

WILD AND SCENIC RIVERS AND COLONIAL NATIONAL HISTORICAL PARK, VIRGINIA

HEARINGS BEFORE THE SUBCOMMITTEE ON NATIONAL PARKS, FORESTS AND PUBLIC LANDS OF THE COMMITTEE ON NATURAL RESOURCES HOUSE OF REPRESENTATIVES ONE HUNDRED THIRD CONGRESS

FIRST SESSION

ON

H.R. 2650

TO DESIGNATE PORTIONS OF THE MAURICE RIVER AND ITS TRIBUTARIES IN THE STATE OF NEW JERSEY AS COMPONENTS OF THE NATIONAL WILD AND SCENIC RIVERS SYSTEM

H.R. 914

TO AMEND THE WILD AND SCENIC RIVERS ACT TO DESIGNATE CERTAIN SEGMENTS OF THE RED RIVER IN KENTUCKY AS COMPONENTS OF THE NATIONAL WILD AND SCENIC RIVERS SYSTEM, AND FOR OTHER PURPOSES

H.R. 2478

TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO ACQUIRE AND TO CONVEY CERTAIN LANDS OR INTERESTS IN LANDS TO IMPROVE THE MANAGEMENT, PROTECTION, AND ADMINISTRATION OF COLONIAL NATIONAL HISTORICAL PARK, AND FOR OTHER PURPOSES

H.R. 1471/S. 375

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H.R. 2815

TO DESIGNATE A PORTION OF THE FARMINGTON RIVER IN CONNECTICUT AS A COMPONENT OF THE NATIONAL WILD AND SCENIC RIVERS SYSTEM

HEARINGS HELD IN WASHINGTON, DC
AUGUST 5 AND OCTOBER 28, 1993

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H.R. 2650, TO DESIGNATE PORTIONS OF THE MAURICE RIVER AND ITS TRIBUTARIES IN THE STATE OF NEW JERSEY AS COMPONENTS OF THE NATIONAL WILD AND SCENIC RIVERS SYSTEM

H.R. 914, TO AMEND THE WILD AND SCENIC RIVERS ACT TO DESIGNATE CERTAIN SEGMENTS OF THE RED RIVER IN KENTUCKY AS COMPONENTS OF THE NATIONAL WILD AND SCENIC RIVERS SYSTEM, AND FOR OTHER PURPOSES

H.R. 2478, TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO ACQUIRE AND TO CONVEY CERTAIN LANDS OR INTERESTS IN LANDS TO IMPROVE THE MANAGEMENT, PROTECTION, AND ADMINISTRATION OF COLONIAL NATIONAL HISTORICAL PARK, AND FOR OTHER PURPOSES

THURSDAY, AUGUST 5, 1993

HOUSE OF REPRESENTATIVES,
COMMITTEE ON NATURAL RESOURCES,
SUBCOMMITTEE ON NATIONAL PARKS, FORESTS
AND PUBLIC LANDS,
Washington, DC.

The subcommittee met, pursuant to call, at 10:00 a.m. in Room 340, Cannon House Office Building, Hon. Bruce F. Vento (chairman of the subcommittee) presiding.

STATEMENT OF HON. BRUCE VENTO

Mr. VENTO. The Subcommittee on National Parks, Forests and Public Lands will come to order.

We have a vote, but I understand we have a few minutes and Congressman Hughes indicated that he had another committee to chair.

We are considering three bills this morning, the Maurice River and Tributaries, a major bill by Congressman Hughes; several pro-

posals submitted by Congressman Rogers; and, finally, Congressman Bateman's bill on modifications of land policies, concerning sewer transfer.

I will dispense with my statement.

All statements, without objection, will be made a part of the record in their entirety.

[Prepared statement of Mr. Vento follows:]

OPENING STATEMENT OF CONGRESSMAN BRUCE F. VENTO

The Subcommittee on National Parks, Forests and Public Lands will come to order. As members have been advised, we are meeting this morning for a hearing on three separate bills.

Two of the bills would designate certain river segments for inclusion in the National Wild and Scenic Rivers System. They are H.R. 914, by Mr. Rogers of Kentucky, dealing with the Red River in that State, and H.R. 2650, by our colleague from New Jersey, Mr. Hughes, which covers the Maurice River and some of its tributaries, in the southern portion of New Jersey's Pine Barrens Region.

The third bill, H.R. 2478, introduced by the gentleman from Virginia, Mr. Bateman, would add 16 acres to Colonial National Historical Park in order to protect from encroaching development the Colonial Parkway that links Jamestown, Yorktown, and Williamsburg. The bill also would authorize the National Park Service to turn over a sewer system to York County, Virginia.

The bills, and background information, are before each member, so I will dispense with further description of them at this time, and will recognize other members who may wish to make opening remarks before we hear from our witnesses.

[Texts of the bills, H.R. 2650, H.R. 914, and H.R. 2478, follow:]

103D CONGRESS
1ST SESSION

H. R. 2650

To designate portions of the Maurice River and its tributaries in the State of New Jersey as components of the National Wild and Scenic Rivers Systems.

IN THE HOUSE OF REPRESENTATIVES

JULY 15, 1993

Mr. HUGHES introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To designate portions of the Maurice River and its tributaries in the State of New Jersey as components of the National Wild and Scenic Rivers Systems.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. FINDINGS AND PURPOSES.**

4 (a) FINDINGS.—The Congress finds that—

5 (1) the Maurice River and its tributaries,
6 Menantico Creek, the Manumuskin River, and
7 Muskee Creek, are eligible for inclusion into the Na-
8 tional Wild and Scenic Rivers System, the segments
9 and their classifications being as follows—

1 (A) the Maurice River, lower segment,
2 from the United States Geological Survey Sta-
3 tion at Shellpile to Route 670 Bridge at
4 Mauricetown, approximately 7.0 miles, as a rec-
5 reational river;

6 (B) the Maurice River, middle segment,
7 from Route 670 Bridge at Mauricetown to 3.6
8 miles upstream (at drainage ditch just up-
9 stream of Fralinger Farm), approximately 3.8
10 miles as a scenic river;

11 (C) the Maurice River, middle segment,
12 from the drainage ditch just upstream of
13 Fralinger Farm to one-half mile upstream from
14 the United States Geological Survey Station at
15 Burcham Farm, approximately 3.1 miles, as a
16 recreational river;

17 (D) the Maurice River, upper segment,
18 from one-half mile upstream from the United
19 States Geological Survey Station at Burcham
20 Farm to the south side of the Millville sewage
21 treatment plant, approximately 3.6 miles, as a
22 scenic river;

23 (E) the Menantico Creek, lower segment,
24 from its confluence with the Maurice River to

1 the Route 55 Bridge, approximately 1.4 miles,
2 as a recreational river;

3 (F) the Menantico Creek, upper segment,
4 from the Route 55 Bridge to the base of the
5 Impoundment at Menantico Lake, approxi-
6 mately 6.5 miles, as a scenic river;

7 (G) the Manumuskin River, lower segment,
8 from its confluence with the Maurice River to
9 2.0 miles upstream, as a recreational river;

10 (H) the Manumuskin River, upper seg-
11 ment, from 2.0 miles upstream from its con-
12 fluence with the Maurice River to headwaters
13 near Route 557, approximately 12.3 miles, as a
14 scenic river; and

15 (I) the Muskee Creek from its confluence
16 to the Pennsylvania Reading Seashore Line
17 Railroad bridge, approximately 2.7 miles, as a
18 scenic river;

19 (2) a resource assessment of the Maurice River
20 and its tributaries, Menantico Creek, the
21 Manumuskin River, and the Muskee Creek shows
22 that the area possesses numerous outstandingly re-
23 markable natural, cultural, scenic, and recreational
24 resources that are significant at the local, regional,
25 and international levels, including rare plant and

1 animal species and critical habitats for birds migrat-
2 ing to and from the north and south hemispheres;
3 and

4 (3) a river management plan for the river sys-
5 tem has been developed by the Cumberland County
6 Department of Planning and Development and
7 adopted by the Maurice River Township, Commer-
8 cial Township, and the City of Millville that would
9 meet the requirements of section 6(c) of the Wild
10 and Scenic Rivers Act, the City of Vineland has
11 adopted a master plan which calls for river planning
12 and management and is in the process of adopting
13 zoning ordinances to implement their plan, and
14 Buena Vista Township in Atlantic County has
15 adopted a land use plan consistent with the Pine-
16 lands Comprehensive Plan which is more restrictive
17 than the Cumberland County local river manage-
18 ment plan.

19 (b) PURPOSES.—The purposes of this Act are to—

20 (1) declare the importance and irreplaceable re-
21 source values of the Maurice River and its tribu-
22 taries to water quality, human health, traditional
23 economic activities, ecosystem integrity, biotic diver-
24 sity, fish and wildlife, scenic open space and recre-
25 ation and protect such values through designation of

1 the segments as components of the National Wild
2 and Scenic Rivers System; and

3 (2) recognize that the Maurice River System
4 will continue to be threatened by major development
5 and that land use regulations of the individual local
6 political jurisdictions through which the river seg-
7 ments pass cannot alone provide for an adequate
8 balance between conservation of the river's resources
9 and commercial and industrial development; and

10 (3) recognize that segments of the Maurice
11 River and its tributaries additional to those des-
12 ignated under this Act are eligible for potential des-
13 ignation at some point in the near future.

14 **SEC. 2. DESIGNATION.**

15 (a) IN GENERAL.—Section 3(a) of the Wild and Sce-
16 nic Rivers Act (16 U.S.C. 1274(a)) is amended by adding
17 the following new paragraphs at the end thereof:

18 “() THE MAURICE RIVER, MIDDLE SEGMENT.—
19 From Route 670 Bridge at Mauricetown to 3.6 miles up-
20 stream (at drainage ditch just upstream of Fralinger
21 Farm), approximately 3.8 miles to be administered by the
22 Secretary of the Interior as a scenic river.

23 “() THE MAURICE RIVER, MIDDLE SEGMENT.—
24 From the drainage ditch just upstream of Fralinger Farm
25 to one-half mile upstream from the United States Geologi-

1 cal Survey Station at Burcham Farm, approximately 3.1
2 miles, to be administered by the Secretary of the Interior
3 as a recreational river.

4 “() THE MAURICE RIVER, UPPER SEGMENT.—
5 From one-half mile upstream from the United States Geo-
6 logical Survey Station at Burcham Farm to the south side
7 of the Millville sewage treatment plant, approximately 3.6
8 miles, to be administered by the Secretary of the Interior
9 as a scenic river.

10 “() THE MENANTICO CREEK, LOWER SEGMENT.—
11 From its confluence with the Maurice River to the Route
12 55 Bridge, approximately 1.4 miles, to be administered by
13 the Secretary of the Interior as a recreational river.

14 “() THE MENANTICO CREEK, UPPER SEGMENT.—
15 From the Route 55 Bridge to the base of the impound-
16 ment at Menantico Lake, approximately 6.5 miles, to be
17 administered by the Secretary of the Interior as a scenic
18 river.

19 “() MANUMUSKIN RIVER, LOWER SEGMENT.—
20 From its confluence with the Maurice River to a point 2.0
21 miles upstream, to be administered by the Secretary of
22 the Interior as a recreational river.

23 “() MANUMUSKIN RIVER, UPPER SEGMENT.—
24 From a point 2.0 miles upstream from its confluence with
25 the Maurice River to its headwaters near Route 557,

1 approximately 12.3 miles, to be administered by the Sec-
2 retary of the Interior as a scenic river.

3 “() MUSKEE CREEK, NEW JERSEY.—From its
4 confluence with the Maurice River to the Pennsylvania
5 Seashore Line Railroad Bridge, approximately 2.7 miles,
6 to be administered by the Secretary of the Interior as a
7 scenic river.”.

8 **SEC. 3. MANAGEMENT.**

9 (a) DUTIES OF SECRETARY.—The Secretary of the
10 Interior shall manage the river segments designated as
11 components of the National Wild and Scenic Rivers Sys-
12 tem by this Act through cooperative agreements with the
13 political jurisdictions within which such segments pass,
14 pursuant to section 10(e) of the Wild and Scenic Rivers
15 Act, and in consultation with such jurisdictions, except
16 that publicly-owned lands within the boundaries of such
17 segments shall continue to be managed by the agency hav-
18 ing jurisdiction over such lands.

19 (b) AGREEMENTS.—(1) Cooperative agreements for
20 management of the river segments referred to in sub-
21 section (a) shall provide for the long-term protection, pres-
22 ervation, and enhancement of such segments and shall be
23 consistent with the comprehensive management plan for
24 such segments to be prepared by the Secretary of the Inte-
25 rior pursuant to section 3(d) of the Wild and Scenic Rivers

1 Act and with the local river management plans prepared
2 by appropriate local political jurisdictions in conjunction
3 with the Secretary of the Interior.

4 (2) The Secretary of the Interior, in consultation with
5 appropriate representatives of local political jurisdictions
6 and the State of New Jersey, shall review local river man-
7 agement plans described in paragraph (1) to assure that
8 their proper implementation will protect the values for
9 which the river segments described in section 2 were des-
10 ignated as components of the National Wild and Scenic
11 Rivers System. If after such review the Secretary deter-
12 mines that such plans and their implementing local zoning
13 ordinances meet the protection standards specified in sec-
14 tion 6(c) of the Wild and Scenic Rivers Act, then such
15 plans shall be deemed to constitute "local zoning ordi-
16 nances" and each township and other incorporated local
17 jurisdiction covered by such plans shall be deemed to con-
18 stitute a "village" for the purposes of section 6(c) (prohib-
19 iting the acquisition of lands by condemnation) of the Wild
20 and Scenic Rivers Act.

21 (3) The Secretary of the Interior shall biennially re-
22 view compliance with the local river management plans de-
23 scribed in paragraph (1) and shall promptly report to the
24 Committee on Natural Resources of the United States
25 House of Representatives and to the Committee on En-

1 energy and Natural Resources of the United States Senate
2 any deviation from such which would result in any diminu-
3 tion of the values for which the river segment concerned
4 was designated as a component of the National Wild and
5 Scenic Rivers System.

6 (c) PLANNING ASSISTANCE.—The Secretary of the
7 Interior may provide planning assistance to local political
8 subdivisions of the State of New Jersey through which
9 flow river segments that are designated as components of
10 the National Wild and Scenic Rivers System, and may
11 enter into memoranda of understanding or cooperative
12 agreements with officials or agencies of the United States
13 or the State of New Jersey to ensure that Federal and
14 State programs that could affect such segments are car-
15 ried out in a manner consistent with the Wild and Scenic
16 Rivers Act and applicable river management plans.

17 (d) SEGMENT ADDITIONS.—The Secretary of the In-
18 terior is encouraged to continue to work with the local mu-
19 nicipalities to negotiate agreement and support for des-
20 ignating those segments of the Maurice River and its trib-
21 utaries which were found eligible for designation pursuant
22 to Public Law 100-33 and were not designated pursuant
23 to this Act (hereinafter referred to as “additional eligible
24 segments”). For a period of 3 years after the date of en-
25 actment of this Act, the provisions of the Wild and Scenic

1 Rivers Act applicable to segments included in section 5
2 of that Act shall apply to the additional eligible segments.
3 The Secretary of the Interior is directed to report to the
4 appropriate congressional committees within 3 years after
5 the date of enactment of this Act on the status of discus-
6 sions and negotiations with the local municipalities and
7 on recommendations toward inclusion of additional river
8 segments into the National Wild and Scenic Rivers
9 System.

10 (e) APPROPRIATIONS.—For the purposes of the seg-
11 ment described by subsection (a), there are authorized to
12 be appropriated such sums as may be necessary to carry
13 out the provisions of this Act.

○

103^D CONGRESS
1ST SESSION

H. R. 914

To amend the Wild and Scenic Rivers Act to designate certain segments of the Red River in Kentucky as components of the national wild and scenic rivers system, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 16, 1993

Mr. ROGERS introduced the following bill; which was referred to the
Committee on Natural Resources

A BILL

To amend the Wild and Scenic Rivers Act to designate certain segments of the Red River in Kentucky as components of the national wild and scenic rivers system, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Red River Designation
5 Act of 1993".

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) the natural, scenic, and recreational quali-
2 ties of the Red River in Kentucky are unique and ir-
3 replaceable resources; and

4 (2) the majority of the Red River corridor is
5 within the Red River National Geologic area, which
6 contains sedimentary rock formations unique to
7 Kentucky and the United States, and should there-
8 fore be preserved for public enjoyment.

9 **SEC. 3. DESIGNATION OF RIVER.**

10 Section 3(a) of the Wild and Scenic Rivers Act (16
11 U.S.C. 1274(a)) is amended by adding at the end the fol-
12 lowing new paragraph:

13 “() (A) RED RIVER, KENTUCKY.—The 19.4-mile seg-
14 ment of the Red River extending from the Highway 746
15 Bridge to the School House Branch, to be administered
16 by the Secretary of Agriculture in the following classes:

17 “(i) The 9.1-mile segment known as the ‘Upper
18 Gorge’ from the Highway 746 Bridge to Swift Camp
19 Creek, as a wild river. This segment is identified as
20 having the same boundary as the Kentucky Wild
21 River.

22 “(ii) The 10.3-mile segment known as the
23 ‘Lower Gorge’ from Swift Camp Creek to the School
24 House Branch, as a recreational river. The boundary
25 of this segment is a line that is 300 feet north and

1 parallel to the north edge of roads 23, 77, and 715,
2 except for the section between Greasy Branch and
3 Bell Branch where the boundary is the south edge
4 of Route 715. On the southern side, the boundary
5 is a line that is 800 feet, and parallel to the south-
6 ern edge of the river.

7 “(B)(i) Notwithstanding the 100 acre limitation con-
8 tained in section 6(a), upon receipt from the owner of an
9 offer to sell any lands or interest in lands within the
10 boundaries of any segment designated by this paragraph,
11 the Secretary of Agriculture is authorized to acquire such
12 lands or interest in lands.

13 “(ii) The Secretary of Agriculture may not acquire
14 by condemnation privately owned land or interest in land
15 within the authorized boundaries of any segment des-
16 ignated by this paragraph unless the Secretary finds that
17 the use of the land has changed substantially after the
18 effective date of a development plan for that segment pre-
19 pared pursuant to section 3(b) of this Act.

20 “(C) There are authorized to be appropriated such
21 sums as are necessary to carry out this paragraph.”.

○

103D CONGRESS
1ST SESSION

H. R. 2478

To authorize the Secretary of the Interior to acquire and to convey certain lands or interests in lands to improve the management, protection, and administration of Colonial National Historical Park, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 22, 1993

Mr. BATEMAN introduced the following bill; which was referred to the
Committee on Natural Resources

A BILL

To authorize the Secretary of the Interior to acquire and to convey certain lands or interests in lands to improve the management, protection, and administration of Colonial National Historical Park, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. The Secretary of the Interior is hereby
4 authorized to grant within the County of York, Virginia,
5 perpetual easements, or a fee simple interest in land, in-
6 cluding any improvements or structures, to the County of
7 York, Virginia, without any reimbursement, charge or fee,
8 subject to such conditions as are determined by the Sec-

1 retary to be necessary for the protection of Federal inter-
2 ests, for rights-of-way through, over, or under the lands
3 of Colonial National Historical Park, now or hereafter ac-
4 quired, for the purposes of operating sewage-disposal
5 systems.

6 SEC. 2. Notwithstanding the provisions of the Act of
7 June 28, 1938 (52 Stat. 1208, 16 U.S.C. 81b et seq.),
8 limiting the average width of the Colonial Parkway, the
9 Secretary of the Interior is authorized to include within
10 the boundaries of Colonial National Historical Park and
11 acquire by donation, exchange, or purchase with donated
12 or appropriated funds, the lands or interests in lands de-
13 scribed as Lots 30 to 48, inclusive, that portion of Lot
14 49 that is 200 feet in width from the existing boundary
15 of Colonial National Historical Park, and a 3.2-acre ar-
16 chaeological site, as shown on the plats titled "Page Land-
17 ing At Jamestown being a subdivision of property of Neck
18 O Land Limited Partnership" dated June 21, 1989,
19 Sheets 2 and 3 of 3 sheets and bearing National Park
20 Service Drawing Number 333.80031., and all or a portion
21 of the adjoining lot number 11 of the Neck O Land Hun-
22 dred Subdivision, with or without improvements.

23 SEC. 3. There are hereby authorized to be appro-
24 priated such sums as may be necessary to carry out the
25 provisions of this Act.

Mr. VENTO. With that, let me recognize Congressman Hughes, the sponsor of the Maurice River legislation. I would like to give you a lot of credit for this. It is a major accomplishment and, obviously, there is a lot of consensus, as indicated by the administration's positive testimony and the number of constituents that are here today to make their presentation.

Congressman Hughes.

STATEMENT OF HON. WILLIAM J. HUGHES, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

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

First of all, let me thank you for scheduling this particular hearing before recess. I know your schedule was crowded, you are one of the busiest Members of the Congress with legislation you move through this body and I thank you very, very much.

This measure, H.R. 2650, Mr. Chairman, is really a significant development for our region. People think of New Jersey as what they see in the turnpike, various exits, but we have some beautiful parts of New Jersey and this is one of them.

The Maurice River, and its tributaries, which forms some of the 35 miles that would receive wild and scenic river protection in this bill is a magnificent area, with all kinds of wildlife, endangered species, with bald eagle nesting areas and habitat that is just gorgeous beyond description. Perhaps one of the best kept secrets in our region, and it has been a long struggle since the bill was initially introduced to attempt to protect this very beautiful area.

Southern New Jersey, which is my home and my district, is unquestionably experiencing tremendous growth. One of our major arteries empties out right at the base of the Maurice River, and we can expect a population explosion in the years ahead.

I have no doubt but that it would not be too many years in the future but that these rivers would be despoiled like so many other rivers in New Jersey and throughout the country.

I also have no doubt that four sister cities in northern New Jersey could go back 100 years, 125 years, and do some of the planning that we are now doing trying to protect our majestic rivers and our natural resources, they would do it all over again. They don't have that opportunity, because urban sprawl, unfortunately, has despoiled much of what was natural beauty in the northern part of our State and even the central part of our State. We have that opportunity.

All the municipalities now that would be impacted by wild and scenic river designations have signed onto this legislation. It has been a tough process and it came about because of a lot of citizen support.

Right behind me are the leaders basically in that effort, Citizens United, Jane Galetto; Don Fauerbach, in particular; and Jennifer Lookabaugh, who is one of our county commissioners, we call them freeholders, are among the leaders really to put together this consensus. And as late as the July recess, we were still attempting to get municipalities on board, because the original commitment was that we would get local support, we would have to have a local management plan, locally administered, that was the only way that

we could get if kind of consensus that we have achieved in this legislation.

Mr. Chairman, this is a significant piece of legislation. Perhaps one of the most important initiatives I have been involved in my 19 years in the Congress. There is no question in my mind that future generations will look back on this as perhaps one of the landmark decisions we have made in the southern part of our State to protect what we love about southern New Jersey.

And, Mr. Chairman, I can't thank you enough for your help and your guidance and your staff in getting us to this particular point. I know that the people of my entire State will be eternally grateful for the efforts that we are attempting to achieve through H.R. 2650. So, again, I thank you.

I have more fully in my written statement, set forth a number of other aspects of this legislation which I know the Chair has read and understands.

[Prepared statement of Mr. Hughes follows:]

STATEMENT BY THE HONORABLE WILLIAM J. HUGHES
HEARING BEFORE THE
SUBCOMMITTEE ON NATIONAL PARKS, FORESTS AND PUBLIC LANDS
ON

H.R. 2650, LEGISLATION TO DESIGNATE PORTIONS OF
THE MAURICE RIVER AND ITS TRIBUTARIES IN NEW JERSEY
AS COMPONENTS OF THE NATIONAL WILD AND SCENIC RIVERS SYSTEMS

THANK YOU FOR CONVENING THIS HEARING MR. CHAIRMAN. I GREATLY APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE THE SUBCOMMITTEE ON NATIONAL PARKS, FORESTS AND PUBLIC LANDS TO TESTIFY IN SUPPORT OF H.R. 2650, LEGISLATION WHICH I INTRODUCED TO DESIGNATE SOME 35 MILES OF THE MAURICE RIVER AND ITS TRIBUTARIES IN CUMBERLAND COUNTY AS COMPONENTS OF THE NATIONAL WILD AND SCENIC RIVERS SYSTEM.

I THANK THE DISTINGUISHED CHAIRMAN AND SUBCOMMITTEE FOR SCHEDULING THIS HEARING BEFORE THE DISTRICT WORK PERIOD. THIS ISSUE IS OF GREAT IMPORTANCE TO ME AND THE NEW JERSEY DELEGATION WHO HAVE ALL JOINED ME AS COSPONSORS OF H.R. 2650. IN ADDITION, SENATOR BRADLEY, ALONG WITH SENATOR LAUTENBERG, WILL BE INTRODUCING COMPANION LEGISLATION IN THE SENATE TODAY.

IN 1987, I, ALONG WITH MY SENATE COLLEAGUES, SPONSORED LEGISLATION AUTHORIZING THE NATIONAL PARK SERVICE TO STUDY THE ELIGIBILITY OF THESE RIVERS AND THEIR TRIBUTARIES FOR INCLUSION INTO THE NATIONAL SYSTEM. ONLY THE MOST SELECT FREE-FLOWING RIVERS THAT HAVE OUTSTANDING NATURAL, CULTURAL, OR RECREATIONAL VALUES MAKE UP THE WILD AND SCENIC SYSTEM. I AM PLEASED THAT AFTER FIVE YEARS OF STUDY, THE NATIONAL PARK SERVICE FOUND THAT ALL SEGMENTS OF THE RIVER WERE ELIGIBLE FOR DESIGNATION UNDER THE WILD AND SCENIC SYSTEM.

THE MAURICE RIVER IS ONE OF NEW JERSEY'S MOST MAGNIFICENT TREASURES. THE RIVER FORMS AN INTEGRAL PART OF THE PINELANDS AND DELAWARE BAY ECOSYSTEMS, PROVIDES FRESH WATER TO THE REGION AND IS RICH IN THE UNIQUE HISTORY AND CULTURE OF SOUTHERN NEW JERSEY. THE REGION PROVIDES IMPORTANT HABITAT FOR A WIDE VARIETY OF ANIMALS, BIRDS, AND PLANTS, AND IS WELL KNOWN FOR ITS FISHING, BOATING AND RECREATIONAL ACTIVITIES. SITES OF CULTURAL AND HISTORICAL INTEREST ALONG THE RIVER CORRIDOR INCLUDE A PREHISTORIC NATIVE AMERICAN SETTLEMENT AND SEVERAL INTACT VILLAGES AND TOWNS.

WILD AND SCENIC DESIGNATION ASSURES THE LONG-TERM PROTECTION OF UNIQUE NATURAL RESOURCES THROUGH SOUND, LOCALLY-IMPLEMENTED

RIVER MANAGEMENT PLANS. SPECIFICALLY, MY BILL REQUIRES THAT MANAGEMENT OF THE DESIGNATED SEGMENTS WILL BE AT THE LOCAL LEVEL BY COOPERATIVE AGREEMENTS BETWEEN THE SECRETARY OF INTERIOR AND LOCAL MUNICIPALITIES. THESE AGREEMENTS WILL BE CONSISTENT WITH LOCAL RIVER MANAGEMENT PLANS WHICH ARE ALMOST EXCLUSIVELY THE PRODUCT OF LOCAL THINKING, BASED ON THE INPUT OF LOCAL RESIDENTS, BUSINESSES, AND ELECTED OFFICIALS. AUTHORITY FOR IMPLEMENTATION OF THE PLAN WILL LIE SOLELY AT THE LOCAL LEVEL.

UNDER THE LAW, LANDS CANNOT BE ACQUIRED BY THE SECRETARY OF INTERIOR FOR WILD AND SCENIC AREAS WITHIN ANY INCORPORATED MUNICIPALITY WHICH HAS A VALID ZONING ORDINANCE WHICH CONFORMS WITH THE PURPOSES OF THE LEGISLATION. AS THE RIVER MANAGEMENT PLANS HAVE ALREADY BEEN ADOPTED BY THE LOCAL MUNICIPALITIES AND, IN SOME CASES, INCORPORATED INTO LOCAL ZONING ORDINANCES, AND MEET THE GOALS OF THE WILD AND SCENIC ACT, CONDEMNATION OF PROPERTY WILL BE AVOIDED. THIS FACET OF THE OVERALL PLAN WAS KEY TO GAINING LOCAL APPROVAL.

THIS BILL SEEKS TO MAINTAIN AND CONSERVE IMPORTANT RIVER RESOURCES, WHILE IT SIMULTANEOUSLY RECOGNIZES THAT THE RIVER IS ALSO THE ECONOMY OF THE REGION. THUS IT SEEKS TO PROTECT TRADITIONAL ECONOMIC ACTIVITIES SUCH AS OYSTERING, CRABBING, FISHING, RECREATION AND TOURISM.

THE LOCAL COMMUNITIES HAVE SHOWN THEIR COMMITMENT TO THE PRESERVATION OF THIS VERY SPECIAL RESOURCE. INDEED, ALL FIVE AFFECTED MUNICIPALITIES HAVE PASSED RESOLUTIONS IN SUPPORT OF WILD AND SCENIC DESIGNATION. THESE ENDORSEMENTS ENABLE THE DESIGNATION OF APPROXIMATELY 35 MILES, ENCOMPASSING ALMOST THE ENTIRE STUDY SITE. SUCH STRONG SUPPORT AT THE LOCAL LEVEL IS UNIQUE AND REFLECTS MANY YEARS OF HARD WORK FROM THE GRASSROOTS LEVEL TO THE FEDERAL GOVERNMENT.

AS AN AFFIRMATION OF THAT SUPPORT YOU WILL SOON HEAR TESTIMONY FROM JANE GALETTO WHO IS HERE WITH DON FAUERBACH REPRESENTING CITIZENS UNITED TO PROTECT THE MAURICE RIVER AND ITS TRIBUTARIES. YOU WILL ALSO HEAR FROM JENNIFER LOOKABAUGH WHO IS THE DEPUTY DIRECTOR OF THE CUMBERLAND COUNTY BOARD OF FREEHOLDERS. IT IS THE TIRELESS EFFORTS OF JANE, DON, JENNIFER AND OTHER LOCAL CITIZENS AND OFFICIALS THAT HAS BROUGHT US THIS FAR.

ADDITIONALLY, THE NATIONAL PARK SERVICE --PARTICULARLY PATTY WEBER-- HAS DONE AN OUTSTANDING JOB IN WORKING WITH THE AFFECTED COMMUNITIES TO ENSURE A FULL UNDERSTANDING OF THE NATIONAL SYSTEM BY ALL PARTICIPANTS.

AS YOU MAY KNOW, NEW JERSEY IS PERHAPS OUR COUNTRY'S MOST URBANIZED STATE. YET THERE ARE STILL PORTIONS OF OUR STATE THAT ARE UNSPOILED, WITH WATERS THAT CAN STILL BE CALLED "PRISTINE." THE MAURICE RIVER, ITS TRIBUTARIES AND THE SURROUNDING LAND COMPRISE ONE SUCH AREA. IN CONSIDERING H.R. 2650 WE HAVE AN OPPORTUNITY TO AFFORD THIS UNIQUE RESOURCE THE PROTECTION IT

DESERVES SO THAT OUR CHILDREN AND THEIR CHILDREN CAN ENJOY ITS BEAUTY. ACTING NOW TO PROTECT THE MAURICE RIVER WILL BE LOOKED UPON IN THE YEARS AHEAD BY THE CITIZENS OF NEW JERSEY AND THE REST OF THE NATION AS ONE OF THE MORE SIGNIFICANT CONSERVATION ACTIONS THAT THIS BODY HAS ACCOMPLISHED.

AGAIN, I WANT TO THANK THE SUBCOMMITTEE AND PARTICULARLY YOU, CHAIRMAN VENTO, FOR EXPEDITING CONSIDERATION OF THIS BILL. I URGE MY COLLEAGUES TO SUPPORT THE MEASURE.

Mr. VENTO. Yes, I read it last night and it is an excellent statement. And let me say, Bill, that I think you have responded in terms of placing this in the context of the national system and that is really what we are looking for. We cannot, obviously, do these things on an ad hoc basis or we would not have a Wild and Scenic River System.

So this pattern of governance and the criteria, and so forth, that are followed are all reflected in the governance mechanisms that you have chosen to use and that have been subscribed to by the applicants in the community and the five municipalities and they are now supporting it. I know you worked hard and they worked hard to attain and achieve that and so we will certainly look kindly on this measure.

I think that it is a good measure. I think it is a major accomplishment for 31 miles of wild and scenic river designation in New Jersey in 1993. I think this would sort of underline the importance of the idea of conservation and preservation of some important resources in that area, in one of the most populated States, as you say, in your statement.

We have to go vote momentarily. Let me—

Mr. HUGHES. Can I make one additional statement, I know we have to vote.

Park Service has been very, very helpful, Patty Weber is here, and she has done a magnificent job.

Mr. VENTO. Her name shows up in everyone's statement, so I want to be sure to meet Patty Weber.

Mr. HUGHES. Steve Kehs is our county planner and he was so very helpful, he could not be here but I had to single out those two because they have done yeomen's work in bringing us to where we are today and I thank them.

Thank you, Mr. Chairman.

Mr. VENTO. We have a few minutes.

Can you, Mr. Bateman and Mr. Rogers, can you come back to give your statements? Bill had to go to another event, that is why I took him so quickly.

Mr. BATEMAN. Yes.

Mr. VENTO. We will stand in recess to go vote.

[Recess.]

Mr. VENTO. The subcommittee will resume its sitting.

I am pleased to welcome our colleague, Mr. Rogers, from Kentucky, who is the sponsor of the Red River Designation Bill and invite you to proceed with your comments.

Thanks for being here, Hal.

STATEMENT OF HON. HAROLD ROGERS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF KENTUCKY

Mr. ROGERS. Mr. Chairman, thank you very much for allowing us to come as expeditiously as you have, you and Mr. Hansen, and the rest of the subcommittee.

The matter to which I refer, the Red River Gorge designation—I will let my written statement appear in the record, if you would like, and I will summarize the statement briefly.

Mr. Chairman, what we are seeking is the designation of 19.4 miles of the Red River Gorge in eastern Kentucky as a wild and

scenic river designation. This would be the first one in Kentucky. There are no other such designations.

Mr. Chairman, I wish you could visit this gorge, it is a spectacular and serene setting. A gorge in the Appalachian Mountains bisected by the Red River. White River for most of the course of this gorge, the gorge is filled with 21 natural arches, for example, towering chimney rocks, bluffs of sheer dimensions.

This was a favorite place of the Indian tribes in the days of Kentucky being the preserve for Indian tribes around the Nation. This was the centerpiece of that.

It is surrounded by the Daniel Boone National Forest and has the recommendation, in fact the Forest Service is the one who came up with this idea, and something that we all, certainly I, endorse wholeheartedly. I have visited the gorge all of my life. It is some miles from my home but it is a place where you could go and see spectacular settings in a very serene surrounding with all sorts of animals and wildlife of all sorts.

I am told the gorge contains a wider variety of flora and fauna than any other similar place in the North American Continent. It is spectacular in every sense and needs to be preserved, which is the point of my request.

The gorge that we are talking about, the part of the gorge would be 19.4 miles, 9.1 of that would be classified as wild and the remaining 10.3 in the lower gorge area as recreational.

The upper gorge does not have any roadways but the lower gorge area does have a highway that bisects the region, therefore the reason for the recreational portion of the gorge.

Mr. Chairman, I don't know of anybody opposing this. Certainly, the Forest Service is here today and in strong support of it. There are some private property owners along the way.

I don't think they are exactly thrilled with this, but I think we have some language in the bill similar to language the Chairman had in a bill five years ago, I think in your own district, that I think preserves and protects their rights as well as the public's right.

So, Mr. Chairman, I strongly recommend this to you. I hope it can be achieved. This would place on the national grid of National Wild and Scenic Rivers a masterpiece of the Maker, and I hope we can see it through to completion, sir.

[Prepared statement of Mr. Rogers follows:]

Testimony of the Honorable Harold Rogers
Before the Natural Resources Committee
Subcommittee on
Public Lands, National Parks, and Forests

August 5, 1993

Mr. Chairman, and Mr. Hansen, I appreciate this chance to testify in support of H.R. 914, legislation I introduced to designate a portion of the Red River in Kentucky a wild and scenic river.

From the outset, let me thank you for holding this hearing on the Red River. Anyone who has ever visited Eastern Kentucky can attest to the beauty and solitude of our mountains, lakes, and forests. To the people of Kentucky, the Red River represents the very best of all Kentucky's rich natural beauty and resources.

Under the bill, the Upper Red River Gorge of 9.1 miles in length will be classified as "wild" and the remaining 10.3 mile segment in the Lower Gorge will be designated "recreational." Together this 19.4 mile segment will be the only waterway in Kentucky to receive this national designation.

The Red River Gorge is a place of incredible natural beauty. The upper segment of the river sends crashing white-water rapids down the corridor, while the lower segment remains serene and tranquil.

Rugged towering cliffs and cavernous overhangs surround the upper portions of the river; natural bridges, prehistoric "rock shelters," and "arches" attract tourists from all parts of the Commonwealth. These outstanding features are the result of geological formations that took millions of years to form, creating a truly unique natural habitat for a variety of rare plants and flowers.

The wildlife and unique geological formations contained in the Red River gorge are true national treasures. Over the years, the Gorge has provided shelter and protection for Indian tribes farming opportunities for Kentucky families, and countless hours of rafting and hiking for camping enthusiasts.

For the people of Wolfe, Menifee, and Powell counties the Red River is more than a unique archaeological and environmental area -- it is home to family farms and strong community ties.

The people of these counties have worked hard to preserve and protect the land. And, this legislation ensures that they will be equal partners at the table when it comes to maintaining a strong rural economy and protecting the Red River.

Under my legislation, affected landowners will be fully compensated for their holdings if they choose to sell their land to the federal government.

And, just as important, under my bill, if a landowner wants to keep his land -- grazing his cattle, or planting hay or growing corn -- he can do just that.

Granting wild and scenic river designation to the Red River provides another important benefit -- it will help create badly needed jobs for families in Eastern Kentucky.

Showing off Eastern Kentucky's vast natural beauty, and rich cultural heritage is a critical part of our ongoing effort to improve the mountain economy. The Red River Gorge already attracts a growing number of visitors from Kentucky and surrounding states.

But designating the Gorge a national wild and scenic river is a different matter entirely. This is a special designation -- one that puts the Red River Gorge on the map, so to speak... a sign to tourists everywhere that this is a "MUST SEE" whenever you are in the local area.

Granting wild and scenic river status to the Red River Gorge is a win-win situation -- the river is protected for many generations to come... and families in Eastern Kentucky can be hopeful of an improved way of life due to the natural beauty of a revered local landmark.

Thank you Mr. Chairman, I will be happy to answer any questions.

Mr. VENTO. Well, thank you, and I did observe that language. I knew it had a familiar ring. I didn't realize it was quite so close to home. We were establishing a recreation river there and not applying the Wild and Scenic Rivers Act.

The Mississippi, in that portion, didn't qualify as a wild and scenic, as this obviously does.

There are a couple of prohibitions on the use of condemnation in the Wild and Scenic River Act, and I think there is a problem here, but we will get into the details of that with the Forest Service. There is no need to debate it at this or to analyze it at this particular point.

Let me invite Congressman Bateman to make his presentation. He had indicated to me he has a markup to be off to, so I want to make certain we can move him along as quickly as possible.

STATEMENT OF HON. HERBERT H. BATEMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA

Mr. BATEMAN. Thank you, very much. I do have a markup and I would ask unanimous consent my written statement be made a part of the record and I will summarize fairly quickly.

Mr. VENTO. That has already been granted by a previous request.

Mr. BATEMAN. The purpose of H.R. 2478, which I am deeply grateful for the committee bringing up for hearing this morning. And I know the difficulties under which you labored in order to have done so, to authorize this Secretary of the Interior primarily to acquire some 20 lots in a residential subdivision that would, if the development goes forward, despoil one of the great jewels in the National Park System of the United States, the Colonial National Historical Park.

The property this authorizes the Secretary to acquire is contiguous to the parkway, which links the Jamestown Island, the site of the original permanent English settlement in North America to Williamsburg, the Colonial Capital of Virginia, and to Yorktown, where our independence was won at the battle of Yorktown in 1781.

Let me, if I may, read, rather than from my statement, one paragraph in the statement of Mr. Norman Beatty, who is here representing Colonial Williamsburg, Incorporated, who are the trustees of that marvelous restoration, and who says, and I quote:

A rolling, parkland of river vistas, tree-shaded rambles, wetlands wildlife, and serenity, the Colonial Parkway begins where Englishmen broke ground for their First Colony, visits the town where Virginia patriots sewed the seeds of liberty, and concludes on the battlefields where the father of our country reaped our freedom.

It links cherished shrines of America's colonial traditions, and protects them from the trying encroachments of progress. All along its gracious, peaceful length, the right-of-way of this rural lane fashions a buffer between our bustling today's and our historic yesterday's.

Almost poetic, Mr. Chairman, and all of it very, very true.

So I hope the committee will see fit to report to bill and make it possible for this acquisition to avoid the despoiling of something that is as important to our heritage as the Colonial National Parkway.

The other aspect of the bill provides for the authority to convey an ancient and badly in need of updating sanitary sewage system which the Park Service has owned and operated and, if authorized,

would transfer to the County of York, which has agreed to assume the responsibility for its future maintenance and care, alleviating the Park Service of that unwanted, unneeded and inappropriate responsibility.

The terms of the bill have included discussions between the Park Service and the County of York in which the County of York has cut in a half the amount of payment that the Park Service would be obligated to make in connection with bringing the sanitary sewage system up to a reasonable standard before the transfer. In essence, the county is saying we are happy to take it over, maintain it, bear the cost into the future, but it ought to be brought to a workable, manageable level prior to our having to assume that responsibility.

These are the two things that the bill does, and I would invite your attention to the support it enjoys from the County of James City, the County of York, the City of Williamsburg, the Williamsburg area Chamber of Commerce, and significantly, Colonial Williamsburg, Incorporated.

So I hope it will be your pleasure to move this very worthy legislation forward.

[Prepared statement of Mr. Bateman and attachments follow:]

HERBERT H. BATEMAN
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STATEMENT OF THE HONORABLE HERBERT H. BATEMAN

COMMITTEE ON NATURAL RESOURCES

SUBCOMMITTEE ON NATIONAL PARKS, FOREST AND PUBLIC LANDS

H.R. 2478

AUGUST 5, 1993

Mr. Chairman, I want to thank you and this subcommittee for holding this hearing today on H.R. 2478, a bill I have introduced to solve two problems confronting the Colonial National Historical Park in Virginia. Given how crowded and hectic all of our schedules are during these last days prior to the August recess, I certainly appreciate this subcommittee adding my bill to today's hearing. I believe H.R. 2478, and the problems it seeks to resolve, merits your swift and favorable consideration.

H.R. 2478 would authorize the Secretary of the Interior to acquire and to convey certain lands or interests in lands to improve the management, protection and administration of Colonial National Historical Park. Specifically, it would ensure the preservation of scenic, natural and historic resources along the park's Colonial Parkway, as well as release the National Park Service from its current obligation to maintain sewer systems in the Yorktown, Virginia area. My concern about these problems at Colonial National Historical Park is shared by my Virginia colleagues in the Senate. Senators Warner and Robb recently introduced legislation, S. 1278, similar to H.R. 2478.

The urgency for enacting H.R. 2478 stems primarily from rapidly encroaching development along the Colonial Parkway near historic Jamestown. The Colonial Parkway is an integral part of Colonial National Historical Park. It is a national treasure connecting the Historic Triangle of Jamestown, Yorktown and Williamsburg with a wooded and scenic limited access road. The Colonial Parkway has never been directly threatened by development since it was built over 60 years ago. Until now.

This legislation is urgently needed to authorize the acquisition of lands adjacent to the existing Park boundary between Mill Creek and Neck O'Land Road before houses are constructed on this prime real estate. Such development would seriously mar and detract from the scenic beauty and integrity of the Parkway. This outcome must be avoided. It can with enactment of H.R. 2478. My bill would override the current limitation on the width of the Colonial Parkway between Mill Creek and Neck O'Land Road as well as permit acquisition by the National Park Service of those lots, numbered in National Park Service Drawing Number 333.80031, that are subject to imminent development.

I recognize the concerns of some of my colleagues on this subcommittee and the full Natural Resources Committee about authorizing further additions to our national park system at a time of limited budgets. While I understand and share this concern, I sincerely believe authorizing the acquisition of the 12 to 15 acres of land in question is urgently needed, necessary and economically justified. It is urgently needed because the property developer is under pressure to sell the land and begin construction as quickly as possible to meet bank loan commitments. It is necessary because we must not allow such a beautiful national treasure like the Colonial Parkway to be jeopardized when it is within our means to save it. Finally, it is economically justified because if development advances--such as the imminent construction of costly homes with spectacular views of the James River--the potential cost to the U.S. taxpayer of protecting and acquiring the land and houses will increase enormously if prompt action is not taken--now.

The boundary modification I advocate is supported by the National Park Service, the property developer, James City County and other local government officials, as well as a number of other historic preservation associations, including the Colonial Williamsburg Foundation. I would like to submit for the record letters from interested officials and organizations that support the swift enactment of H.R. 2478.

Mr. Chairman, the other problem my bill seeks to address is the deterioration of a sewage disposal system, owned by the National Park Service, that serves Colonial National Historical Park as well as local residents in and around Yorktown, Virginia. Yorktown is a small community, parts of which are within and adjacent to the Park. My bill would authorize the Secretary of the Interior to grant easements to York County for the sole purpose of maintaining and operating the sewage disposal system that was originally built in the 1950s. This bill would essentially complete responsible steps to get the National Park Service out of the sewage disposal business.

In the mid-1970s, the National Park Service provided York County with approximately \$73,000 to improve the part of the sewer system serving most of Colonial National Historical Park and the village of Yorktown proper. Later, York County took over its maintenance and operation. However, the portion of the sewage system that serves the Park's Moore House, where General Cornwallis surrendered his British troops to General George Washington, and the Moore House residential subdivision has never been upgraded. Thirty six private residents also are served by the National Park Service's Moore House sewage disposal system.

York County officials have been willing to cooperate with the National Park Service to help it avoid further deterioration of the Moore House sewage system. The county has been willing to take over the maintenance and operation of the sewage system, provided that it is brought up to appropriate county standards. Originally, York County officials were only willing to accept the sewage system if the National Park Service paid for all costs associated with the system's upgrade. That cost is estimated to be around \$203,000. However, recent negotiations between my office, York County officials and the Superintendent of Colonial National Historical Park have resulted in what I believe is a more equitable, cost-conscious compromise. Through this compromise, the National Park Service's Moore House sewer system would be upgraded and its operation and maintenance transferred to York County on a cost-sharing basis.

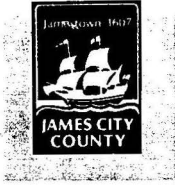
Under this compromise, York County would agree to do--at no cost to the National Park Service--that engineering and maintenance work that can be accomplished with county personnel and recently acquired equipment. The National Park Service would pay only for the work that is contracted out. It is estimated that this cost would not exceed \$110,000.

This approach, acceptable to the National Park Service and York County officials, would result in an almost 50-50 split of project costs. For the record, I would like to submit a July 30, 1993 letter from the Chairman of the York County Board of Supervisors to the Superintendent of Colonial National Historical Park outlining this compromise in greater detail. I also would like to submit for the record a detailed rehabilitation cost estimate by Buehrt Horn, Inc., one of York County's prime contractors, regarding expected costs to be borne by York County and the National Park Service. It was done in January of 1992.

I believe getting the National Park Service out of the sewage disposal business is desirable and cost effective. It is desirable because it will enable officials at the park to focus their time, talents and energy on more important mission-related work at Colonial National Historical Park. It is cost effective because of the financial savings and operational headaches that would be eliminated for the National Park Service. As owners of the deteriorating system, the National Park Service risks having to pay hundreds of thousands of dollars some unpredictable time in the future should the 30-year-old plus Moore House sewage-disposal system develop problems. H.R. 2478 would ensure that the U.S. taxpayer is not left picking up a far more costly tab than otherwise would be necessary.

Mr. Chairman, I believe the reasons for swift and favorable consideration of H.R. 2478 by your panel are compelling and clear. It will ensure that a national historic treasure is not permanently scarred by encroaching development. It also will help the National Park Service to improve its management and administration of Colonial National Historical Park. For these reasons, I urge and would greatly appreciate this subcommittee's support and cooperation in bringing H.R. 2478 before the full House without delay.

Thank you.



BOARD OF SUPERVISORS

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Board of Supervisors

PERRY M. DEPUE
JACK D. EDWARDS
JUDITH N. KNUDSON
DAVID L. SISK
STEWART U. TAYLOR

July 21, 1993

1993

The Honorable Herbert H. Bateman
United States House of Representatives
1518 Longworth House Office Building
Washington, DC 20515

Dear Representative Bateman:

Thank you for your sponsorship of H.R. 2478 that will protect the scenic integrity of the Colonial Parkway by authorizing the Secretary of the Interior to acquire land for the Colonial National Historical Park, specifically, 22 lots of the Page Landing subdivision located in James City County adjacent to the Colonial Parkway.

On behalf of the Board of Supervisors of James City County, Virginia, I am writing to The Honorable Charles S. Robb and The Honorable John W. Warner requesting them to introduce a companion bill in the United States Senate and informing them that the County does not object to the proposed acquisition.

We appreciate your efforts on behalf of the National Park Service and James City County in protecting our historic vistas.

Sincerely,

Judith N. Knudson
Chairman

JNK/mls



CITY OF WILLIAMSBURG

Office of the Mayor and City Council
401 Lafayette Street, Williamsburg, Virginia 23185
(804) 220-6100 / Fax (804) 220-6109

July 30, 1993

The Honorable Herbert H. Bateman
1030 Longworth HOB
Washington, DC 20515

Dear Congressman Bateman:

The City of Williamsburg commends you for introducing House Bill 2478 authorizing the Secretary of the Interior to acquire 22 lots in James City County abutting the Colonial Parkway near Jamestown, and urges House members to approve this legislation so vital to this historic area. Similar legislation has been initiated by Senators Robb and Warner.

Failure to approve this measure will permit a housing development to come within easy view of this otherwise beautifully wooded link between Yorktown, Williamsburg and Jamestown.

Prompt action is vital because the property owner must sell the land to meet bank loan commitments.

As you know, the Colonial Parkway is a scenic, limited access road enjoyed by local residents as well as millions of visitors from all over the world. Approval of this legislation and prompt acquisition of the James City County land now on the threshold of development will preserve the feeling of reliving our colonial history as one drives along the Parkway.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Trist B. McConnell".

Trist B. McConnell
Mayor

AUG 03 1993



Williamsburg Area
CHAMBER OF COMMERCE

P.O. BOX 3620 • WILLIAMSBURG, VIRGINIA 23187-3620 • (804) 228-6511

August 2, 1993

The Honorable Herbert H. Bateman
United States House of Representatives
2350 Rayburn House Office Building
Washington, DC 20515

Dear Congressman Bateman:

Preserving the integrity and ambience of the Historic Triangle (Jamestown, Yorktown, Williamsburg) including the Colonial Parkway has been a Chamber objective for over 50 years. We join with other local public and private organizations in supporting H.R. 2478 and applaud your efforts to introduce it.

This legislation will enable the Secretary of the Interior to acquire 22 lots immediately adjoining the Parkway in a rapidly growing residential subdivision. It is necessary to prevent their development and to preserve the quality of the environment along this special roadway.

The Colonial Parkway is an integral part of the Colonial National Historic Park. It is a national treasure connecting the Historic Triangle with a scenic limited access motor road enjoyed by both local residents and visitors from all over the world.

We appreciate your assistance with this most important matter to the citizens and businesses throughout the Historic Triangle area.

Sincerely,

Robert W. Hershberger
Executive Vice President

RWH/lcg

Serving the City of Williamsburg and the Counties of James City and York



HISTORIC RIVERS LAND CONSERVANCY

Post Office Box 2000 ■ Williamsburg, Virginia 23187

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August 3, 1993

The Honorable Herbert H. Bateman
U.S. House of Representatives
2350 Rayburn Building
Washington, D.C. 20515

Dear Congressman Bateman:

On behalf of Historic Rivers Land Conservancy (HRLC), I want to express strong support for House Bill 2478 to authorize the acquisition of property adjacent to the Colonial National Historic Parkway.

HRLC is a local non-profit organization dedicated to the protection of natural, scenic and historic resources in the James and York river watersheds. Preserving the scenic quality and integrity of the Parkway and its surrounding landscape is vitally important not only to our region but to the entire nation.

This roadway linking Jamestown, Williamsburg and Yorktown and bordering two great rivers brings everyone who travels its length into close touch with one of the most significant periods of our country's history. Any development that impairs the scenic views along the Parkway would diminish the visitor's experience of the area's historic values. This would also have a negative impact on local economies which are dependent on attracting tourists and tourist-related businesses.

For these reasons, we support passage of HB 2478 and very much appreciate your sponsorship of this legislation.

Sincerely,

Carolyn Lowe, President
Historic Rivers Land Conservancy



LOWER JAMES RIVER ASSOCIATION

P.O. BOX 110
RICHMOND, VIRGINIA 23201
(804) 730-2898

August 3, 1993

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Executive Director

The Honorable Herbert H. Bateman

U. S. Congress

2350 Rayburn Building

Washington, DC 20515

Dear Congressman Bateman:

Thank you for introducing House Bill 2478 to authorize the acquisition of land adjacent to the Colonial National Historical Parkway. We support your efforts to preserve the historic and aesthetic qualities of this valuable national scenic byway, which is subject to imminent encroachment by development.

Since the parkway connects the historic triangle of Jamestown, Williamsburg and Yorktown, which is the foundation of Virginia's history and the country's, protection of an adequate buffer from development is crucial. The historic resources of this area provide a significant source of income to the localities, as well as the state, so there is a direct positive economic impact from this project.

The Lower James River Association is committed to the preservation of the natural and historic resources of the tidal James River Watershed, consistent with orderly development. We have approximately 1300 members, who live and work in this area.

Many of our members have selected this region to live because of its historic and scenic resources. The Colonial National Historical Parkway is a vital link for these resources and of great significance to the residents of this area.

Thank you for your leadership in this endeavor. Please let us know what else we might do to help you.

Most sincerely,

Patricia A. Jackson

Patricia A. Jackson
Executive Director



COUNTY OF YORK

COUNTY ADMINISTRATOR
Daniel M. Stuck



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AUG 03 1993

July 30, 1993

Mr. Alec Gould
Superintendent
Colonial National Historical Park
P.O. Box 210
Yorktown, Virginia 23690

Dear Mr. Gould:

Subject: Moore House Road Sanitary Sewer System

With reference to the meeting held on July 30, 1993, with you, Paul Nardo, John Dunn, Mary Sinclair and me concerning the transfer of the Moore House Road Sanitary Sewer System to York County, please be advised of the following:

1. The Board of Supervisors passed a resolution on February 20, 1992, authorizing the County Administrator to accept a right-of-way grant and a fee simple ownership of the sewer system and to accept the sum of \$203,200 from the National Park Service to bring the system up to County standards.
2. As this issue was addressed by formal Board action, it will take an additional action to modify the resolution outlined in Item 1 above.
3. After further review of the situation I am prepared to recommend to the Board of Supervisors that the 1992 Resolution be modified as follows:
 - a. That the County agree to do at no cost to the Park Service that engineering and maintenance work that can be accomplished with County forces and equipment.
 - b. That the Park Service pay for all work that will have to be contracted out. It is estimated that this cost would not exceed \$110,000.

This approach would result in a close to fifty-fifty split of the project costs.



Mr. Alec Gould
July 30, 1993
Page 2

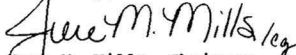
In addition, the County is proceeding with the rehabilitation of the Read Street Sewage Pump Station rather than the construction of a new pump station in Yorktown. As part of this work, the County plans to dismantle and back fill, at its cost, the old Imhoff tank and trickling filter from the old Park Service Sewage Plant. It is anticipated that this cost will be in the range of \$50-70,000.

Given the magnitude of these combined costs, I cannot recommend that the County participate in cost sharing on the Moore House Road Sewer System to any greater extent. I am sure that you understand that this represents only Ms. Sinclair's and my position at this time and is subject to approval of a majority of the Board.

However, I feel that this approach could work as the basis of an equitable settlement of a long standing issue that has already absorbed too much time and energy. Given your feeling that this approach will be acceptable to congressional staff I plan to have this formally considered at the next Board meeting which is scheduled for August 5, 1993.

Please feel free to call if you have any further questions on this issue.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jerry M. Mills", followed by a small "leg" or "leg" mark.

Jerry M. Mills, Chairman
York County Board of Supervisors

Copy to: G. Paul Nardo
Mary Sinclair



APPENDIX A

**MOORE HOUSE ROAD SEWER SYSTEM
REHABILITATION COST ESTIMATE**

<u>RESPONSIBILITY</u>	<u>SEWER LINE REHABILITATION COSTS</u>	<u>COSTS TO PARK SERVICE</u>
York County	A. Flush and Vacuum Clean 5600 LF @ \$2.00/LF = \$11,200	\$ 0
York County	B. Root Removal 1. Mechanical 5600 LF @ \$1.00/LF = 5,600 2. Chemically Treat 5600 LF @ \$2.00/LF = 5,600	0
York County	C. Re - TV System 4000 LF @ \$1.50 = 6,000	0
Park Service	D. Mainline Rehabilitation 1. Joint Grouting 500 EA @ \$25.00/EA = 12,500 2. Repair Mainline 500 L.F. @ \$70.00/LF = 35,000 3. Fix Manholes 22 EA @ \$750/EA = 16,500	12,500 35,000 16,500
Park Service	E. Laterals 44 EA @ \$750/EA 33,000	\$ 33,000
	TOTAL CONST. COST \$125,400	\$ 97,000
	CONTINGENCY 15% 18,800	14,550
	\$144,200	
	TOTAL ESTIMATED SEWER LINE REHABILITATION	
		\$111,500,
		Rounded to \$110,000



<u>RESPONSIBILITY</u>	<u>AUXILIARY COSTS</u>	<u>COSTS TO PARK SERVICE</u>	
York County	A. Engineering Fees		
	Plans & Specifications	\$15,000	\$ 0
	Field Measurements	5,000	0
	Bidding Phase	9,000	0
	Const. Overview	15,000	0
	Resident Insp.	15,000	0
		\$59,000	
	TOTAL ENGINEERING FEES		\$ 0
	B. Easements/Land Acquisition		
	None anticipated.		
York County	C. York County Preacquisition Costs		
	System Evaluation Study	\$4,500	\$ 0
	Preacquisition TV Inspection	2,800	\$ 0
	TOTAL COUNTY PREACQUISITION	\$6,300	
	TOTAL AUXILIARY COSTS	\$65,300	
	TOTAL PROJECT COSTS	\$209,500	\$110,000

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01/10/00 11:01

Mr. VENTO. Again, I know this is an issue on which you want to demonstrate some movement, some concern. It was submitted recently. We are pleased we were able to obtain the response from the Park Service and that negotiations on the transfer of the sewer system has progressed. So I think the Park Service is prepared today to support the bill with a certain split in terms of costs, and with regard to language on easements, and so forth, which we assume would be satisfactory insofar as it accomplishes the purpose.

We will talk more about the whole total boundary of that parkway, I think, with the Park Service. I think yours is sort of a specific fix over a more narrow portion of the parkway.

Mr. BATEMAN. Because of the compelling need, this property will be lost to development unless there is very early movement at least to this extent.

Mr. VENTO. The status of that now is that the developer—are they actually moving to improve it?

Mr. BATEMAN. Yes, they are. It is an ongoing subdivision of which a part would be removed by this acquisition. If this is not done, the developer is under economic pressure that he has to go forward.

He has his bank loans and construction loans, he has the economic pressures that he has got to move forward unless someone is saying, well, we will buy this from you at a reasonable fair market value appraisal.

Mr. VENTO. I have two questions of these witnesses.

I think the Red River is an outstanding resource, and I note the Forest Service supports the bill. If they want to discuss a little about the modifications from their generic act, that is fine, but I don't foresee, based on the ownership of Federal land there already, having to have other mechanisms to deal with it. Probably it is not ideal, but it is workable, considering the outstanding nature of the resource.

And certainly I am in sync with your concerns in terms of having adequate screening on that parkway, and this is an area where, hopefully, we would have been able to see this ahead of time, but we don't always recognize things until the problem is upon us, Herbert.

Mr. BATEMAN. Yes, if I might, Mr. Chairman, I would just make reference to the fact that Superintendent of the Colonial National Historical Park is with us today, Mr. Gould, who has been helpful and very proficient in seeing that park is taken care of.

Mr. VENTO. And he will probably be here to hear Mr. Reynolds testify.

Mr. Hansen, do you have any words of wisdom for our colleagues this morning?

Mr. HANSEN. I don't know if I would go that far, as far as wisdom, but I have looked at these and I can't see any huge problems with either one of them. As an old land developer myself, I have a little concern for that person, Herb, and what he will face in working that thing out.

I know that sometimes we are well into a project before someone sees some reason, though, justifiably, you have brought up here concerning this. I would assume negotiations are going on between

the developer and the Park Service as to how this will be worked out.

Do you have any problems there? Looking at this map, it seems there is wetlands there.

Mr. BATEMAN. There are many wetlands surrounding the Colonial National Parkway. If anything, here we would ameliorate any wetland problems because it would be brought into the Park Service holdings and would be preserved and protected in its natural state.

Mr. HANSEN. That is a major problem for those of us in the west. Right out in the Utah desert the Corps of Engineers calls it wetlands, so we have to be very careful. If it rains one time, the Corps of Engineers can always seem to make it wilderness.

But, anyway, I commend you for doing it and, of course, Mr. Chairman, I have the greatest respect for both Mr. Rogers and Mr. Bateman, very excellent legislators, and normally would not get into anything that was not justifiable.

But I have to ask, Hal, on this 19 miles, as I have been looking at it, this is something that is used for rafting, river running, recreation?

Mr. ROGERS. Yes. This area is highly visited now. It is not a park. It is a part of the State of Kentucky's Wild and Scenic River System, but that does not offer the protection as the Federal law does.

It is a highly visited area now, almost like a national park. Thousands of people go there and ride the rapids, sky dive and—or hand glide and climb and hike the trails and see the scenery and picnic and the rest. It is a beautiful area that is heavily used now.

But the threat is that McDonald's and the rest will encroach upon this property and render it less than what it is now. It is pretty well protected now.

There is very little—there are some farms that occupy a portion of the area and some people use that for farming purposes, haying and grazing and that type of thing, of course, which can continue under this designation. But there is no commercial development there now and that is what we are worried about happening.

Mr. HANSEN. I would surely agree with you, it is a very justifiable thing you are doing.

Is there any restrictions on what they can do on the river now? I assume they kayak, canoe, raft, swim, that type of thing?

Mr. ROGERS. As I say, it is under the State designation of a wild river, which does protect it from certain activities. I can't give you a catalogue of those now, but there are restrictions on what you can do.

Mr. HANSEN. Is it a big river?

Mr. ROGERS. By your terms, it is not a huge river. By our terms, it is a river rather than a creek.

Mr. HANSEN. Can you throw a rock across it?

Mr. ROGERS. Yes. Yes.

Mr. HANSEN. It is not like the Colorado, in other words?

Mr. ROGERS. It is like the Colorado in miniature. It is not that big a river, but it is a constantly flowing rapid.

Mr. HANSEN. There are no motors on those rafts as they go through?

Mr. ROGERS. No, no.

Mr. HANSEN. So strictly rowing.

Mr. ROGERS. Mainly canoeing and kayaking. There are no motorized craft on the river at all. I don't think it is even allowed under State law. I can be mistaken but.

Mr. HANSEN. In the West they gauge those rapids on a scale of 1 to 10. If you ever make it to the Colorado, the Loud Falls, the Crystal, and those are a 10. You have some 15-foot curl waves, believe it or not, that go that high.

My son is a professional river runner and I have gone through every river in the West.

Do you have anything of that size in there?

Mr. ROGERS. Nothing like that, of course. The tourists would be well served to go to your area and experience that, but the Red River—

Mr. VENTO. Those that want to live dangerously.

Mr. ROGERS. I am a canoer myself, very amateurish, maybe a couple of times a year. I have not canoed the Red River but others around there.

The Red River, for the most part, is canoeable only in the spring and early summer when the waters are heavier than normal. At this time of year, it would be difficult because the water is just not that plentiful in the river.

But the main part of the river is not the rafting part or the canoeing part, it is the scenic and trails. And, as I said, 21 natural arches in this one valley is spectacular scenery.

Mr. HANSEN. Thank you, Mr. Chairman.

It seems like a commendable piece of legislation to me.

Mr. VENTO. Well, thanks very much, gentlemen.

Thank you very much, Herb and Hal. We will be in touch with you as we work out the procedures for consideration of further action on these measures.

Thanks so much for waiting around this morning. Sorry it took so long.

Mr. ROGERS. Well, Thank you, Mr. Chairman and Mr. Hansen, for taking this up so timely. Appreciate it.

Mr. VENTO. Let's hear from the Associate Deputy Chief first, before John Reynolds. I know he has just the one bill, so we can probably continue this discussion on the Red River here and then go on to the other public witnesses that are principally focused on other issues, although I note Beth Norcross is concerned about the Red River as well.

Mr. Mills, welcome.

Your statement has been made a part of the record and I appreciate receiving it so I could read it last night.

You can proceed with your statement.

STATEMENT OF THOMAS MILLS, ASSOCIATE DEPUTY CHIEF, FOREST SERVICE, DEPARTMENT OF AGRICULTURE

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

I appreciate the opportunity to be before the subcommittee to present the views of the Department of Agriculture on the Red River designation.

The Forest Service currently administers 96 congressionally designated wild and scenic rivers. It covers some 4,300-plus miles. We very much appreciate the work that Congress and the subcommittee, in particular, have done on those designations and the hard work it has taken over the last 25 years to achieve them.

In conformance with the recommended alternatives and the environmental impact statement that was transmitted by the President to the Congress in January, the Department of Agriculture is happy to recommend enactment of H.R. 914, if amended. We recommend three amendments that would bring this bill in closer conformance to the general provisions of the Wild and Scenic River Act, which we feel has served us very well.

The first amendment is that we recommend deletion of the special specific boundary provisions for the lower gorge portion in Section 3. The boundaries that are contained in the act for the lower gorge portion have not been carefully verified on the ground, and the Wild and Scenic River Act provides procedures that, we feel, work very well to establish those detailed boundary designations within one year of enactment.

Secondly, we recommend deletion of the waiver of the 100-acre acquisition limit in Section 3 of H.R. 914. There are currently some 3,348 acres in the proposed corridor, and the standard 100-acre acquisition limitation in the general provisions of the Wild and Scenic River Act would limit fee title acquisition to no more than 1,940 acres.

Current private ownership is considered to be less than that, about 1,117 acres and, therefore, would have no meaningful effect on the Red River.

The third one, and the one that, Mr. Chairman, you have already commented on earlier, is that we recommend deletion of the provisions that would prohibit condemnation in Section 3 of H.R. 914. There are really two pieces to this: One deals with a fee title; the second one deals with other interests in the land.

First of all, with regard to fee title, section 6(b) of the Wild and Scenic River Act already bars the Secretary in using condemnation to get fee title, if the Federal ownership exceeds 50 percent. As I mentioned earlier, with the numbers I gave you on the second recommendation, the Federal Government already owns more than 50 percent, so the provision would not apply in this particular case anyway. It would, however, apply to the acquisition of interest, interests that are necessary to clear the title or acquire conservation easements.

The Department has been very reluctant to use condemnation authority and, in fact, in the last 15 years has not used condemnation authority either for fee title or interest in easements. However, we think these provisions in the Wild and Scenic River Act are necessary to protect the public interest for these special resources and we are reluctant to have that authority removed and, especially in this situation, we are concerned it could be precedent setting.

That concludes my summary, Mr. Chairman. I would be happy to deal with questions.

[Prepared statement of Mr. Mills follows:]

STATEMENT OF
THOMAS J. MILLS, ASSOCIATE DEPUTY CHIEF
FOREST SERVICE
UNITED STATES DEPARTMENT OF AGRICULTURE

before the
Subcommittee on National Parks, Forests and Public Lands
Committee on Natural Resources
United States House of Representatives

Concerning H.R. 914, a bill "To amend the Wild and Scenic Rivers Act to designate certain segments of the Red River in Kentucky as components of the national wild and scenic rivers system, and for other purposes."

August 5, 1993

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

Thank you for the opportunity to present the views of the Department of Agriculture regarding H.R. 914, a bill that would amend the Wild and Scenic Rivers Act designating certain segments of the Red River in Kentucky as components of the national wild and scenic rivers system.

The Department of Agriculture recommends enactment of H.R. 914 if amended as suggested herein.

Designation of the specified segments of the Red River as components of the wild and scenic rivers system conforms to the recommended alternative contained in the Wild and Scenic River Study and Environmental Impact Statement transmitted in January by the President to Congress. However, we recommend a number of technical changes to make the bill more consistent with the

governing provisions of the Wild and Scenic Rivers Act (P.L. 90-542, as amended).

Section 3 of H.R. 914 would designate a 19.4-mile segment of the Red River as part of the wild and scenic rivers system including a 9.1-mile segment known as the "Upper Gorge" and a 10.3-mile segment known as the "Lower Gorge." The bill provides explicit boundaries for the 19.4-mile segment. We recommend that the boundaries for the Lower Gorge be deleted from subsection (ii). These boundaries are based on the recommended alternative in the Red River Wild and Scenic River Study. However, the study, recognizing the varied topography of the area, provided only an approximation of where the detailed boundaries should be drawn.

We believe that the process described in Subsection 3(b) of the Wild and Scenic Rivers Act should be followed. It would direct the Department of Agriculture to establish detailed boundaries for the river segment within 1 year of its designation. This process, which provides for public participation, would allow for accurately defined boundaries that would facilitate management of the river segment in a manner that protects and enhances its unique and irreplaceable values.

Additionally, section 3 of H.R. 914 would waive the 100-acre limitation contained in section 6(a) of the Wild and Scenic River Act. The Act provides that, on average, no more than

100 acres per mile on both sides of a designated river may be acquired by the Federal Government through fee title. For the proposed segments of the Red River, the Act would limit fee title acquisitions to 1,940 acres. The Red River Wild and Scenic River Study indicates that only 1,117 acres within the proposed river corridor is in private ownership. Accordingly, the 100 acre limitation would not apply and the Secretary of Agriculture would have the authority to acquire, by fee title, all of these private lands provided it is on a willing seller basis. Therefore, this subsection is unnecessary and we recommend that it be deleted from the bill.

Finally, section 3 of H.R. 914 would prohibit the Secretary of Agriculture from acquiring, by condemnation, privately-owned land or interest in land within the authorized boundary of the Red River Wild and Scenic River unless the Secretary finds the use of the land has changed substantially after the effective date of any management plan prepared pursuant to section 3(d)(1) of the Wild and Scenic Rivers Act." Section 6(b) of the Wild and Scenic Rivers Act would bar the Secretary from using condemnation to acquire, through fee title, lands within the proposed river corridor as the United States already owns, in fee title, 50 per centum or more of the entire acreage outside the ordinary high-water mark on both sides of the river. However, the Wild and Scenic Rivers Act does provide for use of condemnation when necessary to clear title or to acquire scenic easements or such other easements as are

reasonably necessary to give the public access to the river and to permit its members to traverse the length of the area or of selected segments thereof. While the Department has been very reluctant in using this authority in administering the Act, these authorities may be needed to implement the terms and conditions of the management plan prepared in accordance with section 3(d)(1) of the Act. For this reason, we recommend that this provision be deleted from the bill.

This report is consistent with testimony presented by the Department before the Senate Subcommittee on Public Lands, Parks and Forests on S. 250, a companion bill designating segments of the Red River as components of the national wild and scenic rivers system.

This completes my comments on H.R. 914. I would be happy to answer any questions you or other members of the Subcommittee may have.

Mr. VENTO. Thank you, Mr. Mills, and I am informed my staff suggests you have not testified before the subcommittee before; is that correct?

Mr. MILLS. I have been here just twice, sir.

Mr. VENTO. Okay, so it must have been in a brief presentation; noncontroversial. Today you get into more questions, however, than before.

In any case, we are pleased to have you.

The Forest Service folks come through here and kind of move on to other things, so I hope—not that I am wishing you don't have any progress in your profession, but we hope that we continue to have your assistance for some time in the future.

I am trying to understand, and I don't know that I was focusing on all of the aspects—as I said, I read your testimony last night—but the issue with regard to 50 percent ownerships, with regards to the Red River, this corridor. Is there 50 percent public ownership at this time?

Mr. MILLS. Yes, there is. There is in excess of 50 percent.

Mr. VENTO. So how does that affect your ability to buy fee simple?

Mr. MILLS. It prohibits us. My understanding is that it prohibits us to buy fee simple.

Mr. VENTO. So the issue at bay here is, of course, the easements; is that correct?

Mr. MILLS. That is correct, sir.

Mr. VENTO. So you have no such limit with regard to easements?

Mr. MILLS. That is correct.

Mr. VENTO. So we are talking about, basically, you can purchase but you can—you can purchase fee simple but you have to do it on a willing seller/willing buyer basis. That is the existing law that works, and you are concerned that this provision that Congressman Rogers copied from the Mississippi bill—which is a recreation river, it is not a wild and scenic river bill; so I would point out it is not quite the same parallel—but it puts some limitation in terms of when you can purchase.

You can still buy scenic easements on a willing seller/willing purchase basis; is that right?

Mr. MILLS. That is correct, sir.

Mr. VENTO. I am trying to sort through this. I don't think that the limitations—what are the limitations that are placed on you?

The boundary limitation is a different matter. I will get back to that. But what other limitations—I want to know what type of trespass Mr. Rogers may be making here. Doesn't sound too bad yet to me.

Mr. MILLS. The limitations that are already in the Wild and Scenic River Act, according to this reference I have here of Section 16, provides, we feel, adequate protection for the landowner when scenic easements are purchased or acquired. They cannot control any regular use exercised prior to the acquisition of the easements and, therefore, would only be acquired in such case if there was concern that use of the land would change significantly.

So we feel that provides adequate protections even if in the very unusual situation—

Mr. VENTO. The message I am getting is that his language says as I said it, and yours said it as you have said it in the law.

Mr. MILLS. Ours says it as it is already contained in the law and we feel the law has served us well.

Mr. VENTO. The other point that should not be controversial is the use of eminent domain for clearing title. As an example, much of the eminent domain that is used is not used in adverse taking but simply to clear title for ministerial or administrative purposes.

So we might be able to work that out, although we have not, as you have pointed out, you have not really used in the last 10, 15 years—the BLM or Forest Service has not used eminent domain at all.

Mr. MILLS. That is correct.

Mr. VENTO. So this question of doing it for administrative purposes is something we might explore with Mr. Rogers, although I don't know—there are probably other means to do it, but that happens to be the least costly and the most efficient way to do it.

I was impressed by your statement in talking about the resources here, as well as Mr. Rogers talking about the diversity of fauna and flora that occur in this area, as well as some geologic formations with the various arches, and so forth, in the area; it really does spark one's interest in terms of trying to take a look at it. I hope at some point I do have a chance to see it.

But what is the use here? Mr. Rogers says a lot of people are using it. It is designated, of course, under State law, apparently, but they had not sought to designate it wild and scenic through the State procedures; is that correct, Mr. Mills?

Mr. MILLS. That is correct. The State designation, which I believe took place in 1960, although I don't have that right at my fingertips, the State designation coincides with the upper gorge portion of H.R. 914. The use, the statistics I have here are about 5 years old, but the recreation use in 1987 was over 47,000 recreationists, with projections by the turn of the century that would increase by almost another 10,000.

Mr. VENTO. Is that just on the Forest Service portion of the river?

Mr. MILLS. On the river corridor that is designated, or at least that is the estimate.

Mr. VENTO. One of the other questions you raised, and I did not pay much attention to this, but Mr. Rogers actually has constructed a map; is that correct, and that that specifies—of course, you are saying you need to get better data and a better map. And I think maybe what we ought to do is to get the Forest Service to meet with the principals here, the staff, and try to come up with a map.

But, normally, the procedure we use is to simply designate certain amounts on either side of the corridor; is that correct?

Mr. MILLS. Yes, sir. What we have done in the past, as I recall, is use the river management planning process, as the Wild and Scenic River Act provides, to within one year of designation come up with clear and understood boundaries by everyone.

Mr. VENTO. Well, okay, I hope that is the case. I know we usually go—I think it looks like a more narrow corridor, but I can't tell

if it is more narrow or more broad. It seems to me the procedure we use is how many feet on either side of the river?

Mr. MILLS. I am sorry, I can't tell you what the general provisions are, sir.

Mr. VENTO. But it is a specific from the center line of the river. It is a quarter mile, I think, isn't it, in terms of the designated boundaries? So I don't know if this is more or less based on this. I expect it must be less; that it is a tighter boundary.

In any case, I think you will have to work that through with Mr. Rogers although I didn't take the opportunity to ask him a question about it.

That could be very important in terms of having adequate resources to protect the line of sight from the surface of the river in terms of what is envisioned under the Wild and Scenic Rivers Act. Of course, obviously, this sounds like it is a pretty deep gorge, so the control may not be as critical as what would normally occur. So it may be possible in these instances to proceed differently.

I would trust, Mr. Mills, that staff would get with Mr. Rogers' staff and the Forest Service, to get together and try to do this in the month of August, if folks are around.

Mr. MILLS. We would be happy to do that, Mr. Chairman.

Mr. VENTO. Mr. Hansen.

Mr. HANSEN. Thank you, Mr. Chairman.

Mr. Mills, I am on page 3 of your statement. You are asking that Section 3 of H.R. 914 be deleted from the bill?

Mr. MILLS. Clarification, sir. Section 3(d), paragraph 2, which is a subset of Section 3 that deals specifically with the prohibition of the use of the condemnation authority.

Mr. HANSEN. So you would like to have the use of that, even though it would basically only be for corridors or easements; is that right?

Mr. MILLS. It would be for other than fee title acquisition, yes, sir; for clearance of title or scenic need.

Mr. HANSEN. You say, however, the Wild and Scenic Rivers Act does provide for use of condemnation when necessary to clear title or to acquire scenic easements or such other easements as are reasonably necessary.

So, apparently, if I am reading that right, you would be using or possibly could be using it for scenic easements for public access; is that right?

Mr. MILLS. We want to—yes, sir, Mr. Hansen, we would like to retain that authority, although we do not, in this particular case, expect to need it.

Mr. HANSEN. Do you have any specific examples on this stretch that Mr. Rogers is talking about where you would want to use this process of condemnation?

Mr. MILLS. No, there are not, on the Red River, any situations where we would expect to use a condemnation authority for scenic easements. Our principal concern is there is a public interest to be protected here, and we are concerned about any precedent setting on this river, given, as I mentioned earlier, we have 96 others and many others we expect Congress to consider.

Mr. HANSEN. But have you not used it on other rivers?

Mr. MILLS. We have used it in the past, sir, but not for the last 15 years.

Mr. HANSEN. So you are worried even though you don't have a reason to use it, you are worried not so much about the Red River, but the precedence you may establish in subsequent bills that will come before the Congress?

Mr. MILLS. That is correct.

Mr. HANSEN. Is there an example of where you have been hampered by a precedent?

Mr. MILLS. No, I can't give you an example off the top of my head, sir.

Mr. HANSEN. But your attorneys just told you to worry; is that it?

Mr. MILLS. Attorneys often are paid to tell us to worry. We are very interested in protecting the public values that the wild and scenic designations provide, particularly with increased development that is taking place in a lot of the United States.

Whereas that authority may not be needed today, who knows what situations we could find ourselves in 5 or 10 years from now. Since we do not feel it would apply here, we don't think the protection is necessary for the Red River. We are very concerned about future designations.

Mr. HANSEN. My staffers here tell me the Clarks Fork River in Wyoming prohibits use of any condemnation; has that caused you a problem?

Mr. MILLS. Not that I am aware of.

Mr. HANSEN. So you really don't have an example?

Mr. MILLS. No, I don't have an example. I would only repeat that we are very concerned about protecting those public values.

Mr. HANSEN. Thank you, Mr. Chairman.

Mr. VENTO. But I think the Clarks Fork is a question of how much private or public land is there, too, because I believe they have over half publicly owned—and then we had Senator Simpson leaning on us the last night of the session to designate this river or else nothing else is going to get done. Half the session's work.

Mr. HANSEN. Probably a good reason.

Mr. VENTO. It was the Arizona bill, I think, was attached to it. As a matter of fact, the Arizona Wilderness Bill.

But the other point, I would suggest, is that the interest in land is not absolutely eliminated here, and it is simply under a different test. The Secretary cannot acquire by condemnation private land or interest in land within the authorized boundaries unless the Secretary finds that the use of land has changed substantially after the effective date of the management plan.

So you have your own screen in the Wild and Scenic River Act. This is a different screen here that is apparently tougher, tighter, than what is in the other. But it is not as though we don't have any screen here. So there is an opportunity to take action if there is substantial use.

It is a question that this has probably not been—what that means is it has not been litigated, so we don't know how a court will deal with it. That is, in essence, the problem. And that is what they are trying to—obviously, Hal feels better with the Vento lan-

guage than with the language of the Wild and Scenic River Act language.

Mr. HANSEN. I think he is wise.

Mr. VENTO. Well, it is a tougher screen. I think it is a concern, but in any case, the Forest Service was obviously stating what it wants, it wants to have one law that regulates wild and scenic rivers, rather than different provisions that have to be applied differently.

It is hard to have a national system if you have three different standards for what constitutes an adverse impact—and then permits the use of the tool for scenic easements or fee simple acquisition. That is the problem. It is easier to have one standard than 10.

Mr. HANSEN. Mr. Chairman, would you yield?

Mr. VENTO. Yes, I'll be happy to yield.

Mr. HANSEN. Probably what you say, there is a lot of wisdom in that. On the other side of the coin, as you look at the different rivers from coast to coast, there is a lot of specific and different situations that come along and I think each one of those almost has to be looked at on a retail basis.

I have a very difficult time comparing some of these very beautiful rivers in the East with those bigger rivers in the West. And the situations, I almost think we should handle this on a retail basis. We look at each one specifically.

I disagree with your counsel or whoever told you that this is going to establish a precedent. I am sure you could easily establish it on the basis of what the Green River, the Selway, the River of No Return, or one of those other hundreds of rivers we use in the West. I personally respectfully disagree on that particular point and think the Forest Service should take a careful look at it and predicate it on a retail basis.

I would hope they would take a look at this particular river and say this is where we possibly would need public access, and in that regard, we will look at it and see if that is where we should get public access, and in that case, ask for it. I am sure Congress and those that are concerned would be concerned with it.

I think this country is so big and different that it is hard to establish—if there is anything that bothers me as a Member of Congress, it is that laws are passed—I am speaking in sweeping generalities, and I apologize for that—but laws are passed that apply to Boston, Massachusetts, that obviously don't have a thing to do with Mexican Hat, Utah, but Mexican Hat, Utah, has to work with it.

As a city councilman and mayor for a number of years in a small town in the West, I was frustrated with things that were passed by the Forest Service, BLM, Corps of Engineers and others. They would say, we don't make the laws; go talk to the guys back there. Now I am one of the guys back here and I am still frustrated with it.

Excuse me for spilling that on you, Mr. Chairman.

Mr. VENTO. Well, it is all right, I am concerned about Mexican Hat, Utah.

Mr. HANSEN. You should be, it is one of the places you guys are always passing laws about.

Mr. VENTO. Well, I think the concern I have here is that if we are to give you the job of planning the river, you have to have the tools to deal with it and maybe a different sized hammer is appropriate here for the Red River than might be appropriate for another river where there is more confrontation.

I think Congressman Rogers indicated that there is not a lot of opposition or strong support for it. Probably there are some people probably not completely enamored with this particular designation, so we have to try to balance that. But, look, I have fought very hard to keep in place the ability for the Forest Service land managers to have the tools they need. And there are some other tools they had to put in the Mississippi bill, I might say, that are different since it was a recreation river.

If you look at the Park Service designation of the Maurice River and its tributaries that is being considered today, you find quite a different set of zoning and other requirements that are necessary to accommodate that. They come out of the Wild and Scenic Rivers Act. So there are different alternatives and quite a bit different than what are being suggested here.

So maybe we will find something in the act that can meet Mr. Rogers' concerns and the concerns of Mr. Mills.

I have no further questions of Mr. Mills.

Thank you very much for your testimony.

Mr. MILLS. Thank you very much, sir.

Mr. VENTO. Let me invite the National Park Service Regional Director, John J. Reynolds, from the Mid-Atlantic region. Who is about to be recognized as the Deputy Director of the Park Service.

Mr. Reynolds is testifying on two measures today, on the wild and scenic designation of the Maurice River—it is "Morris" locally—we went through an argument about this once, but in any case—and the proposal for Colonial National Historical Park.

Mr. Reynolds, your statements have been entered in the record.

Why don't you take the river issues first, since we seem to be on rivers.

STATEMENT OF JOHN J. REYNOLDS, REGIONAL DIRECTOR, MID-ATLANTIC REGION, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY ALEC GOULD, SUPERINTENDENT, COLONIAL NATIONAL HISTORICAL PARK, YORKTOWN, AND PATTY WEBER, NATIONAL PARK SERVICE

Mr. REYNOLDS. I would appreciate that.

First, I would like to say this is my first time ever testifying and to have the two of you people be the ones before whom I am testifying is a great honor.

Mr. VENTO. We are pleased to have you and you will probably see more of us than you want.

Mr. REYNOLDS. I don't think that is possible.

May I ask Patty Weber to come up and help me out?

Mr. VENTO. Yes, since we recognized her. She was recognized by Congressman Hughes, so she has received some high recognition for her work on the Maurice River and tributaries.

Mr. REYNOLDS. I promised her I would not embarrass her by repeating it, but she deserves it.

Mr. Chairman, I appreciate the opportunity to provide your subcommittee with views of the Department of the Interior on H.R. 2650. We strongly recommend the enactment of this bill. H.R. 2650 would designate approximately 35 miles of the Maurice River—I am still a resident of New Jersey, it is “Morris River”—Maurice River and its tributaries in New Jersey as components of the National Wild and Scenic Rivers System.

Management of the river segments would be pursuant to cooperative agreements between the Secretary of the Interior and local municipalities. These agreements would be consistent with river conservation plans approved by the Secretary.

In 1987, Congress designated segments of the Maurice and Manumuskin Rivers and Menantico Creek in New Jersey for study as potential components of the National Wild and Scenic Rivers System. The National Park Service has since completed the study of these rivers. A draft study report was released for public review in June 1992, and the final report to the President is being reviewed within the administration.

The study found that a total of 42.4 miles of the Maurice River and three of its tributaries were eligible for designation. We note that Section 3(d) of the bill would require the Secretary to continue to work with local municipalities for support of segments found eligible but not designated by this bill. We would expect to work with the local government concerning the 7.4 miles not designated but found eligible, and report back to the committees as required by this subsection.

We estimate that the cost of providing planning assistance and compliance review in accordance with the terms of the bill would not exceed \$100,000 per year.

As I conclude, may I thank Congressman Hughes for all the work he has done on that and all the citizens of South Jersey that have participated with Patty and the National Park Service in getting us to this point.

This concludes my prepared remarks.

I would be pleased to respond to any questions that you have.

Thank you, Mr. Chairman.

[Prepared statement of Mr. Reynolds on H.R. 2650 follows:]

STATEMENT OF JOHN J. REYNOLDS, REGIONAL DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON NATIONAL PARKS FORESTS, AND PUBLIC LANDS, HOUSE COMMITTEE ON NATURAL RESOURCES, CONCERNING H.R. 2650, TO DESIGNATE THE MAURICE RIVER AND ITS TRIBUTARIES AS COMPONENTS OF THE NATIONAL WILD AND SCENIC RIVERS SYSTEM.

August 5, 1993

Mr. Chairman, I appreciate the opportunity to provide your Subcommittee with the views of the Department of the Interior on H.R. 2650.

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In 1987, Congress designated segments of the Maurice and Manumuskin Rivers and Menantico Creek in New Jersey for study as potential components of the National Wild and Scenic Rivers System (P.L. 100-33, approved May 7, 1987, 101 Stat. 299). The National Park Service has since completed the study of these rivers. A draft study report was released for public review in June 1992, and the final report to the President is being reviewed within the Administration.

The study found that a total of 42.4 miles of the Maurice River and three of its tributaries were eligible for designation. We note that section 3(d) of the bill would require the Secretary to continue to work with local municipalities for support of segments found eligible but not designated by this bill. We would expect to work with the local government concerning the 7.4 miles not designated but found eligible, and report back to the Committees as required by this subsection.

We estimate that the cost of providing planning assistance and compliance review in accordance with the terms of the bill would not exceed \$100,000 per year.

This concludes my prepared remarks, Mr. Chairman. I would be pleased to respond to any questions you may have.

Mr. VENTO. As I understand it, there is just one additional river segment that could be added; is that right, to the Maurice River bill, Ms. Weber?

Ms. WEBER. Yes, sir. Found eligible and not being designated now, yes.

Mr. VENTO. So does that slip back into the study status? It remains in the study status for right now until such time it is worked out; is that right?

Ms. WEBER. That is right.

Mr. VENTO. How long is that segment?

Ms. WEBER. Seven miles.

Mr. VENTO. That is the 7-mile segment we are talking about?

Ms. WEBER. Yes.

Mr. VENTO. What portion is that?

Ms. WEBER. The very southern section, with the confluence of the Delaware Bay.

Mr. VENTO. Can you give us a characterization of that; its potential use or conflicts or unusual problems there that are to be resolved?

Ms. WEBER. It is almost entirely intertidal salt-marsh and it is widely used for both shipping and recreational boating. The specific issue associated with that has more to do with the feeling of the local municipality than with the river and use issues.

Mr. VENTO. So what would be the time frame? You think this would be, at least, for what, an additional three years or something?

What would happen here; what would you see as the time frame for consideration of it?

Ms. WEBER. Three years is a very reasonable time frame. It is important to note that that very same municipality has already adopted a local river management plan that, at the local level, does provide for long-term protection for the values.

Mr. VENTO. It is simply that there has not been agreement as to the national designation?

Ms. WEBER. That is correct.

Mr. VENTO. Where else do we have, Mr. Reynolds, similar types of provisions governing the local planned enforcement by local governments backed up by the national government?

Mr. REYNOLDS. I will ask Patty to help me on this, but I believe, as an example, there is Egg Harbor River in New Jersey.

Ms. WEBER. That is correct.

Mr. VENTO. That is in your region?

Mr. REYNOLDS. Yes. Well, it is not in my region but our office does the assistance work in that area.

Mr. VENTO. What about the Jacksonville or Jackson River in New England; is that not also under that same type of plan, Ms. Weber; wasn't that the first we did under this plan?

Ms. WEBER. Yes, it is, although half of it is overseen by Forest Service, so there is dual management.

Mr. VENTO. There is dual management, that is true. That is another complication.

Do you have any information on how that is working at this time?

Ms. WEBER. I understand it is working very well.

Mr. VENTO. I note Congresswoman Johnson contacted me about the Farmington River, which has undergone a study. That is, obviously, not in your area; is that right?

Ms. WEBER. That is correct, but I do coordinate often with people from—

Mr. VENTO. So they are proposing a similar management plan there; is that correct?

Ms. WEBER. Yes, similar management with some different specific provisions about the river. I don't know exactly, but it has something to do with boundaries.

Mr. VENTO. We are only talking about four or five years experience here at the most, as I recall; is that correct?

Ms. WEBER. Yes.

Mr. VENTO. So our optimism may not be well-founded in terms of this management system, although nothing negative so far. All the same protections apply to these rivers in terms of water projects?

Ms. WEBER. Yes.

Mr. VENTO. And other types of prohibitions in terms of the national government action?

Mr. REYNOLDS. Yes.

Mr. VENTO. Mr. Hansen.

Mr. HANSEN. Thank you, Mr. Chairman.

Mr. Reynolds, on page 8 of this bill, line 4 to line 20, do you want to elaborate and explain that to me a little bit?

Mr. REYNOLDS. With your permission, I will ask Patty to discuss that with you.

Ms. WEBER. Mr. Hughes, in developing specific responsibilities for Interior and the Park Service, understands the hard work and understanding at the local level to implement the local river management plan. The Park Service will proceed upon designation to flesh out that protection scenario and get the State and other Federal agencies component to afford long-term protection.

Is that what you are particularly asking?

Mr. HANSEN. The Park Service is just going to okay, sustain and ratify the local plans; is that what we are saying here?

Ms. WEBER. I thank you for asking that question, it is a good question. There has already been a local river management plan adopted and implemented at the local level.

Mr. HANSEN. So the Park Service, in effect, is going to embrace these local level plans and make those part of what you folks do; is that right?

Ms. WEBER. So long as they meet the provisions of the act, and they do.

Mr. HANSEN. So long as they meet the provisions of the act.

Then turn to page 6, line 4, Maurice River, Upper segment, from one-half mile upstream from the Survey Station at Burcham Farm to the south side of the Millville sewage treatment plant. It abuts for 3.6 miles on a sewage treatment plant?

Ms. WEBER. Yes.

Mr. HANSEN. Is that right?

Mr. REYNOLDS. It ends at the sewage treatment plant.

Ms. WEBER. These are geographic landmarks to describe the segments.

Mr. HANSEN. Excuse me, it ends at the sewage treatment—to the south side of the Millville sewage treatment plant. So it comes and ends there at the sewage treatment plant, but it is touching?

Ms. WEBER. Yes.

Mr. HANSEN. Contiguous?

Ms. WEBER. Yes.

Mr. HANSEN. And you accept all that, Mr. Reynolds, is that right; Park Service?

Ms. WEBER. The discharge of the sewage treatment plant complies with all State and Federal laws.

Mr. HANSEN. It is there; you use it. I guess it just seems to fly in the face of some of the things we have done around here, but, gosh, who am I to say what is wrong with a sewage treatment plant in the middle of the river.

Mr. REYNOLDS. As long as the water quality of the affluent of the sewage treatment plant as it enters the river is within the standards—

Mr. HANSEN. Say that again, does not—

Mr. REYNOLDS. As long as it is within the standards of the Clean Water Act, then I don't think the Park Service has a problem with it.

I think the monitoring that goes on in relationship to that sewage treatment plant and its abilities to discharge affluent that meets the standards is very important, and the Park Service does not have control over that, but the Park Service is certainly interested that that be maintained, not only in this river but any river where sewage affluent enters the river above any point that is in wild and scenic river status.

Mr. HANSEN. I don't think I would consider the issue being whether or not the end result comes out of the sewage treatment plant and whether it could go in the river. People in San Francisco drink the—it goes right through time and time again. Well, never mind.

Mr. VENTO. If the gentleman will yield?

Mr. HANSEN. Carrying that one step further.

You normally don't see a sewage treatment plant contiguous to a wild and scenic river, is the point.

Mr. VENTO. I think the point here is, unless this river is flowing north to south—the description here may be cumbersome, but the point is that from upstream, so that you are going a half mile north of the geologic, the USGS station to the south point, until you touch—the sewer treatment plant is not in the corridor, is what I understand. It is outside the designated area.

I think the reason Mr. Reynolds is talking about water quality is because he thinks you are asking about whether the water quality of the river is such that it is worthy of designation. But what I am understanding here is that the sewer treatment plant is not in the corridor; is that correct?

Ms. Weber, we cannot get nods in the record. They don't show up.

Ms. WEBER. That is correct.

Mr. VENTO. So that is your concern; the sewer treatment plant is not in the river?

Mr. HANSEN. Or how close it would be.

Mr. VENTO. I don't know how close.

Mr. HANSEN. If the local people think this is fine, it is fine with me.

Mr. VENTO. Well, it meets the criteria for a national designation.

Ms. WEBER. It does.

Mr. HANSEN. In generalities, though, it is interesting to point out, if we look at these three particular bills, we are coming up with three different criteria. Like I say, it is difficult for me to establish the same criteria for all these different portions.

Mr. VENTO. If the gentleman would continue to yield?

It is designated as a scenic river in this particular portion. That is the criteria here on this segment?

Ms. WEBER. That is right.

Mr. VENTO. Some of these are recreational, some are scenic, and I don't know that we have anything that is wild; is that correct?

Mr. REYNOLDS. That is correct.

Mr. VENTO. So there are different nomenclature here. Does mean something as far as—

Mr. REYNOLDS. This is also consistent with action that has been taken in other rivers in multiple locations.

Mr. VENTO. So my staff informs me. It is consistent with the law in the act and the criteria, although I couldn't articulate all the differences between recreational, scenic, wild, and so forth, right here, at the spur of the moment, although somebody else could, if necessary.

But the gentleman raises a point. But it is consistent with the act.

Are there many instances where various facilities adjoin but are not designated in the various wild and scenic segments?

Mr. REYNOLDS. Would you repeat that?

Mr. VENTO. Are there many instances in which various facilities adjoin but are not in designated wild and scenic rivers?

Mr. REYNOLDS. I believe the answer to that is, yes. If you would like elaboration, I will ask Patty to do so.

Mr. VENTO. The point is this is not unique. We, for instance, don't put dams into, or water structures into wild and scenic rivers. So in this case, are there any water structures on segments designated as wild and scenic under recreation structures?

Ms. WEBER. Are there any structures in—

Mr. VENTO. Yes.

Ms. WEBER. There are currently boat piers.

Mr. VENTO. But not water structures?

Ms. WEBER. No dams, no water.

Mr. VENTO. We have had people try to do that on occasion. So is there any flood protection on any of these rivers in the floodplains?

Ms. WEBER. Are there floodplains?

Mr. VENTO. Are there floodplain devices, such as levees?

Ms. WEBER. Not physical floodplain protection, no.

Mr. VENTO. What is the status of the floodplain; are there structures built in the floodplain?

Ms. WEBER. Generally no, but it is a flat area and the State of New Jersey has a floodplain program, so they provide oversight.

Mr. VENTO. Well, of course, it seems like so often, when we get into these designations, it is not just one aspect but sometimes others that are not being followed in terms of zoning that would make some sense, like a floodplain insurance, and so forth, and those programs are all trying to work in concert.

Does the gentleman have another question with regards to this matter?

Mr. HANSEN. No, I don't.

Thank you, Mr. Chairman.

Staff has cleared up "recreation wild and scenic" and shown the differences. I do think, though, just out of necessity, there has to be some latitude with everything we do by looking at it on a retail basis, and I compliment Mr. Reynolds for coming.

Mr. VENTO. They have, apparently, not taken any shortcuts here, although I must say, I agree with you that if you look at the sort of modifications that have been made in terms of the segments here, to leave segments out, to put segments in.

I would hand the gentleman my explanation sheet, which he has before him, and you begin to realize that they have been very careful to use this in such a way that it is at least going to provide West Publishing Company with a lot of printing work. They are from my district and they do the laws. So they are always happy to see us pass something like this.

In any case, I have no further questions on this matter.

Mr. Reynolds, let me ask you to proceed with the testimony, then, and thank you, Ms. Weber, for your work in the southern New Jersey area and throughout your area. We appreciate it.

Let me invite you, Mr. Reynolds, to proceed with the testimony on the Colonial Parkway and related subjects.

Mr. REYNOLDS. Thank you.

And with your permission I will invite Superintendent Alec Gould to come up.

Mr. VENTO. Yes, he is present to testify and to add his expertise to this issue.

Mr. REYNOLDS. Mr. Chairman, I have submitted a statement for the record and I would like to read most but not all of that statement, so I will skip portions of that statement.

Mr. VENTO. I read it last night, and I appreciate getting it in time so I could do so. I have a number of questions on this matter.

We will place the entire statement in the record. You can just proceed to summarize if you choose.

Mr. REYNOLDS. Thank you. Thank you for the opportunity to present the Department of the Interior's views on H.R. 2487, a bill that would authorize the Secretary of the Interior to acquire and to convey certain lands or interests in lands to improve the management, protection and administration of Colonial National Historical Park in Virginia.

We recommend enactment of the bill. H.R. 2478 authorizes the Secretary to grant easements or a fee simple interest to the County of York, Virginia, without charge, for the operation of sewage dispose all systems. It also authorizes the acquisition of lands adjacent to the existing park boundary that are threatened by development and a 3.2-acre archeological site.

If enacted, this legislation would release the National Park Service from its current obligation to maintain sewer systems in Yorktown, Virginia. It would also override the current limitation on the width of the Colonial Parkway in the area between Mill Creek and Neck O'Land in order to protect the parkway's scenery in subdivision development.

I will skip a few lines here.

York county is willing to accept the sewer system if the Moore House Subdivision portion is upgraded prior to transfer. The National Park Service is willing to share the cost of the upgrade subject to the availability of funds.

We believe such expense is cost effective relative to the cost of long-term capital improvements and operation and maintenance that would be required if the Service were to retain an interest in the system. Ongoing discussions with the county indicate the Park Service share of the upgrade would not exceed \$110,000.

A letter from York County is attached to the statement for inclusion in the record.

We recommend the legislative language be changed to eliminate the granting of, quote, "a fee simple interest in land," end quote. We have determined that an easement in lands for the operation of the sewage-disposal system recommends an adequate interest for the county in the existing system while providing protection for park resources. Full ownership of the sewer pipes and certainly structures which support the operation would be granted to York County.

Section 2 of the bill addresses the need to acquire additional land to protect the scenic integrity of the Colonial Parkway. The scenery along the Colonial Parkway between Neck O'Land Road and Mill Creek is threatened by the final phase of final development of a subdivision. This legislation is urgently needed to authorize the Secretary to acquire the existing woodland along the parkway before houses are constructed which would mar the scenic beauty of the parkway.

The Colonial parkway was authorized as part of Colonial National Historic Park in the 1930s by Acts of Congress and Presidential Proclamations. The purpose of the Parkway is to connect Jamestown, Williamsburg and Yorktown with a scenic limited access motor road, made enjoyable for travelers, preservation of scenery, vistas, historic sites and a managed landscape that accentuates important national features and screens modern development.

I will skip a few lines here.

Unless additional land is acquired, it will not be possible to adequately screen a new and rapidly expanding subdivision from view. The property developer has voluntarily withheld from sale the 20 lots closest to the parkway, but he is now saying he cannot delay his sales efforts any longer.

This legislation will modify the boundary of the park to permit the acquisition of those lots subject to imminent development, as well as the lot that already contains a house and a small archeological site. We are hoping a nonprofit conservation organization will purchase the property in advance of this legislation. The boundary modification is supported by James City County.

The appraisal for these lands is currently being updated. We estimate the cost of acquisition to be in the neighborhood of \$750,000.

With the condition that easements be granted for the Yorktown and Moore House Subdivision sewer system, we recommend enactment of this legislation.

We appreciate your willingness to consider this matter in an expedited manner so that we may take advantage of the opportunity to protect the resources of the Colonial Parkway.

I will be pleased to answer any questions.

I would also like to thank you, Chairman Vento, for having this hearing so soon on a bill that was introduced by Congressman Bateman.

I also thank Congressman Bateman for doing so.

Thank you.

[Prepared statement of Mr. Reynolds on H.R. 2478 follows:]

STATEMENT OF JOHN J. REYNOLDS, REGIONAL DIRECTOR, MID-ATLANTIC REGION, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON NATIONAL PARKS, FORESTS AND PUBLIC LANDS, HOUSE COMMITTEE ON NATURAL RESOURCES, CONCERNING H.R. 2478, TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO ACQUIRE AND TO CONVEY CERTAIN LANDS OR INTERESTS IN LANDS TO IMPROVE THE MANAGEMENT, PROTECTION, AND ADMINISTRATION OF COLONIAL NATIONAL HISTORICAL PARK.

AUGUST 5, 1993

Mr. Chairman, thank you for the opportunity to present the Department of Interior's views on H.R. 2487, a bill that would authorize the Secretary of the Interior to acquire and to convey certain lands or interests in lands to improve the management, protection and administration of Colonial National Historical Park in Virginia.

We recommend enactment of the bill.

H.R. 2478 authorizes the Secretary to grant easements or a fee simple interest to the County of York, Virginia, without charge, for the operation of sewage-disposal systems. It also authorizes the acquisition of lands adjacent to the existing park boundary that are threatened by development, and a 3.2 acre archaeological site.

If enacted, this legislation would release the National Park Service from its current obligation to maintain sewer systems in Yorktown, Virginia. It would also override the current limitation on the width of the Colonial Parkway in the area

between Mill Creek and Neck O'Land Road in order to protect the Parkway's scenery from subdivision development.

In 1948 and 1956, Congress directed the National Park Service to design and construct sewer systems to serve Federal and non-Federal properties in the area of Yorktown, a community within and adjacent to Colonial National Historical Park. At that time York County was a rural area with limited financial resources and population. The County now has a fully functioning Department of Environmental Services, which operates sewer systems throughout the remainder of the County, as well as the personnel and equipment to administer, maintain and operate the Yorktown sewer system.

In the mid-1970's, the National Park Service provided York County with approximately \$73,500 to improve the Yorktown system and take over its maintenance and operation. The portion of the system that serves the Moore House subdivision has not been upgraded, and is in need of approximately \$203,000 to rehabilitate the system to the current county standards, according to a recent study. York County is willing to accept the sewer system, if the Moore House subdivision portion is upgraded prior to transfer. The National Park Service is willing to share the cost of the upgrade, subject to the availability of funds. We believe that such expense is cost effective relative to the cost of long-term capital improvements and operation and

maintenance that would be required if the Service were to retain an interest in the system. Ongoing discussions with the County indicate that the Park Service share of the upgrade would not exceed \$110,000. A letter from York County is attached to this statement for inclusion in the record.

We recommend that the legislative language be changed to eliminate the granting of "a fee simple interest in land." We have determined that an easement in land for the operation of the sewage-disposal system represents an adequate interest for the County in the existing system while providing protection for park resources. Full ownership of the sewer pipes and several structures which support the operation would be granted to York County.

Section 2 of the bill addresses the need to acquire additional land to protect the scenic integrity of the Colonial Parkway. The scenery along the Colonial Parkway between Neck O'Land Road and Mill Creek is threatened by the final phase of development of a subdivision. This legislation is urgently needed to authorize the Secretary to acquire the existing woodland along the Parkway before houses are constructed which would mar the scenic beauty of the Parkway.

The Colonial Parkway was authorized as a part of Colonial National Historical Park in the 1930's by Acts of Congress and

Presidential Proclamations. The purpose of the Parkway is to connect Jamestown, Williamsburg, and Yorktown with a scenic limited access motor road, made enjoyable for travelers through the preservation of scenery, vistas, historic sites and a managed landscape that accentuates important natural features and screens modern development.

Existing Parkway legislation calls for an average corridor width of no more than 500 feet. The road was, in most cases, built in the middle of the corridor. In the area between Mill Creek and Neck O'Land Road, however, the Parkway was built closer to the northern boundary to avoid marshlands. It is in this location that development is currently taking place. Unless additional land is acquired, it will not be possible to adequately screen a new, and rapidly expanding, subdivision from view.

The property developer has voluntarily withheld from sale the 20 lots closest to the Parkway, but he is now saying that he cannot delay his sales efforts any longer. This legislation will modify the boundary of the park to permit the acquisition of those lots subject to imminent development, as well as a lot that already contains a house, and a small archeological site. We are hoping that a non-profit conservation organization will purchase the property in advance of this legislation. The boundary modification is supported by James City County.

The appraisal for these lands is currently being updated. We estimate the cost of acquisition to be in the neighborhood of \$750,000.

With the condition that easements be granted for the Yorktown and Moore House Subdivision sewer system, we recommend enactment of this legislation.

We appreciate your willingness to consider this matter in an expedited manner, so that we may take advantage of the opportunity to protect the resources of Colonial National Historical Park. I will be pleased to answer any questions.

COUNTY OF YORK

COUNTY ADMINISTRATOR
Daniel M. Stuck



VIRGINIA

BOARD OF SUPERVISORS
Member
District II
District I
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District I
District I
District I
District I
District I

July 30, 1993

Mr. Alec Gould
Superintendent
Colonial National Historical Park
P.O. Box 210
Yorktown, Virginia 23690

Dear Mr. Gould:

Subject: Moore House Road Sanitary Sewer System

With reference to the meeting held on July 30, 1993, with you, Paul Nardo, John Dunn, Mary Sinclair and me concerning the transfer of the Moore House Road Sanitary Sewer System to York County, please be advised of the following:

1. The Board of Supervisors passed a resolution on February 20, 1992, authorizing the County Administrator to accept a right-of-way grant and a fee simple ownership of the sewer system and to accept the sum of \$203,200 from the National Park Service to bring the system up to County standards.
2. As this issue was addressed by formal Board action, it will take an additional action to modify the resolution outlined in item 1 above.
3. After further review of the situation I am prepared to recommend to the Board of Supervisors that the 1992 Resolution be modified as follows:
 - a. That the County agree to do at no cost to the Park Service that engineering and maintenance work that can be accomplished with County forces and equipment.
 - b. That the Park Service pay for all work that will have to be contracted out. It is estimated that this cost would not exceed \$110,000.

This approach would result in a close to fifty-fifty split of the project costs.

Mr. Alec Gould
 July 30, 1993
 Page 2

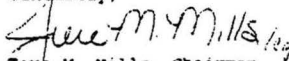
In addition, the County is proceeding with the rehabilitation of the Read Street Sewage Pump Station rather than the construction of a new pump station in Yorktown. As part of this work, the County plans to dismantle and back fill, at its cost, the old imhoff tank and trickling filter from the old Park Service Sewage Plant. It is anticipated that this cost will be in the range of \$50-70,000.

Given the magnitude of these combined costs, I cannot recommend that the County participate in cost sharing on the Moore House Road Sewer System to any greater extent. I am sure that you understand that this represents only Ms. Sinclair's and my position at this time and is subject to approval of a majority of the Board.

However, I feel that this approach could work as the basis of an equitable settlement of a long standing issue that has already absorbed too much time and energy. Given your feeling that this approach will be acceptable to congressional staff I plan to have this formally considered at the next Board meeting which is scheduled for August 5, 1993.

Please feel free to call if you have any further questions on this issue.

Sincerely,


 Peter M. Mills, Chairman
 York County Board of Supervisors

Copy to: G. Paul Nardo
 Mary Sinclair

Mr. VENTO. Thank you, Mr. Reynolds and Mr. Gould, for your presence. A lot of tough questions here, obviously. If we had done this a decade ago or so, it would not have been the dilemma that I suppose should have been anticipated; that there might have been residential development in this area.

As I understand the situation here, there is a portion of the parkway—and the average width of the corridor is no more than 500 feet. As your testimony on page 4 indicates, I am reading, the addition between Mill Creek and Neck O'Land Road to the parkway is to avoid marshlands, and that is the area we are talking about; is that correct?

Mr. REYNOLDS. That is correct.

Mr. VENTO. And it is in this location that the development is currently taking place. So the corridor is consistently 500 feet but the road had to be pushed to one side of that corridor; is that correct?

Mr. REYNOLDS. Yes.

Mr. VENTO. The center line; is that right?

Mr. REYNOLDS. Yes.

Mr. VENTO. I thought I read someplace that there was a 200-foot corridor.

Mr. REYNOLDS. That is within the City of Williamsburg.

Mr. VENTO. So that is the only point. So that is not—it is 250 from the center line, as you point out, and so in this case, though—how close are you to your line, the parkway?

Mr. GOULD. We just own 100 feet from the center line of the parkway.

Mr. VENTO. So, in other words, on one side of the parkway, in essence, you have 400 feet from the center line, and on this side, you have 100 because of the marshland?

Mr. GOULD. Yes.

Mr. VENTO. So the alternative, of course, would be you could not move the road without damaging the marshlands.

Mr. REYNOLDS. That is correct. And it would not be possible to screen this side of the parkway.

How long a segment of the road is this?

Mr. GOULD. It is about a quarter mile.

Mr. VENTO. A quarter mile. Your testimony last night was 650. I understand now the estimate is up to 750?

Mr. REYNOLDS. That is correct, and that includes all of the parcels of land. The 650 included the 20 lots that are not built upon.

Mr. VENTO. They are not built upon but there are some improvements on them already in preparation?

Mr. REYNOLDS. There is a house on one lot, as you know, and there are some improvements in terms of pipes into the lots on some of the other lots.

Mr. VENTO. So you anticipate this would be a willing seller issue; is that correct?

Mr. REYNOLDS. Yes, we do.

Mr. VENTO. Of course, the problem is once you get the authorization, that does not mean you have the money; does it?

Mr. REYNOLDS. That is correct.

Mr. VENTO. Do you have dollars set aside from land and water to—can you prioritize this?

Mr. REYNOLDS. We would prioritize this. It has not been set aside at this time.

Mr. VENTO. Well, I think it is a pretty open question. To me, it sort of speaks to the fact that we, obviously—some years ago now, Mr. Reynolds, we had passed a boundary study bill that had a lot of trouble.

In fact, it was the same evening I was working on that issue with the Clarks Fork River and we had the Arizona Wilderness bill that we got in. The Boundary bill passed. I couldn't remember which one it was.

In any case, it was the 101st Congress, and my staff reminds me, but I couldn't remember which bill it was in contention, whether it was Chairman Udall's bill or my bill. In any case, we were looking forward to trying to get out front and trying to avoid some of these types of problems rather than having to act on an emergency basis.

But this is always difficult to do, and so I would just reference that in terms of the statement that we have tried to—and I guess it is probably impossible, given the number of units that we have, to not come up with a problem once in a while, but it would, obviously, be far better if we didn't have the Manassases of the world and even the friendly type of purchases.

You don't have the general authority that you can deal with this?

Mr. REYNOLDS. To my knowledge, we do not, sir.

Mr. VENTO. I was just wondering because I know they had made some adjustments at the Delaware Water Gap, at one time, for miles out into the area, to buy railroad track. And I was wondering if perhaps in this particular instance, if you could go for 10 miles, I was wondering if a quarter mile would be considered too much?

Mr. REYNOLDS. I don't believe so, sir.

Mr. VENTO. Do you understand the dilemma I am facing?

Mr. REYNOLDS. I understand perfectly, sir. I would like to comment.

I would say we are as frustrated, and I am as frustrated as you are that we had not identified this sooner. I would like to comment the superintendent had identified this sometime ago, over a year ago, and did exactly what he should do to put it up to the Park Service.

The Park Service, up through the Director, agreed that this should become a legislative matter much earlier than it is today and was not able to advance it.

Mr. VENTO. I am informed this park, of course, was pre-LWCF, and that makes a difference with regards to the technicalities, with regards to Delaware Water Gap, too, in minor boundary adjustment authority.

So maybe what we should be looking at here is an overall view of the map. Are there similar problems like this, Superintendent Gould, that are going to have you in here every other year here for the next few years on minor boundary adjustments?

Mr. GOULD. No. We do have a few other parcels we need to acquire, but they are already within the authorized boundary. This particular section, there was specific legislation which said 500 feet, so that is why we had to come back to you all for authorization on this.

Mr. REYNOLDS. May I add that this is within the general management plan and the Superintendent and his team carefully looked at that issue so that we would not have to be coming back every year.

Mr. VENTO. What has happened with our gas pipeline controversy down there with the Coast Guard?

Mr. GOULD. You settled that. It is not going through the park. They have not decided yet just what they are going to do. They are looking at other options, the last I heard.

Mr. REYNOLDS. And just so you would know, as Regional Director, I appreciate that settlement and I think we settled it together.

Mr. VENTO. We wanted to be accommodating. We have our friend, our colleagues, and everything seems reasonable, but if you are to have a national policy, where you are going to provide easements through a historic site and you are going to dig it up and put in a gas pipeline, I didn't know any way that I could say no to anyone then with regards to crossing on the resource. So, we tried and struggled, but I couldn't see any alternative.

I have some other questions, but let me yield to my colleague in the event he has a question or two.

Mr. Hansen.

Mr. HANSEN. Oh, thank you, Mr. Chairman.

I don't mean to be picayune about how you do your business, because I know it is very difficult with all the restrictions that Congress gives you, but I have been given to understand that the departmental guidelines limit the agency involving themselves in lands which are outside the boundaries; is that right?

Mr. REYNOLDS. Yes. Without authorization by Congress, yes. Although I do not believe there is any prohibition from the National Park Service—matter of fact, I think just the opposite is true; that the Park Service has the responsibility to ensure that what happens along its boundaries does not adversely affect or provide derogation to the resources for which the park will set aside.

Mr. HANSEN. So, then, you can involve yourself in negotiations outside of the boundaries; is that right?

Mr. REYNOLDS. That is correct.

Mr. HANSEN. Is that in contradiction to your memorandum to Regional Directors from the Director of April 17, 1985?

Mr. REYNOLDS. Well, I would appreciate it if you would read me that.

Mr. HANSEN. I will be happy to give you a copy of it. "No agreements, formal or informal, should be made by field managers or their staffs."

Mr. REYNOLDS. No agreements have been made yet.

Mr. HANSEN. I see. Let me ask you one more.

Have you signed a letter of intent on negotiations on this?

Mr. REYNOLDS. No, we have not.

Mr. HANSEN. Pardon, sir?

Mr. REYNOLDS. No, we have not.

Mr. HANSEN. Is that outside of your own guidelines? Doesn't your own guidelines state you are supposed to sign a letter of intent.

Mr. REYNOLDS. Yes, and we will do so at the appropriate time.

Mr. HANSEN. How do you determine what the appropriate time is? Apparently, you have negotiated with the developer. You have

started talking money. Wouldn't that be before all those things, Mr. Reynolds?

Mr. REYNOLDS. Well, I would like to research that before I respond in detail, and I would be glad to, but as I understand it, we are not in violation of—

Mr. HANSEN. As I say, I don't want to be picayune, and I apologize if you feel that I have, but I do feel we have established rules and regulations and that we should follow them. You feel you are okay on this?

Mr. REYNOLDS. Yes, I do.

Mr. HANSEN. No contradiction to your own rules that you have established or that the Director has established?

Mr. REYNOLDS. No, I do not believe so.

Mr. HANSEN. Thank you, Mr. Chairman.

Mr. VENTO. Thank you for your responses, and do you want to put any of that in the record, the documentation, or not?

Mr. HANSEN. Mr. Chairman, it is not that big a deal to me.

Mr. VENTO. I don't know, I just thought if you didn't get the whole thing, because you are referencing it. Can you give us the reference for the document?

Mr. HANSEN. Sure, be more than happy to give you the reference. It is a memorandum to the Regional Directors and Project Managers from the Director, dated April 17, 1985. Talks about letters of intent; goes through the regulations and the procedures that these gentlemen will go through before they start discussing appraisals.

Mr. VENTO. And the Regional Director at that time was Mr. Coleman?

Mr. HANSEN. Well, let's see.

Mr. VENTO. Director or Regional Director Coleman? I thought it would be helpful to have the reference.

Mr. HANSEN. And, Mr. Chairman, I don't want to make a big deal of crossing the T's or dotting the I's. I just wonder sometimes, as I see the Park Service, because I have more parks in my area than I think anybody, and I just wonder if we do things that just work out or we do things because we follow the rules.

When they turn around on us, they sure hammer us in private industry on following the rules.

Mr. REYNOLDS. As I recall that memorandum, one of the major points of it was to ensure that the national office, that the Washington office knew what was going on and approved of it prior to.

Mr. HANSEN. Can you speak a little louder?

Mr. REYNOLDS. As I remember that memorandum, one of the intents of it was to ensure that regional managers and project managers did not do things in regards to letters of intent that the Washington office did not know about or did not have the opportunity to review prior to those being done.

I believe that, in this case, both the previous Regional Director to me, and myself, have known all along and have taken the appropriate actions with the Director, whichever one it was, over the two cases, Mr. Ridenour or Mr. Kennedy, that they knew what was progressing as time went on.

Mr. HANSEN. Thank you.

Mr. VENTO. It is a question of control, I guess, that when you get parks on the ground, you have to give the field manager, the superintendent, the authority to do the job, rather than to keep kicking the buck upstairs, I think.

But I had some questions along the same lines that are probably equally or more uncomfortable than Mr. Hansen's. That deals with the issue of the sewer line matter. As I understand it, there are 36 private residences now using that sewer line, plus there is a public entity.

Mr. Gould, probably I would like you to respond to questions, unless Mr. Reynolds wants to join in.

Mr. Gould, is that correct? What is the public entity that we have on that road that we put the sewer system in for them, the Moore House development?

Mr. GOULD. It is called Moore House Subdivision and the Park Service put the system in based on the act of Congress, 1948, 1956.

Mr. VENTO. What is Moore House?

Mr. GOULD. It is just a subdivision near the Village of Yorktown.

Mr. VENTO. And we put it in based on this particular authority, but they are all private residences; is that correct, the 36, the Moore House Subdivision? What was the purpose in our being involved in this?

Mr. GOULD. Well, the purpose was to serve our facilities, and then the idea was that since we were putting a sewer system in to serve our facilities, then—

Mr. VENTO. Sort of what is missing here, since there are 36 private residences, and the idea was to make certain they were not using a drain system or cesspool type of system to actually hook up, made more sense, I guess, to somebody?

Mr. GOULD. Yes.

Mr. VENTO. I don't know if it made more sense to us. I expect, at the time, there were assessments and other types of activities that were perceived for the hookup from these private residents; is that correct?

Mr. GOULD. Yes, I understand they paid a hookup fee when—

Mr. VENTO. So there are regular maintenance fees and assessments, then, that take place from those 36 private residences?

Mr. GOULD. Yes.

Mr. VENTO. That the Park Service had administered; is that correct?

Mr. GOULD. Right.

Mr. VENTO. Now, I understand that recently, and I think the Director or the Regional Director's testimony spoke to this, that a few years ago \$73,000 was spent to upgrade the Yorktown line from the Park Service money?

Mr. GOULD. Right.

Mr. VENTO. Now, was that on the entire line or just this subdivision line?

Mr. GOULD. That was not this subdivision. This was the Village of Yorktown system.

Mr. VENTO. The Yorktown line?

Mr. GOULD. Yes.

Mr. VENTO. What is the relationship—I mean at this particular point, the Village of Yorktown line, how did the Park Service get involved in maintaining that?

Mr. GOULD. We were directed by Congress to build both systems, and we were——

Mr. VENTO. Build both the Yorktown line and the private residents' line; is that what you mean by both systems?

Mr. GOULD. Yes.

Mr. VENTO. You were directed to build them in 1948; is that correct?

Mr. GOULD. Well, in 1948, we were directed to do a study, and then in 1956, based on the study, Congress directed us and appropriated money for the last to be built.

One of the reasons for that was Yorktown was a very small, or York County was a very small or rural county at the time and, at the time, we were the people that used most of the sewerage, and also there was this big celebration——

Mr. VENTO. Were you directed by the Appropriations Committee to spend \$73,000 a few years ago to upgrade the Yorktown line? Who directed you to do that?

Mr. GOULD. I assume——

Mr. VENTO. Was that an administration decision?

Mr. GOULD. I would assume so. I was not there then, of course.

Mr. VENTO. There was no legislative action on that? That is what you implied by saying you were directed. But this was an administration decision to spend \$73,000 to upgrade the Yorktown line?

Mr. GOULD. That is my understanding, yes.

Mr. VENTO. So, Mr. Reynolds, do you know what the justification was for that?

Mr. REYNOLDS. No, I do not.

Mr. VENTO. You see, we have this situation where there are a few things that have gone on now with regards to this line. For instance, that is a big piece of the rehabilitation money of the entire region's budget at that point, in that year that I cited a few years ago. I didn't cite a year, but it would be 1990, I guess, or 1991. And today, for instance, it would be almost 10 percent of the region's budget for rehabilitation of the sewer line and private residences in Yorktown.

Mr. GOULD. Well, I might respond to that, if you would like?

Mr. VENTO. Yes.

Mr. GOULD. The reason for participating in that \$73,000 upgrade was so York County would agree to take over the Yorktown system, which they did. We have not thought about it, worried about it, worked on it at all since then. So it certainly was a plus for the park to have that happen in the mid-1970s. And also, we have the most use in Yorktown.

Mr. VENTO. Mr. Gould, I understand this is an unusual arrangement, but did the authority or the law that provided for this in 1956, provide or allow the Park Service to allow the homeowners to pay their sewer fees to York County instead of the Park Service, as an example of the problem?

Mr. GOULD. The legislation, if I understand it, said they were to pay for the maintenance of the system. My understanding is they paid the Park Service, well, for both systems until the mid-1970s.

Then in the mid-1970s, I suppose the people in Yorktown started paying the county and continued to pay the Park Service until 1986, in the Moore House area, at which time, the people that were there then thought they were moving toward a turnover of the line to the county. And so at that point, the county started assuming maintenance and the people started paying York County instead of the Park Service.

Mr. VENTO. Well, I think there is a question of authority here, but were you there in 1986 when this decision was made?

Mr. GOULD. No, I was not.

Mr. VENTO. A decision apparently was made to allow the homeowners to pay their sewer fees to York County, but I guess I have to—the Moore House addition dollars are now paid to the county; is that correct?

Mr. GOULD. That is correct.

Mr. VENTO. But that is the money that should be used for rehabilitation, and the Park Service no longer receives fees on that; is that correct?

Mr. GOULD. That is the position we maintained with the county for a number of years, including the first couple of years I was there. The county's position is that is just for routine maintenance and we will do the routine maintenance, but when it comes to rehabilitation, that money does not cover or does not fully cover rehabilitation.

Mr. VENTO. So that fees should pay for part of the rehabilitation, if you are charging a fee or some sort of tax, then. Over a period of time, it should pay for routine as well as long-term rehabilitation; shouldn't it?

Mr. GOULD. Well, that was our—

Mr. VENTO. They have been collecting the fee since 1986, so that has been basically eight years of collection?

Mr. GOULD. Yes. Well, that is one of the reasons why we have said we think you all should, at least should foot part of the bill. And until very recently, they steadfastly maintained you have to do the rehabilitation before we will take over the system; that is the way we do it with everybody. But in the last few weeks, they have backed off of that position and are willing to assume part of the cost now.

Mr. VENTO. So you are actually, in order to achieve the entire transfer of this system, you are going to have to spend something in excess of \$100,000 now; is that correct, based on the letter that you have that Mr. Reynolds submitted for the record?

Mr. REYNOLDS. That is correct, approximately \$110,000.

Mr. VENTO. And then the transfer will be complete. We will no longer be in the business at that time of maintaining sewer lines for the Moore House addition and/or for Yorktown?

Mr. REYNOLDS. That is correct.

Mr. VENTO. At that point—will we have to make any payments to the sewer authority at that time or the county, or whoever takes this process over at that time?

Mr. GOULD. We would pay the same thing as every other user in York County pays. The sewerage billings are normally based on the water meter.

Mr. VENTO. You are not paying that today?

Mr. GOULD. Yes, we are.

Mr. VENTO. You are paying that today?

Mr. GOULD. Yes.

Mr. VENTO. You have transferred over the entire system, then, that you had to the Yorktown authority?

Mr. GOULD. Well, we have not legally transferred it, but we have an agreement with them that they will do the maintenance and collect the fees.

Mr. VENTO. But is there any embedded value in what you are transferring? You are, obviously, the owners of it now; that is their position. But you are not getting any credit for ownership; is that right?

Mr. GOULD. I would say that is basically right. I don't consider it a value; I consider it on the other side of the ledger.

Mr. VENTO. You think it is a negative. Who owned the sanitary sewer plant; was that always owned by the county?

Mr. GOULD. We had the plant and it operated until the mid-1970s, at which time that plant stopped operating and the sewerage started going into the Hampton Roads sanitary sewerage treatment plant.

Mr. VENTO. And then you began paying a differential fee, I guess, based on the ownership of your own connecting—was that a negotiated matter or was that pretty much a standard fee that everybody else is paying for their volume?

Mr. GOULD. It is the standard fee.

Mr. VENTO. But they were collecting the fees, so has your fee gone down as they have collected the fees from the other subdivisions?

Mr. GOULD. No.

Mr. VENTO. Your fee has not gone down?

Mr. GOULD. Our fee is exactly the same as everybody else's.

Mr. VENTO. But the point is you are just paying at the volume of water that you use and others are paying in the volume that they use; is that correct?

Mr. GOULD. Yes.

Mr. VENTO. The concern I have here is whether we are paying—I assume we are not paying for the private residences, whatever they have?

Mr. GOULD. No.

Mr. VENTO. Even if they are connected to your system?

Mr. GOULD. That is correct.

Mr. VENTO. Mr. Reynolds, did you have something you wanted to say?

Mr. REYNOLDS. I think you just clarified it. Your question in the past was we collected the fees from the residents and then paid their fees plus our fees; is that correct?

Mr. VENTO. That is right.

Mr. REYNOLDS. And then they stopped paying their fees to us. They paid them directly to the county and at that point, we did not technically turn over as much money; correct? We just kept paying our fees?

Mr. GOULD. Right.

Mr. REYNOLDS. So, is that clear?

Mr. VENTO. It is clear. I just didn't understand it was by volume, because they are still moving the sanitary products through your system, I assume. I assume they are part of the system that uses your system as a common system, but you are not receiving anything for the value of what you have in the ground right now in terms of the connecting systems?

Mr. GOULD. It is not an asset, it is a liability.

Mr. VENTO. It is a liability in a sense, but there are rights-of-way, and so forth. Does this actually run through the Park Service property?

Mr. GOULD. Some of it does and some of it does not.

Mr. VENTO. And some does not necessarily simply serve the park?

Mr. GOULD. That is correct.

Mr. VENTO. It is to serve other areas, and so I guess—

Mr. GOULD. Right.

Mr. VENTO [continuing]. That is another question raised with regard to who obviously, in terms of utility crossing and so forth, and whether they should be paid anything in terms of an easement on that. Isn't that an open question?

Mr. GOULD. Yes. We normally do, or we are, I guess starting, as a National Park Service, to charge people when they put lines across our properties for non-park uses. In this case, there are park uses involved.

Mr. VENTO. There are some park uses but there are some non-park uses. It is minor. Is that what you would say; a minor non-park use?

Mr. GOULD. Well, in some cases, it is quite a few houses, yes.

Mr. VENTO. The point is, I guess, what is this easement worth? These are questions that you are going to have to deal with. What is the easement worth?

Mr. REYNOLDS. Part of that question is would the lines have to be there regardless of the private users or if we were the only ones using it, would we still have to have the lines.

Mr. VENTO. You are at the end of the line, aren't you? The Park Service is at the end of the line, aren't they?

Mr. REYNOLDS. At the beginning, depending on which way you look at it.

Mr. VENTO. Well, at the one end.

Mr. GOULD. It is a mosaic, a mixture.

Mr. VENTO. Obviously, you are not receiving any value for your lines and you have the lines going across without an easement issue, so there are relative questions that have to be addressed.

Mr. REYNOLDS. Yes, and I think the position that we are in and the reason we are supporting this legislation is that all of that, as you have indicated eloquently, is complicated to figure out and there seems to be a fair mix of sharing between us and the county that we are supporting.

Mr. VENTO. Well, normally, when you first do an easement, you have some reason, some use and it is defined. Is this going to be defined? Is this easement going to be defined in the agreements as to what you are going to do? And you say you are not going to take any value on this; is that right?

Mr. GOULD. It will be precisely defined. We would also expect to put a reverter clause in there, that if that ever stops being used for those purposes, it would revert back to the Park Service.

Mr. VENTO. Well, I don't know, but I am going to pay close attention to that particular provision of the bill in terms of what occurs here. I am not expecting to be giving someone a difficult time for no reason but, on the other hand, I think it is park land and it has a value in terms of utilization for that purpose.

Mr. REYNOLDS. Well, obviously, if you have further questions that you want answered in different ways, or that needs more detail or more clarification, as you well know, you are free to ask and we will provide it.

Mr. VENTO. Well, I am concerned about this matter, because it does not appear to me, at least on the surface—well, there are a lot of issues of private use of public lands.

It is one thing when you are trying to do something for convenience, but it sounds to me like all of a sudden we are not only trying to get the easement, but we end up paying for them to take over the line and to rehabilitate it where they are getting the use of it, where there are some embedded values.

In terms of cost and in terms of the line, even though it needs rehabilitation, it is far less than what it would cost to put in a whole new line. Do you expect a whole new line to be put in here, Mr. Gould?

Mr. GOULD. No.

Mr. REYNOLDS. Not at this time, but not very many years—

Mr. VENTO. Well, you are giving an easement here for what, for how much volume, for what purpose? We just went through this on the gas line issue.

Mr. REYNOLDS. So part of the question is what is the purpose of the easements?

Mr. VENTO. What is the purpose and nature of the easements, yes. Is it principally for Park Service and the private use incidental to it or what is the nature of that; and should we be paying them to take—I don't think we should be paying them to take the easements.

If we are giving an easement, to me, that would be equalizing the value.

I know you have negotiated hard to get them to come down, but I don't know that we are quite there yet. Mr. Gould, this is making a tough job for him.

Mr. GOULD. We need to give this to York County so bad. If tomorrow morning those pipes would cave in, it would have to be a major repair and we would be responsible for doing it.

We don't have the expertise or the equipment. This needs to be a county function and we have been negotiating rather unsuccessfully on this Moore House thing for 8 or 10 years.

I appreciate you and your staff being so interested in it. I think we are just that far away from getting it resolved. We have to get it resolved.

Mr. VENTO. I simply want to make certain that we are not buying into having a major trunk line in terms of a sewer system put through the park system.

Mr. REYNOLDS. I think that is very fair for us to be sure of.

Mr. VENTO. I don't know, maybe I am worried about something that is not probable. I am not on the ground there as you are, Mr. Gould, living with this everyday, but it seems—

Mr. REYNOLDS. Probable or not, I think we should protect against those kinds of things.

Mr. VENTO. So it is not just my staff and that these are just questions that came out of the blue, you might say. Well, let me thank you.

Mr. REYNOLDS. Is that why Heather is wearing blue?

Mr. VENTO. Let me thank you for your testimony and for your effort on this bill on the Colonial Parkway and we will move to our public witnesses at this time.

Thanks very much.

Mr. REYNOLDS. Thank you very much, sir.

Mr. GOULD. Thank you.

**STATEMENT OF JENNIFER LOOKABAUGH, DEPUTY DIRECTOR,
BOARD OF CHOSEN FREEHOLDERS, CUMBERLAND COUNTY,
NJ**

Mr. VENTO. Let me invite Jennifer Lookabaugh, with the Board of Chosen Freeholders, Cumberland County, New Jersey; Ms. Jane Morton Galetto, Citizens United to Protect the Maurice River and its Tributaries, Inc.; and Beth Norcross, with the American Rivers to please come forward.

And Beth has a statement on both the Red River and the Maurice River and its tributaries.

Ms. LOOKABAUGH. Chairman Vento, my name is Jennifer Lookabaugh and I am Deputy Director of the Cumberland County Board of Chosen Freeholders; that is, alias Vice Chair of the Board of Commissioners, the County Board.

February 14, 1986 would have been a Valentine's Day like any other, if it were not for the gift that the New Jersey Hazardous Waste Facilities Siting Commission decided to give to Cumberland County. It was on that day that Maurice River Township was named as one of four potential sites for a State-sponsored hazardous waste landfill.

There was a lot of hard work by a lot of dedicated individuals in our county, and during the course of this, in May 1987, Cumberland County in the Maurice River area was delisted from potential sites. It became evident to us, though, that this would be an area that would continually be revisited by similar sitings if it were not for some extraordinary protection that we chose in this area.

So it was that we embarked on the task, the six-year task, of trying to achieve designation of this particular river. And it is "Morris River." The further away you get it is the "Maurice," and if you get real close to the river, some of the people only use one syllable to pronounce it.

I am here today to tell you there has been these six years of tremendous dedication and hard work by many people to assemble the consensus to include these outstanding waterways in the national wild and scenic river system. I also want you to know, it was worth the effort to reach local agreement.

There were some questions this morning about the nature of the local plans. I want to assure the committee and yourself that these

local plans were developed in coordination with the National Park Service and the Cumberland County Planning Board, and they meet the criteria. The difference is that they were developed locally, and we felt it was very important to have all their interests before we went for designation.

Congressman Hughes set this forward earlier, and I think it was a wise plan. It might have been a longer route, but we really did, we worked toward consensus, we have it now and we feel comfortable with it.

I am proud of the role county officials and local citizens played in making this plan a reality. The county's planning and development department, under the guidance of its Director Steven Kehs, devoted considerable time to discussing and debating the critical issues in advance of the Federal action.

This effort enabled us to come to you today with having developed significant public awareness and acceptance for the worthy goals of the wild and scenic river designation.

There are many people who played critical roles in the success of our effort, far too many to name each one. I would like to recognize the leadership and dedication of Mayor John Feltes of Maurice River Township, who, from the beginning, supported the inclusion in the wild and scenic river designation, and has been with us all the way. He deserves credit for doing what was right instead of what might have been politically expedient.

I would also like to thank the leaders and members of Citizens United to Protect the Maurice River and its Tributaries. These individuals, Jane Morton Galetto and Donald Fauerbach, with me today, have devoted countless hours of volunteer time to this task.

I am grateful, both as their freeholder and their friend, for the immeasurable impact they have had on our success.

Finally, I would like to note that in addition to the fine efforts of many county and local officials, it was our Congressman, Bill Hughes, who assembled the final pieces of this difficult task. Without his leadership and commitment, we would have settled for something less than the comprehensive package we are bringing before you today.

I was pleased to hear Congressman Hughes say today that for 19 years this was a very significant effort on his part. There are so few times in our political and governmental careers that we get to say something is different because we were there, and this is one of those issues, out of what we see as many, but what he feels strongly is a strong one, and that Bill Hughes will be able to look back on his career and say he made this very large difference to our area.

We do recognize, however, that our work is not done; that as we work together federally and locally, that there will be issues that we are going to have to deal with. We have, however, worked through many contacts and established friendships and a basis for these conversations.

It means that we will be protecting the national resources of an area and building a more prosperous future for our county. It means working with our agricultural business and civic leaders to address the many issues that have been raised in this study proc-

ess in ways that protect our environment and promote these kinds of economic objectives.

Cumberland County is a wonderful place to live. By protecting our important natural resources, we are assuring coming generations their quality of life and their environment will be assets they can use to build a more prosperous future for their children.

We look forward to working with Patty Weber again—there is that name again; and rightfully so—and other outstanding members of the Park Service to make the vision that is embodied in these river designations a reality.

Thank you for the opportunity to address you here today.

[Prepared statement of Ms. Lookabaugh follows:]

Remarks by Jennifer Lookabaugh, Deputy Director
Cumberland County, New Jersey, Board of Chosen Freeholders

To the United States House of Representatives
Committee on Natural Resources
Subcommittee on National Parks, Forests, and Public Lands
August 5, 1993

Chairman Vento, members of the House Subcommittee on National Parks, Forests, and Public Lands, ladies and gentlemen. My name is Jennifer Lookabaugh, and I am Deputy Director of the Cumberland County Board of Chosen Freeholders.

February 14, 1986 would have been a Valentine's Day like any other if it were not for the gift that the New Jersey Hazardous Waste Facilities Siting Commission decided to give Cumberland County. It was on that day that Maurice River Township was named as one of four potential sites for a State sponsored hazardous waste landfill.

Most of Maurice River Township is located in the Pinelands. It is home to some of the most outstanding natural resources in the State. It made no sense to locate a major waste facility in that community. Maurice River Township's Mayor, John Feltes, turned to the County for help. Thanks in great part to the leadership of then Freeholder Ed Salmon, the County began working hard to convince the Siting Commission that the Township was not the place to site the State landfill.

In May of 1987 the Cumberland County site was removed from the list of candidate locations for this facility. But, County leaders did not view this as the end of a process. Rather, the County's job had just begun. In speaking before the Siting Commission, County officials promised to take significant steps toward the permanent protection and conservation of this area. It was from this effort that the "Maurice River and its Tributaries Wild and Scenic River Study" was born.

I am here today to tell you that it has taken six years of tremendous dedication and hard work by many people to assemble the consensus to include these outstanding waterways in the National Wild and Scenic Rivers system. I also want you to know it was worth the effort to reach a local agreement. Too often, State and Federal actions are taken which leave local officials responsible for picking up the pieces. Through the foresight of Congressman Bill Hughes, this did not happen with the Maurice River Study. Early on, Congressman Hughes recognized that the Federal government should not designate an eligible river as part of the Scenic Rivers system without some sense of what this would mean for the citizens who live, work, and recreate in the region. That is why for the first time in the history of this program, the National Park Service worked with local government to put together a River Management Plan in advance of designation. It will be this Plan, this partnership, that guides the future of this important river system.

I am proud of the role that County officials and local citizens played in making this Plan a reality. The County's Planning and Development Department, under the guidance of its director,

Steve Kehs, devoted considerable time to discussing and debating the critical issues in advance of Federal action. This effort has enabled us to come to you today having developed significant public awareness and acceptance for the worthy goals of the Wild and Scenic River designation.

There are too many other people who have played critical roles in the success of our effort to name each one. However, I would like to recognize the leadership and dedication of Mayor John Feltes of Maurice River Township who has been a steadfast supporter of this program. It would have been easy for Mayor Feltes to turn away from Scenic River designation after the Hazardous Waste siting threat disappeared. Jack deserves a lot of credit for doing what was right instead of what might have been politically expedient. Next, I want to thank the leaders and members of Citizens United to Protect the Maurice River and its Tributaries. These individuals, some of whom are with me today, have devoted countless hours of volunteer time to this task. I am grateful both as their freeholder and their friend for the immeasurable impact they have had on our success. Finally, I would like to note that in addition to the fine effort of many County and local officials, it was our Congressman, Bill Hughes, who assembled the final pieces of this difficult task. Without his leadership and commitment, we would have settled for something less than the comprehensive package we bring before you today.

Yet, after all this hard work, our job is still not done. The process of protecting the Maurice River and its tributaries will be an ongoing one. There will be challenges that will have to be met. There will be some growing pains as we experiment with the partnership between local and Federal interests that will manage these waterways. But I bring with me today my personal commitment and the commitment of the Board of Freeholders to this effort. We want this to work. We want to help make the vision offered by Scenic River designation a reality. This not only means protecting the natural resources of the area, but also building a more prosperous future for our County's citizens. It means working with our agricultural, business, and civic leaders to address the many issues they have raised in the course of this study process in ways that protect our environment and promote the kinds of economic objectives they share.

Cumberland County, New Jersey is a wonderful place to live. By protecting our important natural resources, we can assure coming generations that their quality of life and their environment will be assets they can use to build a more prosperous future for their children. We look forward to working with Patty Weber and the other outstanding employees of the National Park Service to make the vision that is embodied in this rivers designation a reality.

Thank you for affording me the opportunity to address you here today.

Mr. VENTO. Thank you very much.

I note that Congressman Hughes has returned. If he feels he would like to join me at the dais up here, it is a little lonely up here.

Mr. HUGHES. No, that is fine, Bruce.

Mr. VENTO. We will proceed with the other testimony.

STATEMENT OF JANE MORTON GALETTO, PRESIDENT, CITIZENS UNITED TO PROTECT THE MAURICE RIVER AND ITS TRIBUTARIES, INC.

Mr. VENTO. We have Ms. Galetto.

Ms. GALETTO. Yes, I would like to thank you for the opportunity to address the subcommittee today.

I would also like to thank Congressman Hughes for hosting us and for all the work he has done in this effort.

My name is Jane Morton Galetto, President of the Water Association called Citizens United to Protect Maurice River and its Tributaries, Inc. In addition, I serve on three State Department of Environmental Protection and Energy Councils, the Endangered and Non-Game Species Advisory Committee, I chair in the State of New Jersey, and I also sit on the Fish and Game Council and the Freshwater Wetlands Advisory Council.

During this process, I was a member of the Wild and Scenic Task Force which developed the County Wild and Scenic Rivers Management Plan and, additionally, I served on Millville's Local River Management Committee.

Both of these plans are cited in the bill, and one of the things that is crucial, and possibly some confusion, all of the municipals plans were developed in conjunction with the Park Service.

So it wasn't a matter of the local plans being brought to the Park Service for conformity as much as it was a matter of a thorough consensus building throughout the process. Citizens United has about 380 memberships and our purpose is to preserve the Maurice River for future generations.

Accompanying me today is our cofounder and trustee of Citizens United, Donald Fauerbach.

I know you folks have a busy schedule today, so as I give the rest of my testimony, I will be cutting out some of those aspects that you have already heard and try to highlight some other aspects.

As you probably already know, Citizens United has been working since 1986 with Bill Hughes on this initiative to designate these tributaries, the Maurice River and its tributaries, as part of the National Wild and Scenic River System.

Actually, we are asking Congress to consider designating all the eligible segments of the river and we hope that in the future we can come back for the 7.2 miles that are omitted in this present legislation.

H.R. 2650 represents many years of consensus building within the communities that border the eligible rivers, and the last time we testified, in September of this past year, only two of the eligible four rivers were included in the bill. Since that time, we have overcome a lot of hurdles to building consensus and are able to bring you all four rivers.

One of the most dramatic mandates during this period of building support came from the citizens of Millville who voted this past November overwhelmingly in support of a congressional wild and scenic designation.

The aspects of condemnation, I believe were best addressed in Congressman Hughes' testimony. I will omit that from the testimony I give presently.

Bill Hughes has also testified to the outstanding natural resources of the area. I think possibly earlier, when Mr. Hansen asked that the Red River be characterized, that possibly the thing I could say of greatest magnitude to try to give you an idea of what we are talking about in terms of the Maurice River would be the fact that the Chesapeake Estuary, the largest estuary on the East Coast, and the Delaware Bay is the second largest estuary bordering the Atlantic Ocean on the East Coast of our Nation.

The largest supply of freshwater to the Delaware Estuary, other than the Delaware River itself, is the Maurice River.

We are talking about an extremely important system to the viability of fisheries on the East Coast. We are talking about a river system that is, in fact, a very extensive and important system to what happens on the East Coast in terms of fisheries, and I hope that gives you some magnitude of the rivers that we are talking about.

The wild and scenic study process, which, of course, started in 1987 with President Reagan signing into legislation an authorizing bill, a study bill. Since that point in time, large industrial projects were proposed for lands adjacent to these rivers, projects which would destroy the rivers integrity as wild and scenic rivers for all time, if constructed.

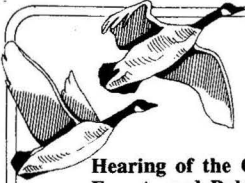
Congressional foresight since the passage of this study bill has protected these rivers: The pristine Manumuskin, the Menantico, the Muskee Creek and the great river, the Maurice.

Today, whether or not the protection of these rivers continues rests in your hands. The urgency for congressional action remains as those who would destroy these national treasures and those who wish to preserve them await your decision, a decision which shapes our river's destiny.

I would like to thank you once again for enabling us to address you today.

Mr. VENTO. Thank you.

[Prepared statement of Ms. Galetto follows:]



Testimony of
**Citizens United to Protect the Maurice River
 and its Tributaries, Inc.**
 Thursday, August 5, 1993

**Hearing of the Congressional Sub Committee on National Parks,
 Forests and Public Lands**

**Comments In Support of: H. R. 2650 A bill to designate portions
 of the Maurice River and its tributaries, in the State of New
 Jersey, as components of the National Wild and Scenic River
 System**

Chairman; Congressman Bruce Vento / Committee Members

My name is Jane Morton Galetto, I am President of a watershed association called Citizens United to Protect the Maurice River and its Tributaries, Inc. (CU). In addition I serve on three state DEPE councils, the Endangered and Non Game Species Advisory Committee, Fish and Game Council and the Freshwater Wetlands Advisory Council. I was also a member of the Wild and Scenic River Task Force which developed the County Wild and Scenic Rivers Management Plan. Additionally, I served on Millville's Local River Management Committee. Both of these plans are cited in the bill you are reviewing today.

I am speaking on the behalf of Citizens United. Citizens United is a non profit watershed corporation with over 380 memberships. Our purpose is to preserve and protect the Maurice River watershed for the enjoyment by this and future generations. Accompanying me today is co-founder and trustee of Citizens United Donald Fauerbach.

As you may already be aware Citizens United has been working since 1986 on an initiative to have the Maurice River and its tributaries designated into the National Wild and Scenic Rivers System. We are asking the U.S.

(continued)



**CITIZENS UNITED TO PROTECT THE
 MAURICE RIVER AND ITS TRIBUTARIES, INC.**

P.O. Box 474 □ Millville, NJ 08332

FOUNDED 1979

2/ Testimony: Citizens United 8/5/93

Congress to designate all eligible river segments (those cited in the bill before you today) into the National Wild and Scenic Rivers System. As you know the National Park Service (NPS) found all the cited river segments to be overwhelmingly eligible for designation. H.R. 2650 represents many years of consensus building within the communities which border the eligible river corridor. When we last testified before this sub-committee in September of this past year only two of the eligible four rivers were in the proposed bill. Since then many hurdles for building consensus have been overcome. One of the most dramatic mandates of support came from the citizens of Millville who voted this past November overwhelmingly in support of Congressional Wild and Scenic designation.

During the September '92 hearing some concerns were raised about eliminating the ability of the National Park Service to acquire lands through condemnation. Without the elimination of this provision we would not be here today. Even the staunchest local proponents of Wild and Scenic agreed with this premise at the outset of the designation process. National Park Service Officials and Cumberland County Planners have made the development of this study project unique from the first days of the study process; designation was to come after the plan was developed instead of the status quo of - designation and then work out the details. The Park Service must now be sensitive to the process which they themselves have cooperated in, from the beginning the Park Service was part and parcel to the assurance of no land acquisition by means of condemnation.

The entire Maurice River System is of tremendous local, regional, national, hemispheric and even global importance in a strictly environmental sense. It provides the largest contribution of clean, fresh water to the hemispherically important migratory bird habitats of the Delaware Estuary and is a vital link between Delaware Estuary habitat and the natural expanses of the Pinelands National Reserve. It supports one third of the entire population of globally endangered sensitive joint vetch. The watershed produces New Jersey's most extensive area of wild rice and provides essential habitat for Atlantic Flyway migratory waterfowl. This is the feeding, wintering and potential nesting grounds of the American bald eagle - more specifically it is the historic stronghold of this species. This area has the greatest concentration of threatened and endangered species in the State of New Jersey.

(page 2 of 3)

3/ Testimony: Citizens United 8/5/93

During the Wild and Scenic Study process (May 7, 1987 President Reagan signed legislation authorizing the Maurice River study), large industrial projects were proposed for lands adjacent to these rivers. Projects which would destroy the Rivers' integrity as Wild and Scenic rivers for all time if constructed. Congressional foresight, since the passage of the study bill has protected these rivers - the pristine Manumuskin, the Menantico, the Muskee Creek and the great river the Maurice. Today, whether or not the protection of these rivers continues rest in your hands. The urgency for Congressional action remains, as those who would destroy these national treasures and those who wish to preserve them await your decision. A decision which shapes our rivers' destiny.

Thank you for enabling us to address you today.

**Some of the Organizations, and Groups
Supporting Wild and Scenic Designation of the Maurice River
and its Tributaries**

Citizens United to Protect the Maurice River and Its Tributaries, Inc.
 South Jersey Lands Trust
 Cumberland Conservation League
 New Jersey Conservation Foundation (5,000 members statewide)
 New Jersey Audubon Society (over 12,500 members)
 Association of New Jersey Environmental Commissions
 American Rivers Washington D. C.
 New Jersey State Federation of Sportsmen's Clubs (over 150,000 members)
 New Jersey Environmental Federation (over 70,000 members)
 Menantico Conservation League
 W.A.T.E.R.
 4,000 Citizens signed petitions in area of proposed designation
 Delaware Estuary Program - Citizen Advisory Council
 The Nature Conservancy
 Watershed Association of the Delaware River
 American Littoral Society
 Cape May Bird Observatory
 Pinelands Alliance
 Natural Lands Trust

**STATEMENT OF BETH NORCROSS, DIRECTOR OF LEGISLATIVE
PROGRAMS, AMERICAN RIVERS INC.**

Mr. VENTO. And let me invite Beth Norcross, with the American Rivers to present her statement on both the Maurice and its tributaries as well as the Red River at this time.

Beth, welcome.

Ms. NORCROSS. Thank you, Mr. Vento. This, I believe, is the first occasion that I have had to testify to this Congress, which is late in the session for us, but I think we owe that, to a large part, on the fact you wiped the slate clean, I think last Congress.

Congress designated much, with your assistance and that of your staff, 30 new additions to the Wild and Scenic River System. It was a banner year for wild and scenic rivers and we certainly appreciate your help in that.

I do appreciate the opportunity to testify on these two very important bills. I will turn first to H.R. 2650, the bill to designate the Maurice, the Manumuskin, the Manantico and the Muskie Creek Rivers in southern New Jersey. I will leave the superlatives to the local citizenry who know their river best. I will share an anecdote with you.

I had occasion—in a previous incarnation, as you know, I worked with the Senate Parks Subcommittee, your counterpart in the Senate, and after finishing up the study bill back in 1987, we were given some pictures of these rivers, which our staff consistently framed and put up on the walls.

As you know we had dealt, as do you, with some of the finest largest, wildest rivers across the Nation, and we were delighted as people came in the door and asked us what great Western State these rivers came from, to watch their mouths drop as we told them that they were indeed proud eastern New Jersey rivers.

So, as you know, New Jersey has some very fine natural area and we were glad to enlighten the public as they came in our office.

Not only does this bill offer significant protection to fine eastern streams, but it also offers a real model for wild and scenic designations on rivers surrounded primarily by private lands. As you know, these are our most difficult rivers because of landowner concerns and the like.

Without sounding like a broken record, the National Park Service does deserve a great deal of credit in working with the local constituency, and also I would give Congressman Hughes a great deal of credit for working with his constituents, working with us, working with river advocates, and yourself, to come up with a bill that we could all support and that works for the folks there on the river and also works for the system as a whole.

I just would like to mention a few areas briefly where this provides a model for private lands and rivers. First of all, as I said before, the Park Service worked together with the folks on the ground to come up with plans that made sense to them, and this is first and foremost, the principle whereby we have to follow in designating these private lands and rivers.

The credo seems to be, and we agree with it wholeheartedly, that river protection efforts generally are not successful unless they are endorsed by the local citizenry.

Secondly, the Park Service did what we believe should be done on all wild and scenic rivers during the study process and prepared a draft management plan in advance. And what that did was to allow the landowners and the towns who are affected by this designation to see exactly what it was all about.

It allayed a lot of the fears and it also prevented folks who are opposed to designation from coming in and spreading mistruths and fear-mongering and giving people an idea that wild and scenic designation was something that it really was not.

Thirdly, H.R. 2650 uses a very unique and creative way to limit condemnation along these stretches, while giving the Park Service the assurances that they can, indeed, protect the river if they need to, but also giving local landowners and municipalities the assurance that their lands will almost certainly not ever be condemned.

And fourthly, we really support the provision within the bill which allows for further cooperation and further efforts to protect those segments not designated by this particular bill.

This, again, is a model, in our minds, for future private lands efforts and it builds on the model, as you mentioned earlier, of the Great Egg Harbor that we have done in previous Congresses.

Turning next to H.R. 914, again, I think the superlatives around the Red River Gorge are well-known and I won't enunciate those any further. Kevin Coyle, our president, did ask me to pass along his greetings and also to ask you to take a hard look at this because he recently became engaged at the Red River Gorge. He also wanted me to note he did not find any Jemez salamanders there during his engagement, but I believe his mind was probably elsewhere.

Mr. VENTO. Jemez salamander is a favorite topic of Mr. Richardson who is associated with Jemez River in New Mexico. So when Mr. Coyle testified on this matter, we brought this issue up to see if there was an in-depth understanding of the biological diversity of the amphibians in New Mexico.

Ms. NORCROSS. We understand there is a Red River salamander, a distant eastern cousin to the Western Jemez salamander. It is, indeed, a spectacular gorge and we do support the designation of this area if amended in a couple of key ways.

The Forest Service has enunciated the necessity of changing the boundary language, and we support the Forest Service on that for the reasons that they articulated. We also believe that the section that prohibits condemnation along this stretch should be deleted.

I will have to say your conversation earlier articulated most of my concerns and thoughts on the matter, but I am sorry Mr. Hansen is not here because I wanted to point out one irony of the Wild and Scenic Rivers Act is that it actually provides more assurance to folks who live along the river than they currently have.

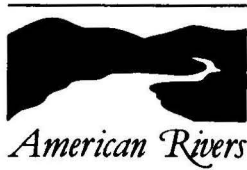
As you know, if you are in a proclamation boundary of a national forest you are subject to condemnation any day, any time. And as I said, the irony of it is that since this river is greater than 50 percent federally owned, that the, if designated, there would be no fee title condemnation as there is presently.

The Forest Service and the BLM, as you know, have not used condemnation in several years, they have not used condemnation on a river that was designated since 1976, and it is not something

that they do lightly, and we do believe that tool should be maintained for emergency circumstances.

I will submit the rest of my statement for the record and would be pleased to answer any questions at this time.

[The prepared statement of Ms. Norcross follows:]



TESTIMONY OF BETH NORCROSS
DIRECTOR OF LEGISLATIVE PROGRAMS
AMERICAN RIVERS, INC.

ON H.R. 2650
AND H.R. 914

BEFORE THE SUBCOMMITTEE ON
NATIONAL PARKS AND PUBLIC LANDS
HOUSE COMMITTEE ON NATURAL RESOURCES

August 5, 1993

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Mr. Chairman, members of the Subcommittee, I appreciate the opportunity to testify on two bills: H.R. 2650, a bill to designate the Maurice River and three tributaries, the Manumuskin and Menantico Rivers and Muskee Creek, in New Jersey as additions to the National Wild and Scenic Rivers System; and H.R. 914, a bill to designate certain segments of the Red River in Kentucky as components of the National Wild and Scenic Rivers System. My name is Beth Norcross, and I am the Director of Legislative Programs of American Rivers, a 15,000 member organization committed to the protection and restoration of the nation's outstanding rivers.

Turning first to H.R. 2650, I would first like to thank Congressman Hughes for the leadership he has displayed in the designation of the Maurice, Manumuskin, and Menantico Rivers and the Muskee Creek. Mr. Hughes has worked assiduously with local landowners, local river advocates, the Congress, and with American Rivers to negotiate a bill we can all wholeheartedly endorse.

In 1987, Congress passed an Act requiring the Secretary of the Interior to study the Maurice River and its tributaries for possible wild and scenic designation. The final wild and scenic

study report, completed this year, found the Maurice and its tributaries, the Manumuskin River, the Menantico River, and the Muskee Creek, all eligible for inclusion in the Wild and Scenic System. Because local communities were at that time divided over the designation of the Menantico and the main stem of the Maurice, only the Muskee Creek and the Manumuskin River were found suitable for designation and therefore recommended for inclusion in the System. Since that time, however, virtually all of the communities have endorsed designation. Consequently, all but the 7-mile Lower Maurice stretch are now included in the bill.

Despite its proximity to the Greater Philadelphia and Camden metropolis, the Maurice River system has maintained the integrity of the natural biological features that once were indigenous to its densely populated neighboring regions. These prevailing ecological, historical and cultural resources surrounding the Maurice and its tributaries are only surpassed by this area's undisturbed, pristine beauty.

The river banks and wetlands along the Maurice, as well as providing habitat for various types of migrating shorebirds and threatened reptiles and amphibians, boast the last remaining suitable bald eagle wintering and nesting ground in the State. Thirty-one endangered plant species live in the Maurice corridor, which is also home to the striped bass, an important sport and

commercial fish whose population has been threatened along much of the East coast. The high-quality water the Maurice delivers to the Delaware Bay is critical to the regional seafood industries and is directly related to the level of the Cohansey aquifer, the region's source of groundwater. Fralinger Farm, a prehistoric American Indian settlement that has been occupied for over 3,000 years, is just one of the immensely valuable cultural resources along the Maurice.

This bill not only offers important protection to significant eastern streams, but also offers a model for wild and scenic designation on rivers surrounded primarily by private lands. The National Park Service deserves a great deal of credit for preparing the wild and scenic study in a manner that was both respectful of the resources of the rivers and of those people who live and work along the river. Accordingly, the Park Service forged partnerships with local individuals and government entities based on mutual respect which resulted in a sound river protection effort. The Park Service worked on the basis of the maxim that we wholeheartedly endorse -- river protection efforts generally are not successful unless they are endorsed by the local citizenry.

The basis of the Park Service cooperative effort was the development of a draft management plan for the Maurice and its tributaries prior to designation. It is our belief that Congress

should require that all wild and scenic studies include the preparation of a draft management plan. Draft management plan preparation prior to designation gives individuals and government entities the opportunity to see just how designation will affect them before the fact. It allows the Park Service to work out problem areas before people believe that designation is being imposed upon them against their will. And finally, early plan preparation discourages individuals who oppose designation from playing on landowner fears and spreading falsehoods about what designation is all about.

H.R. 2650 also uses the existing provisions of the Wild and Scenic Rivers Act to limit condemnation in a manner that is meaningful to landowners along these particular rivers. Building on the example of the Great Egg wild and scenic river which was designated last year, the bill utilizes section 6(c) of the Act which prohibits condemnation if adequate local zoning is in place. H.R. 2650 expands the definition of "local zoning" to include locally-developed river plans which are actually more comprehensive in scope than most zoning ordinances. The bill does an excellent job of using the basic tenets of the Wild and Scenic Rivers Act and stretching them to be more responsive to concerns of local landowners.

We are also very supportive of section 3(d) of the bill, which encourages the Park Service to work with local

municipalities to secure support for designation of additional segments of these rivers.

Turning next to H.R. 914, American Rivers would like to commend Congressman Rogers for introducing the Red River Designation Act of 1993. This bill would protect 19.4 miles of the Red River, as it flows through the Red River Gorge and eastern Kentucky's Daniel Boone National Forest, by inclusion in the National Wild and Scenic Rivers System.

Often noted for its impressive array of wild flowers, the scenic and biologically diverse Red River Gorge is home to rare wildlife populations and warm water fishery habitat. The area also exhibits towering rock formations and natural bridges, features significant Native American cultural sites, and provides renowned canoeing, hiking, and camping opportunities.

Lingering controversy involving a proposed Corps of Engineers flood control dam, however, continues to threaten these outstanding attributes. Many local residents have expressed strong opposition to any dam because such a proposal would endanger the very traits that characterize the river and its adjacent rural agricultural communities. These qualities were cited by the Forest Service in 1984 when the Red River was found eligible for wild and scenic river designation. Last January, then-President George Bush moved to protect the gorge when he

recommended that Congress add 19.4 miles of the river to the National Wild and Scenic Rivers System. The Kentucky Environmental Quality Commission has also passed a resolution asking the Kentucky delegation to pursue a wild and scenic river designation. Without a doubt, designation enjoys widespread support; it would spare this unique resource from unwarranted dam development and insure that nearby rural communities and frequent visitors will be able to benefit from the natural, cultural, and recreational values of the river in perpetuity.

While American Rivers supports wild and scenic designation of this stretch, we recommend some amendments to the bill that we believe would strengthen its protections without compromising private landowner interests.

First, we are concerned that H.R. 914 limits the ability of the Forest Service to define appropriate corridor boundaries by specifying those boundaries within the bill. Section 3(b) of the Act requires the agency to define boundaries of the corridor after designation through the management planning process. While American Rivers recognizes that local citizens feel the need to know exactly how wild and scenic river designation will affect land use, such premature boundary delineation "politicizes" boundary designation procedures. Therefore, American Rivers recommends that all boundary delineation language be stricken from H.R. 914.

Secondly, we would also strongly recommend that the provision that limits the Secretary's ability to acquire lands be deleted from this bill. The portion of the Red River to be designated is greater than 50% federally owned and would therefore not be subject to condemnation in fee title pursuant to the restrictions in section 6(b) of the Act. The only threat, therefore, for condemnation would be to acquire easements. No landowner would ever need fear his or her land being taken outright.

The Wild and Scenic Rivers Act goes to great lengths to restrict the government's ability to purchase land adjacent to designated rivers and to not adversely affect existing land uses. These limitations on condemnation serve to improve local control over land use, while at the same time fulfilling long standing local efforts to conserve a resource, attract tourism, and raise land values.

The condemnation authority contained in the Wild and Scenic Rivers Act has rarely been used by the federal land managing agencies in the 25-year history of the Act. In fact, there has been no condemnation by the Forest Service and the Bureau of Land Management in the last 13 years. The agencies have appropriately shown a great reluctance to use their condemnation authority, preferring instead to respond to landowner uses which are

incompatible with the designation by negotiation or acquisition of easement on a willing seller basis. Only in the most extreme of circumstances, when landowner use would significantly degrade the values of the river meant to be protected by the Act, do the agencies condemn.

Again, I appreciate the opportunity to testify before the Subcommittee today and would be glad to answer any questions.

Mr. VENTO. Yes, well, thank you very much, Beth. I think that is a good point on the Red River.

As with wilderness designation, that completely suspends the condemnation authority. Of course, it has a significant impact in terms of land use beyond that, but insofar as there are concerns about it, the designation of the wild and scenic, again, qualifies it significantly.

I think it can be worked out. It is probably a good thought to copy the subcommittee Chairman's legislative language from his own district, but there may be some better that fits within the Wild and Scenic Rivers Act. So we will try to work through, but, in any case, I don't think it will be too much of a stumbling block.

It is essential the tools be present to accomplish the goals of what the legislation seeks to achieve, and that really is the purpose. If we have to do something slightly different in some instances, we hope that the bottom line is that the Forest Service or the Park Service has the ability to manage and to attain what we are asking them to do. It is just about that simple.

There may be some modifications or differences, as in the context of the wild and scenic, to do that in New Jersey or in Kentucky, as the case may be with the Red River.

I did go through most of the questions. I note that the fish presence, there is a question about the presence of certain fish in these eastern rivers. They talk about the—since you had brought up the issue of the Jemez salamander, it is only fair we talk about this.

They do talk about the presence of a scarlet snake, and I was looking for amphibians, but I didn't see any.

Ms. NORCROSS. There is a tiger salamander along the Maurice.

Mr. VENTO. Quite large, actually. Also, call them hellbenders and they are pretty big. But I don't know if it actually occurs here. I didn't look.

This said at least five amphibian species considered threatened in the State, and I don't know, but I expect they would occur in this watershed.

Ms. GALETTO. They do occur in the watershed. You have pine snake, pine bears, tree frog. The northern tiger salamander, which you alluded to as being a large salamander, is actually North America's largest salamander, and in New Jersey it is a threatened endangered species.

As to the other two species, the scarlet snake has an undetermined status in the State of New Jersey, and we just recently found a corn snake on a site within the corridor, and that is also one of our State's threatened and endangered species. The Federal species involved are the bald eagle, the shortnose sturgeon and the peregrine falcon.

Mr. VENTO. Those species that have historically inhabited the Maurice River are considered endangered, but the present status of the fish within the study area is unknown.

Ms. GALETTO. That is correct. There has not been a shortnose sturgeon caught and documented for a number of years. There was one fish that was caught and thought to be a shortnose sturgeon, but a person with the proper expertise to make the identification was not present and the fish was returned.

Mr. VENTO. I am glad for the catch-and-release philosophy. Are there other types of sturgeon in the river besides the shortnose?

Ms. GALETTO. The Atlantic sturgeon.

Mr. VENTO. So there are other fish here. Are these rivers subject to runs of shad, as an example?

Ms. GALETTO. Not really. The shad run goes predominantly up the Delaware river, but the alewife or black bakarinose are the run of fish most well-known to take place in the river. We also have striped bass.

Mr. VENTO. I saw they were referred to. They run the river, then?

Ms. GALETTO. Which was a declining species that is presently on the increase. We also have another declining species that we have a stronghold for on the river and that is black duck. That is a species of concern with the Federal U.S. Fish and Wildlife System.

Mr. VENTO. It is called black—

Ms. GALETTO. The black duck.

Mr. VENTO. Duck.

Ms. GALETTO. Duck, yes. So that is a species of Federal concern we happen to be the stronghold for.

In the Maurice River we probably have the largest numbers of black duck anywhere in the Atlantic flyway, which hold up there in the winter, as well as we have a breeding population in the summer.

Mr. VENTO. I didn't go through all the different resources, but it has—in other words, the point is even though it is in the East, there are a significant number of fauna and flora that are in this particular corridor.

Ms. GALETTO. Is Congressman Hughes still here?

Well, Congressman Hughes has to bring you down. We will take you on tour and you can see for yourself.

Mr. VENTO. I am certain of this. I would be happy to do so. I am just trying to get it in the hearing record and, obviously, it does not do justice to the 32 miles of it.

Ms. GALETTO. The area, as far as threatened and endangered species, the statement that we could use that would be the best explanation of what is present, you have the three federally endangered species, beyond that the Maurice River watershed has the largest concentration of State-threatened endangered species in New Jersey.

Mr. VENTO. Well, I would talk about the bald eagle, but they are big enough to take care of themselves, plus they get a lot of attention, so somebody has to look out for the amphibians and the other benthic organisms that are important in this total biodiversity scheme. To me, one piece of DNA is as good as another.

Ms. GALETTO. Some tiger salamanders ears are ringing in the Maurice River now.

Mr. VENTO. Well, anyway, I could go through a lot of other questions. I do appreciate your presence this morning.

I recall the enthusiasm last fall in terms of the Egg Harbor River and the work on the study. Actually, I have been here for a while and I can remember the studies. They start coming back to me.

So, in any case, it is really a joy in a sense to see the type of collaboration and cooperation that has been achieved here, I know

with no small effort on the part of the various groups that are represented.

I know that Congressman Hughes deserves a lot of credit as well as others that have worked on it at the local level. I am certain that we are on a path here where we want to positively consider it and we will hand it over to Senator Bradley and others to carry this through in the Senate and, hopefully, be at the President's desk and he will designate another 7 miles to be studied and the issues resolved that are affected.

But, otherwise, I have really no further questions and I want to be sure we get the other witnesses to talk about the Colonial issue, which I am certain there are answers to explain after our exchange with the regional director.

Thank you all very much.

Mr. VENTO. Finally, we have to testify Mr. Norman Beatty, Vice President, Colonial Williamsburg Foundation, and Mr. David Norman, County Administrator, James City County.

Your statements will be placed in the committee record in their entirety, and you can feel free to summarize, read the relevant portions thereof or add additional comments as you feel it is appropriate.

STATEMENT OF NORMAN G. BEATTY, VICE PRESIDENT, COLONIAL WILLIAMSBURG FOUNDATION

Mr. BEATTY. Mr. Chairman, due to the lateness of the hour, I will talk ad hoc and let my statement speak for itself, especially since Mr. Bateman saw fit to plagiarize my statement in his own, which is perfectly fine with us.

Mr. VENTO. We have no copyright laws with regards to public officials, you know.

Mr. BEATTY. We are immune here, aren't we?

I think one of the things I would like to stress is this is truly a remarkably community-wide consensus. This is a critical issue that runs from the business community to the environmental community and sister historic organizations like our own, because the Colonial Parkway is truly the ribbon that holds the direct triangle together, Yorktown, Jamestown and Williamsburg, and it is impossible for us to conceive we can do our jobs presenting this unique chapter of American history without the Colonial Parkway and what it does to hold us together and to tell the story of how America began, that remarkable story, in just 23 miles, that spans from 1607 to 1781.

This is a regrettable situation that did occur. I, too, had questions in the very beginning, as you did, Mr. Chairman, of whether there were other examples of this and we are satisfied that there are not. This is a unique situation, and I am also encouraged that the landowner who has gone out of his way, really, the developer, to make this land available to the National Park Service, and we are confident that if Congress acts that we do have a means to make that happen even before appropriations.

So I appreciate your hearing us and giving us this opportunity and I would be happy to answer any questions you may have.

Mr. VENTO. Thank you very much, Mr. Beatty.

[Prepared statement of Mr. Beatty follows:]



The Colonial Williamsburg Foundation

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TESTIMONY BY NORMAN G. BEATTY, VICE PRESIDENT, COLONIAL WILLIAMSBURG FOUNDATION, BEFORE THE HOUSE OF REPRESENTATIVES SUBCOMMITTEE ON NATIONAL PARKS, FORESTS AND PUBLIC LANDS REGARDING H.R. 2478, AUGUST 5, 1993

Mr. Chairman, my name is Norman G. Beatty. I represent the Colonial Williamsburg Foundation in Williamsburg, Virginia, where I am vice president for communications and government relations. I am here on an errand of some urgency; I am here to speak on behalf of H.R. 2478 as introduced by Representative Herb Bateman of Virginia's First Congressional District.

Passage of this bill would buttress against an unforeseen and immediate threat the protection and tranquility Congress has already guaranteed to the sites and scenes of some of the most primary, dramatic, and inspiring passages of our nation's history. It would secure a vital and unspoiled stretch of the Colonial Parkway from the imminent intrusion of inharmonious development.

Colonial Williamsburg is a non-profit educational institution visited by nearly one million Americans a year. It is one of the three points within the Historic Triangle that the Colonial Parkway -- an integral part of the Colonial National Historical Park -- inscribes across the Virginia peninsula that divides the James and York rivers as they flow to the Chesapeake Bay.

One of America's most beautiful and leisurely byways, the limited-access parkway is a product of the foresight with which Interior Secretary Harold Ickes blessed posterity in 1938, and of the stewardship of the National Park Service since. It links Jamestown Island, the site of the first permanent English settlement in America; Colonial Williamsburg, the restored 18th-century Virginia capital of Patrick Henry and Thomas Jefferson, and Yorktown, where George Washington humiliated Lord Cornwallis in the final critical battle for American independence.

A rolling, parkland ribbon of river vistas, tree-shaded rambles, wetlands wildlife, and serenity, the Colonial Parkway begins where Englishmen broke ground for their First Colony, visits the town where Virginia patriots sowed the seeds of liberty, and concludes on the battlefields where the father of our country reaped our freedom. It links cherished shrines of America's colonial traditions, and protects them from the trying encroachments of progress. All along its gracious, peaceful length, the right of way of this rural lane fashions a buffer between our bustling todays and our historic yesterdays.

The parkway is a popular scenic route that guards the quality of an historic environment in a managed landscape that screens modern development. Its character is important for citizens, businesses, civic and conservations organizations, and local governments.

As important to its purpose as any reach of the Colonial Parkway, the ambience of the segment that guards the north shores of John Smith's Jamestown Island is suddenly in danger. Slipping past the marshes, grasslands and pines toward a broad bend in the James, this length of the parkway starts the vacationer, the families on holiday, the student field trips, the inspiration seekers, on their personal journeys back in time. As they look down this vista on history the eyes of these travelers soon will fall upon a housing development just off to the side -- unless Congress acts quickly and favorably on H.R. 2478.

The woods on the north margin of this portion of the parkway have been subdivided. Most of the subdivision is too far removed from the road to offer any insult to the scenery. Building and clearing in this area -- entirely unobjectionable -- has already begun. Colonial Williamsburg carries no brief against development, but it hopes to help the National Park Service avoid construction and tree cutting on a sensitive string of lots that almost abuts the road.

The developer is as anxious as any American to safeguard the ambience of such an important pathway to the past, but he is under irresistible financial pressure in the present to wind up his project. The lending institutions are anxious over their investments in the properties, and the developer must accommodate contractors at the point of committing to homebuyers. He has pressing obligations that he must meet.

Fortunately, he is quite cooperative and more than willing to convey these lots to the National Park system. Luckily, the Conservation Fund has agreed to purchase his interest in them pending federal reimbursement, reimbursement H.R. 2478 would assure.

Protection of the parkway is an issue of great community concern and pride, and a matter, truly, of national importance. It is an issue of protecting the surroundings of American shrines. Colonial Williamsburg is foursquare for this measure. As you know from your correspondence, the bill has as well the support of the City of Williamsburg, the James City County Board of Supervisors, the Williamsburg Area Chamber of Commerce, the Lower James River Association, and the overwhelming majority of the citizens of the Williamsburg area.

Colonial Williamsburg joins these organizations and citizens in asking Congress to confirm the wisdom it has long shown in investing in the nation's future by investing the protection of its past.

Thank you, Mr. Chairman, for your attention and for your time.

**STATEMENT OF DAVID B. NORMAN, COUNTY ADMINISTRATOR,
JAMES CITY COUNTY, VA**

Mr. VENTO. And, finally, Mr. Norman, your statement from the county.

Mr. NORMAN. Yes, sir, I will be brief.

I am here on behalf of the board of supervisors, our elected boards of supervisors. Our County, James City is very richly blessed to have a sizable portion of the Colonial Parkway passing through our community from Jamestown to Williamsburg, but today we come to you with concerns.

One section of the parkway does not have sufficient right-of-way to adequately buffer it from encroaching development. This section is being developed with residential lots which will back up to within 85 feet of the parkway pavement. A visual blight will be created which cannot be adequately buffered with planting.

The county is not in a legal position to restrict residential development on these lands. We have no differences with the developer and his desire to develop his land, however, there is a need to acquire lots as a buffer before they are sold for building purposes.

I want to assure you the county does not object to this land being taken off our tax role because of the importance an unspoiled parkway is to the citizens of this country as well as to foreign travelers.

Colonial Parkway is a national treasure which must be preserved in its present state of natural beauty. This treasure is a source of pride to all citizens as they enjoy this appealing environment. To fail to maintain the integrity of this treasure, would, I believe, reflect upon our Nation in its responsibility to continue the preservation of a major investment in this valuable asset, America's Colonial Parkway.

With the support of our community, we urge the support of Congress in acquiring this land.

Mr. Chairman, I thank you for this opportunity to be here.

Mr. VENTO. Thank you.

[Prepared statement of Mr. Norman follows:]

TESTIMONY OF DAVID B. NORMAN, COUNTY ADMINISTRATOR OF JAMES CITY COUNTY, VIRGINIA, BEFORE THE HOUSE OF REPRESENTATIVES' SUB-COMMITTEE ON NATIONAL PARKS, FORESTS AND PUBLIC LANDS REGARDING H.R. 2478, AUGUST 5, 1993.

Mr. Chairman, my name is David B. Norman. I serve James City County, Virginia, as its County Administrator. I am here today on behalf of our elected Board of Supervisors to speak in support of H.R. 2478 as introduced by Representative Herbert Bateman.

Our County is richly blessed in having a sizeable portion of the Colonial Parkway pass through our community - from Jamestown to Williamsburg. But today we come to you with concerns. One section of the Parkway does not have sufficient right-of-way to adequately buffer it from encroaching development. This section is being developed with residential lots which will back up to within 85 feet of the Parkway pavement. A visual blight will be created which can not be adequately buffered with plantings.

The County is not in a legal position to restrict residential development on these lands. We have no differences with the developer and his desire to develop his land. However, there is a need to acquire lots as a buffer before they are sold for building purposes.

I want to assure you that the County does not object to this land being taken off the tax roles, because of the importance of an

unspoiled Parkway to the citizens of this country as well as to foreign travelers.

The Colonial Parkway is a national treasure which must be preserved in its present state of natural beauty. This treasure is a source of pride to all citizens as they enjoy this appealing environment. To fail to maintain the integrity of this treasure would, I believe, reflect upon our nation in its responsibility to continue the preservation of a major investment in this valuable asset - America's Colonial Parkway.

With the support of our community we urge the support of Congress in acquiring land as provided for in H.R. 2478 .

Mr. Chairman, I want to thank each of you for your time and attention and especially for your commitment to serving this great and beautiful country of ours.

Mr. VENTO. Thank you, Mr. Norman.

I note that you said the county is not in a legal position to restrict residential development on these lands today.

Mr. NORMAN. Today. Under existing law.

Mr. VENTO. Within the county, who has the zoning authority in this area?

Mr. NORMAN. We have the zoning authority.

Mr. VENTO. So was the zoning changed or has this been this way since the late 1930s?

Mr. NORMAN. It has been this way.

Mr. VENTO. So you knew the potential problem at least was there, and I don't know if it is ever easy to predict a developer's actions, but, clearly, are there other instances, in light of this particular example? Have you had an opportunity in the county to review—I don't know if you have the entire length of the parkway in your county.

Mr. NORMAN. Just the section from Jamestown to Williamsburg.

Mr. VENTO. That is a pretty significant portion. Have you reviewed the zoning around this area? If we go in, or somebody does, and buys this for \$750,000 and we take care of this, but at the same time, the county has other outstanding land classifications that could be in conflict, there are a lot of things you can do in terms of requiring setbacks. I am not suggesting that you—well, are there other actions that you would consider?

Mr. NORMAN. There are no other legal actions that we can apply in this particular case or in the future instances.

Mr. VENTO. Well, have you, in fact, developed a zoning policy that prevents transboundary or cross-park boundary problems into private lands?

Mr. NORMAN. That is not possible under Virginia law, that I am aware of.

Mr. VENTO. I don't know, maybe I am not making myself clear. Obviously, it is hard to rezone something. You can always upgrade it, I suppose, if that is what you want to call it, from residential to commercial. I don't know what all the zoning laws are in Virginia.

What I am asking is that there be a cooperative effort here not to—and I am trying to be sensitive to the fact that there are Jamestown, Yorktown and the parkway in this area.

Mr. NORMAN. I can assure you Jamestown County has been, historically, very protective in its land use policies that relates to both Colonial Williamsburg properties as well as the parkway properties.

Mr. VENTO. This is not a case where in 1991 they decided to zone this all residential and subdivide it.

Mr. NORMAN. No, this had been zoned this way for some time.

Mr. VENTO. If that property had come before the county board at that time, there would have been a debate about the impact on the parkway, I take it?

Mr. NORMAN. The only thing we were able to do was require a 25-foot buffer. Not require. In Virginia property owners are able to proffer certain things, and we cannot require the proffers, but the developer did proffer a 25-foot buffer. But that is not adequate.

Mr. VENTO. That is not sufficient unless you plant Lombardy poplars which have a life expectancy of 10 years, then they die. So it is not a very good idea, I guess.

Mr. NORMAN. Right.

Mr. VENTO. Well, I understand and I appreciate, obviously, the county's willingness, and even though I was obviously concerned about the sewer system, I understand there is a debate in the county over that. I am not trying to be insensitive to it. But, on the other hand, I am looking at what the impact is on the Park Service in terms of what our policies are. I don't know this is a problem that is going to occur again real soon.

Mr. Beatty, are there any other sources of revenue to help deal with this nearly three-quarter of a million dollar problem here?

Mr. BEATTY. Well, we have contacted the Conservation Fund for interim help. That might be the immediate solution, because the developer really is under—in fact, he is overdue with his financing institutions on this parcel, and our hope is we might be able to affect an arrangement with the Conservation Fund to actually acquire the land and then it would be subsequently acquired by the Federal Government.

Mr. VENTO. Are there any other sources?

Mr. BEATTY. We have not been able to identify any other legitimate sources.

Mr. VENTO. Williamsburg itself, the Foundation, has not considered any type of assistance here?

Mr. BEATTY. I think we are well beyond our resources and our ability to do that. We are very sympathetic, obviously, and supportive, but we are unable to financially support it that way.

Mr. VENTO. I notice the Superintendent is still here.

Superintendent Gould, could you rejoin us at the table for a minute, because I had a question I wanted to ask on the length of the, if you know, the length of the easements for the sewer line that is in this bill.

Do you know what the length of the area is of that easement that you are granting? Is it parallel with the road; does it run the entire length of it or what are we talking about?

Mr. GOULD. There is not a real simple answer to that. There are basically two types of easements, one is what the county and the trustees gave to us back in 1956, that is an easement not on park lands. That is an easement in and beside the streets in Yorktown and the—so we will just give back to the County of York and the trustees of Yorktown what they gave to us and that does not involve park lands.

Then the second is the easement on park lands, and they are basically in four places, one out in the Moore House Subdivision and then three in and around Yorktown.

Mr. VENTO. So they are pretty substantial easements; substantial lengths, or not?

Mr. GOULD. Well, at the Moore House it would be a couple hundred feet and the Yorktown area more than that.

Mr. VENTO. We might want to look at some specifics. It is not that I don't think we are making you tread water here or do a lot of work. It probably is necessary anyway in terms of whatever the

disposition of the issue is to have that information available, I would think.

Mr. GOULD. Yes, I would be happy to. I have some maps here now, if you want to see them, or I can supply them for the record.

Mr. VENTO. I don't want to take the time of the committee and the other witnesses at this point, but I think if you get together with staff at a convenient time, or if you leave them and then be responsive to questions from staff and/or myself, we can make an evaluation of that information.

Mr. GOULD. Yes, be happy to do that.

Mr. VENTO. I think the impression that one might be left with is that this easement could run the entire length of the parkway.

Mr. GOULD. Oh, no.

Mr. VENTO. It does not?

Mr. GOULD. No.

Mr. VENTO. These are much smaller easements.

Mr. GOULD. Much smaller just in and around York.

Mr. VENTO. The easements that would remain on the park property would principally serve the Park Service; service the facilities; is that correct?

Mr. GOULD. It is a mix.

Mr. VENTO. A mixture, yes. That is the concern I have. That is the concern I have. And how they would be used in the future would be, of course, as I said to Regional Director Reynolds, would be a concern of mine. So you will want to nail that down, I guess.

Well, superintendent thank you very much.

Mr. Beatty, I really don't have any further questions. I appreciate your coming up.

It underlines, obviously, the importance, and, Mr. Norman, of the community support and interest in the matter.

It is a substantial undertaking for the Park Service in a single park, especially for this small a parcel, but you are convinced it is key to the entire experience of that Colonial drive; is that correct?

Mr. BEATTY. That is correct.

Mr. NORMAN. Very much so.

Mr. VENTO. I saw the map, and this is located on one end of the drive. I have been there. Of course, most of us that have been in Washington a little while have visited these sites. Very impressive area. Very important to the economy, and so thanks very much for your testimony.

We will stand adjourned at this time.

Thank you, Superintendent Gould.

Mr. GOULD. Thank you.

[Whereupon, at 12:35 p.m., the subcommittee was adjourned.]

H.R. 1471/S. 375, TO AMEND THE WILD AND SCENIC RIVERS ACT BY DESIGNATING A SEGMENT OF THE RIO GRANDE IN NEW MEXICO AS A COMPONENT OF THE NATIONAL WILD AND SCENIC RIVERS SYSTEM, AND FOR OTHER PURPOSES

H.R. 2815, TO DESIGNATE A PORTION OF THE FARMINGTON RIVER IN CONNECTICUT AS A COMPONENT OF THE NATIONAL WILD AND SCENIC RIVERS SYSTEM

THURSDAY, OCTOBER 28, 1993

HOUSE OF REPRESENTATIVES,
COMMITTEE ON NATURAL RESOURCES,
SUBCOMMITTEE ON NATIONAL PARKS, FORESTS
AND PUBLIC LANDS,
Washington, DC.

The subcommittee met, pursuant to call, at 10:05 a.m. in Room 210, Cannon House Office Building, Hon. Bruce F. Vento (chairman of the subcommittee) presiding.

STATEMENT OF HON. BRUCE F. VENTO

Mr. VENTO. The Subcommittee on National Parks, Forests and Public Lands will be in order.

This morning we are meeting to hear two measures, as members have been advised. There is a series of three bills, actually, and two subjects. To designate different portions of rivers for inclusion in the National Wild and Scenic Rivers System.

One river, the Rio Grande in New Mexico's designation is the purpose of two of the measures, a Senate and House measure. The House measure introduced by our friend and colleague Bill Richardson, who serves on the subcommittee, and who, obviously, this morning has conflicts on some of the other bills that are being considered. But he assured me of his interest and support for this matter, so we will be working closely with him.

This is a 12-mile segment of the Rio Grande. Apparently in an earlier action nearly 50 miles of the river has been designated under the Act.

The other measure is H.R. 2815, introduced by our friend and colleague, the gentlewoman from Connecticut, Nancy Johnson, and cosponsored by all the members of the Connecticut delegation, in-

cluding, of course, Congressman Gejdenson, who works with us on the Committee on Natural Resources.

This measure would designate about 14 miles of the Farmington River, for management as a recreation river under the Wild and Scenic Rivers Act. I will note especially that the bill deviates in several respects from the usual provisions of the Wild and Scenic Rivers Act, and we will be taking note of that during the hearing and the discussions with the Park Service. We need to look very closely at these matters in our consideration of legislation.

[The prepared statement of Mr. Vento follows:]

OPENING STATEMENT OF CONGRESSMAN BRUCE F. VENTO

Today we will have a hearing on two bills, H.R. 1104, a bill to establish the Great Falls Historic District Commission in New Jersey, which was introduced by Representative Herb Klein, and H.R. 2843, a bill to establish the Wheeling National Heritage Area, introduced by Congressman Molloy. Both of these bills consider ways to preserve and interpret our Nation's history and deal with aspects of our industrialized past.

H.R. 2843 is identical to a measure currently pending before the Senate Energy and Natural Resources Committee, S. 1341, introduced by Senator Byrd. For the past several years various activities have been underway in Wheeling, WV, involving National Park Service personnel and using NPS funds for historic and cultural preservation purposes. These activities have taken place without an express legislative policy directing the use of those Federal personnel and funds. Concerns have been expressed as to the role of the National Government in this project as well as the extent of the duties and responsibilities of the involved parties. The legislation we are considering today (H.R. 2843) would formalize the various duties and responsibilities for the historic and cultural preservation activities proposed to be undertaken in this area. There needs to be a legislative authorization for the Wheeling project. The fiscal year 1994 Interior Appropriations Act also recognizes that need by placing a restriction on the use of funds in this area.

The second bill we are considering today, H.R. 1104, establishes the Great Falls Historical District Commission for the preservation and redevelopment of the Great Falls National Historic District in Paterson, New Jersey. I understand that Representative Klein has been working with Representatives from the National Park Service, as well as interested local officials and citizens, to refine some of the provisions of this legislation. While a bill incorporating some of the suggested changes was introduced last Wednesday, we lacked the time to notice that legislation, H.R. 3498, for this hearing. However, I understand that the Park Service and minority have copies of the bill introduced last week, and the administration witness is prepared to answer questions on its provisions.

While this subcommittee has authorized various heritage corridors, we have only begun to consider the heritage areas concept as another approach to resource preservation and interpretation. I believe that the concept of heritage areas is one that we need to examine carefully so that we can determine what appropriate action can or should be taken on these and other proposed heritage areas. Accordingly, I look forward to learning more about these proposed heritage areas and the concept behind heritage areas as well.

[Texts of the bills, H.R. 1471, S. 375, and H.R. 2815, follow:]

103D CONGRESS
1ST SESSION

H. R. 1471

To amend the Wild and Scenic Rivers Act by designating a segment of the Rio Grande in New Mexico as a component of the National Wild and Scenic Rivers System, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 24, 1993

Mr. RICHARDSON introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To amend the Wild and Scenic Rivers Act by designating a segment of the Rio Grande in New Mexico as a component of the National Wild and Scenic Rivers System, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Rio Grande Designa-
5 tion Act of 1993".

1 **SEC. 2. DESIGNATION OF SCENIC RIVER.**

2 Section 3(a) of the Wild and Scenic Rivers Act (16
3 U.S.C. 1274(a)) is amended by adding at the end the fol-
4 lowing new paragraph:

5 “() RIO GRANDE, NEW MEXICO.—The main stem
6 from the southern boundary of the segment of the Rio
7 Grande designated pursuant to paragraph (4), down-
8 stream approximately 12 miles to the west section line of
9 Section 15, Township 23 North, Range 10 East, to be ad-
10 ministered by the Secretary of the Interior as a scenic
11 river.”.

12 **SEC. 3. DESIGNATION OF STUDY RIVER.**

13 (A) STUDY.—Section 5(a) of the Wild and Scenic
14 Rivers Act (16 U.S.C. 1276(a)) is amended by adding at
15 the end the following new paragraph:

16 “() RIO GRANDE, NEW MEXICO.—The segment
17 from the west section line of Section 15, Township 23
18 North, Range 10 East, downstream approximately 8 miles
19 to the southern line of the northwest quarter of Section
20 34, Township 23 North, Range 9 East.”.

21 (b) STUDY REQUIREMENTS.—Section 5(b) of such
22 Act (16 U.S.C. 1276(b)) is amended by adding at the end
23 the following new paragraph:

24 “() The study of the Rio Grande in New Mexico
25 shall be completed and the report submitted not later than
26 3 years after the date of enactment of this paragraph.”.

1 **SEC. 4. RIO GRANDE CITIZENS ADVISORY BOARD.**

2 (a) **ESTABLISHMENT.**—Not later than 90 days after
3 the date of enactment of this Act, the Secretary of the
4 Interior (referred to in this Act as the “Secretary”) shall
5 establish the Rio Grande Citizens Oversight Review Board
6 (referred to in this Act as the “Board”) to advise the Sec-
7 retary on matters pertaining to—

8 (1) the development and implementation of a
9 management plan for the segment of the Rio Grande
10 designated as a component of the National Wild and
11 Scenic Rivers System pursuant to the amendment
12 made by section 2; and

13 (2) the preparation of the study pursuant to the
14 amendments made by section 3.

15 (b) **COMPOSITION.**—The Board shall consist of 11
16 members, appointed by the Secretary, of whom—

17 (1) 10 members shall be property owners along
18 the segments of the Rio Grande designated and
19 studied pursuant to the amendments made by this
20 Act; and

21 (2) 1 member shall be a representative of the
22 village of Pilar.

4

1 SEC. 5. WITHDRAWAL OF ORILLA VERDE RECREATION
2 AREA.

3 (a) IN GENERAL.—Subject to valid existing rights,
4 the lands described in subsection (b) are withdrawn
5 from—

6 (1) all forms of entry, appropriation, or disposal
7 under the public land laws;

8 (2) location, entry, and patent under the mining
9 laws; and

10 (3) disposition under all laws pertaining to min-
11 eral and geothermal leasing.

12 (b) LANDS.—

13 (1) DESCRIPTION.—The lands referred to in
14 subsection (a) comprise an area known as the
15 “Orilla Verde Recreation Area”, totaling approxi-
16 mately 1,349 acres, which were conveyed by the
17 State of New Mexico to the United States on July
18 23, 1980, April 20, 1990, and July 17, 1990, as
19 generally depicted on the map entitled “Proposed
20 Recreation Addition to Rio Grande Wild and Scenic
21 River” and dated September 1992.

22 (2) PUBLIC ACCESS.—The map referred to in
23 paragraph (1) shall be on file and available for pub-
24 lic inspection in the appropriate offices of the Bu-
25 reau of Land Management.

1 **SEC. 6. COMPLETION OF PREHISTORIC TRACKWAYS STUDY.**

2 The Secretary is authorized to contract with the
3 Smithsonian Institution for the completion of the pre-
4 historic trackways study required under section 303 of the
5 Act entitled "An Act to conduct certain studies in the
6 State of New Mexico", approved November 15, 1990
7 (Public Law 101-578).

○

103D CONGRESS
1ST SESSION

S. 375

IN THE HOUSE OF REPRESENTATIVES

MARCH 18, 1993

Referred to the Committee on Natural Resources

AN ACT

To amend the Wild and Scenic Rivers Act by designating a segment of the Rio Grande in New Mexico as a component of the National Wild and Scenic Rivers System, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Rio Grande Designa-
5 tion Act of 1993”.

1 **SEC. 2. DESIGNATION OF SCENIC RIVER.**

2 Section 3(a) of the Wild and Scenic Rivers Act (16
3 U.S.C. 1274(a)) is amended by adding at the end the fol-
4 lowing new paragraph:

5 “() RIO GRANDE, NEW MEXICO.—The main stem
6 from the southern boundary of the segment of the Rio
7 Grande designated pursuant to paragraph (4), down-
8 stream approximately 12 miles to the west section line of
9 Section 15, Township 23 North, Range 10 East, to be ad-
10 ministered by the Secretary of the Interior as a scenic
11 river.”.

12 **SEC. 3. DESIGNATION OF STUDY RIVER.**

13 (A) STUDY.—Section 5(a) of the Wild and Scenic
14 Rivers Act (16 U.S.C. 1276(a)) is amended by adding at
15 the end the following new paragraph:

16 “() RIO GRANDE, NEW MEXICO.—The segment
17 from the west section line of Section 15, Township 23
18 North, Range 10 East, downstream approximately 8 miles
19 to the southern line of the northwest quarter of Section
20 34, Township 23 North, Range 9 East.”.

21 (b) STUDY REQUIREMENTS.—Section 5(b) of such
22 Act (16 U.S.C. 1276(b)) is amended by adding at the end
23 the following new paragraph:

24 “() The study of the Rio Grande in New Mexico
25 shall be completed and the report submitted not later than
26 3 years after the date of enactment of this paragraph.”.

3

1 **SEC. 4. RIO GRANDE CITIZENS ADVISORY BOARD.**

2 (a) **ESTABLISHMENT.**—Not later than 90 days after
3 the date of enactment of this Act, the Secretary of the
4 Interior (referred to in this Act as the “Secretary”) shall
5 establish the Rio Grande Citizens Oversight Review Board
6 (referred to in this Act as the “Board”) to advise the Sec-
7 retary on matters pertaining to—

8 (1) the development and implementation of a
9 management plan for the segment of the Rio Grande
10 designated as a component of the National Wild and
11 Scenic Rivers System pursuant to the amendment
12 made by section 2; and

13 (2) the preparation of the study pursuant to the
14 amendments made by section 3.

15 (b) **COMPOSITION.**—The Board shall consist of 11
16 members, appointed by the Secretary, of whom—

17 (1) 10 members shall be property owners along
18 the segments of the Rio Grande designated and
19 studied pursuant to the amendments made by this
20 Act; and

21 (2) 1 member shall be a representative of the
22 village of Pilar.

1 **SEC. 5. WITHDRAWAL OF ORILLA VERDE RECREATION**
2 **AREA.**

3 (a) **IN GENERAL.**—Subject to valid existing rights,
4 the lands described in subsection (b) are withdrawn
5 from—

6 (1) all forms of entry, appropriation, or disposal
7 under the public land laws;

8 (2) location, entry, and patent under the mining
9 laws; and

10 (3) disposition under all laws pertaining to min-
11 eral and geothermal leasing.

12 (b) **LANDS.**—

13 (1) **DESCRIPTION.**—The lands referred to in
14 subsection (a) comprise an area known as the
15 “Orilla Verde Recreation Area”, totaling approxi-
16 mately 1,349 acres, which were conveyed by the
17 State of New Mexico to the United States on July
18 23, 1980, April 20, 1990, and July 17, 1990, as
19 generally depicted on the map entitled “Proposed
20 Recreation Addition to Rio Grande Wild and Scenic
21 River” and dated September 1992.

22 (2) **PUBLIC ACCESS.**—The map referred to in
23 paragraph (1) shall be on file and available for pub-
24 lic inspection in the appropriate offices of the Bu-
25 reau of Land Management.

1 **SEC. 6. COMPLETION OF PREHISTORIC TRACKWAYS STUDY.**

2 The Secretary is authorized to contract with the
3 Smithsonian Institution for the completion of the pre-
4 historic trackways study required under section 303 of the
5 Act entitled "An Act to conduct certain studies in the
6 State of New Mexico", approved November 15, 1990
7 (Public Law 101-578).

 Passed the Senate March 17 (legislative day, March
3), 1993.

Attest:

WALTER J. STEWART,

Secretary.

103D CONGRESS
1ST SESSION

H. R. 2815

To designate a portion of the Farmington River in Connecticut as a component of the National Wild and Scenic Rivers System.

IN THE HOUSE OF REPRESENTATIVES

JULY 30, 1993

Mrs. JOHNSON of Connecticut (for herself, Mrs. KENNELLY, Mr. GEJDENSON, Ms. DELAURO, Mr. SHAYS, and Mr. FRANKS of Connecticut) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To designate a portion of the Farmington River in Connecticut as a component of the National Wild and Scenic Rivers System.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Farmington Wild and
5 Scenic River Act".

6 **SEC. 2. FINDINGS.**

7 The Congress finds that—

8 (1) Public Law 99-590 authorized the study of
9 2 segments of the West Branch of the Farmington

2

1 River, including an 11-mile headwater segment in
2 Massachusetts and the uppermost 14-mile segment
3 in Connecticut, for potential inclusion in the Wild
4 and Scenic Rivers System, and created the Farming-
5 ton River Study Committee, consisting of represent-
6 atives from the 2 States, the towns bordering the 2
7 segments, and other river interests, to advise the
8 Secretary of the Interior in conducting the study
9 and concerning management alternatives should the
10 river be included in the Wild and Scenic Rivers Sys-
11 tem;

12 (2) the study determined that both segments of
13 the river are eligible for inclusion in the Wild and
14 Scenic Rivers System based upon their free-flowing
15 condition and outstanding fisheries, recreation, wild-
16 life, and historic values;

17 (3) the towns that directly abut the Connecticut
18 segment (Hartland, Barkhamsted, New Hartford,
19 and Canton), as well as the Town of Colebrook,
20 which abuts the segment's major tributary, have
21 demonstrated their desire for national wild and sce-
22 nic river designation through town meeting actions
23 endorsing designation; in addition, the 4 abutting
24 towns have demonstrated their commitment to pro-
25 tect the river through the adoption of "river protec-

1 tion overlay districts,” which establish a uniform set-
2 back for new structures, new septic systems, sand
3 and gravel extraction, and vegetation removal along
4 the entire length of the Connecticut segment;

5 (4) during the study, the Farmington River
6 Study Committee and the National Park Service
7 prepared a comprehensive management plan for the
8 Connecticut segment (the “Upper Farmington River
9 Management Plan”, dated April 29, 1993) which es-
10 tablishes objectives, standards, and action programs
11 that will ensure long-term protection of the river’s
12 outstanding values and compatible management of
13 its land and water resources; and

14 (5) the Farmington River Study Committee
15 voted unanimously on April 29, 1993, to adopt the
16 Plan and to recommend that Congress include the
17 Connecticut segment in the Wild and Scenic Rivers
18 System in accordance with the spirit and provisions
19 of the Upper Farmington River Management Plan,
20 and to recommend that, in the absence of town votes
21 supporting designation, no action be taken regarding
22 wild and scenic river designation of the Massachu-
23 setts segment.

1 **SEC. 3. WILD, SCENIC, AND RECREATIONAL RIVER DES-**
2 **IGNATION.**

3 Section 3(a) of the Wild and Scenic Rivers Act (16
4 U.S.C. 1274(a)) is amended by adding the following new
5 paragraph at the end thereof:

6 “() FARMINGTON RIVER, CONNECTICUT.—(A) DES-
7 IGNATION AND MANAGEMENT.—The 14-mile segment of
8 the West Branch and mainstem extending from imme-
9 diately below the Goodwin Dam and Hydroelectric Project
10 in Hartland, Connecticut, to the downstream end of the
11 New Hartford-Canton, Connecticut, town line (hereinafter
12 in this paragraph referred to as the ‘segment’), to be ad-
13 ministered by the Secretary of the Interior in cooperation
14 with the Farmington River Coordinating Committee es-
15 tablished under paragraph (B) as a recreational river. The
16 segment shall be managed in accordance with the Upper
17 Farmington River Management Plan, dated April 29,
18 1993, adopted on April 29, 1993 by the Farmington River
19 Study Committee (hereinafter in this paragraph referred
20 to as the ‘Plan’). The Plan shall be deemed to satisfy the
21 requirement for a comprehensive management plan pursu-
22 ant to section 3(d) of this Act.

23 “(B) MANAGEMENT COMMITTEE.—To assist in the
24 long-term protection of the segment and the implementa-
25 tion of this paragraph and the Plan, a Farmington River
26 Coordinating Committee (hereinafter in this paragraph re-

1 ferred to as the 'Committee') shall be established within
2 90 days after the date of enactment of this paragraph.
3 The membership, functions, responsibilities, and adminis-
4 trative procedures of the Committee shall be as set forth
5 in the Plan. The Committee shall not be a Federal advi-
6 sory committee, and shall not be subject to the provisions
7 of the Federal Advisory Committee Act (Act of October
8 6, 1972; 86 Stat. 776; 5 U.S.C. App.).

9 “(C) FEDERAL ROLE.—(i) The Director of the Na-
10 tional Park Service (hereinafter in this paragraph referred
11 to as the 'Director') shall represent the Secretary in the
12 implementation of the Plan and the provisions of this Act
13 with respect to the segment designated by this paragraph,
14 including the review of proposed federally assisted water
15 resources projects which could have a direct and adverse
16 effect on the values for which the segment was established,
17 as authorized under section 7(a) of this Act.

18 “(ii) Pursuant to section 10(e) and section 11(b)(1)
19 of this Act, the Director may enter into cooperative agree-
20 ments with the State of Connecticut, the towns of
21 Colebrook, Hartland, Barkhamsted, New Hartford, and
22 Canton, Connecticut, and the Committee. Such coopera-
23 tive agreements shall be consistent with the Plan and may
24 include provisions for financial or other assistance from

6

1 the United States to facilitate the long-term protection,
2 conservation, and enhancement of the segment.

3 “(iii) The Director may provide technical assistance,
4 staff support, and funding to assist in the implementation
5 of the Plan.

6 “(iv) Notwithstanding the provisions of section 10(e)
7 of this Act, no portion of the segment designated by this
8 paragraph shall become a part of the National Park Sys-
9 tem nor shall it be subject to regulations which govern
10 the National Park System.

11 “(D) WATER RESOURCES PROJECTS.—(i) In deter-
12 mining whether a proposed water resources project would
13 have a direct and adverse effect on the values for which
14 the segment designated by this paragraph was included
15 in the national wild and scenic rivers system, the Secretary
16 shall specifically consider the extent to which the project
17 is consistent with the Plan.

18 “(ii) Congress finds that the existing operation of the
19 Colebrook Dam and Goodwin Dam hydroelectric facilities,
20 together with associated transmission lines and other ex-
21 isting project works, pursuant to licenses or exemptions
22 currently granted them under the Federal Power Act (41
23 Stat. 1063; 16 U.S.C. 791a et seq.), is not incompatible
24 with the designation of the segment referred to in sub-
25 paragraph (A) as a component of the national wild and

1 scenic rivers system, and will not have a direct and adverse
2 effect on, nor unreasonably diminish, the values for which
3 the segment was established. Notwithstanding anything in
4 this Act to the contrary, the designation of the river shall
5 not affect the ability of the Federal Energy Regulatory
6 Commission to license or relicense (including exempting
7 from licensing) the continued operation of the Colebrook
8 Dam and Goodwin Dam hydroelectric projects, together
9 with associated transmission lines and other project
10 works, provided that such operation is consistent with the
11 Plan.

12 “(iii) Notwithstanding anything in this Act to the
13 contrary, inclusion of the segment designated by this para-
14 graph in the Wild and Scenic Rivers System shall not im-
15 pair the continued operation of the Colebrook Dam and
16 Reservoir by the United States Army Corps of Engineers
17 for the purpose of flood control.

18 “(iv) The Plan, including the detailed analysis of
19 instream flow needs incorporated therein and such addi-
20 tional analysis as may be incorporated in the future, shall
21 serve as the primary source of information regarding the
22 flows needed to maintain instream resources and the po-
23 tential compatibility between resource protection and pos-
24 sible water supply withdrawals.

1 “(E) LAND MANAGEMENT.—(i) The zoning ordi-
2 nances duly adopted by the towns of Hartland,
3 Barkhamsted, New Hartford, and Canton, Connecticut,
4 including the ‘river protection overlay districts’ in effect
5 on the date of enactment of this paragraph, satisfy the
6 standards and requirements of section 6(c) of this Act.
7 For the purpose of section 6(c), such towns shall be
8 deemed ‘villages’ and the provisions of that section, which
9 prohibit Federal acquisition of lands by condemnation,
10 shall apply.

11 “(ii) Nothing in this paragraph or this Act shall au-
12 thorize management by the United States Government of
13 lands which are not owned by the United States Govern-
14 ment. All lands along the segment and its tributaries shall
15 be managed by the owners of such land.

16 “(iii) The United States Government shall not ac-
17 quire land along the segment or its tributaries for the pur-
18 poses of wild and scenic river designation. Nothing in this
19 paragraph or this Act shall prohibit Federal acquisition
20 of land along the segment for other purposes, or the use
21 of Federal funds administered by State or local govern-
22 ments to acquire land along the segment.

23 “(F) MISCELLANEOUS.—Notwithstanding anything
24 in section 3(b) of this Act to the contrary, no distinct lat-
25 eral boundary shall be established for the segment of the

1 river designated by this paragraph, as set forth in the
2 Plan.

3 “(G) FUNDING.—There are authorized to be appro-
4 priated such sums as may be necessary to carry out the
5 purposes of this paragraph.”.

○

Mr. VENTO. I note in reading the testimony last night from the gentlewoman that she intends to work closely with the staff, has been working closely with the staff to resolve whatever outstanding questions may occur with regards to her measure.

Copies, of course, of the materials are before the members and staff. We are pleased to welcome Congresswoman Johnson from the Sixth District to explain briefly her bill, then move on to other witnesses that we have.

Congresswoman Johnson, welcome.

Without objection, all members statements and testimony of witnesses will be made a part of the record in its entirety.

Hearing no objection, so ordered.

Congresswoman Johnson, please proceed to summarize for us.

STATEMENT OF HON. NANCY L. JOHNSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CONNECTICUT

Mrs. JOHNSON. Thank you, Mr. Chairman.

I am simply going to submit my testimony for the record because you have been kind enough to allow four witnesses from Connecticut to speak in greater depth, and I think it will be useful to you to hear them discuss why the unusual process that we allowed in the Wild and Scenic Rivers Study bill that we passed some years ago has been extremely fruitful, not only for preservation, but for local river management, and has laid a solid foundation for the preservation of this river that simply couldn't have been laid without Federal leadership and Federal involvement. So I am going to yield my time to them.

Thank you for your attention. I thank particularly Stan Sloss for his help in working through this. And, while we have a ways to go together, I think this testimony today will help us in that work. And I thank you for your cooperation and consideration over the nearly 10 years that we have had this project before your committee.

[Prepared statement of Mrs. Johnson follows:]

NANCY L. JOHNSON
5TH DISTRICT, CONNECTICUT

COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE:
HEALTH
TRADE

COMMITTEE ON
STANDARDS OF OFFICIAL CONDUCT

CO-CHAIR
EXPORT TASK FORCE

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TESTIMONY

OF

THE HONORABLE NANCY L. JOHNSON

REPRESENTATIVE FROM CONNECTICUT

BEFORE THE

SUBCOMMITTEE ON NATIONAL PARKS, FORESTS, AND PUBLIC LANDS

OCTOBER 28, 1993

FEDERAL WILD AND SCENIC DESIGNATION FOR
THE WEST BRANCH OF THE FARMINGTON RIVER

MR. CHAIRMAN:

Good morning and thank you for giving me and my constituents the opportunity to testify about a project that is near and dear to our hearts.

Back in 1984 when I first introduced legislation authorizing a study of the West Branch of the Farmington River in my district, I had no idea that it would take nearly 10 years to get to this point. Yet, with the dedicated efforts of the 17 members of the Farmington River Advisory Committee, the local Watershed Association, the Metropolitan District Commission [MDC], the Boston office of the National Park Service, and countless other individuals who worked so hard to protect the Farmington, we sense victory is near at hand. You and your committee can make it happen, and we trust you will be convinced of the importance of this project after hearing from us this morning.

The Farmington River segment we seek to protect is a free-flowing jewel that enhances the quality of life in Connecticut. Though it is in a relatively urban area of our country, it retains the rural ambiance and beauty of the much longer and isolated rivers of America's western states.

We seek to protect the river for many reasons, not the least of which is its significant recreational and scenic value to the thousands of people who use it annually. I have had the good fortune to enjoy the tranquility of the river and note with pleasure that many New Englanders cite the Farmington as a fly-fishing destination second to none and nationally ranked kayakers find the whitewater challenging.

page two

The national significance of the Farmington is underscored by the breadth of support in evidence here today. In years past, it was not unusual for Farmington Valley residents to greet with suspicion the water needs of nearby Hartford residents and look askance at proposals to divert additional water from the Farmington.

Thanks to an unprecedented and cooperative effort between the Connecticut Department of Environmental Protection [DEP] and the MDC, and with the federal leadership of the Wild and Scenic Study, a thorough in-stream flow analysis has been completed. Armed with information from that study, a comprehensive Management Plan, and the diligent work of the Park Service, DEP, and MDC staff, I believe we now have crafted a bill that recognizes the legitimate concerns of all.

My bill, H.R. 2815, seeks to address the goals laid out by my constituents; namely,

- long-term protection for the river,
- maximum local control,
- minimal federal intrusion, and
- no federal land acquisition.

Knowing of your responsibilities regarding future rivers bills, Mr. Chairman, we have met with your staff to discuss the precise language of the bill and are ready to continue those discussions to advance our shared goals. I and my staff look forward to the opportunity to continue the process, as I am committed to the designation of the Farmington in the 103rd Congress.

page three

Let me close by thanking you and your able staff - especially Mr. Sloss and Mr. Christensen - for moving us closer to designation. Enactment of the Farmington legislation in this, the Twenty-Fifth year of the Wild and Scenic Rivers System, undoubtedly will be remembered as a milestone in the annals of American environmental protection.

Mr. VENTO. Well, thank you very much. You are welcome to sit with the committee as your schedule allows today. You may want to return when we get specifically to focusing with the park Service on the Farmington River in Connecticut that you are most interested in.

Mrs. JOHNSON. Thank you, Mr. Chairman.

Mr. VENTO. So you can monitor the time and your presence if it is of any interest to you in that matter, in terms of joining the committee.

Mrs. JOHNSON. Thank you, Mr. Chairman, and I will do that.

Mr. VENTO. Thank you very much.

I am pleased to welcome the Director of the Bureau of Lands Management, Department of the Interior, Mr. James Baca.

Mr. Baca, welcome.

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

Mr. VENTO. Your testimony has been made a part of the record. I was going to say we are appreciative of the revitalization and actions that you have taken with the Department of the Interior in terms of trying to, especially with regards to issues that have been long latent and need to be addressed that are not the subject of this hearing.

But I am hopeful that we can continue to work together on a number of things. I know one of our outstanding tasks is the reauthorization bill and trying to work that through. So I am mindful of that and of the work that you have done, and hopefully, we'll be able to formulate whatever changes along with the ideas and concepts that others have to come forth with a good reauthorization bill in the near future.

STATEMENT OF JIM BACA, DIRECTOR, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

Mr. BACA. Thank you, Mr. Chairman. We are putting together a pretty good shopping list on that reauthorization bill for you. It seems like every day we have another idea.

And I can never help but notice that on our maps, the BLM maps are always looked at and there is a title there, "These lands are not yet named," so we are trying to have a contest to see what we can call our BLM lands. So that might be something to go in there too.

Mr. Chairman, I appreciate being here today, especially on this matter, since it involves my home State of New Mexico and an area that I am very familiar with. S. 375 and H.R. 1471 would add a 12-mile segment of the Rio Grande in the State to the National Wild and Scenic Rivers System with a scenic designation. We fully support these bills with a few amendments which I will discuss shortly.

Section 6 of this bill, by the way, relates to an entirely different matter and authorizes the Secretary to contract with the Smithsonian Institute for a study of the Prehistoric Trackways, also in New Mexico. And that study was required by law.

Mr. Chairman, when the Act was passed in 1968 the Rio Grande was one of the first rivers to be included in the Wild and Scenic System, and that was a 48-mile segment from about the border of Colorado on down past Taos. These bills would extend this designa-

tion approximately 12 miles and place it under the administration of the Secretary of Interior as a scenic river.

This bill also would protect about 1349 acres known as the Rio Verde Recreation Area through withdrawals from disposition under the public land laws, including mineral development laws.

It is especially appropriate to add this 12-mile section right now because of the work that we have been doing in this area because of some land conveyances that have been made since 1980. We do recommend, however, an amendment to withdraw 5688 acres, instead of the 1349 acres now covered in these bills. We have recently approved a resource management plan out of Taos to expand the Rio Verde Recreation Area from 1349 to 8729 acres. About 5600-5700 acres of this is public land. The rest is private land which we are working on with the landowners.

Mr. Chairman, I am excited about doing this. I guess another difference we might have with the bill is the Advisory Committee. As you know, the executive branch of government is under executive directive from the President to do away with advisory boards rather than increase the number of them.

As you know, in our grazing reform—I almost hate to bring that up—we are changing our Grazing Advisory Boards into more or less well rounded Advisory Councils. We have other actions under FLPMA that could take care of the business of this proposed Advisory Council.

It is composed essentially of landowners. In fact, all are landowners along the river. If we are going to have an advisory board, my only suggestion would be to make it a little more well rounded so that recreationists and maybe even a couple of ranchers and other types could be on that advisory board.

In closing, I would say that we enthusiastically support these bills. It is something good for New Mexico and for the Nation because of the beauty of this river. It really is something.

[Prepared statement of Mr. Baca on H.R. 1471/S. 375 follows:]

OCT 28 1993

STATEMENT OF JIM BACA, DIRECTOR, BUREAU OF LAND MANAGEMENT, UNITED STATES DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON NATIONAL PARKS, FORESTS AND PUBLIC LANDS, COMMITTEE ON NATURAL RESOURCES, UNITED STATES HOUSE OF REPRESENTATIVES ON H.R. 1471 AND S. 375, THE PROPOSED "RIO GRANDE DESIGNATION ACT OF 1993"

I appreciate the opportunity to appear before you today to discuss S. 375 and H.R. 1471, bills to add a 12-mile segment of the Rio Grande in my State of New Mexico to the National Wild and Scenic Rivers System (System) with a "scenic" designation. We support enactment of these bills with amendments that I will discuss.

This segment of the Rio Grande exhibits outstanding natural and scenic qualities. In addition, the area receives national attention in travel publications, and attracts whitewater enthusiasts from around the Nation.

The bills we are discussing today, identical in text, would provide scenic designation for this river segment. They also place in study status under the National Wild and Scenic Rivers Act (Act) an additional 8-mile segment of the Rio Grande. We support these study provisions.

Section 6 of the bills relates to an entirely different matter and authorizes the Secretary to contract with the Smithsonian Institution for completion of a study of the Prehistoric Trackways area, also in New Mexico. That study is required by existing law.

When the Act was passed in 1968, one of the first rivers designated for inclusion in the System was a 48-mile segment of the Rio Grande in New Mexico. The designated portion ran from the Colorado State line to the Taos Junction bridge where State Highways 567 and 570 intersect.

H.R. 1477 and S. 375 would extend the existing designation of the Rio Grande in New Mexico downstream for approximately 12 miles and place it under administration of the Secretary of the Interior as a scenic river. The bills also protect about 1,349 acres known as the "Orilla Verde Recreation Area" through withdrawal from disposition under the public land laws, including mineral development laws.

In 1990, the Bureau of Land Management (BLM) acquired the Rio Grande Gorge State Park, thus allowing completion of a series of related land conveyances which had begun in 1980, in support of BLM's existing River Management Program. Following this land transfer, the BLM designated the lands as the Orilla Verde Recreation Area. With the lands now under BLM administration, it is especially appropriate to add the 12-mile segment to the southern end of the existing federally designated Rio Grande Wild and Scenic River. Withdrawal of the lands and minerals, as provided in the bill, will support management as a scenic river and provide additional protection. However, we recommend an amendment to withdraw 5,688 acres instead of the 1,349 acres now

covered in the bills. The BLM has recently approved a Resource Management Plan (RMP) amendment to expand the Orilla Verde Recreation area from 1,349 to 8,729 acre. About 5,688 acres of this total are public lands all warranting this protection. All of these lands possess significant scenic qualities. We urge enlargement of the withdrawal area to cover the entire recreation area as expanded.

Section 4 of the bills directs the Secretary to establish an 11-member Rio Grande Citizens Oversight Review Board (Board) to advise the Secretary on development and implementation of a management plan for the new 12-mile scenic segment and in preparation of the study of the 8-mile segment mandated by section 3 of the bills. This Board would be comprised of 10 members who are property owners along the river segment and 1 member who represents the village of Pilar.

We do not favor establishing such an advisory board as proposed in the legislation. Provisions of the Federal Land Policy and Management Act of 1976 (FLPMA), together with the Wild and Scenic Rivers Act, prescribe public participation requirements, pertaining to notification, consultation, coordination, and public comment in planning.

The BLM traditionally has done considerable analysis of and given serious consideration to concerns of the local citizenry and

affected governmental entities, as well as others, in the planning phase and in implementation of decisions. I can assure you that we will follow that tradition within the context of FLPMA, the Act and other applicable law in this case.

Furthermore, on February 10, 1993, the President issued an Executive Order directing each Federal Agency to prepare a detailed review of all existing advisory committees. As a general policy, and pending completion of this review, the Administration does not support provisions that would establish or reauthorize advisory committees.

In closing, I emphasize our enthusiastic support for the major features of the bills, and urge that a bill be enacted with the amendments we have recommended as quickly as possible, so that this outstanding river segment can be afforded the formal recognition it deserves. Thank you for your consideration of our views. I will be pleased to answer any questions you may have.

Mr. VENTO. Yes. Well, thank you very much, Director Baca, for your testimony.

I think you know about the genesis of advisory boards or citizen review groups. Some of them were by executive order. The ones that you articulated just a moment ago with regards to grazing, started out, I guess, legislative and then they were continued by executive order.

I think that probably the concern here, and I assume the reason this is here so prominently in the bill is because it has been something that had been agreed to with the local community in that area. Congressman Richardson isn't here today to tell me that, but I am certain that is it.

I tend to agree with you, though, that if, in fact, it is the judgment of the committee that there is some sentiment for maintaining this that it ought to be structured appropriately so that it does represent all the different interests as opposed to the sort of—since it seems to me to be skewed in one direction here. It is advisory only, but I think it would be more useful to have contrasting and a mosaic of different views on that in that area.

Mr. BACA. Mr. Chairman, if I may?

Mr. VENTO. Yes.

Mr. BACA. I think it is also an opportunity for the different parties to sit around the table together and it really adds, I think, to the communication between the different parties.

Mr. VENTO. This helps. I mean this has—I suppose there also ought to be some sort of sunset on it if we are going to do it, once this has been established.

There is usually a period of activity in terms of developing a plan or developing a particular policy at the ground level that isn't articulated in the law. And so that for a period of time this is useful. After that, if it is necessary to keep going, there should be some sort of recognition or a way to review this. I think that is the concern the President has in terms of advisory groups. Early on they fill, I think, an important role, and once they are established in law then sometimes they don't function after that.

As far as the section 6, Director Baca, this is the section that you referred to that really is unrelated. It provides for the contract with the Smithsonian for the completion of the Prehistoric Trackways study. I guess the concern here is that this was enacted and not completed. What is the status of that study?

Mr. BACA. I believe there was a problem with the definition of who could do the study. If I am not incorrect.

Mr. VENTO. I am not familiar with the problem. But in any case, do you think that that is a study that is worthwhile in terms of—and is important to BLM to complete?

Mr. BACA. Yes.

Mr. VENTO. I mean, do you have any—

Mr. BACA. Yes, I do think it is important to complete. I haven't visited the site myself yet. It is not well known to a lot of people, so they can protect it. But it is quite a trackway of dinosaurs that the Smithsonian and the Museum of Natural History in New Mexico are very interested in.

Mr. VENTO. Well, has there been some study work done already on it?

Mr. BACA. Yes, there has. There has been some study work, but under another public law a study was required and the Smithsonian will be carrying out that study through section 6 of this bill.

Mr. VENTO. The purpose for this study would be to determine the natural features, the fossil record, I guess; some of the paleontological importance of this particular area, I guess.

Mr. BACA. Right.

Mr. VENTO. I assume that is the case.

This is sort of an unusual study for the BLM to do. You would probably rely on outside expertise in any case, wouldn't you, either from the Park Service or from the—

Mr. BACA. Well, I think we probably would. I don't know that we have any paleontologists, you know, dinosaur-lookers on our staff. I always have trouble with that even after seeing "Jurassic Park."

Mr. VENTO. Paleontologists.

Mr. BACA. But the Smithsonian is really well situated, as is the Museum of Natural History in New Mexico, to take a good hard look at this. And, as I understand it, the Smithsonian will cooperate with the museum there who wanted to take a good look at it too.

Mr. VENTO. Well, it only authorizes you to do this. I expect you have the authority anyway. But I think this is the way that—I expect that the reason this is here, again, is because either Congressman Richardson or Senator Bingaman or Domenici are concerned that we move ahead with this.

Mr. BACA. Right.

Mr. VENTO. And so this is sort of their way of underlining it. I don't think it does any harm to have it here, even though it is redundant. If I were concerned about codification and cleaning up the books, this wouldn't be here.

But I think a purpose may be served by it, again. So I don't have any great problem with it. I know that my—my learned colleague and counsel here may not like to see this sort of redundancy in the language.

What about the 48 miles? I was sort of surprised at the amount of designation. Is this all within New Mexico, the 48 miles, currently?

Mr. BACA. Yes, all 48 miles are within New Mexico.

Mr. VENTO. So none of it is on the border with Mexico?

Mr. BACA. Oh, no. This is way north of there.

Mr. VENTO. Okay. So there haven't been any outstanding problems with regards to managing it.

What is the Federal, or the national ownership, I should say, of these lands?

Mr. BACA. If I could show you on the map?

Mr. VENTO. Yes, you can. It is just that the microphone won't be able to follow you.

She will help you out there. That is good. Thank you very much.

Mr. BACA. This is the 12 miles?

Mr. VENTO. The red portion is, yes.

Mr. BACA. The red portion. And we come down to here and this is the new portion which will be studied. And then there will be a study area also proposed here of another 8 miles.

Mr. VENTO. So we got 12 to be designated—

Mr. BACA. Twelve miles in all.

Mr. VENTO [continuing]. Which has been studied and recommended as—it is scenic, isn't it?

Mr. BACA. Right.

Mr. VENTO. Yes, scenic. And then the other portion, the 8 miles, remains. There, there is no study completed.

Mr. BACA. No study.

Mr. VENTO. But the percentage of lands then—I can't tell. Now, the orange lands that I see indicated there is Native American?

Mr. BACA. Yes, it is. That is Taos Pueblo right here.

Mr. VENTO. Okay. I don't think that scores as public land. In other words, what it looks like to me, especially in the new segment we are adding, is that almost all of it is national lands on both sides.

Mr. BACA. Right.

Mr. VENTO. So we would be precluded from any type of a purchase of additional lands from unwilling sellers. But a willing seller, you could still purchase it.

Mr. BACA. Well, there are private lands along here and some little communities like Pilar right here, sit along the river. But we don't need to buy any more land in there.

Mr. VENTO. Your guess is that the plan that has come forth, the study did not indicate any need to purchase access. You've got plenty of opportunity.

Mr. BACA. Plenty for access.

Mr. VENTO. Director, do you know how the river is now used? Is it used for recreation?

Mr. BACA. It is used for recreation and fishing, a lot of rafting, wild river experience. Too wild for me. I won't go down it.

Mr. VENTO. I see. Well, that sounds sensible, I think. Sometimes we get—they are very careful where they put me when I go out there too. Sometimes too careful.

But in any case, well, I think this is a noncontroversial measure from what I can see, and judging from the ownership and the use there is no impact. All of this is pretty natural.

I note that it didn't qualify for wild. Is that because there had been some modification of the river? Or what was the basis for that?

Mr. BACA. I think under the definitions of wild it may not have qualified. There was a road too near. There are things like that.

Mr. VENTO. Okay.

Mr. BACA. I don't want to leave the impression that there won't be any land purchased. There is that recreation area.

Mr. VENTO. Yes. Well, I was going to ask about that. It is a good thing that you mentioned that, because there is a big difference in the bill here concerning the amount. You are saying you have 8000 acres now that you have designated and that you are recommending, rather than the 1400 acres being designated as recreation area, nearly 5700 acres.

Mr. BACA. Right.

Mr. VENTO. Is this a new development?

Mr. BACA. We have done some land exchanges and conveyances. I know that the BLM picked up a State park that had been there. It is essentially because of a resource management plan that has

been recently approved in New Mexico that gives us a better opportunity to protect a larger area of land.

Most of it is already government land, 5600 acres of that, and we are working with the landowners in that area. We are not going to go in and condemn them or anything. We are working with them.

Mr. VENTO. You hope to exchange out?

Mr. BACA. Exchange, yes.

Mr. VENTO. Okay. The problem is that area along the lower segment? Where is it located on that map?

You just explain.

Mr. BACA. Okay. Would one of you go up and point it out?

Mr. VENTO. Okay. We have got some help here, so that you don't have to be moving the mike.

Okay. It is down in the new segment of the designated area that is being recommended for designation as scenic, right in that region.

The point I was going to make, Director, if this land is land that was recreational land and then you change it now as a park, the idea if we just leave it in the public domain it could actually be subject to mineral claims and other types of activities. Is that one of the points that you are making?

Mr. BACA. Well, we are asking for withdrawal.

Mr. VENTO. I understand. But the basis for that is the designation of recreational areas. You have got a temporary withdrawal, but you actually want to do something legislatively with it now to make this a recreation area.

Mr. BACA. Right.

Mr. VENTO. As BLM recreation areas go, it is small. But I guess the point is that in conjunction with the Wild and Scenic River that it makes some sense.

Mr. BACA. It really does make sense and it is an extremely beautiful area.

Mr. VENTO. Do you have a lot of people that use that area at this time? I guess they used it as a State park.

Mr. BACA. I don't know what the attendance is there, but I think once we get it put together there will be a lot more people using that area.

Mr. VENTO. The river has a lot of recreation use in terms of, as you pointed out, whitewater rafting and other types of uses. Fishing, which is very important. Fishing is very important.

Mr. BACA. I think it is getting so much use that that is why this Advisory Board was put together. The landowners are concerned about the amount of use it is getting and the amount of recreation. There are quite a few rafters going down that river during the spring, and I think they feel a little bit inundated with recreationists and that is why this Advisory Committee was put in there. I think they wanted this.

Mr. VENTO. So the Advisory Committee will actually be for the entire river stretch?

Mr. BACA. Right.

Mr. VENTO. You know, for what is essentially now in this bill, if it is signed into law, would be 60 miles plus the—what you are asking for—

Mr. BACA. That is a good question. I don't know that I can answer that.

Mr. VENTO. Well, it would be. I expect it would be.

Mr. BACA. In fact, just for the new part.

Mr. VENTO. Yes.

Mr. BACA. It could be the whole thing?

I am told it could be the whole stretch of river.

Mr. VENTO. Why would we subdivide it or segment it like that? It is probably something we should make clear with the sponsors of it.

It only limits it to the new area, but I wonder why, or if that really is the intention. We will have to get through with that. I just assumed that it was. But staff points out it leads to the implementation of the segment designated in section 2, which is 12 miles, and the study under 3.

It seems to me we ought to get as many miles per gallon as we can out of this Advisory Committee if we are going to set it up. Currently, you must have advisory committees on the 48-mile segment. That was designated sometime ago, though.

Mr. BACA. That was one of the first back in 1968.

Mr. VENTO. Yes. Normally the BLM will have some sort of advisory groups set up with regards to land planning and especially for an area like this.

Mr. BACA. We have our Grazing Advisory Boards and we have other boards, multiple-use boards.

Mr. VENTO. Yes. I think the multiple-use would obviously be appropriate for that. But they are asking for a special focus.

But it seems to me that it is pretty hard to separate the headwaters, the waters up ahead of this, from the other in terms of what advice you are getting, so you may as well give them the appropriate charge if there is no contention about that. Of course, you don't need—maybe they just want to focus on the lower segment for a period of time while it is being implemented and be done with it.

Well, I appreciate the efforts that you make. Your presence here today speaks to your commitment to this particular proposal, and we look forward to working closely with you on it. I believe we have some additional witnesses later.

I think most of our witnesses, as Congresswoman Johnson had indicated, are here on the Farmington, so we are going to move ahead to that.

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

Mr. VENTO. Thank you, Mr. Director.

We then will turn to Mr. Stewart. Mr. Stewart is with the National Park Service, and is the spokesman for the Department of the Interior and the Park Service on H.R. 2815. He is the Assistant Director for Planning.

Mr. Stewart.

**STATEMENT OF JAMES W. STEWART, ASSISTANT DIRECTOR
FOR PLANNING, NATIONAL PARK SERVICE, DEPARTMENT
OF THE INTERIOR**

Mr. STEWART. Good morning, Mr. Chairman.

I have with me this morning Mr. Phil Huffman, who is the project manager for the Farmington River study, to help us with any detailed studies about, or detailed questions about the studies and the relationships with the local people.

I appreciate the opportunity to provide your subcommittee with the Department's views on H.R. 2815. We do recommend enactment of the bill.

H.R. 2815 would designate approximately 14 miles of the west branch of the Farmington River in Connecticut as a component of the National Wild and Scenic River System. Management of the river would be accomplished by the Secretary of the Interior in cooperation with a coordinating committee required to be established by the bill.

Management would be in accordance with a management plan, which has already been adopted on April 29, 1993, by the Farmington River Study Committee.

The bill also specifically provides that no portion of the river shall become part of the National Park System, that zoning ordinances in five Connecticut towns prohibit Federal acquisition by condemnation within those towns, that the United States Government shall not acquire land along the segment for the purpose of the Wild and Scenic River designation, and that no lateral boundary shall be established for the river.

The National Park Service would be authorized to enter into cooperative agreements with the States and five designated towns and the coordinating committee. This committee is required to be established within 90 days. The bill authorizes service to provide technical assistance, staff support and funding to assist in the implementing of these management plans.

We estimate that it will cost less than \$100,000 a year to effect the Park Service's role.

And that summarizes my testimony. I would be happy to answer any questions that you have.

[Prepared statement of Mr. Stewart on H.R. 2815 follows:]

STATEMENT OF JAMES W. STEWART, ASSISTANT DIRECTOR, PLANNING, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON NATIONAL PARKS, FORESTS, AND PUBLIC LANDS, HOUSE COMMITTEE ON NATURAL RESOURCES, CONCERNING H.R. 2815, A BILL TO DESIGNATE A PORTION OF THE FARMINGTON RIVER IN CONNECTICUT AS A COMPONENT OF THE NATIONAL WILD AND SCENIC RIVERS SYSTEM.

October 28, 1993

Mr. Chairman, I appreciate the opportunity to provide your Subcommittee with the views of the Department of the Interior on H.R. 2815.

We recommend enactment of the bill, although we urge the Committee to defer consideration of the proposed advisory committee until the Administration has completed its review of all existing advisory committees.

H.R. 2815 would designate approximately 14 miles of the West Branch and mainstem of the Farmington River in Connecticut as components of the National Wild and Scenic Rivers System. Management of the river would be accomplished by the Secretary of the Interior in cooperation with a coordinating committee required to be established by the bill. Management would be in accordance with the management plan adopted on April 29, 1993, by the Farmington River Study Committee.

The bill includes special provisions that declare the existing Colebrook Dam and Goodwin Dam hydroelectric facilities are not

incompatible with river designation, and declare that river designation will have no effect on continued operation of the Colebrook Dam and Reservoir by the Corps of Engineers.

The bill also specifically provides that no portion of the river shall become part of the National Park System; that zoning ordinances in four Connecticut towns prohibit Federal acquisition by condemnation within those towns; that the United States Government shall not acquire land along the segment for the purposes of wild and scenic river designation; and that no lateral boundary shall be established for the river segment.

In 1986, title II of Public Law 99-590 designated segments of the West Branch Farmington River in Connecticut and Massachusetts for study as potential components of the National Wild and Scenic Rivers System (Act of October 30, 1986, 100 stat. 3332). That law required a report of the study within three fiscal years. It also established a 17-member study committee appointed by the Secretary to advise the Secretary in conducting the study and concerning management alternatives should the river be included in the National Wild and Scenic Rivers System. The committee was to terminate upon completion of the study or publication of management alternatives should the river be included in the System, whichever was later.

The National Park Service has not completed the study authorized in 1986. We have, however, developed, in cooperation with the study committee, a river management plan. This plan establishes standards for resource protection and identifies a range of actions that can be taken by local interests. All of the towns along the study segment in the State of Connecticut have endorsed the plan; none of the towns in Massachusetts has endorsed it.

To complete the study process, the National Park Service would prepare a draft report and forward it to the Secretary of the Interior for transmittal by the President to Congress.

Given the support of the management plan by the Connecticut towns, we have no objection to the designation in that State as provided in this legislation. And given the opposition to the plan in Massachusetts, we see no purpose in carrying the study process further for the segment in that State.

Under the bill, the National Park Service is authorized to enter into cooperative agreements with the State and five designated towns and the Coordinating Committee. This committee is required to be established within 90 days. The bill authorizes the Service to provide technical assistance, staff support, and funding to assist in implementing the management plan. We

estimate that these costs would not exceed \$100,000 per year.

Mr. Chairman, the 14-mile segment designated in this bill is eligible in our judgement for designation as part of the National Wild and Scenic Rivers System. The segment is an important resource of recreational, wildlife, and historical value. We therefore recommend that Congress complete the process, amend paragraph (B), and enact this legislation.

On February 10, 1993, the president issued Executive Order 12838, "Termination and Limitation of Federal Advisory Committees," ordering each agency to prepare a detailed review of all existing advisory committees. As a general policy, and pending completion of this review, the Administration does not support provisions, such as paragraph (B) on pages 4 and 5, that would establish or reauthorize advisory commissions.

We also cannot support the provision in paragraph (B) that would exempt the proposed Farmington River Coordination Committee from the provisions of the Federal Advisory Committee Act. These provisions should apply to every advisory committee established under Federal law.

This concludes my prepared remarks. I would be pleased to respond to any questions you may have.

Mr. VENTO. Thank you, Mr. Stewart, for your testimony. I had the opportunity to look it over last night. The bill has some unique provisos to accomplish the purposes that Congresswoman Johnson and apparently that the study committee came out with.

Throughout the bill I note that it relies on the plan, sort of indicating the guidelines and so forth that we should follow. That is putting that really in the law. That the entire plan would then be referenced here. This plan is dated and so forth.

This is not the usual way that we function in terms of designating segments, is it?

Mr. STEWART. No, sir, it is not. It may be an oversimplification, but this is more analogous to a designation under 2(a)(ii) of the Act in which instead of the Secretary making the designation, the Congress would make the designation.

In the State of Connecticut they do not have a Wild and Scenic Rivers system presently. I understand that they are working on such a system. But this would be managed pretty much as a 2(a)(ii) river would be.

Mr. VENTO. So you think the consistency then is in reference to the 2(a)(ii) provisions as opposed to what we normally provide, and that is why it appears in this particular form which is not usual, as I said.

Mr. STEWART. Yes.

Mr. VENTO. There are some other provisions that you have outlined in your testimony, but one of the key questions of this, getting to the heart of this issue very quickly is—has the Park Service reviewed the zoning ordinance of the towns cited in the bill?

The reason that becomes important is to determine whether or not in the view of the Park Service these ordinances meet the requirements of the basic Wild and Scenic River Act, section 6(c).

Mr. STEWART. Yes. We have reviewed them. In fact, we have worked with the towns, the Park Service has and the planning team, and we are satisfied that the zoning ordinances and the provisions that have been made in them will adequately protect this section of river.

Mr. VENTO. I understand that they do.

And the other point here that comes through, apparently, in just some of the general reading that I have concluded, is that this segment of the Farmington River is all within Connecticut and that there is a segment that is in, apparently, Massachusetts, the west branch, in which the study and the controversy is precluded or has not permitted you to come forth with a positive recommendation.

Mr. STEWART. That is correct.

Mr. VENTO. I don't know how to put that delicately. They don't want designation.

Mr. STEWART. No.

Mr. VENTO. I was trying to understand it. So I think it is indicative, of the contentious nature and the intention that might exist with regard to designation of this 14-mile segment in Connecticut.

I too had concerns about the management committee. It should not be considered an advisory committee. It actually sets it up as a commission or a committee to actually be operative, so I am a little uneasy about that. It says it shall not be an advisory committee, shall not be subject to provisions of the Federal Advisory Act,

which therefore means that it is subject to what? Whatever we write in the law here? Is that correct?

Mr. STEWART. I believe that is correct, yes.

Mr. VENTO. Now, the reason I am concerned is because I think it is always easier to reference and to have some sort of commonalities in terms of a management committee or a commission, or whatever we want to refer to it as, where we have something that is set up we know then can reference and define what its powers are.

This management committee type of structure when referenced in law as much as—what would you do in terms of the State designation of it as a Wild and Scenic River? Would you have such a management committee?

Mr. STEWART. Well, that would be under the prerogative of the State if they want to have such a management committee.

Mr. VENTO. But we are actually setting it up here in the national law, and I don't know of any other instance where we have done this.

It may be—I know the intention of the sponsor and those who are proposing it is that, you know, it fits this particular need. But the problem that it presents to me is that each time I deal with a Wild and Scenic River bill, these things, these measures have a way of coming back and being placed in every designation of every river that we do. And so it becomes then the common mean. So I would pay close attention to it.

And besides, I could roll out that old chestnut that comes back to us about the constitutionality of this sort of delegation of power. So that represents problems.

I think that I can assure you, Mr. Stewart, and the sponsor, that the Justice Department would have deep concerns about this sort of delegation.

So, I understand the problem that you are trying to solve and I will work with you to solve it. However, I wanted to alert you to both the precedent issue and the Justice Department, no doubt the Justice Department—I can't speak for the Justice Department.

Mr. STEWART. I understand the principle of having an overarching coordinating committee is perhaps more important in the town system that they have in the Northeast States because of the way they are set up. This would facilitate management of the river, and I think the study committee really was very helpful in reaching the point which we are at now.

Mr. VENTO. As you know, Mr. Stewart, section 10(c) of the Wild and Scenic Rivers Act addresses the status of designated rivers that are managed by the Secretary of the Interior through the National Park Service and the Fish and Wildlife Service, and, in effect, it associates those rivers with the National Park System and the National Wildlife Refuge System.

Some questions about the section of the Act as implemented in practice. In the case of rivers and areas of little or no nationally owned lands such as in Farmington we don't have a lot of national lands—

Mr. STEWART. Right.

Mr. VENTO [continuing]. What has been the effect of Wild and Scenic designation in those areas in terms of the objectives and methods of the Park Service?

Mr. STEWART. Well, the role of the Park Service, of course, would be to assist in the implementation of the plan. One of the big items would be the review of any Federally-assisted water resources projects that would affect the resources of the river as provided for in section 7(a).

And we would also be able to enter into cooperative agreements with the coordinating committee and the four towns involved to facilitate the long-term protection of the river. And we would provide technical assistance, staff support, and the law does provide for funding to assist the implementation. So that would be really the role.

And 10(c), of course, if it is not a unit of the National Park System, a lot of other things would be affected there such as our ability to condemn land or acquire land and other things, and we would not have an on-site presence there at all.

Mr. VENTO. Yes. Well, this particular bill, I think, precludes the use of condemnation.

Mr. STEWART. That is correct.

Mr. VENTO. You feel that you don't need that particular authority here?

Mr. STEWART. In this case, viewing the river management plan and the commitment that has been shown by the towns, it appears that we can assure the protection of the river under the local management and not through the National Park System.

Mr. VENTO. Well, what would the—in the case of an administrative designation and the zoning were to change so that it would be adverse and adversely affect the qualities of the resource in such a way as to diminish them or to be in conflict with the Wild and Scenic Rivers Act, at that time it would lose designation. But if we put this into law, how do we remedy that?

Mr. STEWART. I don't know how you would do that.

Mr. VENTO. Well, I think the thing that we will have to look at is to try to, put some backstop provisions in, if in fact the ordinances are to change. Because we are designating this alive, in fact, you could just withdraw. You administratively extend it, you could administratively withdraw it because they have vitiated the basis for being a Wild and Scenic River.

I don't know that we have examples of that. But since we are doing this in law and Connecticut has a special problem because they haven't set it up just yet, then we would have to actually put some ability. If we are going to designate, we have to provide the ultimate tools, as tough a tool as this particular one is.

Mr. STEWART. That may be one of the solutions? For the State to do something to—

Mr. VENTO. Sure. Well, I think the State ought to do it. I think the local governments ought to do it. I think everyone else ought to do it except us. But in the event that they won't or can't or something, we have to spell that out in the report. That is all. That is what I am concerned about.

Mr. STEWART. Our recourse, of course, when we deal with a Wild and Scenic River is, and we have the condemnation authority, is

to really get the money and be able to take some action, and under these times. I don't know if there is a situation we have actually done that in any of the rivers.

Mr. VENTO. Well, I think it is not. But I guess not having the authority, or having the authority makes the use of it less likely.

Mr. STEWART. Yes.

Mr. VENTO. That is the point in terms of planning. Congresswoman Johnson?

Mrs. JOHNSON. Mr. Chairman, do you under the law have the right to de-designate if the land is out of compliance?

Mr. VENTO. We would have to go through a whole action here, and I can imagine——

Mr. STEWART. No.

Mrs. JOHNSON. We wouldn't. Okay.

Mr. VENTO. If it is a local action that the local government didn't want to handle or the State government, then you are asking the committee and the Congress to handle local zoning. So you wouldn't even want me to do that, you know. I don't want to. It is bad enough. We get into enough different things in terms of designation, much less the negative. It is tough.

This particular measure also has a couple of provisions related to hydroelectric facilities. I think you repeated in your statement that these did not give you any heartburn, Mr. Stewart. That is to say that they are outside the segment that is designated, is that correct?

Mr. STEWART. That is correct. And the law provides, or the bill provides that the Colebrook Dam and the works that are there we would not be—the Act, if it is passed, would not affect the existing situation or relicensing.

Also, a great deal of effort and money has gone into an in stream flow study of the river and any allocation of water from the river that might affect fisheries or anything else would be geared to that in-stream flow study and the amounts of water that could be taken from that.

Mr. VENTO. So that is part of the plan?

Mr. STEWART. That is right.

Mr. VENTO. And who controls the allocation of water from the Farmington? Is that a State-regulated activity in this instance?

Mr. STEWART. Yes. The Hartford Metropolitan Water District has the control or has the water rights.

Mr. VENTO. The water has all been appropriated or at least appropriated to the extent they have control over those segments that would be of most concern to us?

Mr. STEWART. Yes. There are State regulations which affect that. But it is quite a complicated system between the Hartford Water District and the State as to how——

Mr. VENTO. Again, well they would be expected to meet these. The major issue here is that we preclude any Federal permitting and so forth. That those protections remain in place under the designation. I expect that we wouldn't have a dewatering, or substantial dewatering of the river under the plan.

In other words, it addresses that; whether or not the mechanism is clear or easily described is another matter. But it is between the State and the Hartford Water District.

Yes. I think we are talking here, the language in this bill on page 8 only affects Federal agencies, but my question really goes to the plan.

Mr. STEWART. In the plan there are standards for the quantity of water needed to maintain the protection and integrity of the river.

Mr. VENTO. Well, perhaps in the report when we conclude work on the bill we can address that particular point in terms of the State exercising certain responsibilities. I don't expect that this is a problem. This is pretty much a developed area. We are not in the arid West here. We are up around 33 inches of rainfall a year, I guess, in Connecticut.

Congresswoman Johnson, have I got it right? How many inches of rain fall a year in the Farmington area?

Maybe a little higher than that, but certainly it would have more than Minnesota. Did you have the answer?

Mr. STEWART. Forty-four.

Mr. VENTO. I was very low. Well, it is surprising. A very wet area, 44 inches a year.

Well, very good. Congresswoman Johnson, did you have any questions that you wanted to present to Mr. Stewart?

Mrs. JOHNSON. Thank you, Mr. Chairman. I did want to just thank the Park Service, Mr. Stewart, and particularly Phil Huffman, for his really outstanding work over these years. It has been rather a long and slow process, but the result has been that all of the people in the towns have learned an enormous amount.

I think it is fair to say that the Department of Environmental Protection, the MDC, and the Farmington River Watershed Association all have learned an enormous amount, and Phil has been an invaluable ally.

Sometimes we see in the legislation you bring before us those rather dry words about technical assistance, and they really bring forward very human resources that were invaluable to Connecticut. And the role that the Federal Government has played in this instance is really a perfect example of the kind of constructive partnership that makes progressive preservation possible.

And we thank you, Mr. Stewart and Phil Huffman, for your leadership and your help and your assistance throughout these years.

And I thank you, Mr. Chairman, for the quality of the backing you have given to this process over these years, because it has been so fruitful. Thank you.

Mr. VENTO. Thank you. I appreciate the efforts and your thoughtful comments about the professional staff in the Park Service and our work on the committee. One of the questions that comes to me insofar as we enunciate and reference the plan in this particular legislation, how does that impact on modifications of a general management plan or any resource management plans that actually might be put into effect on the ground in the future?

That plan sets out a framework, but then a general management plan to implement it will have to be put into effect? Or is it the general management plan?

The concern is, I mean, normally general management plans are not in law and you can make exceptions to them and amendments to it, and in 10 years you can write essentially a rewrite of it. It

might substantially be the same. I don't want to imply that it would be.

But shouldn't we make clear here somewhere that this plan can be amended, it can change, it doesn't affect the resource management plans on the ground?

Mr. STEWART. Yes, as long as it is done in cooperation and with the same people that agreed to the river management plan. We still must prepare the study report and submit the study report to the Congress.

Mr. VENTO. We don't have that yet.

Mr. STEWART. You don't have that yet.

Mr. VENTO. I know. But that just sort of begs the question, Mr. Stewart, because I don't anticipate—if everyone agrees, then generally you don't have any problems. But from time to time there may be some disagreement even within the community about what the plan should be or how it might be modified, because we don't expect this plan that is developed in 1993 to foresee all the types of problems that might occur in the future.

Mr. STEWART. Well, I think you are entirely correct that plans do change. They need to change over time, and how they are changed is dependent on the needs and the agreement of the people involved.

Mr. VENTO. Well, I agree. But I mean the problem is in terms of referencing this in the law I think we have got to recognize that sort of phenomenon. I don't know.

As I said to you, my opening question was by continually referencing the plan, which apparently has to get up to us and be transmitted. I assume that it is a good faith effort. I don't have any other agenda except that I know we amend plans. This is the general management plan, but we amend them, make exceptions to them. That is part of the dynamic process, and in 10 or 15 years there may be a major rewrite of it. Not everyone may agree with it.

Mr. STEWART. One thing that is different about this study is that normally what we would do, we would send the study report to you. If Congress designated the river, then we would come back and do a comprehensive management plan for the river.

In this case, the pertinent issues have been addressed directly because of the involvement of the towns in specifically how the sections of the river would be managed, and so that makes it a little different.

Mr. VENTO. Staff points out that on page 15, this is the executive summary of it, that the coordinating committee conduct a thorough review of the management plan every 5 years.

Mr. STEWART. Okay.

Mr. VENTO. Although the schedule may be altered as appropriate, whatever that means. Changes to this plan can only be made if they are approved by all the voting members in the Farmington Resource Coordinating Committee, or F-R, I guess it is resource, I don't know. Oh, river. I see. Farmington River.

So anyway, that is at least the reference here. You may want to address that more substantively either in the legislation, I would think since we, you know, so we at least recognize it.

It is nice if you get 100 percent agreement of this particular group. We are going to be changing the bill. I think there is no question about it. We have to make some modifications in the type of coordinating committee or the statutory committee that you have set up. I don't know otherwise how we can pass muster in terms of the issues I have raised. And so I think that has to be borne in mind.

Mr. STEWART. We will be happy to work with you on that.

Mr. VENTO. In terms of how that relates to that particular provision.

Mr. STEWART. Okay.

Mr. VENTO. So it is not, as you can see—once you modify one thing here you are into a couple of questions that are raised that need to be resolved.

Mr. STEWART. Correct.

Mr. VENTO. Well, thank you very much, Mr. Stewart, for your work and that of the Park Service in bringing forth this matter along with the sponsor, Congresswoman Johnson. Thank you.

Mr. STEWART. Thank you very much.

Mr. VENTO. We are pleased to welcome the Honorable James Fleming, Connecticut State Senate; Ms. Patricia DeMarco, representing Governor Lowell Weicker; and Mr. George Sparks, the Metropolitan District Commission, Hartford, Connecticut.

Your statements, Senator, Mr. Sparks, Ms. DeMarco, have been made a part of the record and you can summarize or read the portions that are most relevant.

Senator?

PANEL CONSISTING OF HON. JAMES T. FLEMING, SENATOR, EIGHTH DISTRICT, CONNECTICUT STATE SENATE; PATRICIA M. DeMARCO, SECRETARY, FARMINGTON WILD AND SCENIC RIVER STUDY COMMITTEE, ON BEHALF OF HON. LOWELL WEICKER, GOVERNOR, STATE OF CONNECTICUT; AND GEORGE H. SPARKS, DIRECTOR OF OPERATIONS, METROPOLITAN DISTRICT COMMISSION (MDC), HARTFORD COUNTY, CT

STATEMENT OF JAMES T. FLEMING

Mr. FLEMING. Thank you, Mr. Chairman.

For the record, my name is Jim Fleming. I am a State Senator from the Eighth District, representing most of northwestern Connecticut, and I currently serve as the ranking member on the Environment Committee in the Connecticut General Assembly.

I am here to testify in favor of House Resolution 2815 that would designate the Farmington River as a Wild and Scenic River.

On the 29th of April of 1993, the Farmington River Wild and Scenic Study Committee, which I serve on as designee of the Secretary of the Interior, voted unanimously for protection under the Wild and Scenic Rivers Act. It took us about 6 years. There was quite a bit of cooperation between the local, State and Federal officials, and I consider it to be one of the most significant environmental actions taken in Connecticut, certainly during my 14 years in the State legislature.

Because of the Study Committee's endorsement, the Farmington River will, if you—if Congress agrees, Mr. Chairman, be protected for future generations. Through passage of this bill, the river, which I think is one of the most beautiful and undisturbed watersheds in southern New England, is going to look like that for a long time to come.

The five towns that are part of the study area in Connecticut, I represent all five of them. Those are Barkhamsted, Canton, Colebrook, Hartland, and New Hartford. They have already, as has been pointed out, put into effect local zoning ordinances to protect the river, and along with regional and State and Federal agencies have agreed on the management plan that would allow all of the different competing interests on this river to be properly protected.

In addition, Mr. Chairman, given the questions that you raised during the previous testimony, I think it is important to point out that and attached to the written material that I submitted is a copy of Connecticut Public Act 93-256, and amongst other things it concerns the designation of the Farmington River as a Wild and Scenic River. And I would direct the chairman to section 4 of the Act, and in particular 4(b) of the Act which provides that the Commissioner of Environmental Protection in Connecticut upon designation by Congress of this as a Wild and Scenic River is to submit legislation to the Joint Standing Committee on Environment concerning implementation of statutory changes in accordance with the Wild and Scenic Rivers Act.

Thus there will be, if the Connecticut legislature agrees, statutory protection in Connecticut, a general statute, not just at the local level, to protect this river. I think, of course, it would depend upon the votes of the committee members, but, Mr. Chairman, being ranking member on that committee—and also I would point out that the chairperson, Representative Stratton from Canton, is very much interested in this legislation—I think there is a very high degree of probability that that protection would be put into Connecticut's statute.

One other issue, if I might, is an issue that was raised about Connecticut and Massachusetts. And I know, Mr. Chairman, we are all from New England up there but there are some very big differences between people in Connecticut and Massachusetts, and one of them is that at least in those towns in northwest Connecticut, we are familiar with zoning laws and quite comfortable with them. That is not the case in western Massachusetts. In fact, they have been trying to secede from Boston for years. They are a very independent group up there. So there is a very, very big difference once you cross the border.

We not only have zoning laws in that area, we have something called aquifer protection because we are so concerned about our drinking water supply that we have special State and local laws to protect what kind of development can occur over this aquifer. Because if we pollute our underground water supply, those 44 inches of rain that we get up there are going to be polluted and we are not going to be able to drink them.

So I think there is a very big difference between Massachusetts and Connecticut. There is tremendous commitment on the part of those towns to see that this river is protected. And I would invite

you, Mr. Chairman, in concluding my remarks, to come on up to northwest Connecticut. There are some terrific kayaking in that area. In fact, the regional tryouts for the United States Olympics are held there. And I would be more than happy to show you around the river, Mr. Chairman.

Thank you for the opportunity to testify.

[Prepared statement of Mr. Fleming on H.R. 2815 follows:]



STATE OF CONNECTICUT
SENATE
 STATE CAPITOL
 HARTFORD, CONNECTICUT 06106-1591

SENATOR JAMES T. FLEMING
 EIGHTH DISTRICT

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RANKING MEMBER
 ENVIRONMENT COMMITTEE
 PUBLIC SAFETY COMMITTEE

MEMBER
 EDUCATION COMMITTEE

Connecticut State Senator James Fleming, R-8th
 Testimony before the House Subcommittee on National Parks, Forests
 and Public Lands
 Re: HR 2815
 Thursday, October 28, 1993

CHAIRMAN VENTO AND MEMBERS OF THE HOUSE SUBCOMMITTEE ON
 NATIONAL PARKS, FORESTS AND PUBLIC LANDS, MY NAME IS JIM FLEMING
 AND I AM A CONNECTICUT STATE SENATOR FROM THE 8TH DISTRICT,
 REPRESENTING 13 TOWNS IN THE NORTHWESTERN PORTION OF THE STATE. IN
 ADDITION, I CURRENTLY SERVE AS RANKING MEMBER OF THE CONNECTICUT
 GENERAL ASSEMBLY'S JOINT STANDING COMMITTEE ON ENVIRONMENT.

I COME BEFORE YOU TODAY TO TESTIFY IN FAVOR OF HOUSE
 RESOLUTION 2815, WHICH WOULD GIVE FEDERAL DESIGNATION TO THE
 FARMINGTON RIVER AS A WILD AND SCENIC RIVER.

ON APRIL 29, 1993, THE FARMINGTON RIVER WILD AND SCENIC STUDY
 COMMITTEE, OF WHICH I AM A MEMBER AS THE DESIGNEE OF THE SECRETARY
 OF THE INTERIOR, VOTED UNANIMOUSLY TO REQUEST PROTECTION OF THE
 FARMINGTON RIVER UNDER THE WILD AND SCENIC RIVERS ACT. THAT ONE
 VOTE, AFTER FIVE YEARS OF STUDY BY LOCAL, STATE AND FEDERAL
 OFFICIALS, IS ONE OF, IF NOT THE MOST SIGNIFICANT ENVIRONMENTAL
 ACTIONS TAKEN IN DECADES IN CONNECTICUT.

BECAUSE OF THE STUDY COMMITTEE'S ENDORSEMENT, THE FARMINGTON
 RIVER WILL, IF CONGRESS AGREES, BE PROTECTED FOR ALL FUTURE
 GENERATIONS. THROUGH PASSAGE OF THIS BILL, THE RIVER, WHICH IS
 STILL ONE OF THE MOST BEAUTIFUL AND UNDISTURBED WATERSHEDS IN
 SOUTHERN NEW ENGLAND, WILL REMAIN SO.

FIVE TOWNS, IN PARTICULAR, THAT I REPRESENT IN CONNECTICUT - BARKHAMSTED, CANTON, COLEBROOK, HARTLAND AND NEW HARTFORD - ALREADY HAVE PUT INTO PLACE RIVER PROTECTION ZONES AND, ALONG WITH REGIONAL, STATE AND FEDERAL AGENCIES, AGREED ON A MANAGEMENT PLAN THAT WILL ALLOW THE MANY COMPETING INTERESTS ON AND ALONG THE RIVER TO ENJOY AND PROPERLY UTILIZE THE RIVER WITH A MINIMUM AMOUNT OF DISTURBANCE.

THE WORK THAT HAS ALREADY TAKEN PLACE IN CONNECTICUT THROUGH THE EFFORTS OF THE FARMINGTON RIVER WILD AND SCENIC STUDY COMMITTEE IN PRESERVING THE RIVER AND ITS SURROUNDING AREAS HAS SOLIDIFIED COOPERATION BETWEEN STATE AGENCIES AND THE TOWNS THAT BORDER THE RIVER, AS WELL AS DRAMATICALLY INCREASED LOCAL INVOLVEMENT IN THE PROCESS.

NOT ONLY IS IT SIGNIFICANT THAT THE RIVER WILL BE PROTECTED, BUT IT IS EQUALLY ASTONISHING THAT SO MANY DIFFERENT ORGANIZATIONS, INCLUDING: CONNECTICUT'S METROPOLITAN DISTRICT, THE FARMINGTON RIVER WATERSHED ASSOCIATION, THE FARMINGTON RIVER ANGLERS, THE UPPER RIVER TOWN GOVERNMENTS IN CONNECTICUT, THE STATE DEPARTMENT OF ENVIRONMENTAL PROTECTION, AND THE NATIONAL PARK SERVICE - SOME OF WHOM HAVE BEEN AT TIMES BITTER ADVERSARIES REGARDING RIVER ISSUES, ARE ALL IN AGREEMENT ON THE RIVER'S WILD AND SCENIC DESIGNATION.

IN CONCLUSION, I WOULD JUST LIKE TO TAKE A MOMENT TO THANK YOU, CHAIRMAN VENTO, AND THE MEMBERS OF THE HOUSE SUBCOMMITTEE ON NATIONAL PARKS, FORESTS AND PUBLIC LANDS FOR ALLOWING ME THE OPPORTUNITY TO COME BEFORE YOU AND TESTIFY ON THIS BILL. AND, I WOULD ESPECIALLY LIKE TO EXTEND MY THANKS TO CONGRESSWOMAN NANCY JOHNSON FOR ALL OF HER EFFORTS AND SUPPORT OF THIS MEASURE.

FEDERAL DESIGNATION OF THE FARMINGTON RIVER AS A WILD AND SCENIC RIVER WILL LEAVE FOR FUTURE GENERATIONS THE GUARANTEE THAT THE FARMINGTON RIVER'S PRISTINE VISTAS AND OVERWHELMING BEAUTY WILL BE PRESERVED AND PROTECTED, AND I URGE YOUR UNANIMOUS SUPPORT OF THIS EFFORT.

THANK YOU

House Bill No. 6925

PUBLIC ACT NO. 93-256

AN ACT CONCERNING THE ATLANTIC STATES MARINE FISHERIES COMMISSION, FREE FISHING, HUNTING AND TRAPPING LICENSES FOR DISABLED PERSONS AND PERSONS SIXTY-FIVE YEARS OF AGE AND OLDER, THE DESIGNATION OF THE FARMINGTON RIVER AS A WILD AND SCENIC RIVER AND THE STATE GEOLOGICAL AND NATURAL HISTORY SURVEY SALES AND PUBLICATION ACCOUNT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 26-300 of the general statutes is repealed and the following is substituted in lieu thereof:

The [commission on intergovernmental cooperation] DEPARTMENT OF ENVIRONMENTAL PROTECTION shall include in its budget the estimate of funds required by the Atlantic States Marine Fisheries Commission, shall account for and disburse funds appropriated to its use and shall include in its report a record of its activities.

Sec. 2. Section 26-29b of the general statutes is repealed and the following is substituted in lieu thereof:

[No fee shall be charged for any hunting or sport fishing license issued under this chapter to any person with paraplegia or the loss of the use of both lower extremities. Any nonresident with paraplegia or the loss of the use of both lower extremities may procure such license without payment of a fee if he is a resident of a state the laws of which allow the same privilege to residents of this state.] NO FEE SHALL BE CHARGED FOR ANY HUNTING, SPORT FISHING OR TRAPPING LICENSE ISSUED UNDER THIS CHAPTER TO ANY PHYSICALLY DISABLED PERSON. FOR THE PURPOSES OF THIS SECTION, A "PHYSICALLY DISABLED PERSON" IS ANY PERSON WHOSE DISABILITY CONSISTS OF THE LOSS OF ONE OR MORE LIMBS OR THE PERMANENT LOSS OF THE USE OF ONE OR MORE LIMBS. A PHYSICALLY DISABLED PERSON SHALL SUBMIT TO THE COMMISSIONER A CERTIFICATION, SIGNED BY A LICENSED PHYSICIAN, OF SUCH DISABILITY. NO FEE SHALL BE CHARGED FOR ANY HUNTING OR SPORT FISHING LICENSE ISSUED UNDER THIS CHAPTER TO ANY PHYSICALLY DISABLED PERSON WHO IS NOT A RESIDENT OF THIS STATE IF SUCH PERSON IS A RESIDENT OF A STATE IN WHICH A PHYSICALLY DISABLED PERSON FROM

House Bill No. 6925

CONNECTICUT WILL NOT BE REQUIRED TO PAY A FEE FOR A HUNTING OR SPORT FISHING LICENSE.

Sec. 3. Section 24-3 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) Said commissioner shall cause to be prepared a report to the general assembly before each regular session of the same in the odd-numbered years, showing the progress and condition of the survey, together with such other information as he deems useful or as the general assembly requires. The regular and special reports of the survey, with illustrations and maps, shall be [prepared for publication, and, when printed, the reports] PRODUCED FOR PUBLIC USE AND shall be distributed or sold by the commissioner as the interests of the state and of science may demand.

(b) There is established a separate account within the general fund, to be known as the state geological and natural history survey sales and publication account, for the purpose of providing moneys for [the printing] PRODUCTION of [survey] ENVIRONMENTAL publications and purchase, for resale, of related [maps and reports] MATERIALS AND PRODUCTS. All moneys obtained from the sale of such publications, [maps and reports] MATERIALS AND PRODUCTS shall be paid to the state treasurer and credited to said account and the commissioner may expend moneys of said account for the [editing and printing] PRODUCTION AND DISTRIBUTION of such publications and the purchase, for resale, of such [maps and reports. Any moneys in excess of thirty thousand dollars remaining in said account at the close of any fiscal year shall revert to the general fund] MATERIALS AND PRODUCTS.

Sec. 4. (NEW) (a) It is declared to be the policy of the state of Connecticut that the portion of the Farmington River which is the subject of the authorized study by the Farmington Wild and Scenic River Study Committee for purposes of designation as a national wild and scenic rivers system be preserved as provided for in the federal Wild and Scenic Rivers Act, Public Law 90-542, as amended.

(b) The commissioner of environmental protection shall cooperate with all relevant federal, state and local agencies to provide for such designation and to implement any management plan developed in accordance with the Wild and Scenic Rivers Act. Upon the designation of the river segment by Congress, the commissioner shall

House Bill No. 6925

notify the joint standing committee of the general assembly having cognizance of matters relating to the environment regarding any statutory changes necessary to implement the preservation and conservation of the river segment in accordance with the federal Wild and Scenic Rivers Act. The commissioner shall cause a copy of this section to be delivered to all United States Representatives and Senators representing Connecticut in the Congress of the United States.

Sec. 5. Section 26-28 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) Except as provided in subsection (b), the fees for firearms hunting, archery hunting, trapping and sport fishing licenses or for the combination thereof shall be as follows: (1) Resident firearms hunting license, ten dollars; (2) resident fishing license, fifteen dollars; (3) resident combination license to firearms hunt and fish, twenty-one dollars; (4) resident trapping license, twenty dollars; (5) resident junior trapping license for persons under sixteen years of age, three dollars; (6) junior firearms hunting license, three dollars; (7) persons sixty-five years of age and over who have been residents of this state for not less than one year and who meet the requirements of subsection (b) of section 26-31 may be issued [an annual] A LIFETIME license to firearms hunt or to fish or combination license to fish and firearms hunt or a license to trap without fee; (8) nonresident firearms hunting license, forty-two dollars; (9) nonresident fishing license, twenty-five dollars; (10) nonresident fishing license for a period of three consecutive days, eight dollars; (11) nonresident combination license to firearms hunt and fish, fifty-five dollars, and (12) nonresident trapping license, two hundred dollars. The issuing agency shall indicate on a combination license the specific purpose for which such license is issued. The town clerk shall retain a recording fee of one dollar for each license issued by him.

(b) Any nonresident residing in one of the New England states or the state of New York may procure a license to hunt or to fish or to hunt and fish for the same fee or fees as a resident of this state if he is a resident of a state the laws of which allow the same privilege to residents of this state.

House Bill No. 6925

Sec. 6. This act shall take effect July 1, 1993.

Certified as correct by

Legislative Commissioner.

Clerk of the Senate.

Clerk of the House.

Approved _____, 1993.

Governor, State of Connecticut.

Mr. VENTO. That is a little out of my league, but the fish census work would be all right.

Mr. FLEMING. The fishing is terrific.

Mr. VENTO. I went to Connecticut, incidentally, on the Shetucket and Quinebaug earlier this year with Congressman Gejdenson in something more tame—a canoe.

Ms. DeMarco, would you proceed with your statement, please?

STATEMENT OF PATRICIA DeMARCO

Ms. DEMARCO. Yes. Thank you very much for the opportunity to testify to you today on behalf of the Governor of the State of Connecticut. I urge the support of this legislation for the designation of the Farmington River as a Wild and Scenic and recreational river.

We have had a number of resources—I am going to summarize this in the interest of having more time for discussion. I think it is important to note that we have had a considerable amount of professional staff resources both from the Department of Environmental Protection, and also funding and professional staffer support from the Metropolitan District Commission, and thousands of hours of volunteer time from the Farmington River Watershed Association, and many of the citizens in the communities abutting this river involved in the development of this study continuously over a very long period of time.

I think this is a highly important part of the consensus that we were able to reach on this river, because we had to spend a lot of time resolving long-term conflicts, and we used the process of the in-stream flow study to put into a basis of science issues that could not be resolved any other way, and we found that there is enough water for all the uses, both drinking water, recreational, and also community supply that made some of the management issues very important to address and also opened the door for resolution in a consensus manner.

We had—as secretary of the committee, I don't think I recorded more than one or two divided votes in the whole time. We really worked at things until we had a consensus, and it was that process that we codified into the plan that was recommended to you as a management plan.

Over a period of 6 years, we have hammered out a procedure for having all the interests represented, having their concerns shorn of rhetoric and addressed in principle, so that you could come up with a harmonious and workable solution. We feel confident that this process that we have tested over 6 years will in fact work as part of the Farmington River Coordinating Commission when it is established as part of the designation process.

We have provided for the updating of the plan, and we are not expecting that this commission will meet once every 235 years, but that it will continue to monitor events in all of the towns on a continuous basis.

The division of jurisdictions between the National Park Service, the State Department of Environmental Protection, the Metropolitan District Commission in terms of water management have been very well honed and defined so that we feel we will have a better

process of resource management than could have been developed unilaterally by any single agent.

We recommend very strongly that this unique scenic river and recreational river in Connecticut be designated a part of the national system. We feel it is a jewel and a treasure of our State and we would like to put it on the national agenda.

I thank you so much for your attention.

Mr. VENTO. Thank you, Ms. DeMarco. We will get back with a few questions in a moment.

[The prepared statement of Ms. DeMarco follows:]

TESTIMONY TO THE HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON NATIONAL PARKS, FORESTS
AND PUBLIC LANDS

October 28, 1993

My name is Patricia M. DeMarco, designee of the Governor of the State of Connecticut to the Farmington River Wild and Scenic Study Committee. I am the Secretary of the Committee.

Governor Lowell Weicker supports the designation of the West Branch of the Farmington River as part of the National Wild and Scenic River System. The state Department of Environmental Protection has contributed significant staff time and resources to the success of this effort over the last four years. In the administration of its authority as custodian of the State's natural resources, the Department of Environmental Protection will play a significant role in the Management Plan recommended as part of this study. The State has in place all necessary legislative authority to implement this Plan with balanced provisions for fisheries, recreational uses and water supply issues. The designation of the West Branch of the Farmington River as part of the National Wild and Scenic Rivers System will enhance the capabilities of the State.

Upon the recommendation of the study committee, during this study, the State has purchased, at market price, two significant parcels of land which have been added to the State Park lands. The process of developing a protection and management plan for this River will become a model for the protection and management of other scenic rivers in Connecticut.

This committee of seventeen people, drawn from eight towns and two states, has struggled with serious issues of

private land and public watershed that have significance far beyond the Farmington River. The process of building consensus among disparate parties required diligent and patient work on the part of all participants. Through the study process, issues were identified, shorn of rhetoric, sharpened and addressed systematically. We identified options and hammered out compromises where necessary until there was a balanced approach. We provided for the long term updating and revision of the plan within the parameters of the Wild and Scenic Rivers Act.

The willingness of all parties to hear each other out with a fresh perspective allowed respect to replace rancor. The participants brought the same level of energy to the search for a solution as had characterized the previous antagonism. The result is a Management Plan for the long term maintenance of the unique features of this river, in advance of designation by Congress.

This result would not have been possible without the material contribution of funds, professional support and resources from the project participants, especially the Metropolitan District Commission and the Department of Environmental Protection. The augmentation of National Park Service funds and personnel from these two sources allowed a broader scope for the in-stream flow study. The participation of all interested parties in the development, monitoring and interpretation of this study contributed to its credibility. The participants and staff of the Farmington River Watershed Association were particularly diligent in wading through the complexities of hydrological data and flow studies. Their members participated in gathering the data used to define the recreational resources under specific flow conditions. Everyone believed the results were fair, unbiased and soundly based in science.

The study took many months, and effectively remanded the most controversial issues of water supply

and water resource adequacy to a working staff group and a broad Advisory Panel of Experts representing all interested parties. The study period was punctuated by complicated technical reports from the working group to the full committee at public meetings. The data on the hydrology and flow regimens presented at meetings that stretched beyond 10:00 PM convinced the Committee members that the staff was doing a superlative job, and should continue unhindered by politics.

In the meantime, the committee focussed on issues of land use management, public information and the division of local, state and federal jurisdictions separately from water supply issues. With the water resources issues off the table temporarily, with assurances that they would be fairly addressed when the data were all finished, the group was able to move away from pre-conceived positions and focus on resolution of real problems. We spent many hours listening to the fears and concerns of the citizens of the towns. We listed many pages of issues that were sorted, analyzed and distilled into the sections of the Management Plan. We debated the issue of how to define the quality of recreational experience for different users of the River.

The participants defined specific roles and assumed specific responsibilities for the shared maintenance of the River. We ratified our recommendations through several rounds of public hearings. The consensus process gained the equivalent of ten thousand watchdogs over the care of the river. The joint flow management regimen of the Metropolitan District Commission in cooperation with the Department of Environmental Protection yields a better quality of river resource use than would be possible by any unilateral plan of action from the federal level. Everybody has bought into this Management Plan in advance of designation. It will work. Such a cooperative approach would not have been possible through the unilateral planning and taking of land by the National Park Service.

We have sorely tested the patience of the National Park Service staff during this process. However, the result is a community dedication to the preservation of this River that grows from a deepened understanding of its value as a nationally significant resource. There is a commitment to common purpose by former adversaries which could never have been mandated through a plan developed at the federal level for comment at the local level. By comparison, the result of this consensus process is like the difference between tempered steel and forged iron.

On behalf of the Governor of the State of Connecticut, I urge your support of the Farmington River Wild and Scenic River Act. The unique scenic and recreational values of this River enjoy the deepest commitment of the towns on its borders, and the state through which it passes. We embrace the responsibility to be its custodian forever under the provisions of the well balanced and carefully crafted Management Plan which has been submitted to you in support of this legislation.

Mr. VENTO. But finally, we will hear from George Sparks, Director of Operations, Metropolitan District Commission.

Mr. Sparks?

STATEMENT OF GEORGE SPARKS

Mr. SPARKS. Thank you, Mr. Chairman. I would like to thank you for this opportunity to offer testimony for the Metropolitan District Commission, Hartford County, Connecticut, in support of H.R. 2815.

My name is George Sparks, I am Director of Operations of the Metropolitan District in Hartford County, Connecticut. It is most commonly known as the MDC in that part of the country.

MDC is a municipal corporation established by the special Act of the Connecticut General Assembly, and we provide drinking water and other services to approximately 400,000 people in the Greater Hartford area.

The MDC has been a member and is a member of the Farmington River Study Committee and has actively participated in the studies and deliberations which have culminated in the legislation now before you. The MDC supports designation of the segment of the Farmington River in Connecticut as a Wild and Scenic River.

Because the quantity and quality of the water in the West Branch of the Farmington River, the MDC has long regarded this segment of the river as a potential future source of drinking water. In fact, the West Branch of the Farmington River is included as a potential water supply source in the MDC's Strategic Water Supply Plan, and this plan has been approved by the relevant regulatory agencies in Connecticut. The MDC could therefore only support designation if inclusion in the National Wild and Scenic River System would not preclude potential future withdrawal from the Farmington River for water supply purposes.

In order to determine whether there were sufficient water in the river to support both recreational and fishery values on the one hand and public water supply on the other, the Study Committee authorized that an in-stream flow study be conducted. The in-stream flow study, which was jointly funded by the National Park Service and the MDC, was a comprehensive evaluation of the quantity of water available in the river during various times of the year and the water needs of the various users. The in-stream flow study concluded that with proper flow management there were sufficient quantities of water to support all the resource uses, including water supply.

The in-stream flow study was crucial to the success of the Wild and Scenic study process in Connecticut. By using empirical data and good science, the diverse groups which comprise the Study Committee were able to overcome the differences which had historically defined their relationship.

Designation will enhance the quality of the water in the Farmington River and ensure that an adequate supply of drinking water is available. Designation will also protect the remarkable recreational, fisheries and aesthetic resources of the river which are enjoyed by so many Connecticut residents and by visitors from other areas.

The MDC also applauds the efforts of all the participants in the study process. That these diverse groups could work together in a spirit of cooperation speaks well for the future management of one of Connecticut's most precious resources. The MDC supports House Resolution 2815 and we urge its adoption.

[The prepared statement of Mr. Sparks on H.R. 2815 follows:]

**UNITED STATES CONGRESS****HOUSE SUBCOMMITTEE ON NATIONAL PARKS,
FORESTS AND PUBLIC LANDS****TESTIMONY OF THE METROPOLITAN DISTRICT COMMISSION OF
HARTFORD COUNTY, CONNECTICUT IN SUPPORT OF H.R. 2815, "A
BILL TO DESIGNATE A PORTION OF THE FARMINGTON RIVER IN
CONNECTICUT AS A COMPONENT OF THE NATIONAL WILD AND
SCENIC RIVERS SYSTEM"**

My name is George H. Sparks and I am the Director of Operations of the Metropolitan District Commission of Hartford County, Connecticut ("MDC"). The MDC is a municipal corporation established by special act of the Connecticut General Assembly, and provides drinking water and other services to approximately 400,000 people in the Greater Hartford area.

The MDC is a member of the Farmington River Study Committee and has actively participated in the studies and deliberations which have culminated in the legislation now before you. The MDC supports designation of the segment of the Farmington River in Connecticut as a Wild and Scenic River.

Because of the quantity and quality of water in the West Branch of the Farmington River, the MDC has long regarded this segment of the River as a potential future source of drinking water. In fact, the West Branch of the Farmington River is included as a potential water supply source in the MDC's strategic water supply plan, which plan has been approved by the relevant regulatory agencies in Connecticut. The MDC could therefore only support designation if inclusion in the national wild and scenic rivers system would not preclude a potential future withdrawal from the Farmington River for water supply purposes.

In order to determine whether there was sufficient water in the River to support both recreational and fisheries values, on the one hand, and public water supply, on the other, the Study Committee authorized that an In-Stream Flow Study be conducted. The In-Stream Flow Study, which was jointly funded by the National Park Service and the MDC, was a comprehensive evaluation of the quantity of water available in the River during various times of the year and the water needs of various users. The In-Stream Flow Study concluded that, with proper flow management, there were sufficient quantities of water to support all the resource uses, including water supply.

The In-Stream Flow Study was crucial to the success of the Wild and Scenic study process in Connecticut. By using empirical data and good science, the diverse groups which comprised the Study Committee were able to overcome the differences which had historically defined their relationships.

Designation will enhance the quality of the water of the Farmington River to ensure that an adequate supply of drinking water is available. Designation will also protect the remarkable recreational, fisheries and aesthetic resources of the River, which are enjoyed by so many Connecticut residents and by visitors from other areas.

The MDC applauds the efforts of all the participants of the study process. That these diverse groups could work in a spirit of cooperation speaks well for the future management of one of Connecticut's most precious resources.

The MDC supports H.R. 2815 and urges its adoption.

Mr. VENTO. Thank you, Mr. Sparks for your testimony.

Let me first ask, in interest of continuity, you are satisfied with the plan and its policy objectives and goals with regard to its treatment of water; is that correct?

Mr. SPARKS. Yes, we are. We worked very hard and very actively with the committee and members of the staff from the DEP, from the National Park Service and the Farmington Watershed Association, and we are comfortable that we have hammered out a good plan.

Mr. VENTO. Do you have an appropriation of water at the State level in Connecticut? Is this river appropriated as such by the State?

Mr. SPARKS. The State has—

Mr. VENTO. I guess you know what I am talking about.

Mr. SPARKS. Well, the State has a law on the books. It is a diversion law, and it requires that if we were to ever need water from the West Branch that we would have to apply to the DEP for water, and we have to satisfy all the requirements of the diversion law. We would also have to satisfy all the requirements that are in the management plan.

Mr. VENTO. Well, I think that sort of answers my next question. It is, that you take your water from the aquifer?

Mr. SPARKS. No, we take our water, surface water. We have—

Mr. VENTO. You do take it directly from the river?

Mr. SPARKS. Yes. We take—all of our water right now is from other areas of the Farmington River that are not part of what is being currently considered for designation.

Mr. VENTO. So your plans ahead are not to take water from this river?

Mr. SPARKS. Our plan includes the West Branch as a potential future source of water.

Mr. VENTO. Consistent with whatever is in the plan. So you would apply to the State.

Mr. SPARKS. Exactly.

Mr. VENTO. So you use basically surface water. You don't use any groundwater for the jurisdiction that you are serving.

Mr. SPARKS. That is correct.

Mr. VENTO. Okay. Do you have pretty good aquifers with a lot of the water in them in Connecticut as well?

Mr. SPARKS. Yes, we do.

Mr. VENTO. You mentioned, the State Senator mentioned the aquifers.

Senator Fleming, in terms of the legislation you referenced to me, this was written when? This particular measure, your House Bill Number 6925?

Mr. FLEMING. This was passed. It is now law in Connecticut. It was passed this year.

Mr. VENTO. Oh, this year?

Mr. FLEMING. Yes, sir.

Mr. VENTO. The point is that this is just a recognition that if Congress acts then you will act on this particular matter, so that you will affirm and provide the proper State authorities to in fact implement the legislation. Is that correct?

Mr. FLEMING. That is correct, Mr. Chairman.

Mr. VENTO. Looks like it does a little more than that. It sets in motion a whole Wild and Scenic, provisions that could be applicable to other rivers in Connecticut.

Mr. FLEMING. Connecticut in addition to this is considering, and I think it will most likely pass, but an entire rivers program for all of the rivers in Connecticut. And, as a matter of fact, the work that was done by the Study Committee on the Farmington, much of that work is going to be incorporated into that legislation as well.

Mr. VENTO. The Governor in most States where we have Wild and Scenic Rivers, very often the legislature and Governor have structured State laws to give the Governor administrative designation. Would that be part of your package of legislation in Connecticut as well?

Ms. DEMARCO. That is already within the authority of the Department of Environmental Protection at this time.

Mr. VENTO. Okay, so you have that authority, although it has not been exercised.

Ms. DEMARCO. Not in terms of designating Wild and Scenic, but there is a river management system, a river management plan.

Mr. VENTO. State?

Ms. DEMARCO. In the State. Yes.

Mr. VENTO. Oh, so the State. So you don't have any national. You didn't use it to designate them as national, but you have designated them essentially as State.

Ms. DEMARCO. Right, and we have focused attention on various river corridors as, you know, nondegradation areas. We have a nondegradation water policy in the State which would apply to this river, which is a Class A watershed area in the first place, which is the highest standard, and there is a considerable program in motion already for that all through the State.

Mr. VENTO. Yes. Ms. DeMarco, I couldn't help but envy the discussions that you had with the committee where you were able to resolve everything in an amiable way.

Ms. DEMARCO. Sir, we have the luxury on this committee in the designees that were appointed by the various towns and by—both in Massachusetts and Connecticut and by the Governor and the Department of the Interior of having a number of people such as our chairman, Mr. Rogers, and such as Jim, who are very skilled in mediation and negotiation on controversial issues. And I think it was largely the management of the agenda, the skillful use of remanding controversial issues to committee and technical staff that allowed us to make so much progress on these issues.

I think there was a tremendous amount of education that went on both one to one and also in public groups. I mean we had numbers and numbers of hearings. Often our meetings were attended by throngs of people and they went on until late in the night because people have a great deal of commitment and concern about this river. It is something that people feel very deeply about.

So I think over the period, the long period of time we have had there has been a growth and a change in the institutional position of people like the MDC and people like the Farmington River Watershed Association that has really allowed them all to grow in a

new direction, and I think that that has been a chief value of this Wild and Scenic study process.

Mr. VENTO. One of the things we haven't asked about is what is the type of development? We know most of this is private land here, but it hasn't been characterized. It is towns, so I expect that it is sort of residential. Are there mill towns?

Ms. DEMARCO. I would like to defer that to Mr. Rogers who speaks as chairman from the one of the towns himself because I think his perspective would be better for you.

Mr. VENTO. Okay. Well that is fine. I think he will be testifying.

Ms. DEMARCO. Yes.

Mr. VENTO. I just think that that has not been the case because we may have farmland. You may have other things that are in here. But I think it is important for me and for the committee for the record to show the nature of the type of development on the river.

Ms. DeMarco, did you have any, or Senator Fleming, did you have any comments about my observations with regards to some of the difficulties we have to address before we act on the bill; that is to say, the issue of the committee and how that can be structured and the dynamic of the plan?

You anticipate it is going to change yourselves. So I am pleased to note that. But we need to have some sort of a national role in terms of that plan.

Generally what happens with most of these plans, I would suggest one solution might be for the plan to be developed and the Secretary has to affirm the modifications, and it goes back to the community. That is generally the way we would probably deal with this, and that gives him sort of the last word. I don't anticipate problems with it.

Ms. DEMARCO. We didn't want to anticipate how the Congress would act on it. We did spend a lot of time putting the management plan together based on our experience of what works in this community and this type of a river.

We are trying to acknowledge the need to represent on an equal basis all of the interests that are involved and a need to have the jurisdictions that are represented have appropriate roles.

Mr. FLEMING. Mr. Chairman, if I might respond as well? I don't think, having listened to what was said this morning, that there is any issue that I heard raised that couldn't be worked out.

Mr. VENTO. Well, that is spoken like a true legislator. [Laughter].

Well, Mr. Fleming, I appreciate that. I just wanted to, try to glean your wisdom in terms of having to work this out now that we have got the problem squarely resting on the table in front of us as the committee members and as the sponsor and so forth.

There are some provisions in here the staff points out to me that it would take—for instance, if you had one Park Service person on, that one Park Service person could veto the whole plan. But on the other concern, but it still maybe doesn't resolve everything. I think that that is an interesting provision, but I don't know that the Justice Department would hang its hat solely on that. I would be concerned about it.

Anyway, so I understand the problem. You had discussed this, and I thought if you could provide me guidance or any observations

at this point it would be appropriate. I didn't want you to miss the opportunity to do so.

Ms. DEMARCO. Thank you.

Mr. VENTO. In any case, you have brought it along fairly well, and as long as they get a lot of interest, development along this particular segment, 400,000 people being served by the water in the area.

Congresswoman Johnson, did you want to ask any questions of this panel or comment?

Mrs. JOHNSON. I would just like to thank them for their good work. And I am very pleased that in your testimony you brought to the committee the significance of the process because in this instance the State couldn't have mobilized that process.

And it is another good example of the Federal role, being able to provide resources and also provide leadership and focus that enables communities to get people working together in a way that otherwise would be impossible, but in the end was extraordinarily fruitful for us.

And I thank Jim Fleming for his leadership on the State Environment Committee, making sure that always our interests were backstopped by their action. And I agree with him that there is no question in my mind but the Environment Committee will move forward with the Governor's office and pass the appropriate legislation.

And the MDC also has done a remarkable job working with this group, and I thank them for making this possible today.

Thank you, Mr. Chairman.

Mr. VENTO. Thank you all for your participation and presence this morning, Senator, Ms. DeMarco, Mr. Sparks.

Finally, the last panel today is Beth Norcross, an expert on river issues with the American Rivers, Inc., and Nathan Frohling, the Farmington River Watershed Association, and Norman Rogers, Jr., the Farmington River Advisory Committee.

Thank you all for being present.

I have a statement here that Congressman Richardson provided me from a group in Taos, Amigos Bravos, which he asks, without objection, be placed in the record.

[Prepared statement of Amigos Bravos follows:]



Amigos Bravos, Friends of the Wild Rivers
 P.O. Box 238 Taos, New Mexico 87571
 505-758-3874

Statement Prepared for the US House of Representatives hearings on H.R. 1471, the "Rio Grande River Designation Act of 1993", before the National Parks, Forests and Public Lands Subcommittee to be held October 21, 1993

INTRODUCTION:

Amigos Bravos is a not for profit grass-roots membership organization established in 1988 and dedicated to the protection of all rivers within the upper Rio Grande watershed. The mission of Amigos Bravos is to protect, conserve and improve the biological diversity and important aquatic, wildlife and cultural resources of the upper Rio Grande watershed. Amigos Bravos is committed to preventing the destruction of the threatened and endangered species of flora and fauna, wildlife habitat, air and water quality of the watershed while maintaining environmentally sound, sustainable traditional ways of life of the indigenous cultures. Amigos Bravos upholds that environmental justice and social justice go hand in hand.

Amigos Bravos would like to thank Congressman Bill Richardson for his exemplary interest in protecting New Mexico's rivers. We are very supportive of legislative initiatives that will protect our valuable and threatened natural river resources. We take a special interest in those actions which can result in protective designation under the Wild and Scenic Rivers Act. This section of river was first recommended for inclusion in the Wild and Scenic Rivers Act by the Rio Grande del Norte National Conservation Area Committee appointed by Congressman Bill Richardson in 1991.

We support this bill as it now stands. However, we ask that the Bureau of Land Management Taos Resource Area Office be provided with the necessary resources, manpower and direction to adequately address the issues outlined below.

THE NEED FOR PROTECTIVE DESIGNATION WITH SUBSTANCE:

The mandate of the Wild and Scenic Rivers Act is very clear. Unfortunately, the Bureau of Land Management (BLM), which is the

Amigos Bravos Comments on HR 1471, Page 2

managing agency for the section of river in question, has historically not lived up to that mandate.

The driving force behind the birth of Amigos Bravos was a perception among the local population that although the Rio Grande from the Colorado border south to Taos Junction Bridge was protected under the Wild and Scenic Rivers Act of 1968, BLM management of this section was inadequate to the point of being detrimental to the resources Congress had designated for protection. Reasons for BLM's inability to manage the area responsibly range from budget shortfalls to bureaucratic overburdens, and lack of in-the-field specialists. Most devastating, however, to the cultural and environmental ecology of the area has been a BLM agenda which favors aggressive development of high-profile activities, including the construction of unnecessary, undesirable "facilities" and laissez-faire management of recreation. These factors are well documented in the August 24, 1990 Congressional Oversight Field Hearings by the Committee on Interior and Insular Affairs on "Rio Grande Wild and Scenic River Management Policies of the Bureau of Land Management".

Minimal improvements in management of public land and water have resulted from those hearings. It follows that protective legislation of the upper Rio Grande must include substantive directives backed by financial support, and continuing opportunities for the advice and input from local affected communities. Otherwise the proposed legislation will become another piece of paper to either be ignored or "interpreted" ad infinitum, while the resource continues to be degraded.

DESCRIPTION OF THE AREA IN QUESTION:

The upper Rio Grande bioregion is globally recognized for its cultural diversity and history. The northern New Mexico watershed creates a home to extraordinary wildlife populations, complex systems of vegetation, and spectacular landscapes. Rich in archaeological remains, the canyons and valleys of the Rio Grande have supported Pueblo Cultures since the time of the Anasazi thousands of years ago and have been the home of Spanish speaking peoples since the 16th century. Perhaps most important of all is a sense that the land itself is very much alive and that the river is at its heart.

The twelve miles of river that this legislation addresses has, until very recently, been a quiet pastoral, scenic valley offering a unique opportunity

Amigos Bravos Comments on HR 1471, Page 3

for contemplation and solitude, in which centuries-old sustainable fishing and agrarian practices continue. The rural community of Pilar, comprised of farmers and artisans, lies in the middle of this section of river. The major highway connecting Santa Fe and Albuquerque to Taos and points north in Colorado parallels the east bank of the river for half of the designated distance. The farming communities of Rinconada and Embudo are clustered along the banks of the river just south of the Taos/Rio Arriba County Line where the protection resulting from this proposed designation ends.

The communities situated along the river have in the past been able to maintain and, to a large degree, enhance the "Scenic" qualities and resources of this valley.

IMMEDIATE THREAT TO THE AREA:

In recent years this area has been "discovered" by tourists and recreationalists due to an aggressive campaign on the part of commercial and media interests. Most of the large national newspapers and many slick international magazines have featured the Rio Grande Gorge as a place to see when visiting Northern New Mexico which is becoming an increasingly popular tourist destination.

Consequently the area is being "loved to death". The wildlife and social fabric of the area is fragmenting, "Scenic" values are threatened, and concerns of the local population are ignored while BLM continues to emphasize recreation over resource protection.

Instead of managing the area for its intrinsic values, BLM management has allowed this once peaceful valley to evolve into a social playground accompanied by many of the more unpleasant side effects of our present "modern culture". In a State that has no bottle or can reimbursement legislation, and where fast food throw-away packaging and disposable diapers are prevalent, we see a tremendous accumulation of trash along the banks and spilling into the river. An estimated three million people visit Taos annually. Most of these visitors come to Taos along Highway 66 which parallels the stretch of river in question. River-running has increased by 50% in the past three years. Commercial boating alone increased by 44% in the past year.

Amigos Bravos volunteers pick up garbage monthly and we also pay for the

Amigos Bravos Comments on HR 1471, Page 4

rental and maintenance of numerous toilets in order to alleviate some of the solid waste problems left by visitors and people local to the area, alike. However we are unable to keep up with the situation and BLM is not providing the necessary trash collection and manpower to insure a clean and safe environment. The effects are such that trash is piling up along the banks, the fecal coliform count in the water is up, and the quiet of the valley is drowned out by tourists and boaters arriving in unchecked numbers, uneducated as to how they might "walk softly" through an environmentally and culturally sensitive area.

Optimally, a management plan could integrate recreation with the natural surroundings, to everyone's benefit. But, BLM's primary response has been directed at facilitating an increase in the number of visitors without addressing trash, traffic and safety problems. Such negligence has resulted in an almost unanimous uproar against recreation by the land owners in the affected communities.

MANDATE FOR EFFECTIVE MANAGEMENT:

On May 12, 1992, Amigos Bravos President Hank Saxe flew to Washington DC to testify regarding this Act before the Public Lands, National Parks and Forests Subcommittee of the US Senate Committee on Energy and Natural Resources. At that time we made the following four requests:

1. Classify the proposed section of river as "Scenic".
2. Provide the necessary resources so that BLM can implement intensive management practices.
3. Send a clear message to BLM that the new management plan must address the needs of the local population by creating a Citizens Oversight Review Board.
4. Designate the section of river which runs from the County Line to Velarde as a "Study River" pursuant to section 5 of the Wild and Scenic Rivers Act.

We were very pleased that the US Senate rewrote the Act to reflect our concerns and passed Senate Bill S. 375.

The only recommendation that was not addressed by S. 375 is #2 which calls for providing the resources so that BLM can implement intensive management practices. Without additional resources BLM will not be able to control the influx of tourists and recreationalists which will result in the further degradation of the resources and quality of life of the area.

Amigos Bravos Comments on HR 1471, Page 5

We ask that this Committee address this issue either through this Bill or by way of some other special appropriation.

The new management plan must address the needs of the local population (see Attachment A: Recommendations of Steering Committee Concerned Citizens of the Lower Rio Grande). This can best be done by assuring that the composition of the Rio Grande Citizens Review Board retain a high percentage of representation from the affected land owners.

Section 4 (a) mandates that BLM establish the Rio Grande Citizens Oversight Review Board to oversee preparation of a new management plan and its implementation. It is of utmost importance that this Board have strong representation from the local land owners whose properties will be affected by this legislation. It has been brought to our attention that BLM would like to see the composition of the Board have a broader representation of interests than is presently mandated by Section 4 (b). We understand the need to include all interested parties in preparing a management plan, however we feel that this can be done through the requirements of the National Environmental Protection Act (NEPA). Section 4 (b) was intended to provide protection for the land owners and direct stake holders along the river. The composition of the Rio Grande Citizens Oversight Review Board as outlined in Section 4 (b) was not intended to include commercial interests who have a stake in exploiting the cultural and aesthetic resources of the area. If the composition of the Board under Section 4 (b) is to be expanded it should do so in order to allow for representation from Taos and Picuris Pueblos. These Pueblos have had special interest and jurisdiction in this canyon for many centuries. There could also be two positions on the Board available to recreational interests, one for boaters and one for fishermen. These positions, however, should be filled by local residents who can at the same time represent and be accountable to these recreational interests.

Finally, Amigos Bravos would like to go on record in support of BLM's proposal to withdraw the entire Racecourse Area of Critical Environmental Concern from mineral entry.

Thank you for taking our concerns into consideration.

RECOMMENDATIONS OF STEERING COMMITTEE CONCERNED CITIZENS OF THE LOWER RIO GRANDE (CCLRG)

The following recommendations are derived from issues identified and concerns expressed by local residents who attended a series of community meetings conducted by our grass-roots organization.

OVERVIEW:

Residents of the villages along the Río Grande from Pilar to Velarde are understandably concerned about the content of the BLM's proposed "management plan" for the lower Río Grande area because we, as the people who live and work here, will be most affected by these plans. Accordingly, we favor a plan which places primary emphasis on the protection and preservation of the environment and the rich cultural and historical legacy of our rural, farming communities. Only secondarily should the plan seek to accommodate the desires of those who come here looking for additional leisure-time activities. We do not wish to become a "living museum" for tourists and the recreation industry. Communities should be maintained viable, vibrant, alive, vivas; not exploited by tourism and recreation. Toward this end, we make the following specific recommendations:

Local Representation: *Residents of the communities along the Río Grande from Pilar to Velarde demand to be represented by the person, or persons, of our choice at any and all phases of the preparation of the "Management Plan" for our area.*

Boating:

1. Commercial boating should be capped at 1991 levels.
2. The commercial boating season should be restricted to high-flow

days.

3. Boaters must be educated in boating courtesy; they must learn to respect the rights of fisherman and owners of private property.

4. Private boating should be allowed through a permit or licensing system.

5. Commercial put-ins and take-outs should be limited to designated areas presently in use; facilities in these areas should be upgraded to meet needs.

6. Commercial boating shall be allowed only above the County Line.

Camping and Picnicking:

1. The following areas should be closed to vehicular traffic: *Lover's Lane* (Double L), *mana Vivianita's Place* (by foot-bridge in Embudo); *La Junta de los Rios*, where the Río Embudo meets the Río Grande. Natural resources should be accessible to local people.

2. With help of Highway Dept. and other agencies, replant and landscape existing off-highway parking areas from Pilar to Velarde, not only for travelers, but for fisherman, photographers, artists.

3. Use of campgrounds should be restricted to private usage - no large public events (such as the ill-fated Jazz Festival).

4. Local residents should enjoy no-charge permits for camping and picnicking.

Trails:

1. No acquisitions of private land to develop new trails between Taos Junction and Velarde.

2. Leave existing trails on the West Mesa undeveloped.

3. Develop local nature/scenic walk trails in existing recreation areas only.

4. Prohibit use of motorized vehicles and pack animals on existing trails.

Trash: NOTE: *Trash is a major problem in the Río Grande Corridor.*

Development which encourages more people will only make problem worse. BLM has not adequately dealt with trash in its areas even at present levels.

1. BLM should set-up task force to deal with trash problem.

2. Earmark a portion of present and future funding to clean-up and maintain existing areas.

3. Encourage recycling through education; at existing recreation

areas (through use of compartmented containers, etc). AND recycle refuse collected.

Traffic: *Highway safety is an issue of great concern to local residents. It is a complex issue that we understand is not totally within the ability of the BLM to resolve. However, the BLM must consider the effect of encouraging greater numbers of visitors to the corridor. Geography and present levels of use already make this a very dangerous stretch of highway, and recreational users (hikers, bikers, skiers, campers, picnickers, fishermen, boaters, the whole leisure-time industry); all come here in motor vehicles. These visitors also put a strain on the rescue squad and Dixon Fire Department, which the community cannot afford.*

1. BLM, working with Highway Dept. and local communities, must first assess projected increases in traffic expected from greater recreational use prior to implementing any plan for development which would encourage such use.
2. BLM, working with Highway Dept. and locals, must minimize traffic hazards which presently exist due to recreational use (e.g. speeding skiers returning from Taos and "rubberneckers" driving the canyon while watching rafters).

La Mesita:

1. Acquire private land on La Mesita through trade and allow natural revegetation to protect water quality in *Acequia Junta y Cienega* and prevent arroyos from damaging irrigated land in Embudo.
2. Block access road to vehicular traffic to prevent trash dumping.

Archeology: *Archeological evidence should remain as is, no development of any sort, including trails to sites and excavations.*

Mining: *No mining from rim to rim of canyon.*

Herbicides: *No use of herbicides or any toxic materials on BLM land, whether by BLM, other government agencies, or private permittees.*

Mr. VENTO. Perhaps, for the purpose of continuity, it would be best to hear from the two witnesses on the Farmington, since we have kind of been into that, and then have you to cleanup in this case, Beth.

So I will ask Nathan Frohling from the Farmington River Watershed Association to proceed with his testimony. Mr. Frohling.

PANEL CONSISTING OF NATHAN FROHLING, FARMINGTON RIVER WATERSHED ASSOCIATION; NORMAN ROGERS, JR., CHAIR, FARMINGTON RIVER STUDY COMMITTEE; AND BETH NORCROSS, DIRECTOR OF LEGISLATIVE PROGRAMS, AMERICAN RIVERS, INC.

STATEMENT OF NATHAN FROHLING

Mr. FROHLING. Thank you, Mr. Chairman.

It is indeed a pleasure to be here. I represent a 3,000-member organization in Connecticut that has been working on this since its inception and we strongly support H.R. 2815.

I am also proud to say that the Izaak Walton League, the National Audubon Society, the National Sierra Club, Trout Unlimited, American Whitewater Affiliation, American Canoe Association and the West Virginia Rivers Coalition are strongly supporting the bill and they are on our testimony. Together they represent well over a million members.

Your original support for the study bill has created an opportunity to achieve, I think, the single greatest conservation achievement for any of Connecticut's rivers, and whatever happens, we thank you for that opportunity.

From our 40 years of existence, we know firsthand that the Farmington River is nationally outstanding. When you hear the rush of whitewater, smell the scent of undisturbed forest, see endless autumn colors, as the photograph to the left shows, rising from wild rapids, witness captivating changes in topography, or gaze literally at the bottom through clear water, you know that the Farmington is a special river. Add to that Atlantic salmon returning, bald eagles, high biological diversity, exemplary experiences for canoeing, kayaking, fly fishing, and an entire corridor steeped in rural historical character, you know that the Farmington River is one of the Nation's best.

It is also located next to a high population center and it is enjoyed by many, many Americans, not just Connecticutans. It is no surprise also that the river is experiencing a tremendous amount of pressure for exploitation. Designation is the only authority which can provide the level of protection that the river needs, and to that end a river protection management plan has been adopted, which we have been talking about, that establishes, we believe, an unsurpassed high standard of resource protection and probably is one of the strongest plans for any wild and scenic designation river.

Nearly 50 percent of all river land is now in public ownership for conservation purposes. In addition, strict consistent zoning, which we have been speaking of, has been passed by all the towns prohibiting any degradation within 100 feet of the river on both sides.

In addition, the towns have passed resolutions committing themselves to river protection specifically for wild and scenic designa-

tion, and high standards have been set for water quality and water flow.

This unanimously supported plan unifies diverse interests. It resolves bitter resource conflicts, resource allocation conflicts. It creates interlocking commitments, and it requires status reports to the Interior Secretary and puts all the protection and cooperation in place before designation.

Mr. Chairman, congressional designation is at the heart of the river management plan. Designation is the hub holding all the spokes of the river protection wheel together, and we hope that you will help us in getting this designation passed for a truly outstanding river.

Thank you very much.

Mr. VENTO. Thank you for summarizing your statement. It is an excellent statement and I appreciate the effort you put into it, especially getting that West Virginia support. [Laughter.]

[Prepared statement of Mr. Frohling on H.R. 2815 follows:]

**TESTIMONY
Of the FARMINGTON RIVER WATERSHED ASSOCIATION**

On House of Representatives Bill No. H.R. 2815

**WILD & SCENIC DESIGNATION
For The
FARMINGTON RIVER**

SUBMITTED TO:

**The Honorable Bruce Vento
Chairman
and the
House Subcommittee on National Parks, Forests, & Public Lands**

**By
Nathan M. Frohling
Executive Director, Farmington River Watershed Association
749 Hopmeadow St.
Simsbury, CT 06070
203-658-4442**

October 28, 1993

The Farmington River Watershed Association (FRWA) strongly supports H.R. 2815. We are pleased that the Izaak Walton League representing 54,000 members, the National Audubon Society and Northeast Regional Office of Audubon, representing over 450,000 members, the national Sierra Club and the Northeast Regional Conservation Committee representing over 500,000 members, Trout Unlimited representing over 70,000 members, the American Whitewater Affiliation representing 30,000 members, the American Canoe Association representing 35,000 members, and the West Virginia Rivers Coalition, the largest statewide rivers group east of the Rockies, join with us and have signed on to the following testimony. There are many other local organizations, too many to mention here, who also support the bill.

Introduction:

We are a non-profit organization with over 3000 members in Connecticut and Massachusetts dedicated to river protection. We have been at the core of the campaign to achieve designation and have received national awards for our efforts. FRWA sought designation as early as 1981 when the river was threatened by a major water diversion project. In our years of effort we have enlisted hundreds of people and groups to actively support designation. We have worked with scores of town and state officials and we have made Wild & Scenic designation our number 1 organizational priority. We fought a difficult battle with anti-environmentalists and prevailed in Connecticut.

We know first hand that the Farmington River is nationally significant. We also know that without designation as an inspiring catalyst, the community would not have made the personal sacrifices needed to save this river. And we know that without an approach emphasizing local stewardship and sovereignty, community support for designation could never have been achieved.

The Farmington Wild & Scenic Bill and all that it represents is a precious opportunity for our nation. It will save a nationally outstanding resource, establish a high standard of resource protection, and open a critically needed avenue for protection of rivers nation wide. Congressional designation is essential if the River Management Plan, so valuable in bringing all the parties together to agree on contentious issues, is to be carried out. Designation is the core of the process and is the motivational glue holding the local efforts together.

Protection of an Outstanding National Resource:

The National Park Service has documented that the Upper Farmington River possesses outstanding and remarkable natural and cultural resources. Words, however, can not replicate the profound experience one has on the Farmington River. Whether its the sound of white water rushing over rocks, the sweet smell of air refreshed by diverse, lush vegetation, the crisp sight of rapids against autumn colors, the captivating changes in topography or the sparkling look of the bottom seen through clear, high quality water, the Farmington River is outstanding. Add to that Bald Eagles, an abundance of wildlife and species diversity, exemplary experiences in canoeing, kayaking, fly fishing and a rural, historical character which defines the entire river corridor, the Farmington River jumps out as one of the nation's best. Located less than an hour away from major urban population centers, it can be enjoyed by many Americans. It is no surprise that the river is experiencing tremendous pressure for exploitation. Protection through Wild & Scenic designation is the only mechanism that can bring all the parties involved together. Designation is the only authority which can provide the level of protection the river needs.

Farmington Designation Establishes a High, Unsurpassed Standard of Resource Protection:

From the very beginning, the Farmington designation was designed as an answer to the litany of problems encountered in trying to designate or manage other private land rivers like the Housatonic or Upper Delaware. After more than 5 years of study and intense effort by many parties who collectively represent all river interests, a river protection management plan has been prepared and approved which may well be the strongest such plan ever prepared for a Wild & Scenic river.

The Management Plan does 4 important things. One, it establishes a high standard for the level of actual resource protection. Nearly 50% of all river land is now publically owned for conservation purposes. One of the most notable triumphs was the adoption of strict, consistent zoning regulations by all the towns prohibiting any degradation within 100' of the river. High standards of protection have also been agreed to by the State and Metropolitan District Commission (MDC).

Two, the Management Plan establishes a standard for involvement and unification of diverse and often competing river interests. This forms a strong structure for assuring river protection because it establishes interlocking roles and commitments for each interest of the network. The Plan, which embodies and facilitates a high level of cooperation and partnership, is unanimously supported by all.

Three, the Management Plan establishes a standard for resolving conflicts through objective analysis. Completion of an Instream Flow Study provided the basis for the FRWA and the MDC, once bitter enemies, to agree on what standards would govern future river flow management decisions.

Four, the Management Plan establishes a standard which puts the protection and cooperation in place before going to Congress. The federal government can enjoy an unprecedented level of predictability in the level of overall resource protection provided *prior to designation*.

The Farmington designation does not allow federal land condemnation or acquisition as a threat to guarantee resource protection through time. Does this weaken the level of protection? No, it strengthens it. By removing the fear and condescension of a "federal land threat", a high level of resource protection has been produced voluntarily by the local communities and other interests. This process has also created a strong commitment to continued, ongoing river protection. That commitment is what replaces the need for condemnation.

The community commitment is solid. The commitment is solid because it is inclusive, it involves everyone from state government to property owners. It is solid because the communities have made a great effort to accomplish the local protections and will not tolerate their undoing. It is solid because an informed and active constituency has been established for river protection. It is solid because community pride and identity are now tied to Wild & Scenic designation. There is an array of peer accountability which although not as prescriptive as federal condemnation is arguably more effective. But there are even more "safeguards." Number one, it is not possible legally for towns to rescind zoning regulations without great effort and time. Secondly, the towns have also passed separate resolutions which commit them to uphold river protection specifically for Wild & Scenic designation. These provide an overlapping legal foundation to defend against any action that would weaken river protection or the zoning regulations. Thirdly, the management plan calls for the Farmington River Coordinating Committee and National Park Service to report to the Secretary of the Interior on the status of the river designation. This heightens the visibility and accountability for what happens. Fourthly, the state of CT is pursuing a rivers program which will support and further enforce the local actions.

All of these assurances should be considered in light of the fact that with the threat of federal land condemnation and acquisition the river would never have been protected in the first place. It is also unclear to what degree condemnation has actually worked as a useful conservation tool or assurance of protection on other rivers in the nation. Finally, the trust involved in this process works both ways. The federal government is trusting the collective commitment of 5 CT towns, the state and other river interests; this same group is trusting the federal government to act in good faith. This cooperation should now include the federal government.

The Farmington designation approach demonstrates the ability of a cooperative approach to provide

ongoing resource protection. It intentionally departs from the use of fear or threat to guarantee protection. FRWA's relationship with the MDC is a profound living example of this principal. When we fought bitter battles over the river, countless energy was lost, deeper trenches dug and the river was not protected. FRWA had sought designation as a vehicle to block the MDC from their plans to divert the river. We testified against each other before this committee in 1985. In moving toward a cooperative approach, we discovered our common ground and made a choice to look for partnership. We found it. As a result we stand together in seeking Wild & Scenic designation.

Although a new approach, the Farmington designation is entirely based on the Wild & Scenic Act and is not an aberration from its intent or tenets. First, a precedent for no federal land acquisition and condemnation is established in Section 2(a)(ii) of the Act. Secondly, the Farmington has complied with Section 6(c) and has met the Act's criteria for prohibiting federal land condemnation. This section also reflects a philosophy supporting a local approach. Thirdly, the Farmington has 45% public land ownership on the river. This is virtually enough to meet the 50% standard of the Act under Section 6(b) which prohibits condemnation of fee title.

Farmington River Designation Is A Breakthrough For Expanding River Protection In The Nation:

Nationally outstanding private land rivers are not being protected through designation such as the Penobscot, the Shepaug, the Housatonic, the Pemi because communities fear federal domination. The Upper Delaware designation still suffers from an alienation between the federal government and local communities. On private land rivers - by definition - local community support is required for designation. Add to this the anti-environmental "wise use" movement which has spawned a revolution to redefine private property rights and exaggerate fear of the federal government. Its very simple. As long as the threat of federal land condemnation exists, community support is near to impossible to obtain for designation on private land rivers.

The Farmington designation is a breakthrough for river protection because it directly attacks and solves the problem of winning community support. Furthermore, it did so without sacrificing a high standard of resource protection.

On the Farmington, we sought from the very beginning to prove to our communities that the federal government could be trusted because we were "doing it differently", building a designation on the strength of local protections, not on a heavy handed federal presence. In working to build trust and bring people on board, we sought ways to minimize the perception that the federal government could still find a way to "impose their will over our lives." The advent of the river becoming a national park, the establishment of quarter mile boundaries and even federal land acquisition were all promoted by our foes as evidence of inevitable federal control in the future. These same foes found many examples to promote fear. They repeatedly broadcast the Diane Sawyer TV program on the Cuyahoga River, they brought Don Rupp up from the Upper Delaware, and they had no trouble finding examples to "prove" the dangers of becoming designated. Its not clear to a confused, scared public that these claims are false. In Connecticut where FRWA is a well established name, the public maintained their trust in the process. They accepted our assurances that designation would be based on provisions making local sovereignty very clear. It is only because designation was built on this local approach that we were successful where others have failed. As a result we are now able to pursue designation for 14 miles of the Upper Farmington in CT.

Our job in building and maintaining trust was particularly difficult because we did not have existing, previously established examples of the positive approach taken on the Farmington. In Massachusetts, distrust won the day and designation was defeated. Until the Farmington is designated, there will not exist Wild & Scenic rivers which sufficiently demonstrate to the public

that the "feds" will work hand in hand with the local community on a basis of mutual trust.

If an approach for Wild & Scenic designations is not established which removes the fear of an adverse federal presence, many opportunities for protecting private land rivers will be lost. That approach, as on the Farmington, must emphasize flexibility as it must also conform to the Wild & Scenic Act. The Farmington is a breakthrough because it does both.

The Farmington is also a breakthrough because in addition to removing fear and building trust it opens up a powerful phenomena for achieving ecological sustainability. In our experience, there is tremendous untapped motivation in our citizens for environmental protection. An overwhelming number of people feel powerless to act on the serious issues of our day, even the fate of their own home town environment. However, people care a great deal. They are hungry to feel ownership and partnership in acting to solve problems. But people suffer from cynicism, they don't know where to begin, they feel isolated, and ultimately they believe they can't be successful.

The "local approach" of the Farmington turns that around and opens an avenue for that motivation to emerge. It has empowered citizens to believe they can make a difference and to step forward, roll up their sleeves and act for environmental stewardship - even when it has meant personal sacrifice. For example, one of the river fronting property owners in the town of Hartland provided the local leadership needed to establish the strict river zoning mentioned above.

Approaching designation this way works because of 4 basic components; motivation, structure, trust and responsibility. The opportunity to obtain Congressional designation provides a visible, focused goal which motivates a community. Secondly, the Wild & Scenic Act and the federal government provide a structure to guide and organize the communities. Third and very critical is the *local approach to that structure* which empowers citizens to play a role, take responsibility, and trust that the federal role will be one of partnership, not domination. Finally, building such a process of community involvement causes the local citizenry to take personal responsibility instead of looking for someone else to do it for them. From this is born the accountability and dependability that is needed to assure ongoing river protection. It has been inspiring to see a citizenry rally for their values, pride, and love for a river that defines the character of their community.

We believe that the local approach of the Farmington is an early example of an important and timely new concept in environmental protection espoused by Interior Secretary Bruce Babbitt: that various interests of a local or regional ecosystem work together to identify common ground and seek solutions to both protect the resource and incorporate legitimate human needs.

Completing Congressional Designation Is Critical:

The Farmington is a model for other private land rivers. Rivers such as the Concord Sudbury Assibet are depending on the success of the Farmington designation and its local approach. Efforts which have failed on other rivers are expected to be restarted if the Farmington succeeds such as on the Housatonic River in CT.

If the Farmington designation succeeds, the thousands of volunteer hours and efforts will be rewarded and an example will have been achieved for river protection. That example will convey that citizen efforts and volunteer leadership can make a difference. If it fails, just the opposite message will be sent all across New England if not the U.S.

Thank you very much for this opportunity to comment on the proposed bill to designate the Farmington River Wild & Scenic. We are available to answer any questions that the committee may have.

Mr. VENTO. Mr. Rogers, welcome. Your statement has been made a part of the record as well, so you can summarize or read if you choose.

STATEMENT OF NORMAN ROGERS, JR.

Mr. ROGERS. Thank you. And I will do so, Mr. Chairman. And thank you again for giving me the opportunity to testify before you this morning.

I am chair of the Farmington River Study Committee, and I must tell you it has been probably the most exciting and exhilarating experience of my professional and civic career to date.

I am a lifelong resident of New Hartford, Connecticut, where I have been involved in town government for over a decade, including service on our Board of Selectmen. I have known the river all my life, and I do hope that you can experience the breathtaking beauty and natural splendor of this precious resource.

And on behalf of the Study Committee and the people of the Farmington Valley, I urge your support for H.R. 2815 to designate the river as a Wild and Scenic River.

The people residing in the towns along this river have voted almost unanimously for designation at each of their town meetings. And moreover, as Nathan has pointed out, the towns have adopted enhanced zoning which sets forth a buffer strip along the river bank. And, as you know, obtaining such a uniform, strong regulation, among several adjacent communities is really an exceedingly rare event in this country.

The remarkable achievement of the study process is the fact that we were able to bring so many disparate groups together, and that these groups were ultimately able to see beyond their own interests for the common good is quite extraordinary. The success of the study is local involvement, and the management plan which we talked about this morning does embody a long-term protection based on local control and existing programs.

We believe that the Federal Government will act as a key player and partner with local authorities and river management for decades to come. We think this bill builds on the models of the Wildcat in New Hampshire and the great Egg Harbor and the Morris in New Jersey, and we urge your support.

Thank you, Mr. Chairman.

Mr. VENTO. Thank you for your testimony and we will get back with questions in a moment.

[Prepared statement of Mr. Rogers on H.R. 2815 follows:]

October 28, 1993

To: House of Representatives Subcommittee on National Parks,
Forests and Public Lands

From: Norman E. Rogers, Jr.

Re: **H.R. 2815, the bill to designate the Farmington River
a National Wild and Scenic River**

Mr. Chairman, thank you for giving me the opportunity to testify before you today. My name is Norman Rogers and I chair the Farmington River Study Committee. I am a life-long resident of New Hartford, Connecticut and have served in town government for over a decade including service on the board of selectman. I am an attorney and current serve as judge of probate for the district.

I have known the Farmington River all of my life and wish each of you could experience the breathtaking beauty and natural splendor of this national treasure. On behalf of the the Study Committee and people of the Farmington Valley, I urge passage of this bill to designate the Farmington as a wild and scenic river (see attached exhibit A).

The people residing in the Connecticut towns along the river segment have voted for designation of the river at their town meetings. (see attached exhibit B). Moreover, the towns also adopted enhanced zoning for the river which establishes a uniform buffer strip along the riverbank. As you know, obtaining such uniformly strong regulation among several adjacent communities is exceedingly rare in this country.

Page Two

In fact, the remarkable achievement of this study process is that we were able to bring so many disparate groups together to agree on a management plan before designation. That these groups were ultimately able to see beyond their own interests for the common good is extraordinary.

Quite simply, the success of this study in local involvement. The management plan embodies long-term protection based on local control and existing programs, not new layers of bureaucracy. After designation, the federal government will act as a partner with local authorities in river management.

I wish you could have attended our meetings, we had a crowd of 200 people in January who voted unanimously for designation. In addition, our schools have integrated conservation of this river into classroom studies. And it is for our children and future generations that I urge your support for designation of the Farmington.

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EXHIBIT A

FARMINGTON RIVER STUDY COMMITTEE

The following motions were adopted by unanimous vote of the full membership of the Farmington River Study Committee at its meeting on Thursday, April 29, 1993 at the Barkhamsted (Connecticut) Elementary School:

River Management Plan

Be it resolved that: The Farmington River Study Committee adopt the Upper Farmington River Management Plan [dated April 29, 1993] as providing a balanced approach to long-term protection and use of the Farmington River.

Wild and Scenic River Designation

Be it resolved that: The Farmington River Study Committee recommend to the United States Congress that the Farmington River, from immediately below the Goodwin Dam and Hydroelectric Project in Hartland, Connecticut to the downstream end of the New Hartford/Canton, Connecticut town line, be designated into the National Wild and Scenic Rivers System in accordance with the spirit and provisions of the Upper Farmington River Management Plan.

Further, be it resolved by the Farmington River Study Committee that, in the absence of town votes supporting designation, no action be taken regarding a recommendation for the designation of the Massachusetts section of the river.

EXHIBIT B

Resolution requesting that the Farmington River be designated for inclusion into the National Wild and Scenic River system

Resolved

Whereas: The Farmington River flows through the Town of New Hartford, Connecticut, and is a natural resource of great importance to the Town and the State of Connecticut, and

Whereas: The quality and quantity of its water are essential and intrinsic to the maintenance and enhancement of wildlife, fisheries, recreation, groundwater supplies and the physical beauty of the landscape, and

Whereas: The National Park Service has determined that the Farmington River is eligible for Wild and Scenic River designation based on its outstanding fisheries, wildlife, recreational and historic values, and

Whereas: The people of New Hartford recognize the importance of this irreplaceable natural asset and hereby express a commitment to the protection and preservation of the Farmington River corridor and the outstanding values identified in the Wild and Scenic River Study, and

Whereas: The Town of New Hartford, the Farmington River Study Committee and the National Park Service are working cooperatively to develop an effective locally-based plan that will ensure the necessary protection of the river and its related resources, and

Whereas: The Wild and Scenic River Designation would provide further protection of the river and yet would afford local control and regulation by such towns committed to the protection of the Farmington River,

NOW THEREFORE, BE IT RESOLVED, that the people of the Town of New Hartford petition the Congress of the United States of America to designate the Farmington River as a Wild and Scenic River with the understanding that such designation would be based on the locally-developed river conservation plan and would not involve federal acquisition or management of lands, and

BE IT FURTHER RESOLVED, that the townspeople urge our elected officials to consider and, wherever appropriate, adopt additional local measures that will strengthen the Town's protection of this critical resource.

Mr. VENTO. But we want to hear from Beth Norcross, who will discuss both the measures before us, the Rio Grande and the Farmington River.

Beth.

STATEMENT OF BETH NORCROSS

Ms. NORCROSS. I will begin my comments with the Farmington since we are on that subject. I feel a little bit like the skunk at the garden party.

We should begin by commending Mrs. Johnson. You have shown exemplary leadership on this issue. We intend to continue to work with you and your staff and the local representatives. We believe that we are very close to forging a compromise on this bill. We appreciate the leadership you have demonstrated on this river.

We know that this compromise has been hard fought, hard won, under a very, very difficult, stressful situation. We commend the Park Service, the Farmington Watershed Association and the Farmington Study Committee. What they have come up with is an exemplary management plan which will serve the river very, very well.

We, unfortunately, are not able to support the bill in its current form, and I will run through some of our concerns.

If we are indeed looking at this piece of legislation in a vacuum, I believe that we would be supportive. Unfortunately, American Rivers needs to think about the next bill down the road and the one after that and the one after that. We believe that the bill as drafted sets some dangerous precedents that should be addressed and can be addressed, we believe, successfully.

This bill, as you pointed out before, Mr. Chairman, relies heavily on the management plan. While it is indeed unusual, we believe that it works in this situation. It is an exemplary plan. I have read the plan. The Park Service has endorsed the plan. We wholeheartedly support the idea of preparing a plan in advance of designation so that folks in the area will know exactly what designation does and what it doesn't do. So in this particular case I think it is fine and appropriate that the plan should be the vehicle through which this river is managed.

That having been said, we have a couple of concerns, as I noted before, with the bill. In particular, the savings clauses with Colebrook Dam and Goodwin Dam that you mentioned earlier, indeed the licensing and relicensing decisions are tied to the plan. I believe that we could accept that savings clause in that regard, although it is not clear in the bill who would make the decisions as to whether it was consistent with the plan or not. We would suggest in this case that some mechanism be added to the bill whereby the Secretary of the Interior would make that decision.

I should point out. Again in lieu of the conversation you had earlier, that the flood control facilities have a savings clause that is not tied to the plan. So we would suggest also that the continued operation of the flood control facilities, indeed any changes in those continued operations, be again tied to the plan.

We are also concerned with the prohibition in the bill on the Secretary's ability to acquire land along the corridor. We have found land acquisition to be a very important and reliable protection tool.

As we have discussed earlier, condemnation will not be allowed in this segment, so that is not a threat. We do believe that landowners who want to give, trade or sell their land to the Park Service should be allowed to do that.

And not only does it tie the Secretary's hand and management, but it also ties landowners hands as well as to limiting them as to what they can and can't do with their land.

We are also concerned about the fact that the bill calls for no distinct lateral boundary. We believe that this will be terribly confusing. The plan seems to take care of that, again, in the situation that we have here with the Farmington. We don't believe that this is a particularly good precedent for other Wild and Scenic rivers.

There is a great deal of flexibility in the Act, as you know, with the quarter-mile boundary, that it can weave in and out and around resource projects and the like. And we believe that the Act in and of itself is flexible enough to take care of that.

We believe not only will it cause confusion with the Park Service as to where their authority begins and ends, but also to landowners in the area who may feel that the Park Service authority isn't somehow unlimited because it doesn't have any boundaries around it.

A couple of comments on testimony that we heard earlier, in particular, your concerns about the Advisory Committee not meeting the Procedures Act. What we would suggest in that case is that, as we have done before, that we use cooperative agreements called for in 10(e) of the Wild and Scenic Rivers Act with specific towns and the State, members again of the same advisory committee, use the provisions of the Act to get around your concerns with this advisory committee not meeting this particular statute.

I am aware that the Justice Department has been very sticky about that in other pieces of legislation, and given the edicts now down from the White House regarding advisory committees, I have no reason to believe they are going to be less stringent.

I would just like to close on the Farmington by saying that we wholeheartedly endorse designation of this river. This river deserves preservation, it deserves protection. The folks up there who have worked so hard along with Mrs. Johnson and her staff deserve to see this to its conclusion. We hope that we can be helpful in doing that while at the same time retaining the integrity of the Wild and Scenic Rivers Act.

I will just comment briefly on the Rio Grande bill. We do support the bill. The Rio Grande is a river in trouble. American Rivers designated the Rio Grande as the most endangered river in 1993.

It may be outside the scope of this hearing to go into the myriad issues that are facing the Rio Grande. Suffice it to say that any problem facing America's rivers today can be found on the Rio Grande, starting from its headwaters which have been destroyed by an ill-advised cyanide leaching project on a gold mine all the way down to the inadequate, if not simply not available, sewage treatment plants and so forth on the Mexican border.

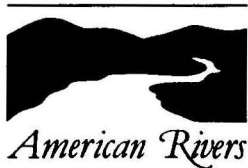
We would urge this subcommittee and the committee as a whole to take a look at the Rio Grande. It is, as I said, a river in serious trouble.

Mr. Richardson is to be commended for taking this step toward protecting an additional 12 miles of the segment. We don't have any particular concerns with the advisory committee, but understand Mr. Baca's concerns with its makeup.

I just should note the reason for the makeup is indeed unusual, but the case is unusual as well since usually on Wild and Scenic segments the landowners are at the very least divided. In this case the landowners are very supportive and actually lobbied for a more stringent designation, stringent classification of the river. They are very involved. They want very much to protect their river and so they have lined up to be on the advisory committee. So that may explain why it seems so tilted in that direction.

That does summarize my statement. I would ask that my full statement be included in the record and would be glad to answer any questions at this time.

[Prepared statement of Ms. Norcross on H.R. 2815 and H.R. 1471 follows:]



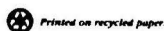
TESTIMONY OF BETH NORCROSS
DIRECTOR OF LEGISLATIVE PROGRAMS
AMERICAN RIVERS, INC.

ON H.R. 2815 AND H.R. 1471

BEFORE THE SUBCOMMITTEE ON
NATIONAL PARKS, FORESTS, AND PUBLIC LANDS
HOUSE COMMITTEE ON NATURAL RESOURCES

October 28, 1993

801 PENNSYLVANIA AVE., S.E.
SUITE 400
WASHINGTON, DC 20003
(202) 547-6900
(202) 543-6142 (FAX)



a member of Earth ShareSM

Thank you, Mr. Chairman, and members of the Subcommittee. I appreciate the opportunity to testify on three bills: H.R. 2815, a bill to designate the Farmington River in Connecticut as an addition to the National Wild and Scenic Rivers System; and H.R. 1471 and S. 375, bills to add to the designated segment of the Rio Grande River in New Mexico already in the National Wild and Scenic Rivers System. My name is Beth Norcross, and I am the Director of Legislative Programs of American Rivers, a 15,000 member organization committed to the protection and restoration of the nation's outstanding rivers.

Turning first to H.R. 2815, I would first like to thank Congresswoman Johnson for the leadership she has displayed in the introduction of this measure to add the Farmington River in Connecticut to the National Wild and Scenic Rivers System. It attempts to respond to some contentious local issues surrounding wild and scenic designation on private lands rivers and seeks to ensure protection of the riparian resources while assuring citizens that their rights to live along and use the river will not be impaired.

While we cannot support the legislation in its current form, we do commend the Park Service's North Atlantic Office and the Farmington River Watershed Association for forging a difficult and hard-won compromise with the public, local officials and the State of Connecticut. These individuals overcame tremendous odds to gain local support for this legislation.

Our concerns with the bill, as outlined below, center around dangerous precedents that would be established with this designation. We have worked closely with Congresswoman Johnson's staff and the Farmington River Watershed Association to move this bill closer to maintaining the integrity of the Act. I am confident that continued discussions can result in a compromise we will all be able to support.

The Farmington Wild and Scenic Study was authorized by Congress in 1986. The study included a 25-mile stretch of the Farmington, 11 miles in Massachusetts and 14 miles in Connecticut. While the entire segment was found eligible for Wild and Scenic designation, the Park Service recommended only the Connecticut section due to lack of local support in Massachusetts. We are hopeful that, once wild and scenic designation is enacted and implemented in Connecticut, the Massachusetts towns will see the benefits of such river protection efforts and change their minds regarding designation.

As required by the original study legislation, the Park Service prepared the Farmington Wild and Scenic Study in

cooperation with the Farmington River Study Committee, made up of representatives of towns along the river, the Commonwealth of Massachusetts, the State of Connecticut, the Hartford Metropolitan District Commission, and the Farmington River Watershed Association. The Park Service prepared a draft management plan for the river prior to designation in order to offer assurances and allay fears regarding what wild and scenic management would really mean to the area. The resultant "Upper Farmington River Management Plan" is an exemplary management plan which offers long-term, comprehensive, integrated protection for the Farmington.

H.R. 2815 takes the unusual, but not unprecedented, approach of requiring the Secretary of the Interior to manage the designated river in accordance with a prepared management plan and deems that this plan satisfies management planning requirements of the Wild and Scenic Rivers Act. We endorse this approach given the quality of the management plan, the Park Service's involvement in plan preparation, and the constituent support for it. Furthermore, such an approach will assure local towns that the river will indeed be managed consistent with the expectations they had in voting to support designation. We would recommend, however, that the bill establish a mechanism for amendment of the Plan and subsequent review of any such amendments by the Park Service.

In an effort to relieve local anxieties about a zealous federal management presence in the area, the legislation prohibits the Farmington from becoming a unit of the National Park System as is required by section 10(c). Again, although this prohibition is unusual, it would not unduly affect the ability of the Park Service to manage or protect this segment.

We do not believe that the savings clauses included in the bill involving the Colebrook Dam and Goodwin Dam are necessary. Since the Farmington was found to be eligible for designation with these structures in place, one could not argue that they adversely affected designation after the fact. We are concerned, however, that future expansion of the facilities could indeed degrade the wild and scenic segment. We would therefore recommend, if such savings clauses are necessary, that they be amended to reflect that the dams "as currently configured" do not interfere with designation and that licensing and relicensing shall not be affected "to the extent that the projects are not significantly altered from their current configuration".

We are concerned with the provisions in paragraph (E)(iii) that prohibit the Secretary's ability to acquire land along the designated corridor. Because the bill provides that local zoning

ordinances satisfy section 6(c) of the Wild and Scenic Rivers Act, thereby prohibiting condemnation within the designated corridor, the only acquisition that remains would be by willing seller. Eliminating the ability of the Secretary to acquire lands by trade or by willing seller unnecessarily eliminates an important management and protection tool, and inappropriately limits landowner options.

We are also very concerned about paragraph (F), which provides for "no distinct lateral boundary" of the designated segment. While this provision was designed to give management flexibility, it will instead cause confusion. Without a corridor boundary, the Park Service does not have a clear idea of where its management authority begins and ends. Lack of a clear boundary also might cause concern among local landowners who could view the management authority of the agency along the river to be unlimited.

We strongly support the designation of the Farmington River as a component of the National Wild and Scenic Rivers System. We would continue to work with the Subcommittee, Congresswoman Johnson, the Park Service, and the Farmington River Watershed Association towards a compromise which would both maintain the integrity of the Wild and Scenic Rivers System, protect the resources of the river, and secure local support for designation.

I would like to turn next to two bills, H.R. 1471 and S. 375, which would add to the current wild and scenic designation of the Rio Grande River in New Mexico. We appreciate Congressman Richardson's introduction of the House bill, and we support its enactment without amendment.

From its headwaters high in the San Juan Mountains of southern Colorado, the Rio Grande makes a historic journey of almost 2,000 miles to the Gulf of Mexico, traversing the length of New Mexico and serving as the boundary between Texas and Mexico. The river and its tributaries drain some 355,500 square miles.

By the time its flows into the Gulf near Matamoros, Mexico, this once-grand river has been subjected to almost every type of degradation possible. In many segments, the river has been ditched, diverted, channelized, and its riparian habitat lost or altered to the point it no longer resembles a natural river. Its waters have been over-appropriated and contaminated with industrial waste, agricultural pesticides and runoff, sediments, municipal sewage, heavy metals, and mine wastes, including cyanide and acidic runoff. Such degradation caused American

Rivers to list the Rio Grande as the Most Endangered River of 1993.

Fortunately, some portions of the Rio Grande, including the extension considered today, are still pristine. The Rio Grande enters New Mexico in a deep canyon. For the first 70 miles or so, it is relatively undisturbed, and its beautiful canyon and free flowing nature are enjoyed by thousands of rafters and tourists each year. Indeed the gorge is one of the most popular river trips in the west. It is particularly important that we protect these remaining natural segments.

In 1968, Congress designated a 48-mile segment of the northern gorge of the Rio Grande as a wild and scenic river; it was one of the eight original wild and scenic rivers designated by Congress. S. 375 and H.R. 1471 would extend that designation by 12 miles and provide for a study of a 9-mile segment downstream of this designated segment. Assorted wildlife, magnificent vistas and diverse vegetation may be found along this stretch of the Rio Grande. It is also home to important archaeological remains, including artifacts of the early Pueblo cultures, which settled in the Rio Grande valley thousands of years ago.

We support the designation of this 12-mile stretch of the Rio Grande and the study of an additional 9 miles of the River as an important addition to the Wild and Scenic Rivers System and added protection for the Rio Grande in New Mexico. However, the Rio Grande deserves and requires much more comprehensive protection, given the multitude of problems from its headwaters to its mouth. Accordingly, we encourage the Subcommittee to hold hearings on the full range of issues affecting the entire Rio Grande ecosystem and pursue a coordinated federal action plan for dealing with the many problems that currently exist on and along the river.

Mr. VENTO. Yes. I appreciate your comments on both these measures before us. I recall now, in terms of reading this last night, after you pointed it out to me, that the provision in the bill under "Land Management," section E, page 8, of the Farmington bill, does state that you cannot acquire any land along the segments tributaries for purposes of Wild and Scenic River designation.

So I don't know Mr. Frohling, or Mr. Rogers, or Congresswoman Johnson, why you couldn't, if they decided they wanted access or public access, I guess all of these issues are dealt with in the—

Mr. FROHLING. That is certainly an understandable question. The real answer is in the 5½ years of working with local communities to forge a workable plan.

I think it is important that Federal acquisition is still possible through State and local purchases with Federal funds or through any other authority. But in order for us to make the case that we are not—the communities are not endangering heavy-handed Federal land presence, we literally were compelled to confirm or to assure the communities that Federal land acquisition was also not a part of this approach, and that is really the simple answer.

The other, more technical reason is that in reviewing the lands along the river as wild as they are the ownership patterns do not make Federal land management practical or advisable from a Federal point of view. And I am really speaking on behalf of the Park Service and what they have told us in the local community.

Mr. VENTO. I understand that. But this particular provision also is a restriction on others—if I am a private land owner on the Farmington River and I offer my land for sale, it restricts who I can sell it to.

Mr. ROGERS. Mr. Chairman, if I could just address that. That was a debate, a continuing debate on the committee, and as Mr. Frohling points out, I think the reason we drafted that into the original language of the bill was to allay some fears on the part of landowners that acquisition was just another word for condemnation.

However, in the last few days we have been working on the language and it is our intention to delete the language because certainly we would encourage friendly acquisitions of land.

Mr. VENTO. Willing seller, willing buyer shouldn't be a problem, and I don't expect that the Park Service is going to have a lot of money to buy anything there anyway. It is probably pretty expensive land. And as long as you have got tough zoning, I mean, there is no real reason that we need to get involved in spending money. I mean in a sense it is an advantage, I guess, for the area and for the designation.

Well, I think I have commented on most of the other particular provisions in the bill that Ms. Norcross mentioned. That they are a problem, I understand. I suppose the intent with regard to the expansion of facilities, the water facilities, is basically that they not degrade or modify the river. Is that correct, Mr. Frohling? Mr. Rogers?

Mr. FROHLING. Absolutely. And I think to clarify some of the comments I heard before, the bill does in fact tie the management plan to any review for relicensing; i.e., it is not *carte blanche* in terms of designation. Any proposal for the hydro facilities would

have to conform to Wild and Scenic designation which is specifically spelled out in the management plan. That is in the bill.

Mr. VENTO. I read this language about no distinct lateral boundary of the delineated segment. While this provision was designed to give management flexibility, it instead causes confusion. I must say I don't understand that, what the effect of that would be.

What was the purpose of that no lateral extension issue? Is that really based with what the zoning is? I guess if we are looking at the plan we have to look at the zoning, and that no lateral extension means that it only has a certain width of corridor.

Mr. FROHLING. Yes, I think that fundamentally what came to us a number of times was what is the need for a quarter-mile boundary and what exactly specifically does it mean? And the way this bill and this designation has been developed it doesn't really have a specific meaning.

And so seeing that it did not have any substantive need, and indeed in countering tremendous rhetoric from opposition that this would reflect condemnation boundaries and it would reflect the area where a Federal code of regulations would be used to harm people's businesses and their ability to do their own lives, we saw it as a great liability in trying to make the case to the communities that the Federal Government is a partner in this project, not an opponent, not ready to come in and condemn people's lands.

So because we didn't see a need for it, and because it was of great harm in our work with the communities, it was not included in the designation.

Mr. VENTO. Well, yes, I think the thing is——

Ms. NORCROSS. Mr. Chairman, may I comment?

Mr. VENTO. Yes. Ms. Norcross.

Ms. NORCROSS. Pardon me. I wanted to reiterate again for the Farmington that the no distinct lateral boundary may work only because they have a clear idea of where things are and where things aren't. I can foresee, however, a case with our opponents waiting in the wings to dismantle our future Wild and Scenic designations. That this could be an extremely potent tool for them.

Mr. VENTO. Yes. I think the solution to this is to say you have got a map, you have got a zoning and we just reference it in the plan and then you are done. I mean I don't know, I mean we don't get into this and so there it is. There is the boundary. This because it has no meaning could be wider, it could be narrower. I understand the intent is to make it inclusive rather than to make it broader.

But it is not normal language that we use. It is confusing to me. It is confusing to Ms. Norcross. And so I would just point it out because while I understand what the purpose is, I think that once we get to—we don't use that particular phraseology. I think what you really want can be accomplished by just referencing the plan.

Mr. ROGERS. Mr. Chairman, I think that is an excellent solution.

Mr. FROHLING. That sounds excellent.

Mr. VENTO. Not to make problems up here for you.

And, Ms. Norcross, you didn't have any testimony on the National Recreation Area in the Rio Grande bill. There is a 1500 acre National Recreation Area that is being designated in the Senate measure, in the House measure——

Ms. NORCROSS. On the Dinosaur Trackway?

Mr. VENTO. No. It is a different area.

Ms. NORCROSS. The piece that is being withdrawn, the State park—

Mr. VENTO. Yes.

Ms. NORCROSS. Yes. We certainly would support that.

Mr. VENTO. Now Mr. Baca, the Director, is saying that he wants—that there is much more there now because of the acquisitions that have gone on as compared to what has existed. Do you think it would be prudent to give the Advisory Committee a broader role in terms of the 50-mile segment that is already designated or not?

Ms. NORCROSS. I am of mixed mind about that. This particular advisory committee is made up, as I said before, of local land-owners who have specific interest in those 12 miles. It would seem to me that a different kind of advisory committee may work for the whole segment. This particular Advisory Committee probably would not work for the entire segment.

Mr. VENTO. Well, I don't think we have to legislate advisory committees usually anyway. So from the legislative one for a need here, and I don't want to expand it, I don't think we need to necessarily build on that because no doubt if we hold out that particular issue we will end up with two advisory committees.

So there is only going to be one. We can reference it. That is right.

Well, we will see how important it is, but you did testify that you thought in this case this Advisory Committee really has a useful purpose but it ought to be limited to some time frame.

Ms. NORCROSS. We would have no objection to that.

Mr. VENTO. I mean until they get matters worked out. And if it needs to be reconstituted, there is still an important role for it to play, I am certain we will hear about it.

Ms. NORCROSS. I think that is appropriate.

Mr. VENTO. Yes. Mr. Rogers, you are supposed to tell me about this river. Your photographs, of course, say a great deal about some segments of it.

But in this 14-mile segment of the Farmington, are there mills? Have there been any water or power structures that are no longer used?

Mr. ROGERS. Mr. Chairman, 45 percent of the land in Connecticut is public land in the form of State parks and—

Mr. VENTO. Forty-five percent?

Mr. ROGERS. Forty-five percent. And also the Metropolitan District Commission owns acres and acres of land along the river. So 45 percent is in public ownership.

Mr. VENTO. Yes. Along the rivers, do you mean?

Mr. ROGERS. Along the river banks, yes.

Mr. VENTO. Forty-five percent along the riparian areas is in public ownership; that is, State ownership or local government.

Mr. ROGERS. That is correct.

Mr. VENTO. So that is the case here? That is the figure for this particular segment?

Mr. ROGERS. For the Connecticut segment, that is correct. The remainder of the river runs mostly through a village center, the vil-

lage center of New Hartford. It runs directly through that, so there are—

Mr. VENTO. These are small villages?

Mr. ROGERS. There are small villages. There are some old mills, but most of them now have been converted to different uses. There is not a lot of manufacturing.

Mr. VENTO. We call that adaptive use.

Mr. ROGERS. Yes. And the remainder would be residential.

Mr. VENTO. Okay. So it is principally residential and there isn't any industrial activities. How would you characterize the sensitivity to the river? In other words, is this now looked upon as a viewshed and fairly valuable residential property?

Mr. ROGERS. Well, I think so. I think since the study began there has been—the focus has been on the river. The river, obviously, in my town, and actually in all of the towns, is a focal point. It has been before the study, but I think the study has—that is one of the wonderful things about this process is it has drawn so much attention. So in terms of the attractiveness of the land, yes. I would say it would be.

Mr. VENTO. How big are the Atlantic salmon? [Laughter.]

You can't keep them. It is just a catch and release program, I expect.

Mr. ROGERS. We have a catch and release program which continues to be expanded.

Mr. VENTO. And they are Atlantic salmon?

Mr. ROGERS. Yes.

Mr. VENTO. So they actually get in and spawn. Well, it is great to hear and learn about that phenomenon. It is when you get to that particular point, when you look down and see the fish in the water, it is a moment that has some reverence to it. So it is amazing to hear the stories about the fish that are reoccurring in the Eastern Seaboard.

Congresswoman Johnson, did you have any questions of this panel?

Mrs. JOHNSON. No, I don't, Mr. Chairman. But I did want to submit for the record a statement from the Commonwealth of Massachusetts, Department of Environmental Management, in which they say the Department's commitment continues to be demonstrated by the relatively recent acquisition of two key parcels in Otis. These properties were acquired from willing sellers and represent protection of important river resources.

And they go on in their testimony to talk about their involvement in the study, their commitment to preservation, and their hope that through the example of the Connecticut experience that the piece in Massachusetts will eventually be before us for designation.

And also a statement by Robert Terasek from the town of Sandisfield, Massachusetts, a very active member of this committee, a town that actually voted for designation overwhelmingly but then was invaded by a group entitled the Wise Use Group. It is a national property rights movement, who came to town, held forums, used films and propaganda and information that was absolutely not relevant to what we were doing and literally scared the town into reversal.

So we are hopeful that through this process, both the quality of the citizen process that lies behind our work, and through designation that not only will Connecticut's portion of the Farmington River be designated, but that we then as citizens will be able to work with those in Massachusetts to demonstrate that the Federal Government is actually a very constructive partner in the long-term goal of preserving natural resources in the Northeast.

Thank you.

Mr. VENTO. Without objection, they will be added to the record.
[Prepared statements follow:]



1/14/93

Commonwealth of Massachusetts
Executive Office of Environmental Affairs
Department of Environmental Management

STATEMENT OF THE
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
RELATIVE TO THE FARMINGTON RIVER

100 Cambridge Street
Boston
Massachusetts
02202

Office of the
Commissioner

The Department of Environmental Management (DEM) is committed to the preservation of the Farmington River. The Department has been involved with Farmington River protection efforts prior to the commencement of the Federal Wild and Scenic Study. The DEM will continue to work toward protection of this valuable resource long after the Federal Wild and Scenic River Study is completed and the vote on the federal designation of the Farmington River as a wild and scenic river has been counted.

The Department's commitment continues to be demonstrated by the relatively recent acquisition of two key parcels in Otis. These properties were acquired from willing sellers and represent protection of important river resources. The DEM looks forward to working with interested landowners to further protect the integrity of the resources of the Farmington River through our continued acquisition and protection efforts.

The DEM is well aware of, respects and will defer to the town meeting votes against designation of the Farmington River as a federal Wild and Scenic River in Otis, Sandisfield and Tolland. The Commonwealth further recognizes that because of these votes the National Park Service will not recommend designation for the Massachusetts segment.

The Commonwealth, through DEM, strongly supports all efforts for improved protection of the Farmington River, and has advocated federal wild and scenic designation as a legitimate and desirable means of such protection for both the Massachusetts and Connecticut study segments. However, unless and until local opinion as expressed by the town meetings of Otis, Sandisfield and/or Tolland should change, neither DEM nor any other agency of the Commonwealth will press for federal wild and scenic designation for the Massachusetts segment of the Farmington River.

October 26 1993

From : Robert Tarasuk

Representative for the Town of Sandisfield on the
Farmington River Study Committee.

To : House of Representatives Subcommittee on National Parks,
Forests and Public Lands

RE: HR:2815 , A bill to designate the Farmington River as
a wild and scenic river.


Dear Subcommittee:

I live in the small town of Sandisfield, which is located along the upper reaches of the Farmington river in Massachusetts. As a member of the Farmington River Study Committee, representing my town, I have worked very hard and donated countless volunteer hours, so that I can present my town with the proper information, regarding the benefits of wild and scenic designation. The management plan was specifically crafted for this private land river. It was designed to allay the local fears of the government taking control or condemning private land in our town. It was clear to all of us on the study that this was not to be the case. We were to achieve designation through local town votes in favor of designation, and by establishing increased protective buffer zones in the immediate area along the river. My town had reached a point where we voted unanimously in favor of designation as did the other Massachusetts towns. Shortly after accomplishing this task,

October 26 : Tarasuk

representatives from a national property rights movement, know as "The Wise Use" movement, came to our town and held public forums. They told our people that the government was planning to condemn the land along the river and that everyone was going to lose their homes and businesses. They used propaganda and films that were not even relevant to this study and literally scared our people and intimidated them. They were able to convince the town to rescind their original desire and the sad part is that it was done, based on a campaign of lies and misinformation. The vote was close and our town was split in half. There are many people in our town that feel we have been cheated out of a great opportunity and we look forward, with great hope, to the Connecticut segment getting designated. It is important that the management plan that was drafted for the Connecticut segment, be adopted as is, so that the Connecticut designation can be a model for us and for many other private land rivers. Once the Massachusetts towns see that the government will not take control of their land, we will then be able to bring the vote back and achieve designation for the Massachusetts segment. I urge you to support HR : 2815.

Sincerely



Bob Tarasuk

Mr. VENTO. It is always disappointing to learn of these actions that upset orderly consideration of proposals with some other type of agenda. But it happens.

What you want is a fair review, not one that is skewed one way or the other by those that advocate designation and those who oppose it. Unfortunately, I think sometimes fear ends up taking the place of reason in these particular instances.

I guess that explains why some of the provisions are in the bill. For instance, it says no part of this particular area will become part of the Park System. You know, obviously, if it is a designated unit there is a role here for the Park Service. I don't think that means the Park Service necessarily needs to own it, but they may do some interpretation and other things in the plan. I don't know what the plan calls for.

But most of the time I think that communities are accepting of the fact that the Park Service could have some on-the-ground presence for appropriate type of work at the site. I think in this case it is largely an administrative role and the provision doesn't necessarily need to be there. But anyway, the point of putting it in the bill I don't think is useful, in my judgment, except, of course, to allay what I think would be some unwarranted fears.

Well, I have no further questions of the panel. Mr. Frohling, did you have a further comment?

Mr. FROHLING. I just would add that we greatly appreciate the great amount of attention that you obviously paid to our bill today, the amount of time that you have taken.

I would just add that the State of Connecticut also is dedicated to protecting the river. During the course of the study it has purchased parcels of land totaling 3500 feet of river length, over 126 acres of land, and also is intending to buy land that you see in that photograph known as Satan's Kingdom Gorge, and have also made greenways and purchases of land along rivers the highest land acquisition priority in the State. So we have an important partner with the State of Connecticut.

And I appreciate your understanding of the fear issue. And I guess the simple thought there is that we have had to go to elementary and great lengths to find ways to convey to people what we are trying to do here, because fear really is a strong enemy and it requires a special approach in order to not allow fear to win. And I guess the simple thing is that we are trying hard to achieve protection amidst an atmosphere of great fear.

And we are confident that working with American Rivers and working with you and your staff that we will be able to craft a bill that not only protects the river but also maintains the integrity of the Act.

Mr. VENTO. Thank you very much, Mr. Frohling, Mr. Rogers, Ms. Norcross.

We have no further material for the record.

We stand adjourned.

[Whereupon, at 11:45 a.m., the subcommittee was adjourned, subject to the call of the Chair.]

APPENDIX

AUGUST 5 AND OCTOBER 28, 1993

ADDITIONAL MATERIAL SUBMITTED FOR THE HEARING RECORD

MORIE

Ronald W. Johnson
President

Parks

August 10, 1993

The Honorable George Miller
Committee on Natural Resources
1324 Longworth HOB
Washington, D.C. 20515-6201

Dear Congressman Miller:

In mid July Congressman William J. Hughes introduced HR 2650 which was referred to your committee. This bill calls for designating the Maurice River and its tributaries in the State of New Jersey as components of the National Wild and Scenic River System. There are those of us in Cumberland County who have been actively challenging this Federal designation based on the negative impact we expect to our Company, our employees, our industry and the local economy.

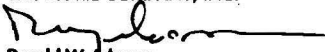
I am enclosing several letters meant to inform you of the concerns we have been voicing publicly for seven years. They are legitimate and we ask that you give our apprehensions surrounding Wild and Scenic designation your utmost consideration before voting on the issue.

Also enclosed is a brochure describing the various industries whose existence relies on the industrial sands we mine, process and ship to thousands of customers. I'm sure you will be surprised at how many of these products you come in contact with and take for granted on a daily basis.

In closing let me assure you that we have and will continue to support strong and environmentally sound river management on a local level. It has worked for several hundred years and will continue to do so. Under today's federal, state and local agencies and laws, "preventing Southern New Jersey from making the same environmental mistakes made by the Northern region" constitutes a non applicable example which has been touted frequently by Congressman Hughes. We don't need Wild & Scenic designation for the watershed to maintain its pristine qualities.

Very truly yours,

THE MORIE COMPANY, INC.


Ronald W. Johnson
President

RWJ:jm
Enc.

THE MORIE COMPANY, INC.
A South Jersey Industries Company

1201 N. High Street, Millville, New Jersey 08332-2580 • 609/327-4500 • FAX: 609/327-7740

MORIE

Ronald W. Johnson
President

January 14, 1993

The Honorable William J. Hughes
222 New Road
Central Park E
Building 4 - Suite 5
Linwood, New Jersey 08221

Dear Congressman Hughes:

The fact that my letter of last October 13 has not prompted so much as acknowledgement can mean only one thing. I did not communicate the magnitude of concerns my industry, my company and my employees have over Wild & Scenic designation of the Maurice River and it's tributaries.

Our concern should be evident to anyone familiar with the National Wild & Scenic Rivers designation. It states that mining is not a permitted use on lands falling within the corridor. From my October 13 letter making reference to our mining sites and future mining reserves, you can well understand our concerns.

You might wonder what we have done over the past years as this designation has been evolving. We have been attending meetings of the River committees, addressing our concerns to municipal committees, investigating other Wild & Scenic River properties to get a flavor of the management and attended public hearings to voice our position. We have also been represented on the River Task Force by our Executive V.P. of Operations and our Manager of Environmental Affairs. They attempted to bring the mining issue to resolve which was flagrantly ignored by the Task Force, the County Coordinator and the Project Manager representing the Park Service. They knew very well that our concerns were legitimate and warranted. I have to believe that you weren't fully advised of the adverse affect Wild & Scenic is bound to have on our industry when you introduced legislation on this issue to the 103rd Congress.

I'm enclosing a brochure which gives a cursory overview of the important industries of this nation which rely on Industrial Sand for their existence. The products they produce are utilized by each of us daily and constitute the basis for the quality of life we take for granted.

THE MORIE COMPANY, INC.
A South Jersey Industries Company

1201 N. High Street, Millville, New Jersey 08332-2580 • 609/327-4500 • FAX: 609/327-7740

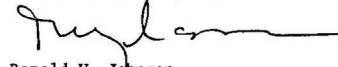
Page 2

1/14/93

We strongly favor protection of the river and tributaries through strong local management allowing industries to continue operating on and about the river in an environmentally responsible manner. If, however, we do eventually come under the control of the National Park Service we need your influence to protect our industry and our employees as well as the plants and animals of the region. Keep in mind that we are also a part of the history and culture of South Jersey and that we too want to survive.

Very truly yours,

THE MORIE COMPANY, INC.



Ronald W. Johnson
President

RWJ:jm
Enc.

MORIE

August 4, 1993

Cumberland County Department of
Planning & Development
800 E. Commerce Street
Bridgeton, New Jersey 08302

Attn: Mr. Stephen L. Kehs, Executive Director

Dear Mr. Kehs:

I want to take this opportunity to reiterate the position and express the concerns of the sand mining industry in general, and The Morie company in particular, to the designation and inclusion of the Maurice River and its tributaries as part of the **Wild & Scenic** river system.

The Morie Company has three resource extraction operations within the proposed Wild & Scenic river corridor. They are located in Commercial Township, Maurice River Township and the City of Vineland. Of particular concern is The Morie company's newest facility, The Port Elizabeth Plant, which will be located within the Muskee Creek segment of the Wild & Scenic corridor. In addition to purchasing the site, some 1,600 acres, we have made substantial long term capital investments in plant and equipment. Our concern is with lack of assurance for the long term stability and the survival of the sand extraction business within the Wild & Scenic system. We cannot operate if left with vague legislation couched in ambiguous terms. Sand mining must be addressed specifically and directly.

H.R. 2650 states on p.4, line 22 that the purposes of the act are to

- 1) Declare the importance and irreplaceable resource values of the Maurice River and its tributaries to water quality, human health, **TRADITIONAL ECONOMIC ACTIVITIES...**

Please note the last three words above; they appear nowhere else in the bill. In fact, a reading of the entire bill leaves one with a distinct feeling of bias against industry. This is the ambiguity of which we speak. We must insist on inclusion of a statement that recognizes the right of existing mining operations within the designated system to continue to operate **as they have traditionally**.

THE MORIE COMPANY, INC.
A South Jersey Industries Company

1201 N. High Street, Millville, New Jersey 08332-2580 • 609/327-4500 • FAX: 609/327-7740

We are further concerned that the Wild & Scenic legislation is brought to us by the same folks who gave us the Pinelands Commission. We heard assurances from the Pineland's people in 1980 that mining was recognized as an important and historical land use within the Pinelands. From the beginning, however, the Pinelands Commission has sought to restrict mining activities. The latest Comprehensive Management Plan proposing amendments which would prohibit new mining operations within the forest area of the Pinelands reflects this attitude. This proposal is a compromise from the original draft which would have also greatly restricted existing mining operations within the forest area. Recently, the Assistant Director of the Pinelands Commission made the incredible statement that "The glass industry is indigenous to the Pinelands, while the resource extraction industry is not." For this reason, the legislation MUST clearly define traditional economic activities. Neither The Morie company nor any other mining company can commit resources to resolve the costly and time consuming conflicts that will surely arise unless the legislative language is clarified.

The Bill further states that "land use of regulations of the individual local political jurisdictions through which the river segments pass CANNOT ALONE provide for an adequate balance between conservation of the river's resources and commercial and industrial development." This statement can hardly be construed to support the concept of home rule. At the public hearing at Buena Vista on July 26, 1993, Congressman Hughes' Representative, John Mzur, said that control and decisions would be left to the local municipalities. The legislative language suggests otherwise.

In **The Maurice River and Its Tributaries: National Wild & Scenic River Study Draft Report**, May 1992, the Citizens' Task Force position on land use states that existing sand and gravel mines are compatible and recommends that they should continue operations in the development and conservation district of the Wild & Scenic corridor. The burden of proof as to whether new operations are compatible and will not adversely affect the environment will rest on the individual miners. But these are only recommendations and to date, there are no assurances that these recommendations will be implemented. The language must specifically allow existing operations in these areas to continue. The language "should continue operations" is speculative and open to interpretation and "evolution."

The Local Management Plan for The Maurice River and Its Tributaries, July 1991, appendix B, compares existing municipal zoning and the river conservation zones. In Maurice River, The Morie Company is presently located in the LG, M-1 and M-2 zones. As stated, Wild & Scenic would require additional restrictions on vegetation buffers, clearing restrictions and land uses currently described as "conditional uses." We need to know exactly what these additional restrictions are so that we might understand their impact and acceptability to the mining industry. In addition, the language in the section describing the M-1 zone states that "conditional uses" would be restricted and pre-existing extraction activities would be grandfathered. This language is unclear. Are conditional land uses of pre-existing extraction activities grandfathered? The language will be adverse to mining companies if it is construed that land uses described as "conditional uses" can be restricted even if they are pre-existing and grandfathered.

The Morie company philosophy holds that there is a compatible balance between the environment and economic growth and that both need to be managed properly. We believe that the Wild & Scenic legislation should be used as a tool to protect the environment and not a weapon to destroy traditional economic activity. We will strive to maintain the balance.

Yours truly,

THE MORIE COMPANY, INC.

A handwritten signature in dark ink, appearing to read "Robert G. Cook". The signature is fluid and cursive, with the first name "Robert" being more prominent.

Robert G. Cook
Executive Vice President

RGC:jm

cc: Congressman Hughes

SOUTH JERSEY GAS COMPANY



ALBERT V. RUGGIERO
VICE PRESIDENT,
HUMAN RESOURCES

July 30, 1993

The Honorable William J. Hughes
United States House of Representatives
Cannon House Office Building, Room 241
1st & Independence Avenue, S.E.
Washington, DC 20515

Dear Congressman Hughes:

South Jersey Gas Company urges you to re-consider the implications of your legislation that would designate the Maurice River and its tributaries components of the National Wild and Scenic River System.

While South Jersey Gas Company supports preservation of the Maurice River and its tributaries, we remain unconvinced that Wild and Scenic designation will provide any additional protection to the watershed beyond the existing federal, state and local land use restrictions. The areas slated to be included in the program are already regulated by over 10 agencies and laws. We believe that the threats of explosive development within the Maurice River Watershed have been greatly exaggerated by proponents of Wild and Scenic designation.

The Maurice River Local Management Plan developed by the Cumberland County Department of Planning and Development outlines some of the existing laws and agencies that restrict land uses in the watershed. According to the Management Plan, a portion of Vineland and large areas of Maurice River Township and Buena Vista Township are located within the Pinelands conservation area. As a result, these areas have revised their master plans and zoning ordinances to conform with the Pinelands Comprehensive Management Plan administered by the Pinelands Commission. The Pinelands Commission wields "some of the strongest land use regulatory power in the country."

Commercial Township and portions of Maurice River Township and the City of Millville are regulated by the Coastal Area Facilities Review Act (CAFRA) of 1978. As you know, the New Jersey Legislature recently amended CAFRA to make it more restrictive of development along waterways and beaches. These areas located within the Maurice River Wild and Scenic area have been classified as a Limited Growth Region. This rating allows for the lowest level of development among the thirteen growth regions established for New Jersey's coastal areas. The Limited Growth Region is defined as containing large environmentally sensitive areas where only infill development is acceptable.

Rep. William J. Hughes
July 30, 1993
Page 2

In addition to CAFRA and Pinelands, the Maurice River area is also protected by the New Jersey Development and Redevelopment Plan. The State Plan designates most of the area located within the River Management Plan area as environmentally sensitive. As a result, state agencies will allocate little, if any, public dollars for infrastructure and other facilities in this area.

The Maurice River Local Management Plan also details other regulatory impediments to development in the plan area. Those include:

- Wastewater Management Plan
- Freshwater Wetlands Act
- Coastal Wetlands Act
- Endangered Species Act
- Waterfront Development Rules
- Clean Water Enforcement Act (N.J.)

Aside from State and Federal agencies and acts, the local county soil conservation districts also play a major role in development oversight. Additionally, the local management plans developed by Cumberland County and the affected municipalities already contain the tenants of the Wild and Scenic Program. Therefore, we believe the Maurice River area is under little pressure to handle a great influx of new development.

On a final note, the River Management Plan developed by Cumberland County (with the assistance of the National Park Service) contains an interesting statement in the introduction. "This River Management Plan is the result of a desire by local governments to rely exclusively on local controls to manage the important river resources." We urge you to consider that statement and the other issues raised in this letter very carefully.

Thank you for your consideration of our position on this vitally important issue. Please contact me at (609) 561-9000 should you have any questions.

Cordially,





ERNEST L. JOLLY
VICE PRESIDENT
EXTERNAL AFFAIRS

August 18, 1993

Honorable Bruce F. Vento, Chairman
National Parks and Public Lands
Subcommittee of the Natural
Resources Committee
A 812 O'Neill House Office Building
Washington, D.C. 20515

Dear Chairman Vento:

We request that this letter be accepted as our testimony regarding H.R. 2650 and be made a part of the public record.

We recognize the sponsor's efforts in designating the Maurice River and its tributaries into the National Wild and Scenic River System. We share his vision for protecting the unique and rich environment of the Maurice River and the surrounding area. We believe this legislation will help to ensure that our municipalities will be able to enjoy and benefit from our national treasure for many generations to come while recognizing the balance for jobs and community involvement. We believe the environmental quality of this area is a testament to the commitment of the municipalities, businesses and citizens in protecting its qualities in the past.

H.R. 2650 is a revised bill that reflects greater support for community involvement in the management of the Maurice River and its tributaries. According to the sponsor, management of the designated river segments will be at the local level by cooperative agreements between the Secretary of Interior and local municipalities. These cooperative agreements will be consistent with both the local river management plans (already adopted by the municipalities) and the comprehensive management plan.

In accepting designation, Millville, Vineland and Commercial have expressed in their resolutions an interest in preserving the integrity of the rights-of-way of the utilities. We believe that any measure placing the Maurice River and its tributaries under the Wild and Scenic River System should ensure our ability to provide and maintain reliable utility service to our customers. Without this recognition, our ability to operate and maintain the region's power delivery system would be compromised, even if there is no adverse environmental impact to the region. We would urge the Committee to acknowledge the existing infrastructure of the utilities in order to ensure safe and reliable utility service.

Atlantic City Electric Company
8801 Black Horse Pike
Pleasantville, N.J. 08232
609-645-4403



Atlantic Electric believes that the quality of this area is no accident. The municipalities, businesses, and citizens have shown their commitment to the proper management of this area. We believe this proposal places greater responsibility on the federal government. We encourage the Park Service to work closely with the communities in order to meet the needs of this area while respecting the local traditions and values.

Sincerely,

Ernest L. Jolly
Vice President
External Affairs

elj:jw



STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION

79 ELM STREET HARTFORD, CONNECTICUT 06106



Timothy R. E. Keeney
Commissioner

October 26, 1993

The Honorable Bruce Vento, Chairman
Subcommittee on National Parks, Forests
and Public Lands
Rayburn House Office Building
Independence and South Capitol, S.E.
Washington, D.C. 20515

Dear Representative Vento:

Thank you for the opportunity to offer strong support for HR 2815, The Farmington Wild and Scenic River Act. Governor Weicker, the members of the Connecticut General Assembly and the Connecticut Department of Environmental Protection all support designation of the 14 miles of the Farmington River immediately below the Goodwin Dam as part of the National Wild and Scenic River System. The Farmington River is a unique resource in Connecticut, providing some of the finest fish and wildlife habitats and recreational opportunities in the state, while meeting needs for water supply and waste assimilation.

The Connecticut Segment of the Farmington has been found by the Farmington River Study Committee to be eligible for designation based on the presence of outstanding fisheries, recreation, wildlife, and historic resources. The Study Committee has also found the segment to be suitable for designation based on strong state and local support for designation and the adoption of an appropriate management plan.

The development of the management plan was a key factor in gaining state support for designation. I have had the pleasure of representing the Governor of Connecticut on the Farmington River Study Committee since its inception. In carrying out this responsibility, one of my jobs has been to consider how designation would fit with our ongoing efforts to manage water and related natural resources and ensure the public health and safety of Connecticut's residents. Current state resource management and protection activities include water allocation and diversion permitting, water supply, water quality and fish and wildlife and recreation management programs.

Representative Bruce Vento
 page 2
 October 26, 1993

I am convinced that the "Upper Farmington River Management Plan" developed by the Study Committee effectively balances the broader state management responsibilities for protecting public health and safety with the need for river protection. A number of elements of the plan are significant to the state, and are described below. The plan:

- 1) establishes a 100 foot area on either side of the river as the focus of local land use protection efforts for the river and the immediate riparian corridor. The four towns which border the study segment have adopted river protection districts through local zoning to ensure the appropriate management of private lands.
- 2) provides for maintenance and enhancement of the values which qualify the river for National designation, including water quality, recreational use opportunities, fish and wildlife, historic resources and scenic values.
- 3) allows for consideration of future water supply withdrawals of up to 7.3 billion gallons per year, while maintaining the character of the river and its wild and scenic values.
- 4) requires a number of state statutory changes to assure the highest level of water quality protection.
- 5) establishes a Farmington River Coordinating Committee (FRCC) to coordinate implementation of the plan.
- 6) requires notification of the National Park Service and the FRCC of any actions requiring a state permit, and allows NPS intervention in uses, withdrawals or other actions within or affecting the segment which require state or federal permits, funding or approvals.

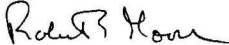
The use of a comprehensive instream flow study in the planning process has allowed the analysis of varying river flows to determine the water resource management regimes needed to protect and enhance the river. A significant provision of the plan, based on this analysis, is the ability to consider future use for public water supply if it can be shown that such use is not detrimental to the wild and scenic values. This provision allows us to fulfill our responsibility to provide pure and adequate supplies of drinking water to state residents should it become necessary in the future.

Representative Bruce Vento
page 3
October 26, 1993

It is my belief that implementation of the plan will enhance our ability to protect the river's wild and scenic values by allowing more public input into federal and state resource management programs. I fully support designation of the Upper Farmington into the National Wild and Scenic Rivers System, and implementation of the Upper Farmington River Management Plan as the cornerstone for such designation.

It is the intent of the State of Connecticut to work with the Federal Government, the communities in the region, local interest groups and the strong base of local support to ensure effective management of the Upper Farmington once it is designated. Thank you again for the opportunity to present this statement of support for HR 2815.

Sincerely yours,



Robert Moore
Deputy Commissioner

Attachment

RM:CJH:ch

House Bill No. 6925

PUBLIC ACT NO. 93-256

AN ACT CONCERNING THE ATLANTIC STATES MARINE FISHERIES COMMISSION, FREE FISHING, HUNTING AND TRAPPING LICENSES FOR DISABLED PERSONS AND PERSONS SIXTY-FIVE YEARS OF AGE AND OLDER, THE DESIGNATION OF THE FARMINGTON RIVER AS A WILD AND SCENIC RIVER AND THE STATE GEOLOGICAL AND NATURAL HISTORY SURVEY SALES AND PUBLICATION ACCOUNT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 26-300 of the general statutes is repealed and the following is substituted in lieu thereof:

The [commission on intergovernmental cooperation] . DEPARTMENT OF ENVIRONMENTAL PROTECTION shall include in its budget the estimate of funds required by the Atlantic States Marine Fisheries Commission, shall account for and disburse funds appropriated to its use and shall include in its report a record of its activities.

Sec. 2. Section 26-29b of the general statutes is repealed and the following is substituted in lieu thereof:

[No fee shall be charged for any hunting or sport fishing license issued under this chapter to any person with paraplegia or the loss of the use of both lower extremities. Any nonresident with paraplegia or the loss of the use of both lower extremities may procure such license without payment of a fee if he is a resident of a state the laws of which allow the same privilege to residents of this state.] NO FEE SHALL BE CHARGED FOR ANY HUNTING, SPORT FISHING OR TRAPPING LICENSE ISSUED UNDER THIS CHAPTER TO ANY PHYSICALLY DISABLED PERSON. FOR THE PURPOSES OF THIS SECTION, A "PHYSICALLY DISABLED PERSON" IS ANY PERSON WHOSE DISABILITY CONSISTS OF THE LOSS OF ONE OR MORE LIMBS OR THE PERMANENT LOSS OF THE USE OF ONE OR MORE LIMBS. A PHYSICALLY DISABLED PERSON SHALL SUBMIT TO THE COMMISSIONER A CERTIFICATION, SIGNED BY A LICENSED PHYSICIAN, OF SUCH DISABILITY. NO FEE SHALL BE CHARGED FOR ANY HUNTING OR SPORT FISHING LICENSE ISSUED UNDER THIS CHAPTER TO ANY PHYSICALLY DISABLED PERSON WHO IS NOT A RESIDENT OF THIS STATE IF SUCH PERSON IS A RESIDENT OF A STATE IN WHICH A PHYSICALLY DISABLED PERSON FROM

House Bill No. 6925

CONNECTICUT WILL NOT BE REQUIRED TO PAY A FEE FOR A HUNTING OR SPORT FISHING LICENSE.

Sec. 3. Section 24-3 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) Said commissioner shall cause to be prepared a report to the general assembly before each regular session of the same in the odd-numbered years, showing the progress and condition of the survey, together with such other information as he deems useful or as the general assembly requires. The regular and special reports of the survey, with illustrations and maps, shall be [prepared for publication, and, when printed, the reports] PRODUCED FOR PUBLIC USE AND shall be distributed or sold by the commissioner as the interests of the state and of science may demand.

(b) There is established a separate account within the general fund, to be known as the state geological and natural history survey sales and publication account, for the purpose of providing moneys for [the printing] PRODUCTION of [survey] ENVIRONMENTAL publications and purchase, for resale, of related [maps and reports] MATERIALS AND PRODUCTS. All moneys obtained from the sale of such publications, [maps and reports] MATERIALS AND PRODUCTS shall be paid to the state treasurer and credited to said account and the commissioner may expend moneys of said account for the [editing and printing] PRODUCTION AND DISTRIBUTION of such publications and the purchase, for resale, of such [maps and reports]. Any moneys in excess of thirty thousand dollars remaining in said account at the close of any fiscal year shall revert to the general fund] MATERIALS AND PRODUCTS.

→ Sec. 4. (NEW) (a) It is declared to be the policy of the state of Connecticut that the portion of the Farmington River which is the subject of the authorized study by the Farmington Wild and Scenic River Study Committee for purposes of designation as a national wild and scenic rivers system be preserved as provided for in the federal Wild and Scenic Rivers Act, Public Law 90-542, as amended.

(b) The commissioner of environmental protection shall cooperate with all relevant federal, state and local agencies to provide for such designation and to implement any management plan developed in accordance with the Wild and Scenic Rivers Act. Upon the designation of the river segment by Congress, the commissioner shall

House Bill No. 6925

notify the joint standing committee of the general assembly having cognizance of matters relating to the environment regarding any statutory changes necessary to implement the preservation and conservation of the river segment in accordance with the Federal Wild and Scenic Rivers Act. The commissioner shall cause a copy of this section to be delivered to all United States Representatives and Senators representing Connecticut in the Congress of the United States.

Sec. 5. Section 26-28 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) Except as provided in subsection (b), the fees for firearms hunting, archery hunting, trapping and sport fishing licenses or for the combination thereof shall be as follows: (1) Resident firearms hunting license, ten dollars; (2) resident fishing license, fifteen dollars; (3) resident combination license to firearms hunt and fish, twenty-one dollars; (4) resident trapping license, twenty dollars; (5) resident junior trapping license for persons under sixteen years of age, three dollars; (6) junior firearms hunting license, three dollars; (7) persons sixty-five years of age and over who have been residents of this state for not less than one year and who meet the requirements of subsection (b) of section 26-31 may be issued [an annual] A LIFETIME license to firearms hunt or to fish or combination license to fish and firearms hunt or a license to trap without fee; (8) nonresident firearms hunting license, forty-two dollars; (9) nonresident fishing license, twenty-five dollars; (10) nonresident fishing license for a period of three consecutive days, eight dollars; (11) nonresident combination license to firearms hunt and fish, fifty-five dollars, and (12) nonresident trapping license, two hundred dollars. The issuing agency shall indicate on a combination license the specific purpose for which such license is issued. The town clerk shall retain a recording fee of one dollar for each license issued by him.

(b) Any nonresident residing in one of the New England states or the state of New York may procure a license to hunt or to fish or to hunt and fish for the same fee or fees as a resident of this state if he is a resident of a state the laws of which allow the same privilege to residents of this state.

House Bill No. 6925

Sec. 6. This act shall take effect July 1, 1993.

Certified as correct by

Legislative Commissioner.

Clerk of the Senate.

Clerk of the House.

Approved _____, 1993.

Governor, State of Connecticut.



american whitewater affiliation

Hon. Bruce Vento
Chairman, Subcommittee on National Parks,
Forests, & Public Lands
Committee on Natural Resources
H1-812 O'Neill Building
United States House of Representatives
Washington, D.C. 20515

October 25, 1993

RE: H.R. 2815, FARMINGTON WILD AND SCENIC RIVERS ACT

Dear Chairman Vento;

Enclosed is testimony which I am today submitting for consideration by the Subcommittee on Public Lands, National Parks, and Forests regarding S. 1332, the Farming Wild and Scenic Rivers Act.

If you have any questions regarding this testimony, I can be reached at 301-589-9453.

Thank you very much for your consideration of our views.

Sincerely,

Richard J. Bowers
Conservation Program Director

Executive Office: P.O. Box 85, Phoenicia, NY 12464
(914) 688-5569



RECYCLED PAPER

TESTIMONY OF
RICHARD J. BOWERS
CONSERVATION PROGRAM DIRECTOR
AMERICAN WHITEWATER AFFILIATION

BEFORE THE

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS
AND FORESTS

OF THE COMMITTEE ON ENERGY AND NATURAL RESOURCES

U.S. SENATE

REGARDING

S. 1332
THE FARMINGTON WILD AND SCENIC RIVERS ACT

OCT 27, 1993

American Whitewater
8630 Fenton St.
Suite 910
Silver Spring, Md 20910
301-589-9453

The American Whitewater Affiliation (AWA) would like to express our support for S. 1332, introduced by Senator Lieberman of Connecticut.

AWA'S CONSTITUENCY AND CONCERNS

AWA is a national organization with a direct and affiliate membership of over 30,000. Our mission is to conserve America's whitewater resources and to enhance opportunities to safely enjoy them. Our membership is comprised almost entirely of noncommercial kayakers and canoeists who are involved in whitewater sports.

The two key concerns of our members and of our affiliate clubs are 1.) the conservation of whitewater rivers and 2.) the enhancement of public river access.

To further our conservation mission. We maintain a complete national inventory of whitewater rivers, monitor threats to those rivers, publish information on river protection, provide technical advice to local groups, work with government agencies, and --when necessary -- take legal action to prevent river abuse.

REASONS FOR SUPPORTING THE FARMINGTON BILL

AWA is enthusiastic about S. 1332 for two reasons. First, the Farmington River is important to whitewater canoeists and kayakers in New England and throughout the country.

Second, S. 1332 is a creative and extremely positive effort to use the Wild and Scenic Rivers Act to protect a river which flows largely through private lands. If successful for the Farmington, this approach could possibly be adapted to other private land rivers throughout the nation. Using this approach in the case of other private land rivers could significantly further the goal of river conservation.

1. Significance of Farmington River for Whitewater Recreation

The Connecticut segment of the Farmington River contains 20 miles of whitewater with class II or better rapids. The total whitewater river mileage in Connecticut is 107.7. (See Appendix A, Excerpt from *Nationwide Whitewater Inventory*).

With 19% of the whitewater in Connecticut, the Farmington is an extremely important recreational resource to the people of Connecticut and neighboring States. While the section covered by H.R. 2815 is upstream of the famous

whitewater of the Tariffville Gorge (class III-IV), the covered section does offer class II whitewater in the Riverton area, providing an excellent opportunity for beginner and family-oriented trips.

2. Solving the Special Problems of Private Land Rivers

Approximately 55% of the frontage of the segment of the Farmington covered by S. 1332 is in private ownership.

In the 25 years since the founding of the Federal wild and scenic system, it has proved increasingly difficult to include private-land rivers in the system. Recently, after an all-out battle with the Wise Use Movement, supporters of the Pemigewasset River abandoned (for now at least) their effort to obtain wild and scenic designation for that outstanding river. The Massachusetts segment of the Farmington (78% privately owned) is no longer a wild and scenic candidate for the same reason. (See Appendix B, May 19, 1992 Article from Appalachia Bulletin). The situation in New England is symptomatic of a more pervasive problem.

Private land rivers present many complications for river conservationists. Landowners are concerned about property rights. Localities are concerned about the tax base. States are wary of Federal interference. The park service is not always capable of assuming any kind of management role for numerous disconnected ribbons of water flowing through privately owned riparian lands, far removed from any federal enclave. To top things off, because of its many vague and confusing provisions, the Wild and Scenic Rivers Act has become a special target of the wise use movement.

For these reasons, the vast bulk of existing wild and scenic rivers have been carved out of national forests or other areas owned by the Federal government. 90% of existing wild and scenic river mileage is within national forest, parks or other Federal land areas. ¹ Almost every inch of riverside land on the 26 rivers added in Alaska and the 39 added in Oregon were Federally owned at the time of designation. Adding these rivers established a prohibition against harmful water resources projects but did not otherwise significantly affect river or land management.

The scarcity of public lands in the eastern half of the United States puts eastern river conservationists at a disadvantage. In the 25 years since the inception of the wild and scenic rivers system 144 rivers have been added to the system. Only 41 of those are in the east (28% of the total). Most of these 41 eastern rivers are entirely within national forests or other existing Federal or State enclaves.

It is important that qualified private land rivers be included in the Wild and Scenic Rivers system at a faster pace than in the past. The Federal Energy Regulatory Commission (FERC) has already licensed over 1,800 private hydroelectric power projects on rivers throughout the United States.² The growth and sprawl of population is generating increased demand for other kinds of water resource projects as well. Many of these are extremely damaging to free flowing rivers. 15% of the total river mileage in the United States has already been dammed and thousands of river miles are totally or partially dewatered by diversions and withdrawals.³ Many of these rivers had important scenic, recreational and ecological values.

River recreation resources are increasingly scarce. For example, only 1% of the nation's total remaining free-flowing river mileage contains whitewater.⁴ Unless private land rivers can be brought into the wild and scenic system, or afforded some other kind of Federal protection, rivers with valuable scenic and recreational attributes will continue to be damaged or degraded at an unacceptable rate.

River conservation groups are seeking alternatives to the wild and scenic system which can prevent water projects from continuing to damage free flowing scenic and recreational rivers.

Unfortunately, there is currently no alternative to the wild and scenic river system available to protect important private land rivers from damage associated with FERC projects and other Federal or Federally assisted water projects.

This means that, for rivers like the Farmington which are not completely surrounded by Federal or State lands, creative provisions must be developed to adapt the Wild and Scenic Act to the special circumstances presented by private land ownership.

For these reasons, AWA supports S. 1332 without reservation.

We support, in particular, the concept of providing the Farmington River Coordinating Committee with a key management role, the policy of not including the river in the national park system, the policy that lands along the river are to be managed by the land owners and not by the Federal government, the prohibitions on Federal land acquisition and the policy of not establishing distinct and limited boundaries.

These policies could be included in the bill specifically (as they are now in subparagraphs (C)(iv), (E)(ii), (E)(iii), and (F)) or by reference to the management plan, but each is a critical and necessary element of the total package.

Endnotes

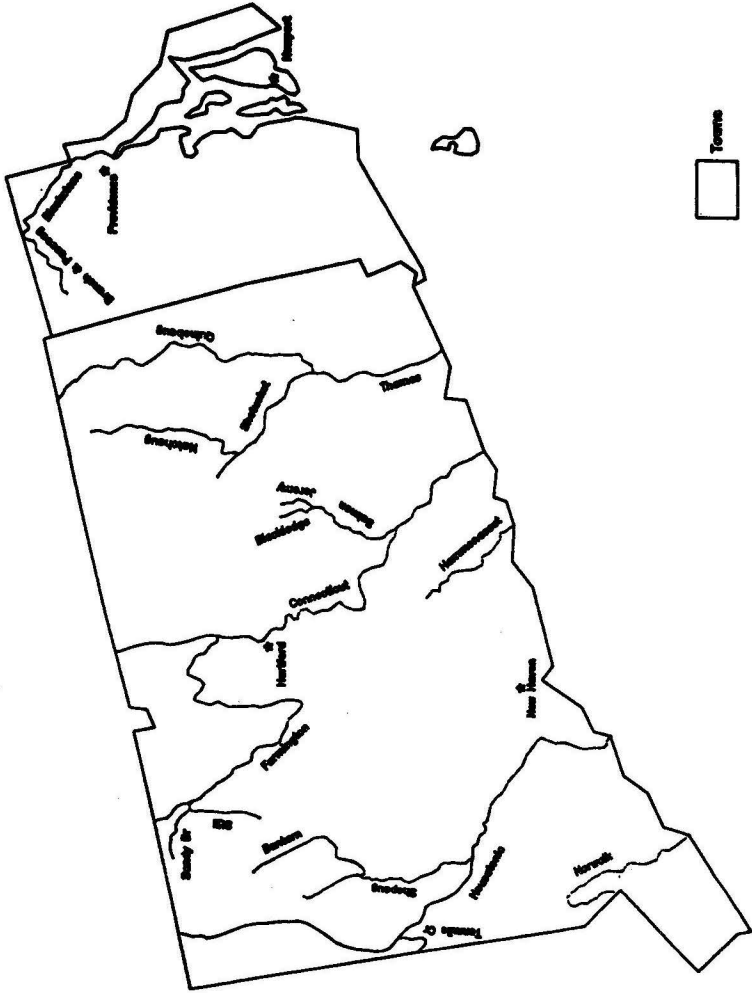
1. W.K. Olsen, Speech at 1988 National Rivers Conference.
2. Hydroelectric Power Resources of the United States, FERC, 1988.
3. W. K. Olsen, Appalachia, 1987.
4. P. Barrow, Nationwide Whitewater Inventory, 1988

APPENDIX A, EXCERPT FROM NATIONWIDE WHITEWATER INVENTORY

January, 1991		American Whitewater Affiliation Nationwide Whitewater Inventory ©		Connecticut	
River Name	Segment(s)	Miles	Class	County	
Aspetuck, East Branch	Paper Mill Road to Housatonic River	4.0	III	Litchfield	
Barnum	Stoddard Road to Shepaug River	5.4	I-II	Litchfield	
Barnum	Litchfield to Barnum	9.0	III	Litchfield	
Blackledge & Salmon	Rt 66 to confluence with Salmon, then to covered bridge at Hwy 16	8.0	II	Tolland	
Farmington	Tariffville (Route 189) to Hwy 187 (Tariffville Gorge)	1.0	II-IV	Hartford	
Farmington	Hogback Road to Riverton	2.0	I-II	Litchfield	
Farmington	Riverton to Satan's Kingdom parking area	11.0	I-III	Litchfield	
Farmington	Collinsville to Unionville	6.0	III	Litchfield	
Hammansasset	Summer Hill Road to Green Hill Rd	0.0	I-II	Middlesex/New Haven	
Housatonic	Falls Village Hydro 13.2 mi to Swifts Bridge, 9.3 mi to Kent	22.5	II-III	Litchfield	
Housatonic	Bulls Bridge Dam (5 mi south of Kent on Route 7) to Gaylordsville (7.25 mi south of Kent on Route 7)	2.6	IV	Litchfield	
Jersey & Salmon	Old Route 2 bridge to confluence with Salmon, then to covered bridge above Route 16	5.8	II	Tolland	
Natchaug	England Road to Bassett Bridge Rd	3.8	II-IV	Tolland/Windham	
Norwalk	Bridge in Cannondale to Mouth	0.0	II	Fairfield	
Quinnabaug	Below Route 6	0.5	III	Windham	
Sandy Brook	Rt 183 Bridge to Route 8 Bridge	4.3	IV	Litchfield	
Shepaug	Rt 241 to Route 67	17.5	II-III	Litchfield	
Still	Above Sandy Brook	0.1	V	Litchfield	
Tumile	South Dover NY to Gaylordsville Ct	4.2	I-III	Litchfield	
19 Whitewater Segments		Total Miles: 107.7			

CT 1

WHITEWATER RIVER SYSTEMS CONNECTICUT & RHODE ISLAND



1 PM 1/1/92

River Protection Derailed

Massachusetts Property Owners Defeat Wild and Scenic Designation for Farmington River

FEDERAL WILD AND SCENIC designation of the Massachusetts portion of the Farmington River was defeated this winter by an insurgent movement of property owners, concerned, justly or not, that Uncle Sam had a hidden agenda that would compromise their property rights.

They forced special town meetings in three Berkshire County towns, where townspeople voted to rescind their earlier support of Wild and Scenic designation.

Congressman John W. Olver, D-Amherst, was in favor of Wild and Scenic designation, but after the towns withdrew their support, he withdrew his. Designation is now a dead issue in Massachusetts, barring a sudden change of heart in the river towns, according to AMC Regional Programs Director Dennis Regan. At the same time, it appears that designation will be passed for the Connecticut side of the river. The river rises in Berkshire County and flows south into Connecticut, where it turns east and empties into the Connecticut River.

Some environmental advocates blame outside influences, people tied to national land rights groups like the "wise use" movement, for spreading lies among and scaring people out of their support for designation. (See "Getting Wise" in the March *Appalachia Bulletin* for more on the wise use movement.)

"People got blindsided by scaremongers," says Tad Ames of the Berkshire Natural Resources Council, a local land trust group. "The federal government's an easy bogymen. In that kind of scare situation, whatever proponents say, it's tough to get the message through when such a hysterical mood prevails."

Philip Huffman, National Park



The Farmington, in its remote valley, is one of New England's most pristine rivers and a habitat for endangered species, such as the bald eagle. It is also a popular playground for whitewater and flatwater paddlers/AMC Photo Collection

Service (NPS) project manager for the Farmington Wild and Scenic study, agrees. "What happened was that there were some landowners who got real scared about something they didn't understand," he said. "They misconstrued, and came at it hostile."

Local state Representative Christopher J. Hodgkins, who also supported designation, takes a different view. He says it was the new, restrictive zoning regulations proposed for the river's edge that turned townspeople against the idea.

"The idea of a scenic river was fine with people, but when that zoning law was proposed, all of a sudden it wasn't just a scenic river, they were messing with their property rights," Hodgkins said.

This area has a long tradition of resisting outside influence: in colonial times a mob drove two of King

George's magistrates from the courthouse in Great Barrington, and Berkshire farmers played a major role in Shays' Rebellion.

The Farmington, in its remote valley, is one of New England's most pristine rivers and a habitat for endangered species, such as the bald eagle. It is also a popular playground for whitewater and flatwater paddlers. Most families in the valley have held the land for generations, and guard it jealously as they guard their river — they don't want anything to change.

Water authorities in Hartford, Conn. have coveted the pure water of the Farmington for years, and the river's east branch is already dammed up to form a series of reservoirs. Over 100 years ago, the Hartford Metropolitan District Commission planned to divert the water from the west branch, which would have forever changed the stream.

a prime fishing grounds and habitat for birds and mammals.

In response to this threat, environmentalists in five river towns in Connecticut came up with the idea of designating the river Wild and Scenic by act of Congress, as allowed by the 1968 Wild and Scenic Rivers Act. All dam and diversion projects were put on hold while the NPS performed the required designation study, which evaluates river resources and develops a locally based conservation strategy. Last year, all five Connecticut towns endorsed Wild and Scenic designation. When passed in Congress, designation will forbid any water projects that have a significant negative impact on water flow or quality in the Farmington.

Meanwhile, on the Massachusetts side of the line, things were headed in the same direction, but then, suddenly, the tides turned. It started, many local people agree, in a meeting of the Sandisfield Planning Board, where a "zoning overlay district" — one of the river protection actions suggested, but not mandated, under Wild and Scenic — was being discussed.

A number of local property owners had turned out to watch — anything new having to do with land use restrictions is watched very closely in these hills — and they saw Huffman of the Park Service answering all the questions while the Planning Board members sat silently.

"After that, people started asking questions," says Barbara Beaudry of Otis, who ended up opposing Wild and Scenic designation and remains convinced that the government had a "hidden agenda."

Some of the people's questions were answered by Don Rupp, who hails from the Upper Delaware Valley and led an unsuccessful fight against Wild and Scenic designation there. Rupp spoke at the Otis School one December night, and threw a good scare into people, telling them that the Wild and Scenic Rivers Act gave the federal government huge powers over their landholdings.

Under Wild and Scenic, the federal government can tell you what color to paint your house, forbid you from cutting down trees on your property or replacing your septic system if it fails, Rupp was reported as saying by Beaudry.

In the case of the Farmington River, it turns out, all of these provisions had been written out. But proponents of designation found it difficult to counter Rupp's claims in the hysterical atmosphere that prevailed.

"Through their fear of change, they lost the best chance they had to keep things the way they are."

— Philip Huffman,
National Park Service

"Clearly Don Rupp was the single person who turned this around," says Nathan Frohling of the Farmington River Watershed Association, a river protection group in strong support of Wild and Scenic designation. "He did it by pulling together innuendo after innuendo to weave the story that the federal government is out to do people out of their land and not give them a fair shake. It's an outrage." Notices of Rupp's speech were sent out to townspeople stating "your land is being stolen." A local group called Friends of the River was formed to lead the effort to stop Wild and Scenic.

Huffman said he was astonished to see normally skeptical Yankees taken in by the blandishments of outsiders, refusing to listen to their neighbors who supported designation. Robert Tarasuk, Sandisfield's representative to the Wild and Scenic study committee, was defamed as a federal agent, which the Park Service hastened to deny.

Even the word of Congressman Olver at a public meeting was not sufficient. Olver and Johnson, in an open letter, promised they wouldn't support any bill that allowed federal control of land or that made the valley part of the National Park system. After repeating that pledge several times to a hostile crowd in the Otis School, and hearing it reiterated by state and federal officials to no effect, Olver seemed to shrug his shoulders and give up.

From that meeting on it was all downhill. Otis voted overwhelmingly

against Wild and Scenic one week, the Sandisfield vote the next week was closer but still strong against designation, and Tolland voted a few weeks later the same way.

"We couldn't turn it around," lamented Frohling, "because he [Rupp] twisted the facts. We had no opportunity to examine the bullshit coldly, so we could show it for what it is. The level of trust in this community was shattered. At the meeting with the congressman, three quarters of the people had their minds made up. What could we do?"

"It's a dead issue in Massachusetts," concluded Regan of the AMC, which urged its Connecticut and Berkshire Chapter members to support the designation. "I don't blame the people in the valley. They worked hard for their piece of Eden, and they take its preservation very seriously. People didn't know what Wild and Scenic was, but they knew they didn't want anyone in control of their river."

SO WHAT HAPPENS NOW? THE Connecticut stretch of the river will be protected from any significant diversion of water once Wild and Scenic is passed.

In Massachusetts, a proposal to dam the Fall River, a tributary of the Farmington in Otis, was squelched four years ago; the company that proposed it is no longer listed in the phone book.

But, Regan points out, the Massachusetts run of river is not out of danger. "If some agency wanted to flood the valley, people will fight it, but by that time it might be too late," he said. As long as a dam or diversion in Massachusetts didn't affect the river's flow in Connecticut, it could be permitted, Regan said.

"They really were had," said Huffman of the Park Service. "Through their fear of change, they lost the best chance they had to keep things the way they are."

Frohling agreed. "The very thing that they fear, they have left themselves open to. They lost their best chance to prevent land condemnation as a result of projects they will not be able to stop."

— Dan Bellow,
Berkshire Eagle Reporter

**TESTIMONY OF
DAVID E. JENKINS
DIRECTOR, CONSERVATION AND PUBLIC POLICY
AMERICAN CANOE ASSOCIATION

BEFORE THE

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON NATURAL RESOURCES

SUBCOMMITTEE ON NATIONAL PARKS,
FORESTS, AND PUBLIC LANDS

REGARDING

H.R. 2815
THE FARMINGTON WILD AND SCENIC RIVER ACT**

OCTOBER 28, 1993

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The American Canoe Association would like to go on record as supporting H.R. 2815 establishing Wild and Scenic Designation for the Farmington River.

INTRODUCTION

The American Canoe Association (ACA) is a national organization with a direct and affiliate membership of 35,000. The ACA is both the oldest and largest paddlesports organization in the nation, and the only one dedicated to representing and serving all of America's 17 million recreational canoeists and other paddlers. Formed to advocate the responsible enjoyment of paddlesports, the ACA is concerned with issues related to waterway access for paddlers and the conservation and preservation of America's rivers, streams, lakes, coastal waterways and their surrounding environments.

BASIS FOR SUPPORT

ACA support for H.R. 2815 is based primarily on three important factors:

- ° The first and most important consideration in supporting wild and scenic designation is the resource itself. The Farmington River is an outstanding natural resource. One of New England's most pristine rivers, the Farmington possesses crystal clear water, magnificent scenery, and offers excellent canoeing and kayaking opportunities.
- ° Secondly, H.R. 2815 establishes a valuable precedent in the application of the Wild and Scenic Rivers Act to rivers which flow primarily through private lands.
- ° Finally, the river protection management plan prepared for the Farmington, in anticipation of possible Wild and Scenic Designation, is a model plan of cooperation among many diverse and often competing river and land use interests.

THE FARMINGTON RIVER

The Farmington River with its high water quality, excellent scenery, abundant wildlife, and wide variety of rapids, is a nationally significant recreational resource for canoeists and kayakers. An inventory of whitewater rivers conducted by the American Whitewater Affiliation found that the Connecticut section of the Farmington accounts for close to 20% of the total whitewater in the entire state. The fishing opportunities on the Farmington also provide a nationally significant source of recreation. The river's cool, clear waters support the best trout fishing in New England, and the river is considered a critical component of the Atlantic Salmon Restoration Program.

A MODEL FOR PRIVATE LAND RIVERS

The Farmington Wild and Scenic River Act is unique in that it will establish Wild and Scenic designation to a segment of river that flows largely through private lands. Approximately 55% of the land fronting this segment of the Farmington River is privately owned.

Since it was enacted in 1968, the Wild and Scenic Rivers Act has proven to be a valuable tool in the protection of river segments that flow through our nation's public lands. However, it has rarely been successfully utilized in the protection of rivers flowing largely through private land. The irony here is that it is usually the private land rivers that are most vulnerable to potential threats, and therefore in the greatest need of Federal protection.

Most of our nation's private land rivers, regardless of their scenic or recreational qualities, are being seriously threatened by the pressures of expanding residential and commercial development. Attempts to use the Wild and Scenic Rivers Act to protect these rivers usually fall victim to local opposition. This local opposition often takes the form of landowners concerned about land use restrictions, local governments concerned about their tax base, and citizens concerned about anything involving the Federal government.

H.R. 2815 is unique in that it will afford Wild and Scenic protection to a private land river with the blessings and unqualified support of the local citizenry. This designation and the resulting management of the resource can establish an example of success that can be emulated nationwide, especially in the east where there is a scarcity of public lands.

A NEW TYPE OF RIVER MANAGEMENT

A management plan has been developed for the Farmington River in advance of Wild and Scenic designation. This plan represents the combined efforts of a diverse group of citizens and local governments uniting under the single purpose of protecting a valuable water resource. This management plan establishes a standard of cooperation between river and land use interests that needs to be duplicated all across our nation.

The management plan itself appears to be a good one. By involving so many in the plan's creation, the Farmington River Coordinating Committee (FRCC) has assured a strong commitment to its success. Localities have established strict zoning regulations designed to protect the resource. The plan does not allow for federal condemnation or acquisition of lands for the purposes of Wild and Scenic designation; instead, it relies on the local commitment to protecting the resource already exhibited by the development of the plan and the agreements contained therein. All of the towns responsible for lands along the river have passed separate resolutions committing themselves to the river's protection. As an added safeguard the plan establishes certain reporting requirements by the FRCC and the National Park Service regarding the status of the river designation.

The enactment of the Farmington Wild and Scenic River Act is essential to ensure that this plan, a plan that has brought together so many for the protection this magnificent river, is to be carried out.

CONCLUSION

The Farmington River, like many other private land rivers across our nation, is a nationally significant natural resource. The greatest value of these rivers to the citizens of America lies in our ability to protect them. For too long protection of private land rivers has been a problematic and frustrating experience to those who value the natural values of these resources. More tools must be developed to conserve and protect these rivers. H.R. 2815, in its creative application of the Wild and Scenic Rivers Act, provides one such tool.

For all the reasons stated above, and in recognition of the Farmington River's value to our organization as a venue for canoeing and kayaking, the American Canoe Association supports H.R. 2815 without reservation.



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