman and Lieberman for their cosponsorship of this legislation.

Sixty-eight years ago, on the morning of June 6, 1944, as Allied forces were landing on the beaches in Normandy, President Roosevelt went to the airwaves and prayed with our nation for God’s blessing and protection upon our brave fighting men. He prayed, “Almighty God: Our sons, pride of our nation, this day have set upon a mighty endeavor, a struggle to preserve our Republic, our religion, and our civilization, and to set free a suffering humanity. . . .”

President Roosevelt’s prayer articulated the great crusade that was underway to liberate millions suffering under tyranny. He honored the war effort and paid respect to the fallen and those veterans who fought courageously in the conflict. It is only fitting that succeeding generations learn of this prayer that was offered at that most poignant moment in our nation’s history. We are encouraged by the support that this legislation is receiving. Veterans and veterans groups across the nation are in support of adding FDR’s D-Day Landing Prayer to the WWII Memorial in Washington, D.C. This prayer represents an important piece of American history. Historians indicate that President Roosevelt hand wrote the prayer which was an inspiration to a nation engaged in a great world war of which the outcome was still very much uncertain. The prayer gave hope to millions of Americans.

We therefore urge members of this subcommittee to support the WWII Memorial Prayer Act and pass the legislation that will allow its placement at the WWII Memorial in Washington, D.C. We commend Senators Portman and Lieberman, and the co-sponsors of this historic legislation.

STATEMENT OF AMERICANS UNITED FOR SEPARATION OF CHURCH AND STATE,
ON S. 3078

Founded in 1947, Americans United is a nonpartisan educational organization dedicated to preserving the constitutional principle of church-state separation as the only way to ensure true religious freedom for all Americans. We fight to protect the right of individuals and religious communities to worship as they see fit without government interference, compulsion, support, or disparagement. Americans United has more than 120,000 members and supporters across the country.

We submit this written statement to express our objections to S. 3078, which calls for the installation of a plaque or inscription with a prayer at the World War II Memorial in the District of Columbia, which was dedicated in May 2004. We believe that inserting the prayer acts contrary to the Memorial’s goal of uniting Americans and defies the design judgments reached through a rigorous process.

is to be considered a new memorial, it would circumvent the Act’s stipulation that new memorials not “interfere with, or encroach on, an existing commemorative work.” 40 USC §§ 8904-05; see also House Hearing, Statement for the Record from National Park Service. The House version of this bill (H.R. 2070) would exclude the prayer inscription from the Commemorative Works Act.

⁹House Hearing, Statement for the Record from National Park Service.

¹⁰Senate Hearing, Statement of Senator Rob Portman.

It is true that “each visitor views the memorial through their own experience, which sometimes results in their questioning aspects of the design.”¹ But this questioning, no matter how heartfelt, should not reopen the design process. For example, since the Memorial’s dedication, soldiers have requested amendments to add the Battles of Cassino, Bougainville and New Georgia; asked for changes to recognize the Canal Zone; and advocated for the inclusion of campaign ribbons.² These requests were denied.³ As explained in a letter written in 2006 by the American Battle Monuments Commission, “The government agencies for the design of the memorial . . . consider it complete, recognizing that the full story can never be captured in a memorial.”⁴

INSERTING THIS PRAYER CONTRADICTS THE MAIN MESSAGE OF THE MEMORIAL—UNITY

One of the main themes of the World War II Memorial is unity: “The memorial serves as a timeless reminder of the moral strength and the awesome power of a free people united in a common and just cause.”⁵ Adding a prayer to the completed Memorial, however, does not serve the theme of unity. Instead, it introduces an element to the design on which many Americans disagree—religion.

When Senator Rob Portman and Senator Joseph Lieberman spoke about the bill on the Senate floor upon its introduction, they both noted the religious significance of adding the prayer. Senator Portman explained that the new inscription will be a “permanent reminder of . . . the power of prayer through difficult times.”⁶ And Senator Lieberman stated his belief that the prayer will “remind us that faith in God has played a pivotal role in American history every day since the Declaration of Independence.”⁷

But America’s military, like the nation itself, is extraordinarily religiously diverse. Our veterans—like our currently serving troops—come from many different religious traditions and some follow no spiritual path at all. Indeed, a 2009 report by the Department of Defense “tracks 101 faiths for active-duty personnel” and notes that “almost 281,710 claim[ed] no religion.”⁸

Adding a prayer that represents some, but not all veterans and members of the military, defies the theme of unity, making many feel unrepresented by the Memorial. The current Memorial represents all 16 million service members who served in our armed forces during World War II. There is no need to alter the Memorial to depict one particular view of God, causing some veterans to feel excluded.

THE DESIGNERS OF THE MEMORIAL CALLED FOR FEWER INSCRIPTIONS, NOT MORE

The process of choosing the inscriptions for the World War II Memorial was exhaustive and done with expertise and should not be reopened. Robert Abbey, the director of the Bureau of Land Management, testified that “the design we see today was painstakingly arrived upon after years of public deliberations and spirited public debate.”⁹ Indeed, “the inscription selection and review process involved two American Battle Monuments Commissions (one appointed by President Clinton, one appointed by President Bush), the Memorial Advisory Board, military service and civilian historians, the Library of Congress, the National Park Service, and the

¹ Letters from Michael G. Conley, Director of Public Affairs, The American Battle Monuments Commission, Complaint letters to The American Battle Monuments Commission (ABMC) from the public and/or members of Congress concerning battle monuments 3, http://www.governmentattic.org/docs/ABMC_ComplaintLetters_2006-7.pdf (ABMC Response Letters).

² Id. at 3, 25, 37, 50.

³ Id.

⁴ Id. at 3.

⁵ Thomas B. Grooms, U.S. General Services Administration’s Design Excellence Program in the Office of the Chief Architect, World War II Memorial Online Book 25 (2004), http://www.wwiimemorialfriends.org/docs/WWII_Memorial_Book_Completed.pdf; see also id. at 56 (explaining that the Memorial design was chosen because it “created a strong sense of unity—the bringing together the nation—with the two colonnades representing the states); id. at 65 (during the design process, “overall, the peers sought to keep the site as ‘green’ as possible while ensuring the integrity of the design vision, particularly the theme of national unity”) (WWII Memorial Online Book).

⁶ “Portman Commemorates D-Day with WWII Memorial Prayer Act on Senate Floor,” June 6, 2012, <http://www.youtube.com/watch?v=SsTPInh9WHY>.

⁷ Id.

⁸ Bob Smietana, Buddhist Chaplain is Army First, USA TODAY, Sept. 8, 2009, http://www.usatoday.com/news/military/2009-09-08-buddhist-chaplain_N.htm.

⁹ Hearing on H.R. 1980, H.R. 2070, H.R. 2621, and H.R. 3155 Before the Subcomm. on National Parks, Forests and Public Lands of the H. Comm. on Natural Resources, 112th Congress (2011) (testimony of Robert Abbey, Director of the Bureau of Land Management).

Commission of Fine Arts.”¹⁰ During this process, “the number, locations, words, and authors to be represented [on the memorial] changed often.”¹¹

As part of the inscription approval process, the American Battle Monuments Commission created a Review Commission, whose membership included historians and retired Army Generals, to review proposed inscriptions for the monument.¹² This Review Commission called for “Fewer Words—Less Inscriptions.”¹³ The Review Commission “decided to reduce the number of inscription locations from 25 to 20 and to emphasize evocative quotations from World War II participants—including Roosevelt, Truman, Marshall, Eisenhower, MacArthur, and Nimitz.”¹⁴

Adding additional inscriptions to the monument, therefore, goes against the vision, expertise, and design of those who designed the Memorial.

THE COMMEMORATIVE WORKS ACT

As explained in our letter to Members of the Subcommittee, S. 3078 defies the Commemorative Works Act (CWA). The original design process included “more than two dozen public reviews,” and “numerous informal design review sessions with members of the evaluation board and design competition jury.”¹⁵

And, as explained above, the inscriptions themselves were also subject to significant review. Adding additional inscription disrespects the original process and the current design.

Statements at the hearing challenged this claim because S. 3078 calls for the design of the new inscription or plaque to also go through the CWA process. The fact that the plaque itself must be approved through the CWA process does not undo the fact that the Memorial’s design is being reopened and altered or that the painstaking decisions made in the original process are being overruled. The bill demands that a specific inscription be added. Even if the exact location and the font of the inscription will be reviewed under the CWA, it does not cure the fact that the insertion of the plaque violates the design process and, at a minimum, the spirit of the CWA.

THE MLK INSCRIPTION ON THE LINCOLN MEMORIAL

Statements were also made at the Subcommittee hearing challenging our claim that redesigning aspects of a Memorial more than a decade after its dedication is nearly unprecedented. Proponents of S. 3078 claim that adding the prayer to the World War II Memorial is akin to adding an inscription at the Lincoln Memorial to commemorate Martin Luther King’s “I Have a Dream Speech.” But the MLK plaque is wholly different.¹⁶ That plaque did not re-litigate the content and message of the Lincoln Memorial: it did not alter, remove, or add language, images, or emblems relating to the honoring of President Lincoln. It did not second guess the designers, historians, architects, or public input regarding the best way to honor Lincoln at the memorial. Instead, it left the Lincoln Memorial intact and commemorated it as the site for a historical event. In just a few words, the inscription commemorated Martin Luther King, Jr’s speech: the inscription includes the words “I HAVE A DREAM,” and acknowledges the speaker, the event, and the date. Inserting a new inscription among those chosen for the memorial, therefore, is easily distinguishable from inserting the inscription marking the “I Have a Dream” speech onto the Lincoln Memorial.

CONCLUSION

Our forefathers were wise when they called for our nation to separate church and state. It protects the autonomy of religious institutions and ensures that Americans have the right to believe—or not—as they choose without government intrusion or influence. A quick search on the internet on S. 3078 demonstrates why passing legislation imposing civil religion is dangerous for religious liberty—articles, blogs, and emails are riddled with inflammatory statements challenging the religion of government officials who opposed changing the Memorial and demonizing some as anti-

¹⁰ ABMC Response Letters at 3.

¹¹ World War II Online Book at 76-79.

¹² *Id.* at 76.

¹³ *Id.* at 76-79.

¹⁴ *Id.* at 76.

¹⁵ *Id.* at 79.

¹⁶ *Id.* at 65.

¹⁶ In addition, actions to fix spelling errors and misquotes or to add names to Vietnam Memorial are also easily distinguishable.

prayer and anti-Christian.¹⁷ Even when unintended, such results are neither good for religious freedom nor our nation as a whole.

The Memorial, as designed, is purposely short on words yet certainly evokes a powerful message of unity.¹⁸ And, in contrast to some of the rhetoric that is being generated by this debate, the monument already acknowledges that faith was important to many soldiers during the war.¹⁹ There is no need to take extraordinary steps to reopen the Memorial to add a prayer.



¹⁷In 2004, false information was also spread that the designers of the World War II Memorial purposefully deleted the words, “so help us God” from a sentence inscribed on the Memorial. In truth, the sentence from the speech that included those words was never even included on the Memorial and so claiming the words were omitted is misleading and false. ABMC Response Letters at 46 (“The inclusion or exclusion of religious references was never an issue, nor was it ever discussed”). But that falsehood is still being circulated today and is used to disparage certain officials as anti-religious, and hostile to God. Unfortunately, some of this rhetoric is being mixed into the messages pushing for the prayer inscription.

¹⁸Its goal “was supposed to be a memorial to inspire, not a museum to teach.” World War II Online Book at 66.

¹⁹The monument quotes Walter Lord: “. . . Even against the greatest of odds, there is something in the Human Spirit—a magic blend of skill, faith, and valor—that can life men from certain defeat to incredible victory.” World War II Online Book at 97 (emphasis added.).