

AMEND THE WILD AND SCENIC RIVERS ACT IN CONNECTICUT  
AND NEW JERSEY; INCREASE PIPELINE IN DELAWARE;  
AMEND THE NATIONAL HISTORIC PRESERVATION ACT;  
AND EVALUATE COASTAL REGION IN DELAWARE

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

on

**S. 435**                      **S. 1096**  
**S. 1310**                    **S. 1378**  
**S. 1627**

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SEPTEMBER 22, 2005



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**AMEND THE WILD AND SCENIC RIVERS ACT  
IN CONNECTICUT AND NEW JERSEY; IN-  
CREASE PIPELINE IN DELAWARE; AMEND  
THE NATIONAL HISTORIC PRESERVATION  
ACT; AND EVALUATE COASTAL REGION IN  
DELAWARE**

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**THURSDAY, SEPTEMBER 22, 2005**

U.S. SENATE,  
SUBCOMMITTEE ON NATIONAL PARKS,  
COMMITTEE ENERGY AND NATURAL RESOURCE,  
*Washington D.C.*

The committee met, pursuant to notice, at 2:30 p.m. in room SD 364 Dirksen Senate Office Building, Hon. Craig Thomas presiding.

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

Senator THOMAS. The time has come. I know there's a lot of things going on today. We have several hearings, and we may be doing some voting on the Floor, so I think we ought to get started. I'm sure some of our members will show up. So good afternoon. We welcome you to the subcommittee hearing today. Welcome to Associate Director Janet Matthews, and our other witnesses. Before we begin I would like to make a brief comment regarding the proposed National Park Service management policies.

There have been several newspaper articles and editorials printed in the last month about this subject. It's important that no changes have been made at this point. The proposed changes are being reviewed as a draft document by the executives of the Interior Department. We expect to have the document available for public comment by the middle of October, I believe. And I've informed Assistant Secretary Craig Manson that the subcommittee plans to have an oversight hearing on this proposal. So I guess all I'm saying is there's been a lot of discussion and debate about it, as if that's the way it's going to be, and that's not necessarily the case. It is therefore discussion being studied. As a matter of fact, I think they're having staff meetings today with regard to it.

So today our purpose in the hearing is to receive testimony on five bills that we have before us: S. 435, a bill to amend the Wild and Scenic Rivers Act to designate a segment of the Farmington River and Salmon Brook in the State of Connecticut for study for potential addition to the National Wild and Scenic River System and then for other purposes; S. 1096, a bill to amend the Wild and

Scenic Rivers Act to designate portions of the Musconetcong River in the State of New Jersey as a component of the National Wild and Scenic River System, and for other purposes as well; S. 1310, a bill to authorize the Secretary to allow the Columbia Gas Transmission Corporation to increase the diameter of natural gas pipeline located in the Delaware Water Gap National Recreational area; S. 1378, a bill to amend the National Historic Preservation Act to provide appropriation authorization and improve the operations of the advisory council on historic preservation; and finally, S. 1627, a bill to authorize the Secretary of the Interior to conduct a special resources study to evaluate resources along the coastal region of the State of Delaware and to determine the suitability and feasibility of establishing a unit of the National Park System in Delaware.

I thank all the witnesses for being here today. The first panel is Dr. Janet Snyder Matthews, Associate Director for Cultural Resources, National Park Service. So Director, if you would come forward please. Thank you for being here.

[The prepared statement of Senator Biden follows:]

PREPARED STATEMENT OF HON. JOSEPH R. BIDEN, JR., U.S. SENATOR  
FROM DELAWARE

Mr. Chairman: Today I wish to offer my support for the Delaware National Coastal Special Resources Study Act and join my colleague, Senator Carper, in asking this Subcommittee to support our efforts to construct the Delaware National Coastal Heritage Park. Delaware is the only State not to have a national park and we feel strongly that the time has come. Today, through this legislation, we are asking the Secretary of the Interior to study the feasibility of establishing a National Park Service unit in the State of Delaware.

I know what most of you must be thinking. Do we have an area worthy of such designation? Do we have picturesque mountains like the Grand Tetons or the Great Smoky Mountains? Are people drawn to our coasts to find the spirituality of Joshua Tree? Do we possess landscape on par with the beauty and serenity of Acadia National Park? Well, in a word, yes. A little of all of the magnificence found in some of our Nation's most famous parks can be found in our State of Delaware and that is why the proposal presented by Senator Carper is so unique and worthy of the next step.

I have to commend my colleague. Senator Carper brought together a committee of dedicated Delawareans to analyze the validity of a national park in the State of Delaware. After much deliberation, the committee suggested a series of four interpretive centers, scattered throughout the state, to highlight the many treasures of our state. While there are numerous sites identified in the proposal, I would just like to take a moment to note several that have been especially close to me in my years in the Senate.

Pea Patch Island is a 228-acre park located off the coast of Delaware City, Delaware that houses Fort Delaware, one of our country's oldest Civil War-era fortifications and Delaware's oldest State Park. The island, with its fort, seawall and other archeological remains, is listed on the National Registry of Historic Places. The island also houses a State nature preserve, providing critical habitat to thousands of wading birds. It is also the largest heronry north of Florida.

Delaware also played a special role in the Underground Railroad and the proposal will highlight the 18 sites in Delaware. These include a hideout at the Governor's mansion, the court house where abolitionist Thomas Garrett was tried, the Mother African Church in Wilmington where slaves were helped to escape under the cover of an African American Festival founded in 1814 and still celebrated today and numerous other sites utilized by the principal Underground Railroad conductor, Harriet Tubman.

Finally, I would like to mention our coastline, our beaches. Now into September, we have said goodbye to another fantastic beach season with millions of people visiting our shores. The historic sites and wildlife refuges that dot our coastline are unique to the area and to the Nation.

These links to Delaware's past are important to our Nation's future and I am proud to join my colleague in supporting this legislation.

**STATEMENT OF JANET SNYDER MATTHEWS, ASSOCIATE DIRECTOR FOR CULTURAL RESOURCES, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR**

Dr. MATTHEWS. Thank you, Mr. Chairman, for the opportunity to appear before you today, to discuss the views of the Interior Department on S. 435, S. 1627, S. 1096, S. 1310, and S. 1378 that I will discuss in limited detail within the hearing time afforded.

As to S. 435 and S. 1627, the Department supports enactment of both bills, with a technical amendment on each, attached to my testimony. S. 435 presents an opportunity to build on the success of the Upper Farmington River, designated in 1994, using the partnership-based model of Wild and Scenic River designations to study the addition of the Lower Farmington and Salmon Brook. The relevant communities—the State of Connecticut and the Farmington River Watershed Association—have all come together to seek a similar study.

S. 1627 is an opportunity for a special resource study of Delaware's long, distinguished history of Native American occupation, colonial settlement, and historic transportation. If authorized, the Department expects to coordinate this study with the recently authorized Captain John Smith Chesapeake Bay National Historic Water Trail Study. The Department supports requesting direction of future funding for completion of previously authorized studies. Currently, 25 studies are in progress, and we hope by the end of 2005 to complete and transmit six to Congress. The Department suggests consistency in timeframe for submitting such studies for S. 435 and S. 1627, providing for submission no later than 3 years after funds are made available.

With regard to the Musconetcong River as a component—

Senator THOMAS. Madam Secretary, would you mind if I interrupted you for just a second, and asked the Senator to come forward? He wanted to make a comment on the bill you've already talked about, if you don't mind.

Senator CARPER. Thanks, Mr. Chairman. I would love to hear the rest of Dr. Matthews' comments. I'm not in a big rush. Thank you very much for your consideration.

Senator THOMAS. We just didn't want you to be here longer than you had to be.

Dr. MATTHEWS. Thank you. With regards to the Musconetcong River as a component of the National Wild and Scenic River System, the Department supports this bill, which 13 riverfront municipalities have passed resolutions also in support of. With regard to S. 1310, to authorize the Secretary of the Interior to allow Columbia Gas Transmission Corporation to increase the diameter of the natural gas pipeline in the Delaware Water Gap National Recreation area, the Department supports with a technical amendment attached to the testimony.

With regard to S. 1378, a bill to amend the National Historic Preservation Act, to provide appropriation authorization, and improve the operations of the advisory council, the Department supports with an amendment attached to extend the authorization of

the Historic Preservation Fund for 10 years until 2015. The bill would also make a number of changes to the authority for the advisory council, and change the authorization level for the council from \$4 million to such sums as may be necessary. And it makes permanent the council authorization.

In 1966, the Historic Preservation Fund grew out of the recommendations of the Special Committee on Historic Preservation of the U.S. Conference of Mayors. In the 1960's and the 1970's the Historic Preservation Grant Program evolved, and in a remarkably productive partnership with State governments on a cost-sharing basis, in cooperation with State historic preservation offices and tribal historic preservation offices, local governments and private entities. Today, for example, we have a national register listing totaling nearly 80,000 properties, inclusive of some 1.4 million properties found throughout our neighborhoods, towns, tribal lands, special places, cities, roadways, and waterways. Also, for example, in cooperation with the Internal Revenue Service, the Federal tax rehabilitation credit program has rehabilitated over 1,200 National Register properties, created 50,000 jobs, 15,000 new housing units, and generated \$3.8 billion in leveraged private investments in 2004 alone.

For another example, in fiscal year 2005 alone, the Save America's Treasures grant program awarded 145 matching grants to 43 States and the District of Columbia, totaling \$29.5 million. The Historic Preservation Fund targets grant support for partnership activities to State historic preservation offices, tribal historic preservation offices to preserve America's native cultures and Historically Black Colleges and Universities for preservation of significant campus buildings. Save America's Treasures Grant Programs are for endangered, nationally significant properties, and the Preserve America grants are for heritage tours and economic revitalization. Therefore, these grant programs not only preserve historic resources, they are proven attractors of the new economic investment.

With regard to the advisory council, this critical government agency protects historic resources while facilitating government-sponsored development through compliance tools under section 106. We defer to the advisory council in your upcoming panel for discussion of these specific provisions; however, we support the council's effectiveness in strengthening its role in considering the historic resources of our Nation to benefit future generations.

The Historic Preservation Fund for almost 40 years has been highly successful in meeting the objectives established by Congress in preserving the increasingly vital historic resources that define our Nation. The proposed amendment to extend the authorization to 2015 is attached to the testimony.

Mr. Chairman, this concludes my prepared remarks, I would be pleased to answer any questions.

[The prepared statement of Dr. Matthews follows:]

PREPARED STATEMENT OF JANET SNYDER MATTHEWS, ASSOCIATE DIRECTOR FOR  
CULTURAL RESOURCES, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

ON S. 435

Mr. Chairman, thank you for the opportunity to appear before you today to discuss the views of the Department of the Interior on S. 435, a bill to amend the Wild and Scenic Rivers Act to designate a segment of the Farmington River and Salmon Brook for study for potential addition to the National Wild and Scenic Rivers System. The Department supports enactment of this legislation with one technical amendment.

While the Department supports the authorization of this study, it is important that future funding requests go towards completing previously authorized studies. There are currently 25 studies in progress, and we hope to complete and transmit 6 to Congress by the end of 2005. Therefore, the Department will focus the funding provided towards completing these studies.

S. 435 presents the opportunity to build from the success of the Upper Farmington River, which was designated a component of the National Wild and Scenic Rivers System in 1994. At that time, the partnership-based model of Wild and Scenic River designations, with a limited federal role and no federal land acquisition authority, was essentially an experiment. Now, 11 years later, it is a testament to the success of that partnership approach that the Lower Farmington and Salmon Brook communities, the State of Connecticut, and the Farmington River Watershed Association have all come together to seek a similar study.

The portion of the Farmington River under consideration runs approximately 40 miles from the Upper Farmington's downstream endpoint to the Connecticut River. The Lower Farmington has its own distinct character that compliments the "outstandingly remarkable" fish, wildlife, historic and recreational resources that qualified the upper river for designation. A notable historic feature, the Farmington Canal, served as an important regional transportation link from its opening in 1825 until the mid-1840's when railroad tracks were laid upon its obsolete towpath. Today, much of this feature is being converted into a recreational multi-use path and greenway, providing outstanding access to recreational, scenic and historic attributes of the river valley.

In July 2005, results of a U.S. Fish and Wildlife Service survey of the Lower Farmington and Salmon Brook uncovered what is believed to be the State of Connecticut's largest populations of the federally endangered dwarf wedge mussel (*Alasmidonta heterodon*). Salmon Brook is a major tributary of the Farmington River, and is well known for its outstanding scenery and trout fishing.

It is significant that the communities and interest groups associated with the Lower Farmington and Salmon Brook have had the unique opportunity to observe and interact with the National Park Service and the Farmington River Coordinating Committee (created to oversee management of the Upper Farmington Wild and Scenic segment) for more than ten years. The development of these relationships should facilitate the completion of the study required by this legislation.

The Department suggests one amendment to S. 435. Section 2 of the bill requires that a report on results of the study be submitted to the Senate and House authorizing committees no later than three years after the date of enactment of the Act. We believe it more feasible to provide that this occur no later than three years after funds are made available based on the number of studies currently being conducted by the Department.

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

*Proposed amendment to S. 435, Lower Farmington River and Salmon Brook in the State of Connecticut for study for potential addition to the National Wild and Scenic Rivers System.*

On p. 2, line 17, strike "the date of enactment of this Act" and insert "funds are made available to carry out this Act".

S. 1096

Mr. Chairman, thank you for the opportunity to appear before the Committee to present the Department of the Interior's position on S. 1096, a bill to amend the Wild and Scenic Rivers Act by designating portions of the Musconetcong River in New Jersey as a component of the National Wild and Scenic Rivers System. The Department supports enactment of S. 1096.

The Musconetcong River is the largest New Jersey tributary to the Delaware River. The area of the river, nestled in the heart of the New Jersey Highlands, con-

tains a remarkably diverse array of natural and cultural resources. The limestone geologic features present in the Musconetcong River corridor are unique in the state, and the steep slopes and forested ridges in the upper segments of the river corridor contrast with the historic villages, pastures, and rolling agricultural lands at the middle and lower end of the river valley.

The impetus for the designation of the Musconetcong began in 1991, when residents in the Musconetcong River Valley organized a petition drive in support of efforts to protect the river. The petitions called for the protection of the Musconetcong River under both the National Wild and Scenic Rivers Act and New Jersey Wild and Scenic Rivers Program.

In 1992, Congress passed legislation authorizing the National Park Service to study the eligibility and suitability of the Lower Delaware River for addition to the National Wild and Scenic River System. In 1997, 18 of 19 Musconetcong River municipalities voted to have the National Park Service determine the eligibility and suitability of the Musconetcong River for designation into the National Wild and Scenic River System. As a part of the study effort, a Musconetcong Advisory Committee, comprised of residents representing each municipality, was formed. This committee, with assistance from the National Park Service through its authority to study the Lower Delaware River, completed a Resource Assessment and Eligibility and Classification Report (1999) as well as a Musconetcong River Management Plan (April, 2003). The report found that approximately 24 miles of the river are eligible for inclusion into the National Wild and Scenic Rivers System because of their free-flowing nature and outstandingly remarkable recreational, scenic, cultural, and wildlife and habitat values.

The Musconetcong River Management Plan was developed cooperatively and calls for a management framework that acknowledges the importance and preference for local leadership, and the additional protections afforded by national wild and scenic river designation. A key principle of the management framework as proposed in the plan is that existing institutions will continue to play primary roles in the long-term protection of the Musconetcong River. With respect to facilitating and coordinating potentially diverse interests among residents, landowners, municipalities, counties, states and non-governmental organizations (NGOs), the plan proposes the formation of a Musconetcong River Management Committee.

The bill provides that the administration for the 24.2-mile designated river segment is to be consistent with the cooperatively developed Musconetcong River Management Plan (2003) and is to be undertaken in cooperation with federal, state, county and municipal governments. The bill also identifies an additional river segment that would be suitable for designation by the Secretary of the Interior only at such time as it can be demonstrated that adequate local support for such designation exists within the affected local jurisdictions. The costs associated with a designated wild and scenic river in the Northeast Region of the National Park Service average \$150,000 annually (for cooperative agreements with river partner organizations), and we would expect the costs to be similar for this river, although the expenditures per river will likely decline as more designated rivers have to share limited resources. The region will handle the work associated with the newly designated river with existing staff. Any funding for cooperative agreements with the river's partner organizations will be dependent upon annual appropriations and departmental funding priorities.

This completes my prepared statement. I would be happy to answer any questions you may have regarding this bill.

ON S. 1310

Mr. Chairman, thank you for the opportunity to present the Department of the Interior's views on S. 1310, a bill to authorize the Secretary of the Interior to allow the Columbia Gas Transmission Corporation to increase the diameter of a natural gas pipeline located in the Delaware Water Gap National Recreation Area. The Department supports enactment of this legislation with one technical amendment.

This bill provides for the Secretary of the Interior to enter into an agreement with the Columbia Gas Transmission Corporation, for no consideration, to grant an easement to permit the enlargement of an existing natural gas pipeline from a diameter of 14 inches to no more than 20 inches. It provides for the Corporation to submit resource information and appropriate restoration and mitigation plans under terms and conditions that assure the protection of the natural and cultural resources of the national recreation area. In addition, the Corporation will have to comply with other requirements for certification set forth by the Federal Energy and Regulatory Commission to permit an increase in the diameter of the pipeline. Finally, the bill

states that the Secretary shall not grant any additional increases in the pipeline's diameter and limits the pipeline's right-of-way to its existing 50-foot width.

Pipeline 1278 is a part of the Columbia Gas Transmission Corporation's interstate pipeline network that delivers natural gas to the Northeastern and Mid-Atlantic states from production areas in the southwest and Appalachia, 3.5 miles of which runs through sections of the Delaware Water Gap National Recreation Area. Pipeline 1278 was constructed in the mid-1940's on easements purchased from landowners. When land was acquired for the national recreation area, five parcels of land were acquired subject to easements for pipeline 1278.

Pipeline 1278 underwent periodic testing in 2002. The inspection showed that the pipeline was showing its age, and there were numerous instances that the wall of the pipeline was thinning. The Corporation was issued a Corrective Action Order by the Department of Transportation. The order required the Corporation to reduce the operating pressure in the pipeline until such time as all anomalies in the pipeline could be repaired. A determination was made by the Corporation that the best way to repair the current pipeline was to replace the existing pipeline with a new, state of the art, cathodically protected steel pipe. At the same time, the Corporation decided to upgrade the diameter of the pipeline from 14 inches to 20 inches.

The National Park Service does not have legal authority to issue rights-of-way for petroleum pipelines across parklands. The deeds for the five parcels of land, subject to easements for the Corporation pipeline, are very specific about the rights that the Corporation purchased back in the 1940's. Congressional action is needed to allow the increase in pipeline size on two of the parcels totaling 800 feet of parkland. Congressional action is not required for the remaining three parcels, since the deeds permit the increase in pipeline size.

This legislation simply permits the Columbia Gas Transmission Corporation to fully utilize an easement they purchased 50 years ago. By order of the Department of Transportation, the pipeline must be repaired or replaced, and the replacement of the current pipeline with one of a larger diameter does not increase the impact to parklands of the replacement project. The permit issued to the Corporation has sufficient safeguards in it to insure the rehabilitation and restoration of parklands disturbed by the replacement project.

The one technical amendment we suggest would be to correct the right-of-way number on p. 2, line 9 by striking "16414" and inserting "16413".

This concludes my prepared testimony, Mr. Chairman. I would be pleased to answer any questions you or the committee might have.

*Proposed amendment to S. 1310, Delaware Water Gap National Recreation Area Natural Gas Pipeline Enlargement Act.*

On page 2, line 9, strike "16414" and insert "16413".

ON S. 1378

Mr. Chairman, thank you for the opportunity to appear before you today to discuss the views of the Department of the Interior on S. 1378, a bill to amend the National Historic Preservation Act to provide appropriation authorization and improve the operations of the Advisory Council on Historic Preservation.

The Department supports S. 1378 with an amendment to extend the authorization of the Historic Preservation Fund for ten years until 2015.

S. 1378 would extend the authorization of the Historic Preservation Fund for an additional six years. The bill would also make a number of changes to the authority for the Advisory Council on Historic Preservation (ACHP) by increasing the membership of the ACHP, authorizing the governor appointed to the ACHP to have a designee serve in his place, revising the number of members that constitute a quorum, revising various financial and administrative authorities of the ACHP, authorizing the ACHP to solicit donations, and authorizing the ACHP to enter into cooperative agreements with other federal agencies to improve the effectiveness of the administration of grant or assistance programs to help meet the purposes of the National Historic Preservation Act.

In addition, the bill also changes the authorization level for the ACHP from \$4 million per fiscal year to such sums as may be necessary. It also makes the ACHP permanent instead of reauthorizing the ACHP for the standard five-year period.

The Historic Preservation Fund grew out of the recommendations of the 1966 Special Committee on Historic Preservation of the U.S. Conference of Mayors. The Special Committee recommended the establishment of a grant program to State and local governments to carry out inventory and survey programs in coordination with the National Park Service. In 1970, a historic preservation grant program was established and administered by the National Park Service in partnership with State

governments on a cost-sharing basis. In 1976, the Historic Preservation Fund was created with revenues from Outer Continental Shelf oil and gas production.

Over the years, the Historic Preservation Fund has provided essential support to the State Historic Preservation Offices that operate the national program at the State level. Through the work of our partners in the States, we can cite significant achievements over the past year:

- The National Park Service approved 1,537 new listings, which include 46,619 properties, in the National Register of Historic Places. This brings the total number of National Register properties to 79,617 listings that include over 1.4 million properties.
- Jointly administered by the National Park Service and the Internal Revenue Service, and in partnership with the State Historic Preservation Officers, the Historic Preservation Tax Incentives resulted in the rehabilitation of over 1,200 historic properties listed in the National Register, creating over 15,000 new housing units and generating \$3.8 billion in leveraged private investment—all during 2004. Since its inception in 1976, this tax incentives program has generated over \$33 billion in historic preservation activity.
- In FY 2005, the Save America's Treasures (SAT) grant program awarded a total of 145 matching grants in 43 states and the District of Columbia totaling \$29.5 million. 337 applications were received that totaled \$134 million. The SAT program is administered by the National Park Service, the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum and Library Services.

Over the years, the Historic Preservation Fund authority has been a highly flexible authority for developing targeted grant programs that address the broad purposes of the National Historic Preservation Act. They include the grants to Indian Tribes to support Tribal Historic Preservation Offices and project grants to preserve America's native cultures; grants to Historically Black Colleges and Universities to preserve significant campus buildings; the Save America's Treasures Grant Program for threatened nationally significant properties; and more recently, the Preserve America grant program for heritage tourism, including education, and economic revitalization. These grant programs not only preserve historic resources, they attract new economic investment.

Reauthorization of the ACHP also is an important objective as we work with this critical governmental agency to help protect historic resources while facilitating government-sponsored development. We are working closely with the ACHP on a number of important initiatives, including the Preserve America program and compliance tools.

We understand that the ACHP will discuss the specific provisions of S. 1378 that affect the ACHP. We believe these changes will increase the ACHP's effectiveness and strengthen the important role the ACHP has played in preserving the historic resources of our country.

As recommended at the beginning of this testimony, the Department believes that the authorization of the Historic Preservation Fund should be extended for ten years instead of six. The fund is now almost 40 years old. It has been highly successful in meeting the objectives established by Congress in preserving the historic resources of this country. We believe this success calls for a longer authorization than previously has been provided, while allowing Congress the traditional oversight role it has always maintained. The proposed amendment is attached to the testimony.

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

*Proposed amendment to S. 1378, National Historic Preservation Act Amendments Act of 2005.*

On page 2, line 6 strike "2011" and insert "2015".

ON S. 1627

Mr. Chairman, thank you for the opportunity to provide the Department of the Interior's views on S. 1627, a bill to authorize the Secretary of the Interior to conduct a Special Resources Study along the coastal region of the State of Delaware. The Department supports enactment of the legislation with one amendment regarding the time period provided for the study.

While the Department supports the authorization of this study, it is important that future funding requests go towards completing previously authorized studies. There are currently 25 studies in progress, and we hope to complete and transmit 6 to Congress by the end of 2005. Therefore, the Department will focus the funding provided towards completing these studies.

The coastal region of the state of Delaware has a long and distinguished history of Native American occupation, colonial settlement and contributions to this nation's heritage. The region was populated by the Lenni Lenape and Nanticoke tribes before the period of European discovery. Early explorations of Delaware's coastline were made by the Spaniards and Portuguese in the sixteenth century, by Henry Hudson in 1609 under the auspices of the Dutch, by Samuel Argall in 1610, by Cornelius May in 1613, and by Cornelius Hendricksen in 1614. During a storm, Argall was blown off course and sailed into a strange bay, which he named in honor of his governor—Lord De La Wan.

In 1631, 11 years after the landing of the English pilgrims at Plymouth, Massachusetts, the first white settlement was established by the Dutch. This was followed in 1638 by the first Swedish settlement at "The Rocks" on the Christina River, where a fort was built called "Fort Christina" after the young queen of Sweden. Fort Christina in Wilmington, with a monument created by the noted sculptor Carl Milles and presented by the people of Sweden, perpetuates the memory of these first settlers and preserves "The Rocks" where they first landed.

In the autumn of 1655, Peter Stuyvesant came from New Amsterdam with a Dutch fleet, subjugated the Swedish settlements and established the authority of the Colony of New Netherlands throughout the area. The Dutch were eventually replaced by the English. In 1776 at the time of the Declaration of Independence, Delaware not only declared itself free from the British Empire, but also established a state government entirely separate from Pennsylvania. The State became the first to ratify the United States Constitution on December 7, 1787.

The importance of the Delaware Bay and River to coastal defense during the American Revolution, the War of 1812 and the Civil War was marked by the establishment of fortifications to thwart enemy ships from traversing the Delaware River to Philadelphia. Many of these resources remain to remind current generations of past struggles for independence, early nationhood, and preservation of the Union. Delaware became an important component of the Underground Railroad prior to the elimination of slavery during the Civil War. The Delaware River was and remains an important transportation link connecting Delaware and portions of Pennsylvania and New Jersey to world markets.

The coastal region of Delaware also contains important natural resources adjacent to and including Delaware Bay and the Delaware River. It provides resource-based recreational opportunities for fishing, boating, swimming and crabbing. Delaware Bay is a major staging area for shorebird migration with truly spectacular numbers visible during the peak of migration. The region is replete with state parks and wildlife areas that protect resources and provide important opportunities for the public to appreciate and enjoy Delaware's natural treasures.

The region also has played an important role in industry, including the exploitation of water power. The outbreak of the Civil War, for example, found Wilmington with a strong industrial base, which responded to meet the great demands of waging war. Wilmington products included ships, railroad cars, gunpowder, shoes, tents, uniforms, blankets and other war-related goods. By 1868, Wilmington was producing more iron ships than the rest of the country combined and it rated first in the production of gunpowder and second in carriages and leather. Industries thrived along the Delaware, especially the chemicals and materials company that was founded by the DuPont family in the 19th century and continues to be one of the largest chemical-related companies in the world.

The Department suggests one amendment to S. 1627. Section 4 of the bill requires that a report on findings, conclusions and recommendations of the study be submitted to the Senate and House authorizing committees no later than one year after funds are made available to carry out the Act. We believe it more feasible to provide that this occur no later than three years after funds are made available based on the number of Special Resource Studies currently being conducted by the Department.

If this study is authorized, the Department expects to coordinate this study with the recently authorized Captain John Smith Chesapeake National Historic Watertrail study, which will be evaluating resources along the Chesapeake Bay and its tributaries including portions in the State of Delaware.

Mr. Chairman, that concludes my testimony. I will be pleased to answer any questions from members of the Committee.

*Proposed amendment to S. 1627, Delaware National Coastal Special Resources Study Act.*

On page 4, line 11, strike "1 year" and insert "3 years".

Senator THOMAS. Thank you. Thank you very much. With regard to S. 1378, now this is called an advisory committee, and I understand that there are some responsibilities there beyond advisory; is that correct?

Dr. MATTHEWS. Yes, sir.

Senator THOMAS. That has changed then, really, the purpose and the role of this council?

Dr. MATTHEWS. Well, Mr. Chairman, I would respectfully defer to Mr. Fowler, who is on the next panel, to deal with the specific provisions of S. 1378.

Senator THOMAS. Okay. Let's see now. What was your position on S. 1310?

Dr. MATTHEWS. On S. 1310, our position is to support, with one technical amendment. We have the pipeline across the Delaware Water Gap National Recreation Area. When that property was acquired for the National Recreation Area in the 1960's, the pipeline easements were 20 years old, they had been entered into with private owners in the 1940's, and of the five private property title acquisitions, two of them came without authorization, within the easement language to allow for increasing the diameter of the pipe. Two of the parcels remaining require congressional authorization for enlargement and activity.

Senator THOMAS. Thank you very much. I have no further questions.

Dr. MATTHEWS. Thank you, sir.

Senator THOMAS. Senator Dodd, welcome. Senator Carper, you were here first.

Senator CARPER. I don't have any great time pressures. I would be happy to yield.

**STATEMENT OF HON. THOMAS R. CARPER, U.S. SENATOR  
FROM DELAWARE**

Senator CARPER. Mr. Chairman, Senator Akaka is in the next room and will be here any minute. I really appreciate the opportunity to come by and testify on behalf of S. 1627, which is legislation Senator Biden and I have introduced in the Senate. Congressman Mike Castle is introducing a companion bill in the House. I also want to thank Dr. Matthews for the comments she has just made in support of our proposal, and I want to thank Jim Slavin, who is going to be here today, the Director of the Division of Historical and Cultural Affairs from my State, who will testify on behalf of the committee that has worked on this project. I want to thank Dr. Jim Soles, a legendary professor from the University of Delaware who led a 12-member committee in the deliberations over the last year or so, as we contemplated what kind of park to create and ask for. I really want to thank the hundreds of Delawarians who participated from one end of Delaware to the other to give us their ideas and their thoughts on a national park for our State. I want to thank Senator Biden and Congressman Castle for their support, and for the letters of support. And in fact, I would ask, if I could, Mr. Chairman, to have entered into the record statements of support from Senator Biden and Congressman Castle, and a short statement here that kind of outlines the actual proposal itself.

Senator THOMAS. Without objection.

Senator CARPER. Here in the audience are Brian Bushweller and Latisha Omeruah, who are members of my staff who worked on this, and Tom Weller, one of my legislative aides who has also worked on this project, and we're grateful for that.

Two summers ago, my family was getting ready to go on vacation and we wanted to go someplace that had great national parks and we finally settled on Alaska. And I remember, we went to a big park called Denali that some of you in this room have probably heard of and maybe been to. Denali's several times the size of my State. We had a chance to go all over Alaska and to visit and to check it out.

And as we went through that website of the national parks, we saw information not only on Alaska, but Alabama, and other States, but we couldn't find anything about national parks in Delaware. And the reason why there was information for 49 states with national parks, or units of national parks, and there's nothing about Delaware is because we don't have one. And it's not that we don't have useful, beautiful places to see, or natural scenic beauty, we do. It's not that we don't have a lot of history in our State, we have plenty of that. But what we don't have is a unit of the national parks. And along the way people say to me, why don't we do something about this. And finally I got in a position where maybe we could do something about it, and we brought this proposal to you in your State in Wyoming, which is where we want to go on vacation next year.

Senator THOMAS. That's very good and thoughtful of you.

[Laughter.]

Senator CARPER. Listen to this—there are 11 national park units: Big Horn Canyon National Recreation Center, California National Historic Trail, Devil's Tower National Monument, Fort Laramie, and the list goes on down to Yellowstone National Park. It's just a great venue. And I look at Hawaii, and Senator Akaka is not here, but he has eight of them in Hawaii. I can't say some of these names, but they've got historic trails, national parks, and memorials and all kinds of places to visit. And when you look through the membership of this committee and all the States that are represented on this committee, you've got folks who have their State's national parks, they've got national monuments, they've got national preserves, they've got national historic parks, they've got national memorials, national battlefields, national cemeteries, national recreation areas, national seashores, national lakeshores, national rivers, national park plays, national trails, but in Delaware, we don't have any of those, not a one. And we would like to do something about that.

The legislation that we introduced—with the support of Senator Biden and Congressman Castle—seems to end that distinction for our State. And I ask you, Mr. Chairman, and Senator Akaka, and others on the committee, for your support of our proposal.

I want to just briefly, if I could, describe the process that we've been through. We actually put on the website the idea that we wanted to solicit from Delawarians whether or not they thought we ought to have a National Park, and if so, what would be a good idea. We had hundreds of people who responded, and gave us really

some terrific ideas. We created a committee for people throughout our State, led by Dr. Jim Soles, who's just a great professor, just retired from the University of Delaware. They went all over our State and they held hearings and got all kinds of people involved in suggesting ideas and invited the Delaware Division of Parks and Recreations to participate in it with our committee. They invited the Division of Historical and Cultural Affairs to participate, and they did. And we invited the National Park Service themselves, from the Philadelphia office, to participate, and they did.

Among the great ideas that we got are these. Fort Christina—believe it or not, the first Swedes and Finns who came to America came into America in what is Wilmington, Delaware, and they proclaimed the colony of New Sweden. I think the Finns wanted to proclaim it the colony of New Finland, but the Swedes won out and so it became the colony of New Sweden. They built the first fortification for settlers in Delaware Valley, right there on the banks of the Christina River in what is now Wilmington Delaware, so that was among the ideas that was suggested.

We have a big fort right out in the middle of the Delaware River, about halfway between Delaware and New Jersey, where we held about 30,000 Confederate soldiers during the Civil War. It's called Fort Delaware, on Pea Patch Island. It hooks up with a couple of other forts, one on the New Jersey side and one on the Delaware side. Some people thought that would be a great national park idea. We have all kinds of fortifications. Anybody who's ever been to Delaware in the summertime—Dewey Beach—has seen these towers that were used during World War II to spot submarines and coming up the Delaware Bay and the Delaware River, and all kinds of really neat fortifications that are still in largely good shape.

We have underground railroads. We're a big part of the Underground Railroad in Delaware. We have the Golden Fleece Tavern in Delaware, which was where the Constitution was first ratified. We were the first State, on December 7, 1787, to ratify the Constitution, right there in Dover, Delaware, the John Dickinson plantation. It's fortuitous Senator Dodd is sitting next to me. He'll recall the Connecticut Compromise that was adopted. They had the Constitutional Convention, where we were going to have a bicameral Congress. The Senate and House were largely the work—not entirely, though largely the work of a guy named John Dickinson, who grew up on the Dickinson Plantation.

There's a whole lot more. All those ideas were suggested to us, and any one of them alone would, frankly, I think, be a pretty good idea for a national park. But you know what ended up happening, the committee said we're not going to pick any one of them, what we would like to do is to kind of thread them all together. And the thread that kind of unites them all is they are part of our coastal heritage, along with all the Indians that used to live there—the Lenni Lenape Indians and Nanticoke Indians—and all the early work of the DuPont Company on the Brandywine River, creating mills and gun powder. All this stuff just ties together, and we call it Personal Heritage National Park. That unites them all.

Imagine, if you would, Mr. Chairman, four bicycle wheels. Imagine a bicycle wheel with a hub in Wilmington, Delaware, where the first Swedes and Finns came to shore. The hub would be really the

center if you will the park and really the closest thing to a traditional park. Those spokes would come out from the hub and connect to different attractions in other parts of our State. Those attractions are held in some cases by the State, the State parks, by non-profit organizations, and by other owners. But the attractions would be on the perimeter of the wheel, if you would. Put another hub just south of there, about 30 to 40 miles south of Wilmington. And on the spokes from that hub would be, among other places, Fort Delaware, that I mentioned, where we had all these 30,000 Confederate troops during the Civil War. Come on south a little bit further down toward the central part of our State and you have another hub. And the spokes would go out to, among other places, Primehook, where we have literally hundreds of thousands of migratory birds that are flying transcontinental across the world and they stop for lunch in Delaware.

Senator DODD. At the Golden Fleece Tavern?

[Laughter.]

Senator CARPER. And we pick up the tab.

[Laughter.]

Senator CARPER. And the last hub would be down in the southern part of our State, where we have all of our beaches. And there would be a bunch of attractions and so forth that would come out of that hub, as well. It's a different type of national park, it's really sort of unique and it's also, I might add, pretty inexpensive. And at a time when folks from the National Park Service will tell you that they are pressed for money, what we have come up with is an idea that we think ties together a history, ties together a culture, provides for a lot of beauty to share with people from around the country and around the world, and does it in a way that shows the sensitivity to the fact that we have a huge budget deficit.

And with that in mind, I will just close with this, Mr. Chairman. Last Saturday was U.S. Constitution Day. And we celebrate it in our State, because the Constitution is a big deal for us, given the fact that we were the first State. And Saturday, I think it was, September 17, 1787, the Constitutional Convention adopted the Constitution. About 3 months later, we became the first State to ratify it. Delaware became the first State on December 7, 1787. We were the first State for one whole week. For one whole week, we were the entire United States of America, then we opened things up and let in Maryland and Pennsylvania, Connecticut, Wyoming, Hawaii and the others. And we were proud of being the first State. And we're not happy about being the last state to get a unit of the national park, but we think our time has come. We've got a great project here and a great proposal. A lot of people worked really hard on it, and I am pleased to present it on their behalf.

[The prepared statement of Senator Carper follows:]

PREPARED STATEMENT OF HON. THOMAS R. CARPER, U.S. SENATOR FROM DELAWARE

A PROPOSAL: DELAWARE NATIONAL COASTAL HERITAGE PARK

BACKGROUND

In 2002, U.S. Senator Tom Carper undertook a public process to solicit ideas and assess support for the creation of a National Park unit in Delaware. Delaware is the only state without a designated unit of the National Park system. Using an internet survey of the general public and a mail survey of various organizations

along with discussions with many individuals, Senator Carper found significant interest in creating some kind of National Park unit. In 2003, he established a committee of twelve Delawareans representing all three counties and the City of Wilmington to look more closely at suggestions that had been made for such a unit and to make recommendations to the Senator with regard to which of the suggestions, if any, the Senator might pursue. Among other activities, the Committee held public workshop meetings in each county and the City of Wilmington to further solicit input and ideas from interested citizens. The Committee's ultimate recommendation was an amalgam of several individual suggestions. Senator Carper accepted the recommendation and will propose that Congress authorize a formal study of the feasibility of the committee's proposal.

#### THE PROPOSAL

Senator Carper proposes the creation of a Delaware national coastal heritage park. The park would be unique among national parks in both its physical dimensions and its theme. Physically, the park would be comprised of a series of connected interpretive centers and sites. The centers would largely direct visitors to already existing attractions related to the theme of the park. Thematically, the park recognizes that Delaware's coastal region, as interpreted through the historic, cultural, and natural environment, provides an experience of interwoven threads that hold great significance in the history of the United States. It also recognizes that the region offers outstanding opportunities for resource protection, heritage education and recreation.

#### THE CONCEPT

The concept of the Park has its roots in the notion that Delaware's coastal region is a near-perfect microcosm of America's coastal history. It acknowledges that coastal regions have always played a key role in human activity and that they will continue to do so. From the beginning of our nation's history, Delaware has been the location of nationally important and emblematic themes of development. The persistent rural character of the state situated in such an intensely developed east coast corridor afforded the preservation of many sites, buildings, structures and vistas to provide the visitor an unparalleled opportunity to experience the coastal American landscape and understand its role in the development of the nation. These themes include:

1. *History of Indigenous Peoples.* Delaware is rich with the history of Native American tribes such as the Nanticoke and Lenni Lenape.
2. *Colonization and Establishment of the Frontier.* Among the most significant developments in this regard are the history of the first European settlers in the Delaware Valley who built fortifications for the protection of settlers like Fort Christina in 1638 at the Rocks in Wilmington, which was established to protect the Swedish and Finnish settlers, and Fort Zwaanendael to protect the Dutch in Lewes. Also, Delaware witnessed the increased influence of the English and Dutch that accompanied the growth of European immigration.
3. *Founding of a Nation.* Delaware made significant contributions to the development of our constitutional republic. Historical sites such as the John Dickinson Plantation, the boyhood home of the "Penman of the Revolution", proliferate in the coastal region.
4. *Industrial Development.* Some of the earliest exploitation of water power occurred in Delaware with the mill development on the Brandywine River.
5. *Transportation.* Water served as the main transportation link, connecting Colonial Delaware with England, Europe and other colonies. Water transportation along Delaware's coastline retained its importance through the 20th century and displays a variety of aids to navigation. These aids address both river travel, with the range light navigation system, and ocean-going travel, with the National Harbor of Refuge at Lewes and Fenwick Island lighthouse at the coastal border with Maryland.
6. *Coastal Defense.* Protection of this vital link was a consistent concern from the Colonial Period through the 20th century as evidenced by the superb collection of fortifications spaced along the river and bay from Fort Delaware on Pea Patch Island to Fort Miles near Lewes.
7. *The Last Stop to Freedom.* Delaware has an extensive and well documented history of Underground Railroad activity. The coastline was an embarkation point for many freedom-seekers, in small craft or large steamers, to cross to the free territory of New Jersey and Pennsylvania. Many other escaping slaves crossed the Christina River on their way to freedom at the site of the current Tubman-Garret Park in downtown Wilmington.

8. *The Coastal Environment.* Much of the beautiful and ecologically important natural area along the coast is already preserved as federal and state wildlife areas and state parks. Delaware's coastal environment provides outstanding resource based recreational opportunities such as crabbing, fishing, swimming and boating.

#### THE "PARK"

These themes will be highlighted and showcased in a format unique to the National Park system. The Park will be structured much like a series of bicycle wheels, each with a hub and spokes. The hubs will be interpretive centers located strategically along the coast line. These hubs will provide the visitor with a comprehensive look at the themes most prevalent in the surrounding area. The spokes will be the connectors to the attractions and sites that make up the wheel.

The "gateway" or "headquarters" hub will be located on the 7th Street Peninsula at the site of the Fort Christina monument. Within a short walking distance of the existing Fort Christina State Park is the Old Swedes Church, the oldest Episcopal Church in America in continuous use; the Kalmar Nyckel, a replica of the ship that carried early Swedes to our shores; Tubman-Garrett Park, located at a point in Wilmington where escaping slaves crossed the Christina River as part of their journey on the Underground Railroad, and other attractions. This area would be developed as a specific destination point for the Park.

As a hub, it would also provide information, advice and directions about other sites in the Wilmington area that relate to the themes of the coastal region. These would include the Thomas Robinson House on Philadelphia Pike in Claymont, associated with the Revolutionary War, and the Brandywine Mills Historic District for the beginning of water-powered milling history. It would include visitors' facilities, interpretive programs, the park headquarters and other amenities.

A second hub would be located along the Delaware River in southern New Castle County. It would provide information on attractions in that area. Notable among those are the City of New Castle's renowned National Landmark historic district including the early statehood and Underground Railroad histories interpreted at the New Castle Court House Museum. Other examples include the George Read II House and Garden as well as related attractions in New Castle County such as Fort Delaware State Park on Pea Patch Island and Fort DuPont near Delaware City.

A third would be located in Kent County, along the coast of the Delaware Bay. It would provide information on the existing preserved natural areas such as Bombay Hook and on the myriad other attractions in Kent County that are integral parts of the themes highlighted by the Park. These would include the John Dickinson Plantation, the Octagonal School Museum, the fishing villages of Leipsic, Little Creek and Bowers Beach, and Barrett's Chapel.

A Sussex County hub would be located in the Lewes area and would provide information on the numerous historic sites and natural areas that have made Sussex County's coastal region so pivotal to Delaware. These would include the Zwaanendael Museum, the National Harbor of Refuge, Fort Miles (Cape Henlopen State Park), the Indian River Lifesaving Station, the Nanticoke Indian Museum, and the aids to navigation including the Fenwick Island Lighthouse, the Lightship Overfalls, the Harbor of Refuge Light, and the Breakwater Light.

Together, these four interpretative hubs would provide the necessary historical context and direct visitors to the many existing attractions that help us understand and appreciate the entire breadth of experiences available along Delaware's Coastal region. They would disperse visitors to their destinations along existing roads, transit lines, bikeways and land and water trails. Through southern New Castle and Kent Counties, many visitors would traverse one of Delaware's most scenic roads, Route 9, which was recently proposed to be designated a scenic and historic highway.

#### THE PLAN FORWARD

Together with Senator Joe Biden and Congressman Mike Castle, Senator Carper will be seeking authorization and funding from Congress for a formal study to be conducted by the National Park Service in cooperation with the State of Delaware, the coastal region communities and the general public. The study will more fully explore the concept outlined above and make recommendations to Congress. Upon receipt of the study, the Delegation would then seek legislation to authorize and fund the park itself.

Senator THOMAS. Thank you. Very impressive. There's certainly very good reason for it. I hope you don't plan a bicycle-type event. Bicycles won't stand alone, you know. They are too tired.

[Laughter.]

Senator THOMAS. Senator Dodd, we're glad to have you, sir.

**STATEMENT OF HON. CHRISTOPHER J. DODD, U.S. SENATOR  
FROM CONNECTICUT**

Senator DODD. This is tough competition around here. We could do what Vermont did, just declare the entire State a historic site. I think that's what they did to keep all the Wal-Marts out.

[Laughter.]

Senator DODD. Small States have unique interests, Mr. Chairman, and having Delaware and Connecticut, we're just missing Rhode Island here, I suppose, to complete the trifecta of the small States. I constantly point out to my constituents that my State is smaller than Yellowstone National Park, Mr. Chairman and we now have a national park site, the Weir Farm, which Senator Lieberman championed a number of years ago, which I was strongly supportive of, and others. And so we finally ended up with a site that is of some significance. I think it's one of the smallest, if not the smallest, designations of a national park maybe in the country. It is difficult when you are a small State, there is no question about it obviously. We think because there is a growing recognition of the importance of these open spaces that we have, while they're shrinking all the time with the expansion of suburbs and exurbs, I guess they call them now, or words to that effect, but it's harder and harder to preserve some heritage for the coming generations.

I am here, Mr. Chairman, once again, to make an appeal to this committee, which has been tremendously generous in the past to suggestions that have come from our State, particularly with the request to conduct feasibility studies in the Wild and Scenic River System Programs. The Lower Salmon River and the Salmon Brook River is the appeal I want to make today.

I'm going to publicly thank a couple of individuals who are here, who you're going to hear from, Eric Hammerling, who's executive director of the Farmington River Water Shed Association, and Skip Allemen, who's director of the Salmon Brook Water Shed Association. You're going to hear from Eric in a little while and Skip is submitting some testimony and will be able to answer some specific questions about these proposals. But we're very lucky to have both individuals who have done so much to add already to protecting some of these very, very fragile and wonderful open space in our small State of Connecticut.

Like my colleague from Delaware, these become harder and harder to do as time goes by. And so we try to do what we can here. I think they have some photos, but I don't know if we have them to put up to show. If we don't, we'll try to provide some for you. But Mr. Chairman, just very briefly again, to get the size of Connecticut, it's 110 miles plus 60 miles again, and I'm not—you've got a good concept when you talk about Yellowstone National Park. Then you get some sense of the size of our small State here.

The Farmington River and the Salmon Brook flow between 10 small towns in central Connecticut, a region of great historical and

culture significance. These towns on the Salmon and the Farmington Rivers have built a strong community going back to the 18th Century, the early mills and so forth. They thrived and prospered as a result of the activities that these rivers provided. They were used extensively as a conduit for commerce which provided the jobs and the opportunities that created the great industries—the early industries of this country that emerged from these communities. Biologists have also stated that sections and stretches of these rivers have both regional and possibly global significance for plant communities, which makes the rivers one of the most thriving and diverse ecosystems in our State, and in certain areas unique not only to our State but to the country.

Besides environmental and historical benefits, the Lower Farmington River provides excellent opportunity for recreation, including canoeing, kayaking, and the like. In fact it's some of the best kayaking in the region. They are class II through IV whitewater kayaking, 12 months a year. In fact we hosted the Olympic trials on these rivers, to give you some idea of the water flow that exists in these small rivers that run through our State.

S. 435 was introduced by Senator Lieberman and I, and there's complimentary legislation completely supported by the entire delegation on the House side, the Governor, and the towns along the way. It's interesting, when I was at the river, I think it was last July, if I recall, and it was interesting that a couple of the local selectmen or mayors in the towns that were being affected by the Lower Farmington River expressed to me how they had actually been opposed to the earlier designation of the Upper Farmington River at the time it was moving through. Having the opportunity to watch over the last 10 or so years what's happened to these smaller communities in the Upper Farmington, today they were fully prepared to say that they were wrong in that opposition, and they totally support these efforts. So a lot of times you get local communities, developers, and others who get anxious about some of these decisions. I'm here to tell you, Mr. Chairman, we have the kind of unanimity from the locals, the private people, as well as the State and the delegation, in support of this study, and ultimately, hopefully, this designation. And so we have the kind of support I know the committee looks to.

As many of my colleagues may remember, and I'm going back now 11 years, the Upper Farmington was so designated as I've just mentioned. And as a result it has seen notable improvement. Today representatives from the towns adjacent to the river meet monthly with the National Park Service. The State and local organizations do take action to preserve and to improve that stretch of the river. We need to build, as we suggested, on that success. The Lower Farmington is one of the most fished rivers in our State, but its water quality is declining again because of the encroaching population in a small State like ours.

There is broad State and local support, as I mentioned, for this designation. I know the committee will hear from the Park Service about their views on this bill, and I wasn't here to hear the exact testimony, but I'm told that they substantively support this designation. There are obviously cost factors that you and the Park Service have to take into consideration, because we've been cutting

back obviously in these areas. I would note that in the past the committee and others have not allowed that rationale to deny the study to go forward. We have to work, obviously, to come up with the resources, and they are strapped and I appreciate that, but I wouldn't want to see this set aside on that basis alone, given the history of moving forward with these feasibility studies while we determine whether or not down the road we can provide the additional resources.

In a small State like ours, where you're trying to hold on to cultural, historical, and environmental benefits for people to enjoy, it can—quite candidly, I would love to be able to travel with my family from time to time, but given the cost of things, gasoline prices and the like, the ability to travel to your beautiful State—and I don't say that facetiously, it's an incredible State. I've been to Jackson Hole many times and I went on a camping trip to Grand Teton as a kid with my parents, and I still remember the beauty of it all. I've been through Yellowstone and enjoyed that immensely.

Most of my constituents, Mr. Chairman, may never be able to do that. They just don't have the resources to do it. But to spend a day or a weekend, a father to take his son or daughter and fish the Farmington, or the Salmon Brook, may be about as good as it gets. And I would like to see my daughters and their children, and the coming generations, be able to enjoy the back yard in Connecticut. And I would like them to be able to go to your State too, but if they can't do it, I don't want them to feel as though they can't, in their own neighborhood, find something they can enjoy.

And so we would ask you to allow us to do this study—we're prepared to answer any questions—and to be supportive. Again, we understand the pressures you're under and others in the National Park Service to deal with these questions, but we think this is a worthy investment for America's future. I thank you.

Senator THOMAS. Thank you, sir, and I appreciate both of you being here. Let me just say that I understand the Tetons are unique and they're different, but all of our parks and all of our places are different. And the values that exist in your river at that place are just as important as the others, they're just different. So we want to recognize those. So we thank both of you for being here, and we will look forward to dealing with these bills.

Senator, do you have any comments?

Senator TALENT. Just to say I always appreciate our two colleagues and I think I will pass, so we can get to the next panel.

Senator THOMAS. Okay. We would like very much to have our second panel please. Dr. Eric Hammerling, executive director of the Farmington River Watershed Association; Mr. Michael Roberts, manager of field services, Columbia Gas Transmission, Chester Springs, Pennsylvania; Mr. Timothy Slavin, director of the State Division of Historic and Cultural Affairs, Dover, Delaware; Ms. Beth Styler Barry, executive director of the Musconetcong Watershed Association in New Jersey; and John Fowler, executive director of the advisory council on Historic Preservation. We certainly want to thank you for being here. And we have a 5-minute time limit, if you can do that on your statements. If you have additional statements, we will put them in the record, if you would like.

I'm going to try to work with Senator Talent. We're having some votes that are likely to come up, and we may have to come and go a little, but we will try to arrange it so we can go ahead without being too interrupting. So let's begin now, and why don't we start with Mr. Hammerling, if you please.

**STATEMENT OF ERIC HAMMERLING, EXECUTIVE DIRECTOR,  
FARMINGTON RIVER WATERSHED ASSOCIATION, SIMSBURY,  
CT**

Mr. HAMMERLING. Thank you, Mr. Chairman. I've got to say it's an incredible pleasure to be here. I would like to thank Senator Dodd for his kind remarks, as well as his staff person, Sheila Duffy, who's done an amazing job in helping to work with us on this bill. I'm here of course to talk in favor of S. 435, the Lower Farmington River and Salmon Brook Wild and Scenic Study Act of 2005. It's quite a mouthful, but it's not quite Musconetcong. Let me state for the record that I would not oppose the technical amendment proposed by the National Park Service, and I appreciate the support of this legislation. That being said, I hope you will encourage the Park Service to work with congressional leaders from Connecticut, Delaware, Florida, Massachusetts, New Hampshire, New Jersey and Pennsylvania—those are the States that are represented with partnership Wild and Scenic Rivers—to ensure that the Park Service has sufficient funding for both its partnership Wild and Scenic Rivers Study Program, as well as those that have already been or may soon be designated. I will not attempt to speed read my entire testimony that has been submitted for the record, but I do want to emphasize a couple of points that are in there.

No. 1, and Senator Dodd mentioned this, Wild and Scenic in the Farmington River Watershed is not a new concept. In fact, I hope you have the maps of the lower scenic feasibility study area and of the watershed. But in those I can point out that two of the towns that are being considered for the study are already Wild and Scenic towns as a part of the Upper Farmington River that was designated in 1994. I also want to mention that the partnership Wild and Scenic River model fits what we call home rule in New England very well. In fact, the partnership model supports local conservation planning, resource stewardship, collaborative local, State and Federal resource management, and local interests in preserving the special character of our region's cultural, natural and recreational assets. And I hope you will note that local is in every part of the partnership Wild and Scenic River Program, or else it would not fly in New England. And it's been flying quite well for 11 years on the Upper Farmington River.

Last, I will just mention, of course, we think that there are considerable cultural, natural and recreational resources in the Lower Farmington River and Salmon Brook, which make it a very good candidate for consideration for Wild and Scenic. There are a couple of things—and I put a lot of things in my testimony that has been submitted, but there are a couple of things I left out that I just want to mention. Windsor, which is one of the 10 towns, and it's at the bottom of the Farmington River where it meets the Connecticut River, is known as Connecticut's first town. It was incorporated first. We heard about Delaware being the first State; this

was Connecticut's first town, and it hosts tremendous historical and archeological resources. In fact, it's very interesting as a Native America historical site. There are five different types of stone tools that were found in the Windsor area, which really showed that even for the last 10,000 years it's been a place of commerce.

I also forgot to mention that Simsbury, which is also one of the towns that will be considered, has the Gifford Pinchot sycamore tree which is the largest tree in Connecticut. In fact, that tree happens to have benefited our organization because when a bow of the tree fell this last year, we were contacted by the local recreation department and we turned it into a guitar, an Ovation Elite guitar, made from the largest tree in Connecticut. It's been mentioned that the Lower Farmington River is the greatest fresh water mussel diversity in the State, from a natural resource perspective, and there's kayaking that has hosted two Olympic qualifying trials, and on, and on, and on. At the same time, it has these amazing resources.

I also want to emphasize that we're starting to see some declines in the quality of the Farmington River. In 2002 there was a 20-mile section of the Lower Farmington that was added to the State's impaired water list for elevated bacterial levels. This was the first time ever that a section of the Farmington River was added to the impaired waters lists.

I will just conclude by saying that even though we have tremendous Wild and Scenic characteristics, we are seeing evidence that these can be lost if we don't work together to protect them. And with that, I will conclude my testimony and welcome any question you may have.

[The prepared statement of Mr. Hammerling follows:]

PREPARED STATEMENT OF ERIC HAMMERLING, EXECUTIVE DIRECTOR,  
FARMINGTON RIVER WATERSHED ASSOCIATION, ON S.435

Mr. Chairman and Members of the Energy Committee, my name is Eric Hammerling and I am the Executive Director of the Farmington River Watershed Association (FRWA), a 501(c)(3) non-profit organization founded in 1953 with the ongoing mission to protect the Farmington River Watershed and its amazing natural resources. I am extremely pleased to be here to testify on behalf of S. 435, "The Lower Farmington River and Salmon Brook Wild & Scenic River Study Act of 2005." At the onset, I'd like to recognize Skip Alleman, Director of the Salmon Brook Watershed Association, who made the trip down from Connecticut along with me and who represents a valued partner in conserving natural resources in our shared watershed. The Salmon Brook Watershed Association, Farmington River Coordinating Committee, Farmington Valley Archaeology Project, and American Rivers have all assembled testimony supporting this Act, and at this time, Mr. Chairman, I'd like to submit their letters of support to be incorporated into the Record of this hearing. Thank you.

This legislation would initiate a 3-year study of the Lower Farmington River and Salmon Brook to ascertain whether they meet the criteria for being potentially designated as Wild & Scenic. This bill is a critical step that will inform our ongoing efforts to conserve the most outstanding cultural, natural, and recreational resources of our region, and we believe there is a substantial benefit of this Study even if the final result of the Study is not the designation of the Lower Farmington or Salmon Brook as Wild & Scenic.

That being said, we are confident that these two waterbodies already merit strong consideration for gaining Wild & Scenic status because of the outstanding cultural, natural, and recreational resources that we have identified in preparation for this hearing. A few examples of this follow and are included in greater detail in the attached testimonies from other supporters:

- Botanist William Moorhead III has identified several native, rare plants in the floodplain of the Farmington River including 99% of the Starry campion found in New England, the only known population of Dwarf bulrush in a river ecosystem, the largest known population of Davis' sedge in New England, and the only known population of Purple giant hyssop in Connecticut.
- Mussel biologist Ethan Nedeau with BioDrawiversity in the summer of 2005, identified the Lower Farmington River as having the largest cluster of the federally endangered dwarf wedge mussel in Connecticut, as well as hosting the greatest diversity of freshwater mussels (9 species) found in any River in southern New England.
- The Farmington River has been identified by the CT DEP as one of the most important rivers in the Connecticut River system for the restoration of Atlantic Salmon. To these migrating fish heading upstream in the Connecticut River from Long Island Sound, the Farmington River is the largest River in Connecticut they migrate into. Salmon Brook is the most important tributary to the Farmington for Atlantic salmon restoration due to the few obstructions to their migration.
- There are significant Tunxis and River Tribe native American archaeological sites throughout the floodplain. Spear and arrow points abound at Alsop Meadows in Avon, and Simsbury has identified its entire floodplain as a sensitive archaeological area. The town of Windsor, located at the confluence of the Farmington and Connecticut Rivers, is Connecticut's first town and it boasts a rich river history. Remnants of the historic folly known as the Farmington River Canal still exist in several areas throughout the floodplain of the Farmington and Salmon Brook.
- Churning through Bloomfield, East Granby, and Simsbury, the combined waters of the Farmington and Salmon Brook course through Tariffville Gorge to provide Class II-IV whitewater kayaking 12 months a year. The Gorge is one of the only places to consistently paddle in whitewater during the summer in Southern New England. The Gorge has been the site for many whitewater canoe and kayaking competitions, and twice has included the U.S. Olympic Team whitewater slalom trials. Just upstream, the flat water section of the Farmington provides a training ground for local crew teams and for thousands of canoeists and kayakers every year sustaining local water-focused businesses like Huck Finn Adventures.
- The Farmington Valley Greenway and a spur route, the Farmington River Trail, are part of the Farmington Canal Heritage Trail covering 60 miles along the abandoned rail corridors from the Massachusetts border to New Haven. In the Farmington Valley, 25 miles of these hiking, biking, and dog-walking trails have the Farmington River as the central attraction.
- The East and West branches of Salmon Brook are both in the top 12 in the State of Connecticut for the diversity of aquatic insects that they host. Aquatic insect diversity is a good indicator of high water quality, and this is further shown by the presence of native brook trout and slimy sculpin—two fish species that are only found in areas with high water quality (source: Rapid Bioassessment in Wadeable Streams and Rivers by Volunteer Monitors—2004 Summary Report, CT DEP Bureau of Water Management).

Not only do we believe the requisite outstanding cultural, natural, and historic resources exist, but also we know that our communities are ready and eager to participate in the Partnership Wild & Scenic River model because they have witnessed it working for 11 years along a 14-mile stretch of the Upper Farmington that was designated as Wild & Scenic in 1994. Management activities along this 14-mile stretch are overseen by the Farmington River Coordinating Committee—a combination of representatives from 5 river-adjacent towns, the National Park Service, a large local water utility (the Metropolitan District Commission which provides water from the Farmington Watershed to over 400,000 people in the Greater Hartford area), the Connecticut Department of Environmental Protection, FRWA, and the Farmington River Anglers Association. The FRCC has demonstrated for 11 years that collaborative river management works.

The management philosophy that underlies the Partnership Wild & Scenic River model (as included in the Upper Farmington River Management Plan) is worth reiterating here:

1. Resource conservation should be fully integrated with traditional patterns of use, ownership, and jurisdiction;
2. River management should be accomplished through cooperation amongst all public and private organizations with an interest in the river;

3. Long-term resource protection should rely on existing programs and authorities rather than on new layers of bureaucracy; and

4. Future management should be based on a cooperatively developed plan which establishes resource protection standards and identifies key actions.

This management philosophy is built on the assumption that, for the most part, existing river protection mechanisms are adequate to protect river resources. If a resource value has been protected by existing management, and if existing management seems adequate to address issues that can reasonably be expected to appear in the future, then the existing mechanism should be left alone. If the existing mechanisms could be improved or made more efficient by better coordination or enforcement, then they should be pursued. New or stricter regulations, or other actions, should only be undertaken when needed, not used as a primary management tool.

The Study Committee is firm in its resolve that this management plan must not preempt existing rights or management responsibilities. Rather, the plan should create a common vision for the future and an environment in which those concerned with the river can focus their collective energies on making this vision a reality.”

As if it were not enough to appreciate ones local waterbodies and witness a model of river conservation that works, there is also strong evidence that Wild & Scenic protection provides communities with direct economic benefits. A study on the Upper Farmington River conducted by the Economics Department of North Carolina State University and funded by the National Park Service and American Rivers, documented a total annual economic benefit of \$3.63 million to the 5 towns along the River and a \$9.5 million benefit to recreational users. Also, land values within the river corridor have increased by an estimated \$3.76 per square foot (over \$163,785/acre) beyond increases in other town lands due to Wild & Scenic protection and recognition.

At the same time that the Lower Farmington River and Salmon Brook are both unique, cherished, and valuable resources, we are concerned that we are on the verge of losing the bounties that these waterbodies provide. In 2002 a 19.6 mile section of the Lower Farmington River (stretching from Farmington to Windsor) was included in the state’s 303(d) “impaired waters” list for elevated bacteria levels for the first time ever. The 303(d) listing will not affect the ability of the River to be considered as Wild & Scenic; however, this serves as a reminder that we must take action now to conserve these special resources to stem further declines in their beauty and value to the region. The Feasibility Study process that we are asking the Congress to authorize would enable town representatives, the National Park Service, FRWA, the State of Connecticut (DEP) and other interested parties to assemble a River Management Plan to address resource management issues impacting the River in the short- and long-term. This management plan process—even if the River isn’t recommended for Wild and Scenic designation—can be a powerful way to address this bacteria problem with all of the affected towns working collaboratively to find a mutually beneficial solution.

We already know that the communities of the Farmington Valley in Connecticut are highly interested in finding collaborative ways to protect natural resources. Earlier this year, the book “Nature Friendly Communities: Habitat Protection and Land Use Planning” (C. Duerksen & C. Snyder, Island Press, 2005) tabbed the Farmington Valley as one of the 19 most nature friendly communities in the United States due to its efforts with FRWA and others to protect species diversity at the local level. Towns like Farmington, Granby, and Simsbury have been particularly strong in going above and beyond to foster interest and conservation of local natural resources. The process initiated by S. 435 would complement the local interest and involvement.

Before concluding my testimony, I’d like to take a moment to thank Senators Dodd and Lieberman, who not only are proponents of this bill, but were original co-sponsors of the Wild & Scenic designation bill that passed 11 years ago. Also, in the House, representatives Nancy Johnson and John Larson have been incredibly supportive of this bill moving forward, but the decision now rests with your Committee.

Quite simply, approval of S. 435 will help our region to leverage the knowledge and collaborative will necessary to protect and restore two of its crown jewels—the Lower Farmington River and Salmon Brook. We thank you for your consideration of this bill.

Senator THOMAS. Thank you very much.  
Ms. Barry.

**STATEMENT OF BETH ANNE STYLER BARRY, EXECUTIVE  
DIRECTOR, MUSCONETCONG WATERSHED ASSOCIATION**

Ms. BARRY. Mr. Chairman, members of the committee, thank you for the opportunity to testify today on S. 1096. I'm Beth Styler Barry, executive director of the Musconetcong Watershed Association. I would like to thank Senators Corzine and Lautenberg for their leadership and crucial support in this effort. I would also ask that my entire written statement be entered into the record.

Passage of the Musconetcong Wild and Scenic Rivers Act by this committee is critical to the future of the protection of one of New Jersey's great rivers. This unique river is the only river wholly contained in New Jersey's highlands region, and is the largest New Jersey tributary to the Delaware River.

Without the support offered by this designation the municipalities along the river lack financial and other resources needed to adequately protect this exceptional natural resource. Designating the eligible segments of the river will promote preservation of farmland and open space within the river corridor and the watershed. It will protect recharge areas and aquifers that supply drinking water to citizens of Hunterdon, Warren, Sussex, and Morris Counties and beyond, and encourage recreational use that is compatible with the preservation of natural and cultural qualities of the river corridor, while respecting private property. It will also promote ecotourism, in the form of fishing, boating, hiking, and bird watching, et cetera, that will translate directly into economic benefit for the region. It will also help to preserve, restore or enhance the outstanding natural resources in the river corridor and the watershed, including forests, floodplains, headwaters, and wetlands. In short, designation supports uses that are compatible with the river management plan and that preserve the existing of the Musconetcong River Valley.

Beginning in 1991, this 14-year-long effort to earn designation has included citizens from 26 municipalities and 4 counties. Municipal governments, county and State officials, the National Park Service, the Musconetcong Watershed Association, local industry, the Heritage Conservancy, the Highlands Coalition, Trout Unlimited and riverfront property owners. Several alternatives were studied, and the Wild and Scenic designation was chosen as the best mechanism to enhance and support protection for the river while maintaining local control.

In 1999, the eligibility and classification report was complete. The study found that certain segments were indeed eligible for inclusion in the Wild and Scenic River System. The river management plan created as a part of the Wild and Scenic study process encourages cooperation between all levels of government, individual land owners and non-governmental organizations and recognizes that local municipalities play a key role in implementing the recommended management actions. The river management plan will help maintain existing water quality in the Musconetcong River and its tributaries and improve water quality where possible.

The Musconetcong is one of New Jersey's great rivers. The Musconetcong River Valley is a primary source of drinking water, provides critical wildlife habitat and abundant recreational oppor-

tunities. Passage of this bill will protect the remarkable diversity of farms, historic villages and outstanding natural areas.

S. 1096 recognizes the exceptional value of the Musconetcong River and the importance of its protection under the National Wild and Scenic Rivers Act. I urge your favorable consideration of this bill and would be pleased to answer any questions that you may have. Thank you.

[The prepared statement of Ms. Barry follows:]

PREPARED STATEMENT OF BETH ANNE STYLER BARRY, EXECUTIVE DIRECTOR,  
MUSCONETCONG WATERSHED ASSOCIATION

The Musconetcong Watershed Association wishes to express their support for this bipartisan legislation that will designate segments of the Musconetcong River as a federal Wild and Scenic River. Passage of the Musconetcong Wild and Scenic Rivers Act by this committee is critical to the future protection of one of New Jersey's great rivers.

Specifically, this distinguished recognition of the river will:

- Help maintain existing water quality in the Musconetcong River and its tributaries, as well as improve water quality.
- Protect the recharge area and aquifers that supply drinking water to residents of Hunterdon, Warren, Sussex and Morris counties and beyond.
- Help to promote preservation of farmland and open space within the river corridor and the watershed.
- Encourage recreational use that is compatible with the preservation of natural and cultural qualities of the river corridor while respecting private property.
- Promote eco-tourism in the form of fishing, boating, hiking and bird watching etc. that will translate directly into an economic benefit for the region.
- Preserve, restore and enhance the outstanding natural resources in the river corridor and the watershed, including rare and endangered species, forests, floodplains, headwaters and wetlands.
- Support uses that are compatible with the River Management Plan and that preserve the existing character of the Musconetcong River Valley.

GEOPHYSICAL PROPERTIES

The Musconetcong River drains a 157.6 square mile watershed area in northern New Jersey, and as a major tributary to the Delaware River, is part of the 12,755 square mile Delaware River watershed. For its entire length the Musconetcong River is a boundary water, first dividing Morris and Sussex counties, then Hunterdon and Warren counties. All or portions of 26 municipalities lie within the natural boundaries of the Musconetcong watershed. Fourteen municipalities fall within the river segments eligible for National Wild and Scenic Rivers designation.

CITIZENS UNITE IN RIVER PROTECTION EFFORT

The impetus for the Musconetcong National Wild and Scenic Rivers study can be traced back to 1991 when petitions were circulated calling for the protection of the Musconetcong River under both the National Wild and Scenic Rivers System and New Jersey Wild and Scenic Rivers program. In 1992 Congress passed legislation authorizing the National Park Service to study the eligibility and potential suitability of the Lower Delaware River for addition to the National Wild and Scenic Rivers System.

The Musconetcong Watershed Association (MWA) was formed in 1992, and in 1993 the MWA and the National Park Service (NPS) organized two Roundtable Meetings to discuss the problems, amenities and opportunities associated with the Musconetcong River. In 1995, the New Jersey Department of Environmental Protection (NJDEP) Office of Natural Lands Management recommended to the NPS that the Musconetcong River be included in the Nationwide Rivers Inventory of "candidate" rivers that are considered to have the appropriate characteristics for wild and scenic designation. Two years later, 18 of the 19 municipalities along the river voted to request the NPS to study the Musconetcong River to determine its eligibility and suitability for inclusion in the National System. An initial meeting was held in July 1997 and included representatives from eighteen river corridor municipal governments, National Park Service, Musconetcong Watershed Association, county and state officials, major industries, Heritage Conservancy, Highlands Coali-

tion, and Trout Unlimited, as well as interested citizens and river front property owners.

#### STUDY APPROACH

A Musconetcong Advisory Committee, consisting of municipal representatives was formed to work with the NPS and the Musconetcong Watershed Association in completing the National Wild and Scenic study. It was agreed by all parties that the Musconetcong Advisory Committee and local municipalities would have the final say as to whether the Musconetcong River is recommended for designation. Subcommittees were formed to address public involvement needs and to conduct the resource assessment for the Resource Assessment, Eligibility & Classification Report. The study area included the main stem of the river and the river corridor from the outlet at Lake Musconetcong to the Delaware River, a distance of approximately 42 miles.

#### ELIGIBILITY AND CLASSIFICATION REPORT

The Eligibility & Classification Report, completed in August 1999, recommended that three segments of the river, representing 28.5 miles of river, were eligible for inclusion in the National Wild and Scenic Rivers System based on flow characteristics and natural and cultural resources. The committee then conducted an analysis of existing resource protection in the river corridor and developed draft management goals, objectives and key actions. The advisory committee served as the coordinating body for the study, guiding all major study activities. In order to facilitate the compilation of information about the river's resources and suitability, the NPS established cooperative agreements with the Musconetcong Watershed.

*Segment A:* Saxton Falls to the Rt. 46 Bridge (3.5 miles) Classification: Scenic

*Segment B:* Kings Highway Bridge to the Railroad tunnels at Musconetcong Gorge (20.7 miles) Classification: Recreational

#### OUTSTANDINGLY REMARKABLE VALUES

The study documented an outstanding diversity of farms, historic villages and outstanding natural areas. The Musconetcong River Valley is a primary source of drinking water, clean air, critical wildlife habitat and abundant recreational activities. Its protection is vital to the environmental, social, and economic health of the country's most densely populated region.

#### RECREATIONAL

The Musconetcong River Valley features a diversity of recreational opportunities that are popular enough to attract visitors from throughout the region. The river corridor provides a high-quality environment for a wide variety of recreational activities which are important to the local economy. State, county and local parklands within the river corridor provide significant opportunities for hiking, fishing, canoeing, camping nature study and other outdoor activities. The Musconetcong River and its tributaries are regionally important trout fishing streams. Approximately 20 of the tributary streams support naturally reproducing trout populations. The river is also eligible for designation to the State Trails System as a Waterways Trail. The river-related recreational resources are considered to be regionally exemplary.

#### HISTORIC AND PREHISTORIC

The Musconetcong River Valley contains many river-related bridges, mills and historic districts that are listed on the National Register of Historic Places. One river-related resource, the Morris Canal Historic District, is a National Historic Landmark and was judged to be nationally exemplary. The Plenge Paleo-Indian Archaeological site within the river corridor is eligible for National Landmark designation study. River-related historic resources were judged overall to be regionally exemplary.

#### SCENIC

Several locations in the river corridor offer outstanding views of the agricultural river valley, Highlands Ridges, Kittatinny Mountain and Delaware Water Gap. These views of landforms and vegetation throughout the seasons are only minimally interrupted by cultural intrusions. River-related scenery was judged to be regionally exemplary.

## WILDLIFE AND CRITICAL HABITAT

Regionally important populations of wildlife and critical habitat for state listed threatened, endangered or rare species are present within the river corridor. The Musconetcong River watershed lies entirely within the New Jersey Highlands Region, a landscape of national importance as determined by the U.S. Forest Service and within the Atlantic Flyway, one of four major migratory bird routes in North America.

## SEGMENT-BY-SEGMENT ANALYSIS

The following is a categorical description of outstanding resources found within each study segment.

*Segment A: Saxton Falls to Rt. 46 Bridge*

*Recreational:* Allamuchy/Stephens State Park

Eligible State Waterway Trail

*Historic:* Morris Canal National Historic Landmark

*Scenic:* Largely primitive, undeveloped river corridor through state and municipal parklands

*Wildlife:* Barred Owl: State threatened

Brook Floater: Critically imperiled in NJ

*Segment B: Kings Highway Bridge to the railroad tunnels at Musconetcong Gorge*

*Recreational:* Musconetcong River Reservation

Eligible State Waterway Trail

Numerous state-owned access points for fishing, boating and hiking

*Historic:* Beattystown Historic District: National Register

Miller Farmstead and stone bridge: National Register

New Hampton Pony Pratt Truss Bridge: National Register

New Hampton Historic District: National Register

Imlaydale Historic District: National Register

Asbury Village Historic District: National Register

North Bloomsbury Historic District: National Register

*Scenic:* Outstanding views of agricultural river valley, Highland Ridges, Kittatinny Mountain and Delaware Water Gap

Outstanding views of agricultural river valley from Highway 639, Franklin Township

*Wildlife:* Wood Turtle: State threatened

Fleshy Hawthorn: State endangered

## HISTORIC AND ARCHEOLOGICAL RESOURCES

Human habitation in the Musconetcong valley has been traced back to as early as 12,000 years ago when Paleo-Indians occupied the region during the final retreat of the Wisconsin glacier. Evidence of their presence in the valley was documented at the Plenge Site, which is located along the lower Musconetcong River in Warren County. The Plenge Site was the first of only two major Paleo-Indian archaeological site excavations in New Jersey, and it is considered to be one of the most important in the northeastern United States.

Outstanding river-related historic features—many of which are listed on the New Jersey and National Registers of Historic Places—can be found in Stanhope, Waterloo Village, Asbury, Finesville and several other Musconetcong River communities. These features contribute greatly to the scenic character and overall quality of life in the Musconetcong valley, and are important to the local economy as key components of regional tourism.

By the time European settlement came to the Musconetcong valley during the early 18th century, the Lenape Indians were already in a state of decline, and the several thousand-year-old aboriginal occupation was coming to an end. While the Lenape Indians burned off significant areas of forest to plant crops and attract game, their only lasting imprint on the landscape were the major trails that European colonists eventually adapted to roads. One of these was the Malayelick Path which ran from the head of the tidal Delaware River to the Musconetcong River “gap” between Musconetcong and Schooleys Mountains. The path was the forerunner of State Highway 31, which begins in Trenton and crosses the Musconetcong River at Hampton Borough. Portions of State Highway 206 are part of the Minisink Trail, which linked the New Jersey coast with Minisink Island in the Upper Delaware River.

Subsistence agriculture took root in the lower Musconetcong valley at the beginning of the 18th century. The fertile limestone valley was rapidly cleared for crop-

lands, and subsistence agriculture gradually evolved into commercial grain and dairy farming. Villages sprang up around the many gristmills and iron forges built along the Musconetcong River from Finesville to Hackettstown. The charcoal iron industry was also established during the early 18th century on the lower Musconetcong River, and was supported by abundant supplies of ore from the surrounding ridges. The iron industry faced a precipitous decline when wood supplies were depleted by the early 19th century. However, the industry was rescued when one of early America's truly amazing engineering feats—the Morris Canal—was built to carry coal from the Pennsylvania coalfields to fuel the iron furnaces. The Morris Canal was a world-famous engineering marvel that required abundant supplies of water. Lake Hopatcong, which was originally a small natural glacial lake, was dammed to supply water to the entire canal system, but it was found to be an inadequate source. To augment the flow of water to the canal, several other dams were built on the Musconetcong River and Lubbers Run, its largest tributary.

#### RIVER MANAGEMENT PLAN

Next, an analysis of land ownership, land use regulation and physical barriers to development in the river corridor was completed to determine the effectiveness of existing mechanisms in management of the river and its outstandingly remarkable values, and to identify gaps which could be addressed by the implementation of a comprehensive management plan. Development of a river management plan is a requirement of the National Wild and Scenic Rivers study and becomes the basis for protection of the river now and into the future.

This management plan was the result of cooperative efforts of the Musconetcong Advisory Committee, Musconetcong Watershed Association, Heritage Conservancy, the National Park Service, and a variety of local, county and state representatives. The management plan sets forth five major goals and recommends actions to maintain and improve the Musconetcong River corridor, its tributaries and watershed, and surrounding natural, cultural and recreational resources.

*Goal 1.* Encourage recreational use that is compatible with the preservation of natural and cultural qualities of the river corridor while respecting private property.

*Goal 2.* Preserve and protect the character of archaeological sites and historic structures, districts, sites, and landscapes in the river corridor.

*Goal 3.* Preserve farmland and open space within the river corridor and the watershed.

*Goal 4.* Preserve, protect, restore and enhance the outstanding natural resources in the river corridor and the watershed, including rare and endangered species, forests, steep slopes, floodplains, headwaters and wetlands.

*Goal 5.* Maintain existing water quality in the Musconetcong River and its tributaries and improve where possible.

Successful implementation of the management plan will require cooperation between all levels of government, individual landowners and non-governmental organization. The plan recognizes that local municipalities play a key role in implementing the recommended management actions.

#### CONCLUSION

The Musconetcong is one of New Jersey's great rivers. The Musconetcong River Valley is a primary source of drinking water, critical wildlife habitat and abundant recreational activities. Passage of this bill will protect an outstanding diversity of farms, historic villages and outstanding natural areas. S. 1096 recognizes the exceptional value of the Musconetcong River and the importance of its protection under the National Wild and Scenic Rivers Act. I urge your favorable consideration of this bill.

Senator THOMAS. Thank you very much.  
Mr. Roberts.

#### STATEMENT OF MICHAEL W. ROBERTS, OPERATIONS MANAGER FOR THE STATE OF PENNSYLVANIA, COLUMBIA GAS TRANSMISSIONS CORPORATION

Mr. ROBERTS. Thank you, Mr. Chairman. My name is Mike Roberts and I am operations manager in the State of Pennsylvania for Columbia Gas Transmission Corporation. I have been with Columbia's pipeline operations for 24 years, and for 16 of those years I have been located in Pennsylvania.

I am here today to testify on behalf of S. 1310, a bill to authorize the Secretary of the Interior to allow Columbia Gas Transmission Corporation to increase the diameter of a natural gas pipeline located in the Delaware Water Gap National Recreation Area.

Columbia Gas Transmission, a subsidiary of NiSource Incorporated, is one of the largest interstate natural gas pipelines operating in the United States today. Combined with the network of a sister pipeline company, our system includes nearly 17,000 miles of underground pipelines, delivering more than one trillion cubic feet of natural gas annually to markets in 10 Eastern States. We also operate one of the largest natural gas storage systems in the country.

One of our pipelines, which we refer to as Line 1278, was installed in 1948 in the then-rural northeast region of Pennsylvania. This line, which runs north-south along the State's eastern border, became and remains an important part of our energy delivery system to key eastern markets.

Following an internal inspection of this pipeline, the U.S. Department of Transportation directed Columbia Transmission in 2002 and 2003 to take actions going forward in its operation of Line 1278, including additional testing, corrosion prevention and replacement of portions of the pipeline. To further comply with this directive, Columbia filed an application with the FERC in December 2003 to replace about 43 miles of the line, including a 3½-mile section that now lies within the Delaware Water Gap National Recreation Area. This park was created by the National Park Service in 1965 through the acquisition of several parcels of property in the area.

The issue addressed by the legislation before you today relates to the right-of-way agreements now held by the Park Service. Columbia's existing line affects 14 of these tracts under the terms of the agreements negotiated with private property owners prior to the creation of the park. Of these, 12 agreements include language that allows Columbia to increase the diameter of its pipeline. However, two of the agreements, representing about 900 linear feet, do not include such authorization.

Under current law, the Secretary of the Interior lacks authorization to enter into modification agreements for the existing rights-of-way to allow an increase in the diameter of this line, as proposed and approved by the FERC, from 14 to 20 inches in diameter. To complete our project, we collaborated with National Park Service staff to craft language that was written into S. 1310, introduced jointly by Senators Specter and Santorum of Pennsylvania.

Timely action on this legislation will result in several beneficial outcomes.

First, the replacement will standardize the size of Line 1278 at 20 inches in diameter throughout the area, which will in turn allow more efficient use of advanced internal inspection devices to assure safety and reliability of the pipeline and facilitate compliance with the directives of the DOT Pipeline Integrity Management Rule. Consistency in size is important for these devices, which transverse the inside of the pipe and have the advantage of allowing us to test our pipelines with the least disruption to our customers, to the communities adjacent to the line, and to the surrounding environ-

ment, while providing the most detailed information regarding the pipeline's operations and current condition. Second, it will allow Columbia to complete the upgrade of a 57-year-old pipeline within the timeframe approved by the DOT. Columbia is currently operating the pipeline at a reduced pressure as part of our agreement with DOT and relying on available capacity in other pipelines to meet market obligations during periods of high demand. With the new, upgraded line in place, Columbia will be less dependent on this practice. The increase in diameter from 14 inches to 20 inches will also increase the overall delivery reliability in the region.

Third, the replacement offers the added benefit of less intrusion in the future for maintenance and repair work in the Delaware Water Gap. Through use of today's pipeline coatings and other corrosion protection, regular inspections and participation in the Pennsylvania One Call Program, we can anticipate a useful life for the new pipeline that greatly exceeds the nearly 60 years of service provided by the existing pipeline.

A critical point to note about this project is the replacement with the slightly larger diameter pipe will require no additional construction impacts and will not change the existing permanent right-of-way that currently exists with the Delaware Water Gap. The construction footprint is the same for the proposed 20-inch diameter pipe as it is for the existing 14-inch, which again we are under DOT mandate to replace.

Columbia has been working closely with the National Park Service during the permitting process, including NEPA review and the issuance of a special use permit from the Park. Park Service staff have been very helpful and cooperative in working toward a mutually agreeable solution in this matter.

In this regard, I want to bring to your attention a typographical error in the bill. On page 2, line 9, the bill refers to right-of-way number 16414. The number should be 16413. The Park Service is aware of this error and supports us in our request to change the right-of-way number during committee consideration of the legislation.

Mr. Chairman and members of the committee, I ask that my prepared statement be submitted for the record. Thank you for your time and attention, and I will be happy to address any questions you may have.

[The prepared statement of Mr. Roberts follows:]

PREPARED STATEMENT OF MICHAEL W. ROBERTS, OPERATIONS MANAGER,  
COLUMBIA GAS TRANSMISSION CORPORATION, ON S. 1310

Good afternoon Chairman Thomas and Members of the Subcommittee. My name is Mike Roberts and I am Operations Manager in the State of Pennsylvania for Columbia Gas Transmission Corporation. I have been with Columbia's pipeline operations for 24 years, and for 16 of those years I have been located in Pennsylvania.

I am here today to testify on behalf of S. 1310, a bill to authorize the Secretary of the Interior to allow Columbia Gas Transmission Corporation to increase the diameter of a natural gas pipeline located in the Delaware Water Gap National Recreation Area.

Columbia Gas Transmission is one of the largest interstate natural gas pipelines operating in the United States today. Combined with the network of a sister pipeline company, our system includes nearly 17,000 miles of underground pipelines, delivering more than one trillion cubic feet of natural gas annually to markets in 10 eastern states. We also operate one of the largest natural gas storage systems in the country.

The company, a subsidiary of NiSource, Inc., and its predecessors have constructed and operated natural gas pipelines for more than 70 years. As part of our operating plan, each year we invest a significant amount of capital in the process of upgrading and replacing portions of pipelines throughout our system to assure ongoing safe and reliable service to our customers. Columbia also incorporates best-practice techniques into our operations and maintenance programs to minimize disruption both to our customers and to property owners along the pipeline.

One of these lines, which we refer to as Line 1278, was installed in 1948 in the then-rural northeast region of Pennsylvania. This line, which runs north-south along the state's eastern border, became and remains an important part of our energy delivery system to key eastern markets.

Following an internal inspection of this pipeline, the United States Department of Transportation directed Columbia Transmission in 2002 and 2003 to take actions going forward in its operation of Line 1278, including additional testing, corrosion prevention and replacement of portions of the pipeline. To further comply with this directive, Columbia filed an application with the Federal Energy Regulatory Commission in December 2003 to replace about 43 miles of Line 1278, including a three and one-half mile section that now lies within the Delaware Water Gap Natural Recreation Area. This park was created by the National Park Service in 1965 through the acquisition of several parcels of property in the area.

The issue addressed by the legislation before you today relates to the right-of-way agreements now held by the Park Service. Columbia's existing Line 1278 pipeline affects 14 of these tracts under the terms of the agreements negotiated with private property owners prior to the creation of the park. Of these, 12 agreements include language that allows Columbia to increase the diameter of its pipeline. However, two of the agreements, representing 892 linear feet, do not include such authorization.

Under current law, the Secretary of the Interior lacks authorization to enter into modification agreements for the existing rights-of way to allow an increase in the diameter of Line 1278, as proposed and approved by the FERC, from 14 inches to 20 inches in diameter. To complete our project, we collaborated with National Park Service staff to craft language that was written into S. 1310, introduced jointly by Senators Specter and Santorum of Pennsylvania.

Timely action on this legislation will result in several beneficial outcomes.

First, the replacement will standardize the size of Line 1278 at 20 inches in diameter throughout the area, which will in turn allow more efficient use of advanced internal inspection devices to assure safety and reliability of the pipeline and facilitate compliance with the directives of the DOT Pipeline Integrity Management Rule. Consistency in size is important for these devices, which transverse the inside of the pipe and have the advantage of allowing us to test our pipelines with the least disruption to our customers, to the communities adjacent to the line, and to the surrounding environment, while providing the most detailed information regarding the pipeline's operations and current condition.

Second, it will allow Columbia to complete the upgrade of a 57-year-old pipeline within the timeframe approved by the DOT. Columbia is currently operating the pipeline at a reduced pressure as part of our agreement with DOT and relying on available capacity in other pipelines to meet market obligations during periods of high demand. With the new, upgraded line in place, Columbia will be less dependent on this practice. The increase in diameter from 14-inches to 20-inches will also increase the overall delivery reliability in the region.

Third, the replacement offers the added benefit of less intrusion in the future for maintenance and repair work in the Delaware Water Gap. Through use of today's pipeline coatings and other corrosion protection, regular inspections and participation in the Pennsylvania One Call Program, we can anticipate a useful life for the new pipeline that greatly exceeds the nearly 60 years of service provided by the existing pipeline.

A critical point to note is that the replacement with the slightly larger diameter pipe will require no additional construction impacts and will not change the existing permanent right-of-way that currently exists with the Delaware Water Gap. The construction footprint is the same for the proposed 20-inch diameter pipe as it is for the existing 14-inch diameter line.

Columbia has been working closely with the National Park Service during the permitting process, including NEPA review and the issuance of a special use permit from the Park. Columbia has extensive plans in place for mitigating impacts during construction and for restoration following completion of our work. Park Service staff have been very helpful and cooperative in working toward a mutually-agreeable solution in this matter.

In this regard, I want to bring to your attention a typographical error in the bill. On page 2, line 9 the bill refers to right-of-way number 16414. The number should be 16413. The Park Service is aware of this error and supports us in our request to change the right-of-way number during Committee consideration of the legislation.

Mr. Chairman and Members of the Committee, I ask that my prepared statement be submitted for the record. Thank you for your time and attention, and I will be happy to address any questions you may have.

Senator TALENT. [presiding] Thank you, Mr. Roberts.  
Mr. Fowler.

**STATEMENT OF JOHN FOWLER, EXECUTIVE DIRECTOR,  
ADVISORY COUNCIL ON HISTORIC PRESERVATION**

Mr. FOWLER. Thank you, Mr. Chairman. I'm the executive director of the advisory council on Historic Preservation. It's a pleasure to testify before the subcommittee today on S. 1378, which would provide re-authorization for the Advisory Council on Historic Preservation and the Historic Preservation Fund. Chairman John Nau of the council regrets that he could not be here today; he is in Houston racing for Hurricane Rita. The National Historic Preservation Act, which created the ACHP, embodies the collective wisdom of the Congress in three concepts: the importance of preserving America's heritage, the need to build upon the foundation of our past to create a better future for the Nation, and the strength of linking Federal, State, tribal, and local efforts in partnership with the private sector to accomplish these ends.

For nearly 40 years the ACHP has actively pursued the Act's goals, on behalf of the Congress, the President, and the American people. We have two primary roles under the Act: we administer the nationwide Federal protective process for historic properties, found in Section 106, and we promote historic preservation policies and support within the Federal Government. Details on our activities are included in a formal statement for the record.

We are before you today because we need your assistance to continue to carry out our mission. The ACHP membership examined our current legislative authorities and determined that changes were needed.

First, we need to replace the current time-limited appropriations authorization with a permanent authorization. Second, we would like to authorize the President to add the heads of three additional Federal agencies to the ACHP membership. Third, we would like the bill to authorize several technical amendments that would allow us to function more efficiently. And finally we would like an amendment to provide us with the authority and direction to work cooperatively with Federal funding agencies and to assist them in using the existing grants programs to more effectively pursue the purposes of the National and Historic Preservation Act.

These provisions are included in S. 1378 and we would like to thank Senators Talent, and Wyden for their introduction of this bill. This is virtually identical to S. 2469 that was considered by the subcommittee in the last Congress. There is one new and very important provision that is contained in S. 1378, extending the current authorization for the use of proceeds from oil and gas leases and sales on the Outer Continental Shelf to support the historic preservation fund through 2011. This fund supports essential com-

ponents of the National Historic Preservation Program and the State and tribal preservation offices. These partners carry out critical missions for the Federal Government, and it's no overstatement to say that the current national program would be doomed to failure without their continued active involvement.

The Historic Preservation Fund is the source of matching grants that are the lifeblood of these programs. We're pleased to see the funds authorization included in S. 1378 and urge the subcommittee's support.

I would also note that the National Park Service in its testimony proposed to extend the authorization to 2015, and the Council would certainly support that.

As a final note, I would like to draw the committee's attention to changes that are being discussed in the House Resources Committee that would drastically alter the current protections of Federal law for historic properties. Amendments to section 106 have been suggested that would severely restrict its application with particular impact on archeological resources and historic properties that are important to Native Americans. I would like to stress to the committee that the ACHP is formally opposed to such to changes of section 106.

In closing, Mr. Chairman, the ACHP has reached true maturity as an independent Federal agency and is a key partner in the National Historic Preservation Program. As such, it wants the support of the Congress for a re-authorization proposal. We hope the subcommittee will favorably consider this request. Thank you.

[The prepared statement of Mr. John L. Nau, III follows:]

PREPARED STATEMENT OF JOHN L. NAU, III, CHAIRMAN, ADVISORY COUNCIL ON  
HISTORIC PRESERVATION

SUMMARY STATEMENT

An independent Federal agency, the Advisory Council on Historic Preservation (ACHP) promotes historic preservation nationally by providing a forum for influencing Federal activities, programs, and policies that impact historic properties. In furtherance of this objective, S. 1378 provides reauthorization of its appropriations in accordance with the provisions of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 et seq.) (NHPA). The bill also offers amendments to the ACHP's authorities that we believe will strengthen our ability to meet our responsibilities under NHPA, and to provide leadership and coordination in the Federal historic preservation program.

BACKGROUND

Title II of the NHPA established the ACHP. NHPA charges the ACHP with advising the President and the Congress on historic preservation matters and entrusts the ACHP with the unique mission of advancing historic preservation within the Federal Government and the national historic preservation program. In FY 2002, the ACHP adopted the following mission statement:

The Advisory Council on Historic Preservation promotes the preservation, enhancement, and productive use of our Nation's historic resources, and advises the President and Congress on national historic preservation policy.

The ACHP's authority and responsibilities are principally derived from NHPA. General duties of the ACHP are detailed in Section 202 (*16 U.S.C. 470j*) and include:

- Advising the President and Congress on matters relating to historic preservation;
- Encouraging public interest and participation in historic preservation;
- Recommending policy and tax studies as they affect historic preservation;
- Advising State and local governments on historic preservation legislation;
- Encouraging training and education in historic preservation;

- Reviewing Federal policies and programs and recommending improvements; and
- Informing and educating others about the ACHP's activities.

Under Section 106 of NHPA (*16 U.S.C. 470f*), the ACHP reviews Federal actions affecting historic properties to ensure that historic preservation needs are considered and balanced with Federal project requirements. It achieves this balance through the "Section 106 review process," which applies whenever a Federal action has the potential to impact historic properties. As administered by the ACHP, the process guarantees that State and local governments, Indian tribes, businesses and organizations, and private citizens will have an effective opportunity to participate in Federal project planning affecting important historic properties.

Under Section 211 of NHPA (*16 U.S.C. 470s*) the ACHP is granted rulemaking authority for Section 106. The ACHP also has consultative and other responsibilities under Sections 101, 110, 111, 203, and 214 of NHPA, and in accordance with the National Environmental Policy Act (*42 U.S.C. 4321 et seq.*) is considered an agency with "special expertise" to comment on environmental impacts involving historic properties and other cultural resources.

The ACHP plays a pivotal role in the national historic preservation program. Founded as a unique partnership among Federal, State, and local governments, Indian tribes, and the public to advance the preservation of America's heritage while recognizing contemporary needs, the partnership has matured and expanded over time. The Secretary of the Interior and the ACHP have distinct but complementary responsibilities for managing the national historic preservation program. The Secretary, acting through the Director of the National Park Service, maintains the national inventory of historic properties, sets standards for historic preservation, administers financial assistance and programs for tribal, State, and local participation, and provides technical preservation assistance.

The ACHP also plays a key role in shaping historic preservation policy and programs at the highest levels of the Administration. It promotes consistency in Federal preservation efforts and assists Federal agencies in meeting their preservation responsibilities. Through its administration of Section 106, the ACHP works with Federal agencies, States, tribes, local governments, applicants for Federal assistance, and other affected parties to ensure that their interests are considered in the process. It helps parties reach agreement on measures to avoid or resolve conflicts that may arise between development needs and preservation objectives, including mitigation of harmful impacts.

The ACHP is uniquely suited to its task. As an independent agency, it brings together through its membership Federal agency heads, representatives of State and local governments, historic preservation leaders and experts, Native American representatives, and private citizens to shape national policies and programs dealing with historic preservation. The ACHP's diverse membership is reflected in its efforts to seek sensible, cost-effective ways to mesh preservation goals with other public needs. Unlike other Federal agencies or private preservation organizations, the ACHP incorporates a variety of interests and viewpoints in fulfilling its statutory duties, broadly reflecting the public interest. Recommended solutions are reached that reflect both the impacts on irreplaceable historic properties and the needs of today's society.

*New Directions.* Since assuming the chairmanship in November 2001, I have taken steps to ensure that the ACHP fulfills the leadership role envisioned for it in NHPA. In doing so, we have focused the ACHP on pursuing the broader policy goals of the national historic preservation program.

In creating the ACHP, Congress recognized the value of having an independent entity to provide advice, coordination, and oversight of NHPA's implementation by Federal agencies. The ACHP remains the only Federal entity created solely to address historic preservation issues, and helps to bridge differences in this area among Federal agencies, and between the Federal Government and States, Indian tribes, local governments, and citizens. While the administration of the historic preservation review process established by Section 106 of NHPA is very important and a significant ACHP responsibility, we believe that the ACHP's mission is broader than simply managing that process.

NHPA established a national policy to "foster conditions under which our modern society and our prehistoric and historic resources can exist in productive harmony and fulfill the social, economic and other requirements of present and future generations." Among other things, the statute directed Federal agencies to foster conditions that help attain the national goal of historic preservation; to act as faithful stewards of federally owned, administered, or controlled historic resources for present and fu-

ture generations; and to offer maximum encouragement and assistance to other public and private preservation efforts through a variety of means.

To promote this policy and to exercise its intended leadership, the ACHP has taken the following steps, working through its membership and with its partner Federal agencies:

- Developed an Executive order to promote the benefits of preservation, to improve Federal stewardship of historic properties, and to foster recognition of such properties as national assets to be used for economic, educational, and other purposes. President Bush issued this as Executive Order 13287, "Preserve America," on March 3, 2003.
- Created an initiative for the White House to stimulate creative partnerships among all levels of government and the private sector to preserve and actively use historic resources for a better appreciation of America's history and diversity. The initiative is known as *Preserve America* and was announced by First Lady Laura Bush on March 3, 2003.
- Undertook a major new initiative to improve the participation of Native Americans in the national historic preservation program by establishing a Native American Advisory Group.

The ACHP's 20 statutorily designated members address policy issues, direct program initiatives, and make recommendations regarding historic preservation to the President, Congress, and heads of other Federal agencies. The Council members meet four times per year to conduct business, holding two meetings in Washington, D.C., and two in other communities where relevant preservation issues can be explored. However, myself and other Council members are actively involved in Council business on a continual basis, particularly since January 2004 when the Administration's *Preserve America* initiative began to rapidly gain momentum.

The ACHP has a leading role in both the *Preserve America* Steering Committee and the staff efforts to carry out specific *Preserve America* activities. In coordination with the White House, the *Preserve America* Steering Committee sets policy and oversees the initiative. At the operational level, ACHP staff works with partner Federal agencies to implement the *Preserve America* Communities and *Preserve America* Presidential Awards programs. For FY 2006, we will work closely with the National Park Service to operate the new *Preserve America* grants program.

The ACHP also works with Federal agencies, including their senior policy level officials designated in response to the *Preserve America* Executive order. In February 2006, we will submit a report to the President assessing the efforts of Federal agencies to manage their historic properties in a manner that promotes historic preservation.

Our Native American Advisory Group works with the membership and our staff-level Native American Program to improve relations and coordination of efforts with the tribes and Tribal Historic Preservation Officers in regard to issues of historic preservation. These issues are of particular and unique importance to tribes from both economic and cultural perspectives.

The staff carries out the day-to-day work of the ACHP and provides all support services for Council members programs. To reflect and support the work of the committees, the Executive Director reorganized the ACHP staff into three program offices to mirror the committee structure. Staff components are under the supervision of the Executive Director and are located at the ACHP's headquarters in Washington, D.C.

#### PROPOSED AMENDMENTS TO THE NATIONAL HISTORIC PRESERVATION ACT

*Background to Reauthorization.* The ACHP traditionally has had its appropriations authorized on a multi-year cycle in Title II of NHPA (Section 212, *16 U.S.C. 470t*). The current cycle expires at the end of FY 2005 and authorizes \$4 million annually. These funds are provided to support the programs and operations of the ACHP. Title II of NHPA also sets forth the general authorities and structure of the ACHP.

The ACHP seeks to amend its appropriation authorization for two reasons. First, the authorization extends only through FY 2005 and must be renewed for FY 2006 and beyond. Second, the ACHP is seeking certain changes in its membership and operational authorities to better equip it to meet its current mission. At its February and May 2003 meetings, the ACHP endorsed an approach to the reauthorization issue that addresses the immediate appropriations authority issue and also contains the desired amendments to the ACHP's composition and authorities. S.2469, "A bill to amend the National Historic Preservation Act to provide appropriation authorization and improve the operations of the Advisory Council on Historic Preservation," was introduced by the Honorable James M. Talent May 20, 2004. A hearing

was held before this subcommittee June 8, 2004. A companion bill, H.R. 3223, was introduced and referred to the House Resources Committee.

The legislation was not enacted in the 108th Congress and, on July 11, 2005, Senator Talent and Senator Wyden introduced S. 1378. This bill is virtually identical to S. 2469, with the inclusion of a provision to extend the authorization for the Historic Preservation Fund. A companion bill has been introduced in the House of Representatives as H.R. 3446.

The changes sought by the ACHP and contained in S. 1378 are explained in this overview.

*Appropriations Authorization.* This provision (Section 1(g)) would amend the current time-limited authorization and replace it with a permanent appropriations authorization. When the ACHP was created in 1966, its functions were exclusively advisory and limited, and the agency was lodged administratively in the Department of the Interior. Since then, the Congress has amended the NHPA to establish the ACHP as an independent Federal agency and provide it with a range of program authorities crucial to the success of the national historic preservation program.

Not unlike the Commission of Fine Arts (CFA) and the National Capital Planning Commission (NCPC), the ACHP now functions as a small but important Federal agency, carrying out both advisory and substantive program duties. Specific language creating a permanent appropriations authorization would draw upon the similar statutory authorities of the CFA and NCPC. No ceiling to the annual appropriations authorization would be included in the authorizing legislation, but rather the appropriate funding limits would be established through the annual appropriations process.

*Expansion of Membership.* This provision (Section 1(d)) would expand the membership of the ACHP by directing the President to designate the heads of three additional Federal agencies as members of the ACHP. The ACHP has been aggressively pursuing partnerships with Federal agencies in recent years and has found the results to be greatly beneficial to meeting both Federal agency historic preservation responsibilities and the ACHP's own mission goals. Experience has shown that these partnerships are fostered and enhanced by having the agency participate as a full-fledged member of the ACHP, giving it both a voice and a stake in the ACHP's actions. The amendment would bring the total number of Federal ACHP members to nine and expand the ACHP membership to 23, an administratively manageable number that preserves the current majority of non-Federal members. A technical amendment to adjust quorum requirements would also be included.

*Authority and Direction to Improve Coordination with Federal Funding Agencies.* This provision (Section 1(h)) would give the ACHP the authority and direction to work with Federal funding agencies to assist them in determining appropriate uses of their existing grants programs for advancing the purposes of NHPA.

The ACHP would work with agencies and grant recipients to examine the effectiveness of existing grant programs, evaluate the adequacy of funding levels, and help the agencies determine whether changes in the programs would better meet preservation and other needs. Any recommendations would be developed in close cooperation with the Federal funding agencies themselves, many of whom sit as ACHP members, and with the States. The proposed amendment also would allow the ACHP to work cooperatively with Federal funding agencies in the administration of their grant programs.

*Technical Amendments.* These provisions would provide four technical changes that would improve ACHP operations:

1. Authorize the Governor, who is a presidentially appointed member of the ACHP, to designate a voting representative to participate in the ACHP activities in the Governor's absence. Currently this authority is extended to Federal agencies and other organizational members. The amendment would recognize that the personal participation of a Governor cannot always be assumed, much like that of a Cabinet secretary (Section 1(d)(2)).
2. Authorize the ACHP to engage administrative support services from sources other than the Department of the Interior. The current law requires the ACHP's administrative services to be provided by the Department of the Interior on a reimbursable basis. The amendment would authorize the ACHP to obtain any or all of those services from other Federal agencies or the private sector. The amendment would further the goals of the FAIR Act and improve ACHP efficiency by allowing the ACHP to obtain necessary services on the most beneficial terms (Section 1(e)).
3. Clarify that the ACHP's donation authority (16 U.S.C. 470m(g)) includes the ability of the ACHP to actively solicit such donations (Section 1(f)).

4. Adjust the quorum requirements to accommodate expanded ACHP membership (Section 1(d)(3)).

*Extension of Authorization for the Historic Preservation Fund.* This provision (Section 1(c)) would extend the existing authorization for \$150 million annually from the proceeds of oil and gas leases on the Outer Continental Shelf to be made available for the Historic Preservation Fund. We believe this concept of using part of the proceeds from the depletion of the Nation's non-renewable resources to preserve and enhance another non-renewable resource, our cultural heritage, is sound and merits continuation. The fund supports the valuable activities of the various State Historic Preservation Officers and Tribal Historic Preservation Officers, our principal partners in carrying out the NHPA's authorities. In addition, the fund makes possible the President's Preserve America grants program, which has been funded by the Congress for FY 2006. Extending this authority through FY 2011 is essential and is welcomed by the ACHP.

#### CONCLUSION

The ACHP has reached a level of maturity as an independent Federal agency and as a key partner in the national historic preservation program to warrant continued support from the Congress. As demonstrated by its recent program accomplishments including the President's Executive Order 13287, the Preserve America initiative, and the Native American Program, the ACHP is a vital component of the Federal historic preservation program. We believe that the legislation we seek, coupled with periodic oversight by this Subcommittee and the annual review provided by the Appropriations Committees, is fully justified by our record of accomplishment. We hope that the Subcommittee will favorably consider this request, including our recommended technical amendments and the important extension of the Historic Preservation Fund authorization.

We appreciate the Subcommittee's interest in these issues, and thank you for your consideration and the opportunity to present our views.

Senator TALENT. I appreciate your testimony, Mr. Fowler. Here's what I'm going to have to do—I'm sorry for all the movement up here on the dais, we have two votes going on now. Actually, one is about to end and another is about to pick up, and the chairman asked me to take gavel so that we could get more of the testimony in. He is coming back, so if the witnesses will be patient with us, I'm going to recess the hearing and the chairman should be back any moment. I will then go and vote and the chairman can reopen the hearing and we can get Mr. Slavin's testimony in. The hearing is recessed, until the return of the chairman.

[Recess.]

Senator THOMAS. Mr. Slavin.

#### **STATEMENT OF TIM SLAVIN, DIRECTOR, HISTORICAL AND CULTURAL AFFAIRS, STATE OF DELAWARE**

Mr. SLAVIN. Thank you, Mr. Chairman, for this opportunity to discuss the possibility of a study to determine the suitability and feasibility of a national park unit for Delaware.

My name is Tim Slavin and I serve as the director of historical and cultural affairs for the State of Delaware. I oversee the management of more than thirty historic sites and properties in Delaware, including museums, historic homes, lighthouses, and at least two shipwrecks that we know of, off Delaware's ocean and bay coast. I am one of many Delawareans interested in this matter. We greatly appreciate the time and effort of Senator Carper in forwarding this cause and thank you for holding this hearing today.

This past Saturday, I was visiting my 10-year-old daughter in Colorado. She lives there with her mother and for the past 7 years, I've made monthly visits to be with her. Our plans called for an overnight camping trip to Rocky Mountain National Park in Estes

Park, Colorado. I explained to my daughter that this was a national park, similar to the one at the Grand Canyon which we had camped in during the summer of 2004.

Like a good 10-year-old, she was unfazed. When we arrived at the gated entrance to the park and she saw the familiar signage and the familiar hats of the National Park Service rangers, she said something very insightful “oh, yeah.”

Her simple recognition was evidence of something, I think, far deeper. She was familiar with our national parks, and it brought her an immediate sense of comfort and security.

As our day progressed, I found that the national parks had taught her other things, as well. She became a very conscientious steward of the land she was visiting, mindful of not disturbing anything and making sure that every last bubblegum wrapper was stuffed into my pocket. She left only footprints, because the national parks had taught her that. She was also amazed by how many different kinds of people were using the park, and noted how many different States’ license plates were there.

And she became very proud. She was proud of her beautiful adopted State, she was proud of her country, and she was proud that such a beautiful and important place was cared for by so many people.

I told her that I would be in Washington to testify on behalf of a national park for Delaware and she said something else which was very insightful: “Just do it.”

So here I am today, on behalf of my daughter and many Delawareans recommending that this bill be passed and Delaware be afforded what every other State in our country has, inclusion in the National Park System.

Why should Delaware have a national park? The answers are simple. The first is that Delaware deserves it. We have a rich history and heritage and a unique place in American history, and likewise, the natural beauty and landscape of our coastline is matched only by the important role we have played—the coastline has played throughout our history. The second is that our national heritage deserves it. The importance of Delaware’s history and heritage cannot, and should not, be left out of any consideration of American history. And to think that our National Park System would not address the importance of such places as Fort Christina, the Delaware Bay and coastal towns along the river and bays, and would realize that there’s a void in the telling of our natural and historical landscapes. And the third is that our citizens deserve it. Every American citizen deserves the right to access our history and heritage in every State.

A significant amount of thought has been put into what a National Park in Delaware should look like, and we look forward to working with the National Park Service on this study. I believe the study will demonstrate that the Senator’s proposal does in fact represent a historical and cultural concept that is of National significance, suitable for inclusion in the National Park System and very feasible to implement.

First, Senator Carper’s proposal for a park unit that embodies and highlights the critical and vital role that Delaware’s coastal regions have played in the history of our State and the cultural de-

velopment of our society is truly of national significance. Delaware's coastal region is a microcosm of America's coastal regions, and as such, the various threads of development evident in our coastal region are representative of the broader development of these same threads that make up the fabric of our uniquely American society. Those threads include the early history of the indigenous peoples with the Lenni Lenape and the Nanticoke Indians, and the later valiant efforts of the Underground Railroad with points along Delaware's coastline being the "last stop to freedom" for slaves escaping to the North.

These threads also include the colonization established on the Frontier, with the European settlers building Fort Christina, what is now Wilmington, in 1638. Along our coastline can be found the home the John Dickinson, the "Penman of the Revolution", along with examples of America's earliest exploitation of water power along the Brandywine River, of transportation systems that connected early settlers with other colonies and Europe, and with coastal defenses that protected Delaware and America from the earliest days, like Fort Christina, right through to submarine watchtowers constructed in World War II.

These contributions are undoubtedly significant to the historical, cultural and commercial development of America and I can think of no more suitable way for us to highlight these contributions than as a national park.

Last, we believe that this will be among the least expense park units to develop and to operate, yet it would preserve for future generations the magnificent history and cultural development that I've mentioned. Unfortunately, over the years, neither the local nor State governments in Delaware have been able to muster the resources to adequately preserve, recreate or highlight these wonderful resources. That is why it is so important to authorize this study—with each passing year, we get further and further away and the task becomes more and more difficult.

In 1903, in the midst of the movement to create a National Park System, Theodore Roosevelt stated that "above all, we should recognize that the effort toward this end is essentially a democratic movement." More than 100 years later, the movement to create a national park in Delaware has respected both Roosevelt's words and the long and important history of national parks in our country.

A national park for Delaware is needed, necessary, and long overdue. Let us create an opportunity in Delaware for all citizens to share in their national heritage, to become stewards of our natural and historical landscape, and to have pride in a country which provides all of these things for its citizens. The American experience exists in the stitching together of all such national treasures in all of our States. Thank you very much, Mr. Chairman.

Senator THOMAS. Thank you, and thanks to all of you. I think these are all very interesting, you've done a very nice job. On the Farmington River, you will be making our study—I'm sure you will give some thought to the impact that it has on private properties that surround it. That is always an issue that we have with Wild and Scenic Rivers. But I can understand—particularly in your

areas, where the population is pretty heavy—that it's very important to recognize these special areas and set them aside.

Ms. Barry, I thank you very much. I think, from your testimony, you indicated that, even though not formal, there has been a study of this and lots of people involved in it, and so this is not a study, but rather an effort to go ahead and designate this.

One question on S. 310, Mr. Roberts. Why is this needed? I mean it's my understanding that these pipelines are already used in parts of it, and this is a segment, so how did it happen that this wasn't allocated and provided for before?

Mr. ROBERTS. The authorization to upsize it?

Senator THOMAS. Yes.

Mr. ROBERTS. Back in 1948, when the line was built, apparently the rights that we entered into, the right-of-way agreements with the private property owners at that time—whether it was an oversight or they didn't realize that they had missed it—to enter the right to upsize the pipe in the future, it wasn't done.

Senator THOMAS. But you're upsizing it in part of the pipeline, right?

Mr. ROBERTS. We're upsizing the entire pipeline.

Senator THOMAS. I know, but what part of it are you talking about here?

Mr. ROBERTS. We're talking about two segments, totaling about 900 feet.

Senator THOMAS. That's why I'm saying, why did that have to be done individually?

Mr. ROBERTS. Individually?

Senator THOMAS. Well, the rest of it's there, all you're doing is taking 900 feet out of miles of pipeline.

Mr. ROBERTS. Oh, I'm sorry. The project is actually 43 miles long that we're replacing and upsizing to 20-inch.

Senator THOMAS. But this authorization to increase it is not for the whole 40 miles, is it? It's just for this portion?

Mr. ROBERTS. Just for this 900-foot section, yes.

Senator THOMAS. But it takes a special designation to do that?

Mr. ROBERTS. Yes.

Senator THOMAS. Is that the only portion that is the recreation area?

Mr. ROBERTS. No, there are other portions, but the rights that were taken back in 1948, they had the upsize rights entered into the right-of-way agreements.

Senator THOMAS. I got you. All right. Thank you. Mr. Fowler, certainly things have changed in terms of the role of the advisory council, and therefore, certainly, it makes sense to take a look at changing the operational process under which you live, so we appreciate your being here. And we will certainly look at it, and we have heard quite a little bit about your project now between you and Mr. Carper. And it will be a study, and it sounds like it will be an interesting one, so thank you for your information. Otherwise, I have no further questions. We appreciate your being here, and we will seek to move ahead. And Senator Corzine's statement will be put in the record.

[The prepared statement of Senator Corzine follows:]

PREPARED STATEMENT OF HON. JON S. CORZINE, U.S. SENATOR FROM NEW JERSEY,  
ON S. 1096

Thank you, Mr. Chairman, for calling this hearing today to hear testimony on the Musconetcong Wild and Scenic Rivers Act, which I introduced earlier this year.

I am especially pleased that Beth Styler Barry Executive Director of the Musconetcong Watershed Association is here to testify on behalf of this important bill. She has worked tirelessly on this issue for years and I would like to thank her for all of the hard work she and her colleagues have done to protect the river.

As you know, the Musconetcong Wild and Scenic Rivers Act would designate 24.2 miles of the Musconetcong River in New Jersey as part of the National Wild and Scenic Rivers System.

Stretching a full 43 miles from Lake Musconetcong to the Delaware River, the Musconetcong River is one of the most scenic areas of Northwestern New Jersey. The Musconetcong watershed offers 5,045 acres of parks, some of the finest trout fishing streams in New Jersey, and miles of hiking trails. Not only is the beauty of the Musconetcong breathtaking and its recreational use remarkable, but the river holds archaeological and historic significance as well. For example, Waterloo Village is a National Historic Site that gained fame when its iron works were used to supply the George Washington's Continental Army with armaments. In addition, the Paleo-Indian archaeological site known as the Plenge site sits in the Musconetcong river valley. The Plenge site dates back 12,000 years and is considered to be one of the most important Paleo-Indian archaeological site excavations in the north-eastern United States.

Even with all of these unique aspects, the river's banks are in jeopardy. Its once pristine waters face deteriorating water quality due to increased levels of bacteria, silt and runoff from roadways. This is particularly disturbing since the river feeds aquifers that provide many residents in Hunterdon and Warren counties with quality drinking water. Unfortunately, while the municipalities that lie along the river want to preserve this historic natural resource, they lack the resources to do so, leaving the entire watershed vulnerable to further development and damage.

Thirteen of these surrounding municipalities and three New Jersey counties have expressed their support for the designation of the river as part of the National Wild and Scenic River System and are also supportive of the Musconetcong River Management Plan, which was developed in April 2003 with the help of the National Parks Service. The Musconetcong Wild and Scenic Rivers Act calls on federal, state, and local agencies to work in cooperation with environmental and public interest groups to establish goals and actions to ensure long-term protection of the outstanding values of the Musconetcong River and proper management of land and water resources associated with the river. The bill authorizes funds to facilitate the conservation of the river segment with the purpose of promoting uses and development of the river while maintaining its integrity as a natural resource.

Mr. Chairman, the recreational, ecological, historical and geological benefits of the Musconetcong River are countless, and I urge my Senate colleagues to approve the Musconetcong Wild and Scenic Rivers Act so that generations of New Jerseyans can continue to enjoy its magnificence for years to come.

Senator THOMAS. Thank you again, we appreciate it very much.  
The committee is adjourned.

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

## APPENDIXES

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### APPENDIX I

#### Responses to Additional Questions

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##### RESPONSES TO QUESTIONS BY MICHAEL W. ROBERTS

*Question 1.* (S. 1310, Delaware Water Gap National Recreation Area Natural Gas Pipeline Enlargement Act): When was the pipeline first installed and operational in the recreation area? Has Columbia Gas Transmission been responsible for operating and maintaining the pipeline the entire time?

Answer. The pipeline was installed in 1948. This installation occurred before the property, which included Line 1278, was transferred to the Department of the Interior for use as a recreation area. Our company has been operating and maintaining this pipeline for the entire time.

*Question 2a.* (S. 1310, Delaware Water Gap National Recreation Area Natural Gas Pipeline Enlargement Act): The proposed legislation authorizes the existing 14-inch pipeline to be replaced with a 20-inch pipeline.

How many customers receive gas through the existing pipeline?

Answer. This pipeline provides natural gas to local distribution companies in the states of Pennsylvania, New Jersey and New York. These companies, which receive service from Line 1278 as well as other interstate pipelines serve more than a million customers.

This project, however, is not about serving more customers. Rather, the primary purpose of this project is to replace facilities for reasons of age and condition, and to restore normal operating conditions on Columbia's pipeline system in this area, and not to increase its available capacity. The 20-inch pipeline is necessary to maintain consistency with the pipeline diameter installed in the rest of the line 1278 replacement and to allow for more efficient internal inspection, including pigging, consistent with Department of Transportation safety objectives.

*Question 2b.* How many additional customers would the larger pipeline be able to serve?

Answer. No additional customers will be served solely due to the replacement project addressed by the legislation. Because the existing 14-inch pipeline will be replaced with 20-inch pipeline, the project will create a minor increase in capacity. However, the increase is in a very localized area of the system and cannot be used to serve additional markets in the absence of further construction.

*Question 3a.* (S. 1310, Delaware Water Gap National Recreation Area Natural Gas Pipeline Enlargement Act): The proposed bill authorizes a 50-foot right of way for the pipeline.

What is the width of the current right of way?

Answer. The existing permanent right of way width is 50 feet. Thus, the proposed bill will not authorize an expanded permanent right of way beyond what currently exists. However, the NPS, the FERC, and Columbia have collaborated to develop an extensive plan, which includes various mitigation aspects, as well as specific Best Management Practices for use during construction within all areas of the Recreation Area. These plans have been integrated into both the Environmental Assessment issued by the FERC and the Special Use Permit issued to Columbia by the NPS.

*Question 3b.* What type of mitigation, if any, does Columbia Gas Transmission contemplate as an offset for clearing a 50-foot swath through the recreation area?

Answer. In addition to the environmental mitigation measures proposed by Columbia in its project application, the FERC's Environmental Assessment proposed certain conditions, that were adopted in the FERC Certificate Order and accepted by Columbia, to minimize the effect of construction on cultural resources and the

environment. The FERC Certificate Order concluded that approval of the project, with appropriate mitigating measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Attached is a copy of the Environmental Assessment.\*

*Question 4.* (S. 1310, Delaware Water Gap National Recreation Area Natural Gas Pipeline Enlargement Act): The proposed pipeline corridor involves Federal land and for that reason the upgrade could be considered a Federal undertaking. What type of compliance actions do you anticipate prior to construction to meet the requirements of the National Environmental Policy Act and other environmental laws?

Answer. The Federal Energy Regulatory Commission with the Park Service as a cooperating agency prepared an Environmental Assessment to satisfy the requirements of NEPA. Among other things, the EA addressed potential effects of the project on: geology, soils, water resources, vegetation, wildlife, threatened and endangered species, cultural resources, land use and recreation, visual resources, air quality and noise, reliability and safety, environmental justice, and project alternatives, including the "no action alternative." The EA was issued for public review and comment as part of the FERC certificate process.

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#### RESPONSES OF ERIC HAMMERLING TO QUESTIONS FROM SENATOR THOMAS

*Question 1.* Are you aware of any groups or individuals that are opposed to Wild & Scenic River designation for the Lower Farmington River and Salmon Brook?

Answer. No.

*Question 2.* What type of restrictions does Wild & Scenic River designation impose on land owners along the river?

Answer. S. 435 would impose no restrictions whatsoever on land owners along the Lower Farmington River or Salmon Brook. Under the Partnership Wild & Scenic River model, all land use decisions would remain as the responsibility for local towns and their local land-use commissions, not the federal government.

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#### RESPONSES OF JOHN FOWLER TO QUESTIONS FROM SENATOR THOMAS

*Question 1a.* The Department of the Interior has been responsible for managing finances for the Advisory Council under existing legislation. S. 1378 gives the Council authority to use a private accounting service at the discretion of the Council.

What sort of difficulty has the Advisory Council experienced under current financial arrangements with the Department of the Interior?

Answer. Some specific areas of difficulty that we have had over the years include financial accounting, procurement, and travel support. When the Council underwent its first audit as required by the Accountability for Tax Dollars Act in FY 2005, our independent auditors were unable to get accurate financial reports for a protracted period. Much time was spent attempting to verify records and reconcile numbers, so that in the end our audit was submitted to us on September 15, 2005, instead of November 15, 2004, its formal due date. Similarly, we find ourselves confronted with charges, often significant, from prior fiscal years, long after the fiscal year has ended. For FY 2004, for instance, the ACHP made \$110,556 in adjustments to our accounts after the fiscal year ended when the auditors uncovered various problems. We believe that we can do better.

Procurement has been a perennial problem, ranging from lengthy delays in processing payments for contract services to impediments to necessary acquisitions. The former has damaged our relations with some of our vendors and the latter has caused us to lose desired services, such as hotel bookings for Council meetings.

Travel support has also been a problem in the past. Ranging from assistance in travel arrangements to processing of travel vouchers, our experience in prior years has frustrated Council staff and presidentially appointed members alike. Recent changes to a commercial travel agent, made by the Department for all its travel needs, has improved travel support and processing improvements by the National Business Center have eased the reimbursement problems.

It is important to note that the Council is charged a substantial fee for the administrative and financial services provided by the Department. In FY 2005, it was \$211,100 (4.7% of the Council budget) and in FY 2006 it will rise to \$231,182 (4.8%). The Council is assessed a portion of the Department's Working Capital Fund and has virtually no leeway in negotiating a better deal. This lack of negotiating ability

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\* Retained in subcommittee files.

is the product of a monopoly held by the Department as to providing services to the Council.

*Question 1b.* Which other Federal organizations, if any, have authority to use a private entity for financial management services?

Answer. Note from the outset that the FAIR Act encourages Federal agencies to outsource functions that are “not inherently governmental”, so there is a general policy that supports use of private sector contractors to provide services, such as financial and administrative support, to Federal agencies. Few agencies have a specific authorization that enables them to contract for services. Rather, this ability is part of their general authorities as a Federal agency, augmented by the recent enactment of the FAIR Act. What sets the Council apart is the limitation of the NIPA that directs the Department to be the provider of services to the Council. We seek only the flexibility that other agencies have to make sound business decisions regarding essential support services.

*Question 1c.* Why is the Advisory Council interested in having the option of obtaining financial management assistance from a private entity?

Answer. For the reasons noted previously, we believe that having the flexibility to obtain services from providers other than the Department could improve our efficiency and save the Council money. It is important to note that we are not seeking authority exclusively to contract with the private sector; we are seeking the authority to find the best service at the best possible price. Nor are we seeking to take all of our business from the Department. The language proposed in S. 1378 would give us the ability to go to other Federal agencies and negotiate with them for services. In addition to the National Business Center at the Department of the Interior, the Office of Management and Budget has identified three agencies as “centers of excellence” to provide financial services: the Administrative Resource Center at Treasury; the Enterprise Service Center at Transportation; and the Financial Management Line of the Business Center of Excellence at the General Services Administration. Since we have not had the authority to find this service elsewhere, we have not shopped and do not know if the best service at the most reasonable price will lead us to a private entity, another government provider or the Department of the Interior.

*Question 2.* The Advisory Council was established to serve in an advisory capacity to the Executive Branch on matters concerning historic preservation. S. 1378 appears to expand the role of the Advisory Council into program management. Why should Congress expand the role of your organization and add to the Federal bureaucracy at this time?

Answer. Since its inception in 1966, the Council, along with the national historic preservation program, has constantly evolved. When the Council was set up in 1966, it was a simple advisory body, staffed by the National Park Service. Over the years it assumed and was given an increasingly substantive role in the program. In 1976, the Congress recognized the key role of the Council in the Section 106 process and authorized the Council to issue regulations to implement that part of the NHPA. The Congress also made the Council an independent agency, with an administrative structure that reflected its growth from a purely advisory group to one with important day-to-day duties.

Likewise, the Council’s administration of the Section 106 process has led to the development of a well-received training program and specific authority from the Congress to sue in Federal Court to enforce the act’s protective provisions.

The executive branch has also acknowledged the critical role of the Council, beyond that of providing advice. Executive Order 13287, *Preserve America*, has spawned the first comprehensive White House historic preservation initiative. The Council has been given a prominent role in the oversight of that initiative, co-chairing the *Preserve America* Steering Committee and managing certain of the program functions for the White House.

The evolution of the Council’s role is the story of a small but capable agency overseeing the needs presented by the National Historic Preservation Program. Working closely with the Congress and the Administration, the Council has been charged with new authorities and duties that have become essential to the success of the program. S. 1378 recognizes that history and adds one more area, cooperating with Federal agencies in shaping their grant programs, where the preservation expertise of the Council, properly coordinated with Federal agency partners, can be a key element in a growing historic preservation program.

*Question 3a.* The existing legislation has a budget ceiling of \$4 million and S. 1378 authorizes an open-ended budget.

What is the current budget of the Advisory Council and how much is the Council requesting for FY06?

Answer. The Council's FY 2005 budget was \$4.536 million. The President's budget request for FY 2006 was \$4.988 million and the Congress appropriated \$4.837 million.

*Question 3b.* Why should it be open-ended; why not raise it to \$5 million?

Answer. First, the rationale for having permanent appropriations authority is based on the role that the Council now has in the historic preservation program. Its responsibilities for administering the Section 106 process alone make the Council a vital permanent part of the Federal establishment. Other responsibilities have been enumerated in previous answers. Second, raising the authorization to a fixed number presents the same challenge we are confronting now. When that number is reached, the Council must go through a formal legislative process to raise the ceiling. In the present case, \$5 million will be insufficient to support the likely requests for FY 2007 and beyond. Even assuming no program growth, simply maintaining current level of operations will become impossible with a \$5 million cap, given the annual rate of fixed cost escalation.

*Question 4.* The Historic Preservation Fund and the Advisory Council both require reauthorization every five years to continue to operate. S. 1378 reauthorizes the Historic Preservation Fund for five years, but gives permanent authorization to the Council. What has the Council done to justify permanent authorization and why is permanent authorization needed?

Answer. The Historic Preservation Fund operates on a five-year authorization cycle because the authorization is for the transfer of revenues from Federal offshore oil and gas leases into the Fund. It is appropriate for the Congress to review at reasonable intervals, such as five years (or ten as the National Park Service has proposed in its testimony), whether the proceeds from the leases and sales are sufficient to be the basis for the Fund and whether the Fund continues to need this level of support.

The Council, on the other hand, is a permanent independent Federal agency with program responsibilities that are established in the NHPA and critical to the Federal government's historic preservation program. The Council should be viewed as a formal member of the Federal establishment, like the Commission of Fine Arts or the National Capital Planning Commission, which all share the common trait of being essential components of congressionally-created programs that promote defined national interests. The Council needs a permanent authorization so that it can determine its program and budget needs based on the normal process of executive branch request and legislative branch decision through the annual appropriations and oversight system.

Furthermore, in the last four years the relationship between Federal asset preservation and heritage tourism has become inextricably linked and will provide an economic development tool that will continue for years to come. Now that the Council has firmly established the relationship between economic development, heritage tourism, and Federal asset management, authorization for the Council is not something that could logically terminate at an arbitrary date.

*Question 5a.* S. 1378 does not address private property issues in the same way the House Resources Committee did in their Discussion Draft Document.

Do you believe that 3rd parties should continue to be able to nominate or request eligibility for listing against the wishes of the property owner?

Answer. The current NHPA prevents the Secretary of the Interior from listing a property in the National Register if the owner objects. This provision was enacted in 1980 at a time when Federal tax laws imposed a penalty on the owner of a historic commercial property who demolished his structure for redevelopment. That tax provision was subsequently eliminated, taking with it the rationale for allowing an owner to object to National Register listing. As the National Register is intended to be a comprehensive list of properties that are significant to the Nation's history, that significance is not a factor of an owner's desire to do as he wishes with his property.

The only remaining linkage between the National Register and Federal law is through the Section 106 review process. All Section 106 requires is that Federal agencies consider historic preservation factors when deciding whether to support or approve an activity. That decision can affect an owner's ability to use Federal assistance for a project that will harm historic properties. That was the original intent of Congress and remains true today.

What we have learned is that some local jurisdictions impose strict controls through local regulation based on the Federal National Register designation. This process circumvents the normal strict due process protections for property owners that are found in almost all local preservation ordinances. We have a concern about this "linkage" and believe it is improper. However, this does not mean that Federal law should require an owner's consent before a National Register listing occurs.

Rather, to the extent that Federal law can address the issue, it should discourage or bar the use of Federal listing in the National Register as an automatic trigger for the imposition of local regulations, which are far stricter than any Federal protective provision. We have conveyed that view to the House Resources Committee.

We think that any remedy in this area should address the real issue, that of linkage of the National Register decision to the application of local preservation ordinances. Barring the listing of a worthy property on the National Register due to an owner's objection frustrates the original intent of Congress behind the National Register. There are better ways to address the problem: discourage or prohibit local jurisdictions from using National Register designation as the basis for the application of their local controls without adequate local due process.

*Question 5b.* In light of the Supreme Court's *Kelo* Decision concerning a city's use of eminent domain authority, would it be appropriate for the Committee to take steps to address the shortcomings in the National Historic Preservation Act when it comes to protecting private property rights? After all, if we object to a city's use of eminent domain authority for third party development, then how can we stand by and allow third parties to prevent property owners from renovating their homes?

Answer. As noted previously, the NHPA does not operate to impede a private property owner from taking any action with regard to private property through any inherent provision of the Act. Section 106 requires only that a Federal agency that might financially assist or license an action that would affect the property take into account the effect of the action on the historic property. After doing so as prescribed by the Section 106 regulations (36 C.F.R. Part 800), the agency may choose to assist or allow the alteration or demolition of the property, regardless of its historic significance. Therefore, no change in the NHPA is needed in that regard. What does seem warranted is to prevent National Register designation from being used (or misused) to impose the stringent restrictions of local historic preservation ordinances. We have addressed that in the previous answer.

*Question 6.* As you may be aware, Section 106 of the National Historic Preservation Act requires any Federal or federally assisted undertaking to determine its effect on ". . . any district, site, building, structure or object that is included in or eligible for inclusion in the National Register." To me, that language along with the accompanying regulations means that an applicant must seek out and evaluate the effect of its project on every site, building, etc., both known and unknown. That just does not seem to be rational public policy. Would you agree that we should take a serious look at modifying the existing language in the Act?

Answer. The implementation of this provision is actually quite reasonable and reflects almost 40 years of experience under the NHPA. In 1976, the Congress recognized that the National Register was far from complete and that limited Federal funding to support State surveys would leave that situation unchanged for years to come. It accordingly amended Section 106 to expand its scope from properties formally listed on the National Register to include those that might be eligible for listing. To implement this provision, the Council established a regulatory standard that requires Federal agencies to make a "reasonable and good faith effort" to identify properties that may meet the criteria for listing. In consultation with the appropriate State Historic Preservation Officer (SHPO), agencies determine what constitutes such an effort, which often includes a survey of the project impact area, and then consults further with the SHPO to apply the National Register criteria of eligibility.

This process is not unlike other kinds of resource assessments that Federal laws require an agency to conduct to determine the nature of a project's environmental impact. It has been incorporated into the planning processes of virtually all Federal agencies and functions smoothly and effectively. As a result, Federal agencies routinely participate in an orderly process that results in the necessary understanding of the nature and location of historic properties within project impact areas, providing a sound basis for planning and decisionmaking.

It is important to recognize the results of this provision as currently implemented. Numerous historic properties of exceptional significance were not listed on the National Register at the time they were threatened by a Federal project and were factored into the planning process only because of the current requirement that Federal agencies identify properties that are eligible for but not yet listed on the National Register. The World Trade Center site in New York City, the Golden Gate Bridge in San Francisco, the Selma to Montgomery Voting Rights March Route in Alabama, and the Veterans Affairs Medical Center in Leavenworth, Kansas, are but a few of the important properties whose historic character would have not been considered in Federal project planning had the scope of Section 106 been limited to properties actually listed on the National Register. There are thousands more examples across the country.

It should be pointed out that two classes of historic properties would suffer inordinately from a narrowing of Section 106. Sites important to Native Americans are rarely already listed on the National Register when Federal projects threaten their integrity. Lack of survey data, a reluctance by Indian tribes to reveal the location of sites for religious purposes, and fear of looting leave these important elements of Native American culture and history mostly outside the current National Register listings. Likewise, archeological sites are rarely identified before a Section 106 survey, until driven by the threat of destruction by a Federal project, their location is revealed. These properties would be essentially written out of Section 106 consideration if the scope of the law were narrowed to listed properties.

There is a legitimate concern where this Federal burden has been shifted to private applicants for Federal permits. Certain agencies, such as the Federal Communications Commission (FCC) and the Corps of Engineers, have abdicated their obligations under Section 106 and imposed requirements on applicants for Federal permits or licenses to undertake the identification and evaluation steps of Section 106. Years of practice have entrenched this distortion of the intent of Congress and have made it difficult to alter. However, the Council appreciates the problem and has taken steps to modify the requirements of Section 106 when the only Federal involvement is the permitting of a project that is funded and carried out by a private entity.

Working with the SHPOs, the FCC, the telecommunications industry and Indian tribes, the Council fashioned a Programmatic Agreement that limits the responsibility of private cell tower constructors, who are subject to FCC permits, to considering only those historic properties that can be found listed on the National Register, that have already been formally determined eligible, and that are on a supplementary list provided by the SHPO within a defined 30-day period. In sum, the applicant is presented with a defined universe of recognized historic properties and is exempted from any further duty to survey or identify historic properties.

The Council believes that it has the authority and the capability to modify the application of the Section 106 process to address the concerns underlying the question. Using administrative tools, the Council can ensure the reasonable application of Section 106 without need for a statutory narrowing of the law that would have disastrous consequences for important historic resources. The tools that the Council can and has used include memorandums of agreement, programmatic agreements, program comments, and administrative exemptions.

*Question 7.* What is the current role of the Council in administration of grants?

Answer. The Council has no formal role in Federal grants administration with one exception. The recently enacted *Preserve America* grants program for FY 2006 directs the National Park Service to consult with the Council on the administration of the program. In that role, we have worked closely with the NPS on the development of the criteria and application for the grants. We will also jointly screen the applicants and make recommendations for grant awards. The actual administration of the program will be conducted by the NPS, using its existing Historic Preservation Fund system.

We see this as a model for cooperating with other Federal agencies if S. 1378 is enacted. The Council brings a perspective and preservation expertise that can help shape the administration of a Federal grants program to better carry out the purposes of the NHPA while meeting the primary goals of the program.

#### RESPONSES OF JOHN FOWLER TO QUESTIONS FROM SENATOR KEN SALAZAR

*Question 1.* I understand that the Advisory Council decided to close a small field office (with four staff) in Colorado. Why?

Answer. As part of our ongoing assessment of Council organization and management, we looked at the changing role of the Council in the Section 106 process, resulting from regulation changes in 2001, and the impact of the new emphasis on Federal policy and program development. This led to an evaluation of the current arrangement of a headquarters office in Washington, D.C., and a sole field office in Colorado. We examined program needs, customer service, and cost implications, including travel, space, and personnel factors. We also looked closely at whether the premises that were the basis for the original 1973 decision to create the field office were still valid.

This examination was enlightening. While we agreed that having a presence in the West was beneficial to servicing agencies and SHPOs located in the West, we also realized that much has changed in the way our customers and we do business since 1973. Increasingly, our business is conducted by e-mail, fax, teleconference, and videoconference. Section 106 case review materials move electronically and decisions are more often made without the need for face-to-face meetings. Somewhat to

our surprise, travel costs when such meetings are necessary proved to be only marginally higher if field staff were dispatched to western locations from Washington instead of Denver, due to significant changes in government contract airfares. In the end, we posed the question of whether we would create a western field office today if we did not have one and found the answer to be "No".

Also influencing our assessment was the realization that redirecting the personnel costs of the existing field staff to support new positions at Council headquarters would allow us to fund six positions with the resources currently supporting the four western office positions. This would help us address concerns recently raised about the adequacy of staff resources to meet the Council's increasingly diverse workload.

*Question 2.* With this office closing, there will be no field offices and the ACHP will be entirely out of Washington, DC. How will the ACHP insure that the historic preservation needs of Colorado and the Western U.S. will be heard and met?

*Answer.* There is always much concern and anxiety when established relationships are changed. We are sensitive to the uncertainties and apprehension that may ripple through the ranks of SHPOs, Federal agencies, and others who have worked with our western office. We are all committed to making this transition as smooth and efficient as possible and are working with our western customers to determine how we can better serve them with our realigned organization over the long run. We have met several times with western SHPOs, as a group and individually, and the National Conference of SHPOs has established a task force to work with us on the transition. We will be making similar efforts to reach out to our other partners and customers in the near future.

We have already committed to certain steps to accommodate service to the West: adjusting work hours for some staff in Washington so that they are more accessible to western constituents; filling new positions with employees experienced with western issues, such as public lands management; scheduling more training sessions in western States; and participating regularly in meetings of western SHPOs, Federal agencies, and tribal organizations. We will continue to develop and refine ways to improve the delivery of Council services to the West.

The program needs of the Western U.S., Federal agencies, and the Council have changed greatly since the Lakewood office was established in 1973. In the intervening years, the work of the ACHP staff changed from one largely focused on overseeing an emerging regulatory program and establishing the role of the Council, other stakeholders, and the public to one focused on fewer, high-profile cases and pursuing broader changes to agency programs and policies. The ACHP created partnership agreements with Federal agencies that are program-specific, rather than being geographically based. ACHP staff needs to be able to offer assistance to stakeholders and the public nationwide that focuses on agency programs and the effects of these programs on historic properties. With its staff split between Washington and Lakewood, the ACHP found that it did not have the staff flexibility to meet these needs; with its entire staff located in Washington, the ACHP will be better able to respond to changing priorities and deliver a broad range of assistance to stakeholders and the public nationwide.

*Question 3.* Will you provide my office with more information on the Colorado office closing? Please describe the impacts this closing will have on Colorado and our country's preservation goals? How will ACHP mitigate these impacts?

*Answer.* We would be pleased to keep you apprised of further developments as we complete the transition. While Colorado will lose its local Council office (a unique circumstance) and the unquestionable benefits that proximity provides, the Council believes that it will be able to maintain a high level of service to the State and those involved in preservation issues. On the national level, the realignment of Council staff to a consolidated office in Washington will greatly improve our ability to fulfill our duties in the national historic preservation program. It will augment our resources, position our staff where they can better interact with Federal agencies and national preservation organizations to deal with national program and policy issues, and will enable us to pursue more effectively the mission that the Congress has entrusted with the Council. These positive impacts do not require mitigation.



## APPENDIX II

### Additional Material Submitted for the Record

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STATEMENT OF HON. MICHAEL N. CASTLE, U.S. REPRESENTATIVE  
FROM DELAWARE

Dear Mr. Chairman: Today I wish to join my colleagues, Senator Carper and Senator Biden, in offering my support for the Delaware National Coastal Special Resources Study Act and in asking this Subcommittee to support our efforts to consider establishing a national park in the State of Delaware. As the only State without a national park, Delaware's time has surely arrived. I join with my colleagues today to ask that the Secretary of the Interior consider studying the potential for a national park in Delaware.

A unit of the National Park Service in the State of Delaware would not only boost tourism, but would also highlight Delaware's history and sense of community. Whether it's recreation, exploring the history and culture, or discovering the natural resources, the benefits of working within the National Parks Service are many. The National Parks Service collaborates directly with communities to preserve and care for neighborhood treasures and to educate visitors about science, nature, history, and culture.

Delaware is already home to many unique treasures, from its beaches to historical landmarks to wildlife refuges. National parks are a wonderful way to protect irreplaceable public assets and to secure them for future generations. Providing for their protection and preservation as well as their use, enjoyment and understanding, are some of the many benefits national parks provide.

I commend my colleague, Senator Carper, for pursuing legislation to begin to explore the potential for a unit of the National Park Service in the great State of Delaware. A national park in Delaware would greatly enhance the public's understanding of all the First State has to offer—putting the First State firmly on the “park” map once and for all.

I am proud to join my colleagues in supporting this legislation.

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STATEMENT OF HON. NANCY L. JOHNSON, U.S. REPRESENTATIVE  
FROM CONNECTICUT

Mr. Chairman and members of the Committee, thank you for inviting me to testify today on S.435, a bill to amend the Wild and Scenic Rivers Act to designate a segment of the Farmington River and Salmon Brook in the state of Connecticut for study for potential addition to the National Wild and Scenic Rivers System. I have introduced identical legislation in the House with my colleague Congressman Larson and wish to focus on the substantial impact a designation will have on my constituents and the region.

The bill commissions a feasibility study to evaluate whether the lower Farmington River and Salmon Brook qualify as a Wild and Scenic Partnership River within the National Park Service's Wild and Scenic Rivers System. The lower Farmington River is defined as the 40 mile stretch between the lower Collinsville Dam in Burlington and the Rainbow Dam in Windsor in the First and Fifth congressional districts.

The Farmington River and Salmon Brook's recreational and environmental contributions to our state are well-known, and we must protect them for future generations. The 14 miles of the Farmington River's West Branch, designated as a Wild and Scenic Partnership River in 1994, is a resounding environmental and economic success story. Partnership designation for the West Branch has fostered public-private partnerships to preserve the area's environment and heritage while yielding economic benefits to river towns.

The West Branch of the river is home to trout, river otter and bald eagle populations, and historic structures still grace its banks. Fishermen, hikers, canoeists and kayakers enjoy the river and its banks year-round. In addition, a 2003 study by North Carolina State University found that partnership designation resulted in millions in economic activity and increased property values in the river towns of Barkhamsted, Canton, Colebrook, Hartland, and New Hartford.

I hope to see the rest of the Farmington River, as well as Salmon Brook, enjoy similar success. This new initiative is an ideal way to extend that protection and showcase the rivers unique cultural and recreational resources.

This legislation has broad bipartisan support, I would like to thank the Energy and Natural Resources Committee for bringing it forward and I encourage my colleagues to support this legislation.

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STATEMENT OF HON. JOHN B. LARSON, U.S. REPRESENTATIVE  
FROM CONNECTICUT

Chairman Thomas, Ranking Member Akaka and members of the Subcommittee on National Parks, thank you for this opportunity to express my strong support for S. 435, the Lower Farmington River and Salmon Brook Wild and Scenic River Study Act. As a cosponsor of the companion legislation in the House, I join the entire Connecticut delegation in supporting the federal designation and protection of the lower section of the Farmington River. I would also like to commend and thank my two delegation colleagues, Senator Dodd and Senator Lieberman, for their leadership on this issue.

Since 1968, the National Wild and Scenic Rivers System has protected the Nation's most valuable rivers. Through this system, rivers that possess remarkable scenic, recreational, natural, and cultural values are preserved in their free-flowing condition and are protected for the benefit and enjoyment of present and future generations. Designated rivers are afforded the federal protection necessary to maintain their resources and character.

Connecticut is fortunate to be the home of the Farmington River, which hosts a wealth of natural beauty, a variety of wildlife, and a cultural past important to our state, region, and nation. In 1994, Congress recognized the upper section of the Farmington—a 14-mile-long stretch that runs from the base of the Goodwin Dam in Hartland to the downstream border of Canton and New Hartford, as Wild and Scenic. As a federally protected river segment, the natural splendor and resources of the Upper Farmington have been managed cooperatively on the local, state and federal level for over a decade. Regrettably, Salmon Brook—a major tributary and the Lower Farmington running 40 miles from Canton to its confluence with the Connecticut River in Windsor does not share the same federal protection. Continued threats to the River's water quality reinforces the urgent need for a collaborative effort to preserve the unique character of both the Upper and Lower Farmington, as well as Salmon Brook, for present and future generations.

The Lower Farmington is a rare natural, cultural and recreational area for the people of the First District and throughout the entire state of Connecticut. The River's free-flowing waters support a rich ecological system and serves as the habitat for diverse fish species, including the American shad and the Atlantic salmon. The River is also home to trout, river otter and bald eagle populations. Since the 1600s, the River has prominently been featured in our state history, from the Tunxis Native American tribes who settled on its shores to the mills and dams that sprung-up as part of the Industrial Revolution. Today, people from across Connecticut can enjoy the majestic views of the River along the Farmington River Trail—a former railroad line that when completed will run 26 miles along the shores of the Farmington.

Mr. Chairman, I thank you for holding this hearing and giving me the opportunity to submit testimony in support of S. 435 and H.R. 1344. I am confident that the Lower Farmington and Salmon Brook are essential additions to the Wild and Scenic River System and I look forward to the support of the Committee on this important issue.

CENTRAL CONNECTICUT STATE UNIVERSITY,  
DEPARTMENT OF ANTHROPOLOGY,  
New Britain, CT, September 19, 2005.

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

DEAR SENATOR THOMAS: Thank you very much for the opportunity to submit testimony in support of Senate Bill 435, The Lower Farmington River and Salmon Brook Wild and Scenic River Study Act of 2005.

The lower Farmington River has been a vital resource for inhabitants of its valley for more than 10,000 years. This fact is amply demonstrated by the evidence we have recovered in an ongoing archaeological survey, The Farmington River Archaeological Project (FRAP). The more than 200 archaeological sites that we have investigated represent the remnants of ancient villages, quarries, burial grounds, fishing grounds, and hunting territories—in essence, the communities and work places of the past inhabitants of the valley. These archaeological sites are historical resources worthy of the consideration and protection that may be afforded by Wild and Scenic designation of the river.

For example, the Alsop Meadow site is located along the Farmington River in the town of Avon, Connecticut. Standard practice in archaeological research is to excavate only a small fraction of a site, providing for future excavation when new technologies and methods will allow for more complete recovery and analysis. In just the 25% of the site excavated, we recovered more than 16,000 artifacts, most reflecting the production of stone tools—spear points, drills, knives, scraping tools, and axes.

The Alsop Meadow site is particularly important because, until its excavation, it had been assumed that the ancient inhabitants of the valley largely were interlopers, people who actually lived in the Connecticut River Valley and who visited the Farmington only seasonally. However, virtually every one of the artifacts recovered at this site was made from a stone type available only in the Farmington Valley. Connecticut Valley residents visiting the Farmington might have been expected to bring some of their Connecticut Valley tools with them, but we found no such thing at Alsop. The site is nearly 5,000 years old and presents future archaeologists with a treasure trove of data, but only if the site is protected from destruction. Wild and Scenic designation of the Lower Farmington River can contribute to that protection.

In Windsor, Connecticut, just south of the confluence of the Farmington and Connecticut Rivers, people lived 2,000 years ago in a site we call Loomis II. The two rivers coming together served much in the manner of a modern highway interchange and the inhabitants of the Loomis II site, took advantage of their location. We see direct evidence of this in the diversity of resources the inhabitants used to make their tools, and the distance and direction from which those resources came: quartz and basalt from western Connecticut, flint from the northwest in New York State, and jasper from the southwest, all the way from Pennsylvania. The Loomis II site provides a wealth of information about ancient trading networks and, as such, is a valuable historical resource that deserves the measure of protection that Wild and Scenic designation might provide.

The Avon Old Farms Brook site, also in Avon, is located at the confluence of a spring-fed stream and the Farmington River. There, deep in the loam bordering the Farmington, we found a remarkably intact, 4,250-year-old roasting platform—a stone cobble surface on which the ancient inhabitants of the valley roasted deer meat.

I tell my students that archaeological research is the equivalent of detective work, but, unlike detectives, we don't examine the scene of a crime; we investigate the scene of a life. This can clearly be seen at Old Farms Brook. Burned wood from the cooking fire and bits and pieces of deer bone reveal the function of the platform. Immediately adjacent to the stone grilling surface we recovered an almost perfectly formed spear point that had been intentionally jabbed into the ground. Only its delicately flaked tip was missing, almost certainly broken off inside the animal it had killed. In other words, we detectives of the past were able to uncover the "smoking gun," the bones of the deceased, and the platform on which it was cooked. This level of preservation which, in turn, supports a remarkable degree of precision in our interpretation, is stunning. Protecting a historical resource like the Avon Old Farms Brook site is enormously important and, again, Wild and Scenic designation for the lower Farmington River would be a significant step toward that protection.

Certainly, I recognize that many will submit testimony in support of this bill emphasizing the importance of Wild and Scenic designation in terms of very practical

and undoubtedly significant issues including clean water, property values, pollution, and recreation. Some might consider the additional benefit of affording protection to resources of historical or cultural meaning a less important contribution of Wild and Scenic designation. I suppose, as an archaeologist whose focus has long been on investigating the lives of the ancient inhabitants of the Farmington River Valley, I take a longer view than most on the proposed legislation. You will frequently hear people today talk about the obligation of our generation as “stewards” of the environment. I am here to tell you that the Farmington Valley has provided a way of life for more than *five hundred generations* of such stewards. I respectfully suggest that we owe it to the next five hundred to carefully consider the important role played by the Farmington River in the lives of the residents of Connecticut and afford it the protection that Wild and Scenic designation along its lower reaches will provide.

Thank you very much for your kind attention to my testimony. I genuinely appreciate your consideration of a Wild and Scenic designation study for the lower reaches of the Farmington River and Salmon Brook.

Respectfully submitted,

KEN FEDER, PH.D.

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FARMINGTON RIVER COORDINATING COMMITTEE,  
*Pleasant Valley, CT, September 20, 2005.*

Hon. CRAIG THOMAS,  
*Chairman, Subcommittee on Public Lands and Forests, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.*

Re: Testimony of the Farmington River Coordinating Committee in Support of S. 435

HONORABLE CHAIRMAN THOMAS AND MEMBERS OF THE COMMITTEE: After a unanimous vote of the 10 member organizations of the Farmington River Coordinating Committee (FRCC), I write this letter to support S. 435, “The Lower Farmington River and Salmon Brook Wild & Scenic Study Act of 2005.” The FRCC was established in 1994 when 14 miles of the Upper Farmington River were added to the National Wild and Scenic Rivers System. The Committee is made up of representatives of the towns bordering the designated stretch (Barkhamsted, Canton, Colebrook, Hartland, New Hartford) and other organizations and agencies with a stake in the river (CT Department of Environmental Protection, Farmington River Anglers Association, Farmington River Watershed Association, Metropolitan District Commission, and the National Park Service). The coordinating committee implements the Upper Farmington River Management Plan and continues to build the relationships and resources needed to protect and enhance the outstanding resources of the Upper Farmington River: historic buildings and areas (including the Hitchcock Chair Company), cold-water fisheries (particularly for trout), recreational opportunities (kayaking, canoeing, hiking), and wildlife habitat (including bald eagles).

It has been eleven years since the FRCC was established and it has accomplished a great deal to preserve and protect the Farmington River’s outstanding resources. Based on a Partnership Wild & Scenic model, the FRCC strongly represents and carries forward a true partnership between local, state and federal interests. This partnership has been able to leverage dollars and expertise for many projects that otherwise would not have been possible. As an example of the many things we’ve accomplished, I am including information from this year’s Annual Report. Of course, this is a small portion of the many things that we’ve accomplished over the past decade:

#### *Membership*

The addition of the Farmington River Anglers Association to FRCC was a major event of the year—this association links FRCC to many people who enjoy and care for the Farmington River. FRAA’s mission is to “Preserve, Protect and Enhance the Farmington River Fishery.”

#### *Outreach and Education*

10 Years of Wild and Scenic Designation Anniversary Celebration—August 26, 2004—FRCC held a celebration with about 100 attendees. Entertainment was provided by David Paton and the Magic River Band and catering by Blue Sky Foods.

FRCC Website Improvements and Website training—The FRCC website has been maintained by two FRCC volunteers—Mario Santoro and Chris Bailey. Mario and Chris received training on Dreamweaver early in the year.

FRCC Newsletter—FRCC produced and distributed a spring newsletter to over 300 riverfront landowners and town officials.

Kiosks Improvements—Two back sides of our kiosks were produced this year. One at Mathies Grove parking area and one at the Church Pool at the MDC parking area.

*Resource Stewardship*

Farmington River Riverbank Assessment—Milone and MacBroom completed a draft report of the riverbank assessment.

Upper Farmington River Water Quality Monitoring—FRWA completed streamwalk trainings and its first round of streamwalks. FRWA also conducted water quality testing at various locations on the river. A database is being developed in cooperation with Farmington Valley Health District and CT DEP.

Land Protection—Along with FRAA, FRCC contributed to FRWA's effort to protect Sugar Meadow Island in Barkhamsted which is now held by the Barkhamsted Land Trust.

Aerial Photos—FRCC had aerial photos taken of the towns along the 14-mile Wild and Scenic stretch of river. The photos will be helpful in land protection efforts and monitoring the health of the river over time.

Plans of Conservation and Development—FRCC provided comments on both New Hartford's and Barkhamsted's updates of their Plans of Conservation and Development.

*Policy and Administration*

FRCC Grants Program—FRCC revamped its grants program to allow larger amounts and fewer deadlines. Grants were given to the Barkhamsted Conservation Commission for publicizing a public meeting on the possible ridgeline zoning; the New Hartford Land Trust for the Riverwalk project; Colebrook Land Conservancy for closing costs associated with protecting the Corliss 100 property.

Ongoing Support to the Squires Restoration (FRCC Headquarters)—FRCC continues to support the efforts to restore and enhance the Squires Tavern.

New Project Tracking system—FRCC established a new tracking system to keep track of projects and finances.

River Rally and Professional Development trainings—Several members of FRCC attended the National River Rally. Pat Keener and Mario Santoro attended a series of sessions by the Center for Watershed Protection and accrued 12 hours of free technical assistance from CWP to share.

*Cooperative Projects*

New Hartford Riverwalk—FRCC continued to work with New Hartford to help plan and implement the town's riverwalk project.

Enhanced Fish Habitat—FRCC helped coordinate a cooperative effort between CT DEP, ConnDOT, and USGS that enhanced the fish habitat below the Riverton bridge. Two large trees had fallen and one was cabled to the bank for some much needed "large woody debris" that will not interfere with boaters.

The Farmington River Coordinating Committee would like to encourage the Senate Energy and Natural Resources Committee to support Senate Bill #S435 and to authorize the study for the Lower Farmington River and Salmon Brook. As you might suspect, our work on the Upper Farmington River is related to the future successes of conservation efforts on the Lower Farmington River and Salmon Brook. The entire Farmington River is a valuable natural resource for the State of Connecticut, it is important to preserve and protect it, and it is logical to consider conservation efforts on the entire River together.

Sincerely,

S. PATRICIA KEENER,  
*Chair.*

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STATEMENT OF QUINN MCKEW, ASSOCIATE DIRECTOR,  
AMERICAN RIVERS, INC.

Mr. Chairman, members of the Subcommittee, thank you for the opportunity to testify on S.435, the Lower Farmington River and Salmon Brook Wild and Scenic River Study Act of 2005. My name is Quinn McKew, and I am the Associate Director for the Wild Rivers program for American Rivers. Since its founding in 1973, American Rivers has worked with our grassroots partners to protect rivers under the Wild and Scenic Rivers Act and has actively assisted federal agencies, states and local groups with river conservation efforts. American Rivers is a 45,000-member organization committed to the protection and restoration of the nation's outstanding rivers.

I would like to thank Senator Dodd for introducing S. 435, which would amend the Wild and Scenic Rivers Act to designate a segment of the Farmington River and Salmon Brook in the State of Connecticut for study for potential addition to the National Wild and Scenic Rivers System. The Farmington is truly a national treasure, providing a home to the only nesting bald eagles in the state of Connecticut. In recognition of its outstanding fish, wildlife and scenic values and importance to the citizens of Connecticut, the Upper Farmington River was designated a Partnership Wild and Scenic river in 1994. This study bill for the Lower Farmington and Salmon Brook will help advance the protection of the entire river system and has strong local and state support.

The Lower Farmington reflects the beauty and character of Connecticut. Every year, thousands of people canoe, kayak, and fish the waters of the Farmington. They come to visit the state parks, forests and historic mills that dot the river's edge. The river is an historic Atlantic Salmon Fishery, and efforts are underway by the state to restore these important fish. All these factors—recreational value, rare wildlife, outstanding fisheries, and a rich history—make the Lower Farmington River and Salmon Brook a natural for inclusion in the National Wild and Scenic Rivers System.

The Farmington River is also a significant economic asset to the surrounding communities. By studying the Lower Farmington, and ultimately including it in the National Wild and Scenic River System, Congress will protect the economies of the communities that border the river. In 2003, North Carolina State University and American Rivers completed an economic study of the designated Farmington Wild and Scenic River. The study shows how the river's pristine character is one of the main attractions that draw visitors to the region. It also shows how deteriorating river conditions could lead to significant revenue loss in the surrounding communities. According to the study, river-based tourism brings nearly \$4 million into communities around the Farmington River each year, and recreational activities on and around the river bring nearly \$9.5 million of economic benefit annually. The study also demonstrated that the river's wild condition significantly increased the value of adjacent lands.

The community-based process that preceded the introduction of S.435 is truly a model of outreach and consensus building. Stakeholders and local governments were consulted every step along the way, leading to strong community support for S. 435. This high level of existing local commitment to protecting the river is a good indicator that long-term protection of the river, through a federal-state-local partnership model of wild and scenic river designation, will be successful. This model is gaining momentum throughout the Northeast and resulted in passage of bills in the 107th Congress to designate the Eightmile River and the Wekiva, Lower Delaware and White Clay Creek in the 106th Congress. Unplanned growth is a threat to the unique, scenic qualities that are the basis for recreation tourism in the area. The wild and scenic river designation process will ensure a long-term plan for the river that recognizes its significance as a natural resource, and can help nearby towns effectively manage growth.

I appreciate the opportunity to submit testimony to the Subcommittee today.

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STATEMENT OF NEIL W. KRANER, PAST PRESIDENT, AND DUDLEY W. ALLEMAN,  
PRESIDENT, SALMON BROOK WATERSHED ASSOCIATION

The Salmon Brook Watershed Association is a non-profit organization dedicated to the preservation, use and enhancement of the Salmon Brook. We are pleased to partner with the Farmington River Watershed Association and other sister organizations in support of the Senate Bill to initiate the feasibility study for the Wild and Scenic designation of the Salmon Brook.

The East Branch, West Branch and main stem of the Salmon Brook are together a major tributary to the Farmington River. Salmon Brook lies within a 160 square mile watershed, primarily in a rural setting.

The brook has many cultural, natural and recreational features. It has played an important role in the settlement and formation of the Town of Granby. People moved north to settle a place called "Sammon Brooke". The community was later known as "Salmon Brook Ecclesiastical Society" and incorporated as Granby in 1786. The Farmington Canal followed along a portion of the brook and was Granby's link to the sea and the western frontier. Mills along the brook provided power for the local manufacturing enterprises.

The East and West Branch have spectacular gorges and waterfalls. The town's first health officer, Dr. Alfred Weed, wrote in 1898, ". . . Our sparkling brooks . . . born of springs far up on the mountainsides, where water in its virgin

purity exists." Over 100 years later the brook still enjoys high water quality and is one of the few brooks in Connecticut with a self-supporting native brook trout population. It is also a significant habitat for Atlantic Salmon and is used for salmon stocking programs. The brook is home to a wide diversity of animal and plant life, including at least one species of rare wildflower. The Slimy Sculpin is a small fish that only lives in clear, cold streams and it is frequently caught (and released) within the nets of the volunteers participating in the annual macroinvertebrate survey. Salmon Brook consistently ranks among the top streams in the state of Connecticut for water quality through the surveys.

The brook at Holcomb Farm Learning Center is a significant natural resource for educational opportunities for local and inner city youth. This past summer the Salmon Brook Watershed Association published a stream guide to educate streamside owners and others who enjoy the brook the importance of its protection.

Numerous activities including swimming, kayaking and picnicking are all available and enjoyed throughout the Salmon Brook. Fishing is popular in all portions of the brook. It is renowned among anglers as a prime destination for fly fishing, especially for native trout as well as stocked fish. Bryan's Landing is a handicapped accessible area built by volunteers near the center of town. Eagles, ospreys and waterfowl are often seen near the brook. Visitors to the McLean Game Refuge, established by the late Senator George P. McLean and now consisting of over 4000 acres, may hike the many trails along the West Branch.

