

LAND ACQUISITION FROM WILLING SELLERS; TRAIL OF THE ANCIENTS;
STUDY OF FOUR NATIONAL HISTORIC TRAILS; AND WILLING SELLERS
FOR THE MAJORITY OF THE TRAILS IN THE SYSTEM

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

FIRST SESSION

ON

S. 324

S. 635

S. 634

S. 651

MAY 6, 2003



Printed for the use of the
Committee on Energy and Natural Resources

U.S. GOVERNMENT PRINTING OFFICE

87-752 PDF

WASHINGTON : 2003

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
Fax: (202) 512-2250 Mail: Stop SSOP, Washington, DC 20402-0001

COMMITTEE ON ENERGY AND NATURAL RESOURCES

PETE V. DOMENICI, *New Mexico, Chairman*

DON NICKLES, Oklahoma	JEFF BINGAMAN, New Mexico
LARRY E. CRAIG, Idaho	DANIEL K. AKAKA, Hawaii
BEN NIGHTHORSE CAMPBELL, Colorado	BYRON L. DORGAN, North Dakota
CRAIG THOMAS, Wyoming	BOB GRAHAM, Florida
LAMAR ALEXANDER, Tennessee	RON WYDEN, Oregon
LISA MURKOWSKI, Alaska	TIM JOHNSON, South Dakota
JAMES M. TALENT, Missouri	MARY L. LANDRIEU, Louisiana
CONRAD BURNS, Montana	EVAN BAYH, Indiana
GORDON SMITH, Oregon	DIANNE FEINSTEIN, California
JIM BUNNING, Kentucky	CHARLES E. SCHUMER, New York
JON KYL, Arizona	MARIA CANTWELL, Washington

ALEX FLINT, *Staff Director*

JAMES P. BEIRNE, *Chief Counsel*

ROBERT M. SIMON, *Democratic Staff Director*

SAM E. FOWLER, *Democratic Chief Counsel*

SUBCOMMITTEE ON NATIONAL PARKS

CRAIG THOMAS, Wyoming, *Chairman*

DON NICKLES, Oklahoma, *Vice Chairman*

BEN NIGHTHORSE CAMPBELL, Colorado	DANIEL K. AKAKA, Hawaii
LAMAR ALEXANDER, Tennessee	BYRON L. DORGAN, North Dakota
CONRAD BURNS, Montana	BOB GRAHAM, Florida
GORDON SMITH, Oregon	MARY L. LANDRIEU, Louisiana
JON KYL, Arizona	EVAN BAYH, Indiana
	CHARLES E. SCHUMER, New York

PETE V. DOMENICI and JEFF BINGAMAN are Ex Officio Members of the Subcommittee

THOMAS LILLIE, *Professional Staff Member*

DAVID BROOKS, *Democratic Senior Counsel*

CONTENTS

STATEMENTS

	Page
Allard, Hon. Wayne, U.S. Senator from Colorado	6
Bereuter, Hon. Doug, U.S. Representative from Nebraska	2
Bower, Dru, Vice President, Petroleum Association of Wyoming, Casper, WI ...	30
Cioffi, Dave, Landowner, Etna, NH	37
Hatch, Hon. Orrin, U.S. Senator from Utah	8
Levin, Hon. Carl, U.S. Senator from Michigan	2
Ross, D. Thomas, Assistant Director, Recreation and Conservation, National Park Service, Department of the Interior, accompanied by Bob Bennett, Director, State of Wyoming, Bureau of Land Management	10
Thomas, Hon. Craig, U.S. Senator from Wyoming	1
Werner, Gary, Executive Director, Partnership for the National Trails Sys- tem, Madison, WI	23

APPENDIX

Additional material submitted for the record	47
--	----

**LAND ACQUISITION FROM WILLING SELLERS;
TRAIL OF THE ANCIENTS; STUDY OF FOUR
NATIONAL HISTORIC TRAILS; AND WILLING
SELLERS FOR THE MAJORITY OF THE
TRAILS IN THE SYSTEM**

TUESDAY, MAY 6, 2003

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

The subcommittee met, pursuant to notice, at 10:04 a.m. in room SD-366, Dirksen Senate Office Building, Hon. Craig Thomas presiding.

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

Senator THOMAS. Good morning, gentlemen. We were waiting for you, Senator. As soon as you came in, I tapped the gavel.

Senator LEVIN. I apologize.

Senator THOMAS. Thank you for joining us for this meeting of the Subcommittee on National Parks. I hope we will soon be joined by other members.

Our topic this morning is national trails. We have several bills that we want to talk about specifically, but in addition to that, we have been kind of looking for an opportunity to talk a little bit about the whole trail idea. We need sort of definitions that we might have, any sort of standards that we might have, the impact on private lands and how we work with that, not only in terms of access to private lands, but also the amount of private lands that are involved. And I think these are issues that arise and we need to have kind of a general view of where we are going from these various agencies and from the private groups that are here.

So, we have four specific bills, S. 324 and S. 651, to amend the Trails Act to clarify the Federal authority relating to land acquisition from willing sellers. And S. 634 and S. 635 direct the Interior Secretary to do some studies on specific trails.

So, that is what we are here for and I appreciate all of you sharing with us your view. I think we all want to set aside those trail areas that are of historic significance. On the other hand, we need to come to a better idea of how we are going to do that and if there are any constraints that we need to have. So, welcome, Senators, here this morning, and why don't we begin.

Senator Levin, if you would care to begin, sir.

[A prepared statement of Mr. Bereuter follows:]

PREPARED STATEMENT OF HON. DOUG BEREUTER, U.S. REPRESENTATIVE
FROM NEBRASKA

Chairman Thomas, Senator Akaka and members of the Subcommittee: I would like to begin by thanking you for giving me this opportunity to express my strong support for S. 635, a companion bill to H.R. 1051, which I introduced earlier this year in the House. I also sponsored similar bills in the previous two congresses.

The bill I introduced in the previous congress was approved by the House by voice vote on June 6, 2001. The legislation is necessary and should be non-controversial. It is a straightforward effort to provide for a one-time feasibility study update for four national historic trails—Oregon, California, Mormon and Pony Express.

The measure, known as the Pioneer National Historic Trails Studies Act, simply recognizes the fact that there are additional routes and cutoffs which may deserve inclusion in the National Trails System. During the update period, the National Park Service will work with the appropriate trails groups and other interested parties to develop information on any new segment of trail in an effort to determine if it meets the criteria for addition to the system. No condemnation of private lands or Federal leases is to be contemplated to add any of these routes to the trails.

The National Park Service is supportive of efforts to examine these additional routes, and it has determined that legislation is needed to provide the authorization. That is the purpose of S. 635 and H.R. 1051.

All four trails covered in this legislation were instrumental in opening the American West, but each has its own unique story to tell. The California Trail enabled 70,000 people to follow their dream to the Golden State in 1849 and 1850. The Oregon Trail made it possible for fur traders, settlers and others to reach the Pacific Northwest.

Although it lasted only about 18 months, the Pony Express achieved a cherished role in American lore. Its daring riders, which included Buffalo Bill Cody and Wild Bill Hickok, were able to deliver mail from St. Joseph, Missouri to Sacramento, California in ten days. The Mormon Pioneer Trail allowed the church members an opportunity to head west in search of religious freedom.

These trails all follow at least part of the Platte River, and Nebraska is proud to have as one of its nicknames the "Historic Trails State." Many used the route through Nebraska to reach their goal farther west. Those with more foresight decided to settle in Nebraska.

I am pleased to note that during the 102nd Congress I introduced the legislation which was enacted to designate the California National Historic Trail and the Pony Express National Historic Trail as components of the National Trails System. The bill being discussed today will build on that effort and enable even greater recognition of the contributions made by these bold and courageous pioneers. Those who used the trails endured hardships that are difficult to imagine. They survived hazards such as wild animals, blizzards and floods as well as scarcity and disease.

To those who bravely made it to their destination and those who died along the way we owe a huge debt of gratitude. I believe that S. 635 and H.R. 1051 will help to give proper recognition to the many heroic individuals who played such an important role in settling the American West.

I would also like to take this opportunity to express my appreciation to the many dedicated volunteers who have been so supportive of these national trails. In particular, I would like to thank Bill and Jeanne Watson, with the Oregon-California Trail Association, Pat Hearty with the Pony Express Trail Association, Ron Anderson with the Mormon Trail Association, and Loren Horton with the Iowa Mormon Trail Association. The efforts to preserve and provide recognition for these trails is truly a grassroots labor of love involving thousands of individuals.

Again, thank you for holding this hearing and giving me the opportunity to submit testimony in support of S. 635 and H.R. 1051. I would appreciate the Subcommittee's favorable consideration of this legislation.

**STATEMENT OF HON. CARL LEVIN, U.S. SENATOR
FROM MICHIGAN**

Senator LEVIN. Thank you, Mr. Chairman. Thank you first of all for holding this hearing. We really appreciate your doing that and your listening to our cause here relative to the trails that are involved in a number of bills.

I have been involved with the North County Trail even before its inception. It is a trail which will be, when completed, the longest trail in the country, about 3,200 miles. It will be the longest continuous trail, and about half of that is in. That is perhaps the easiest half. It is perhaps even more difficult in many cases to get these miles in. Nonetheless, in one sense it is easier than the second half of the trail.

We have many of the cuts through State parks, through national forests. We have a lot of private land, a lot of corporations have given us easements. We have had tremendous cooperation, of course, with the National Park Service to get to where we are going.

This is a trail that is based on a vision and a dream, like I guess all of our trails. This trail will not be completed during the lives of my children and probably not even during the lives of my grandchildren. Like the Appalachian Trail, it will take a long, long time to finish, perhaps 50 years or more. And that means that those of us who are laboring for this cause now are looking a long, long way ahead, and we need the help of the Senate and the House if we are going to complete this trail and carry out that vision.

First of all, there will be places where we will need the willingness of willing sellers to sell easements to the national Government. Just in terms of pure linkages, there are going to be gaps where we cannot get voluntary transfers without finding willing sellers.

Now we have had a lot of donations here, we expect a lot more. Indeed, we expect most of this trail will be resulting from people who are willing to give an easement to the Park Service for the trail. But there will be instances and there already are some, where we have sellers who are willing to sell easements to us. There is no commitment in this bill to buy anything that is not in the national interest to buy, or funds are not available to buy, there is no commitment to do that. What this bill simply does is make it possible for the Park Service to acquire an easement from a willing seller.

In addition to the obvious linkages that will be created, that are critically important to the completion of this trail, there are just two other factors I would mention to the committee.

First is the safety issue. There are places now where this trail actually goes along roads, and there are connections and linkages which are available and will be available over time which will make this a safer trail, as well as a trail which is cohesive and connected. So there is a safety issue too which drives us to asking for this willing seller authority.

Finally, this is a matter of property rights. In an ironic way, if a seller cannot sell to a willing buyer, which is the case now, we are restricting that seller in his enjoyment of property rights, and wherever possible in this country, it seems to me we should expand private property rights, not restrict them. If the seller cannot sell to a willing buyer, then he has less property rights than other sellers have.

And if the Federal Government cannot acquire easements, if a willing seller cannot sell to the Federal Government, in an impor-

tant way he has less of a right in his property than do other sellers.

It is an interesting kind of an approach to the problem. I had not even thought that much about that aspect of it until recently, but it seems to me there is some significant truth to it. So we are asking this committee to approve S. 324. There is another bill which has more trails in it; our bill covers just three trails, the trails that are basically east of the Mississippi. One of our States, in fact, two of the States in the North Country Trail have portions west of the Mississippi, but this is basically a trail where the vast majority of it is east of the Mississippi, starting in the easterly end of New York and ending in the central part of North Dakota.

It is the same bill which passed the Senate in the 107th Congress, and I will end with this. We passed this bill one once before in the Senate. When I say it passed the Congress, I misspoke. It passed the Senate in the 107th Congress, it did not pass the House. I do not know all the reasons, but perhaps in part because it passed the Senate so late in the 107th Congress.

So again, I thank the chair and the members of this committee for taking the time to listen to our causes for these trails. They are really important to our people, there is a great passion and love for our trails, and passing these bills will make these trails more coherent, more cohesive, and make it possible for them to be completed.

[The prepared statement of Senator Levin follows:]

PREPARED STATEMENT OF HON. CARL LEVIN, U.S. SENATOR FROM MICHIGAN

Thank you for giving me the opportunity to testify before the committee about this important legislation.

Legislation identical to Senate Bill 324, the National Trails System Willing Seller Act, was passed by the Senate in the 107th Congress. Unfortunately, because we passed it late in the session, the bill wasn't taken up in the House. The bill before you is the same legislation that was passed last year.

First and foremost, this is a bill to protect property rights. Senate Bill 324 would amend the National Trails System Act to provide the federal government the authority to acquire land, including easements, from willing sellers to complete three national scenic trails authorized under the Act (North Country National Scenic Trail, Ice Age National Scenic Trail, and the Potomac Heritage National Scenic Trail). Without this bill, a landowner along those three trails who wants to sell to the federal government is denied the right to do so.

I am most familiar, of course, with the situation along the North Country Trail, a 4,200 mile long trail across seven states, the longest segment being in Michigan. Willing seller authority is crucial for the North Country Trail. Without it, the trail cannot be completed. Like the other two trails in Senate Bill 324, the North Country Trail faces the significant challenge of crossing long stretches of private lands. Congress chose the route for this trail. Congress determined that this would be a National Scenic Trail, which by its very nature must be a continuous, publicly accessible path. Yet, Congress has not yet provided the acquisition authority needed to fully establish this Congressionally designated trail across its Congressionally determined route.

As directed by the National Trails System Act, a strong public/private partnership has developed to support the establishment of the North Country Trail. We are working with non-federal agencies to try to do what we can to meet the goals Congress set forth for this trail. Volunteers, private entities and state agencies are shouldering much of the responsibility of building and protecting this 4,200 mile long National trail. The Federal government, through the National Park Service, has a critical role and land and easement acquisition authority is part of it.

Willing sellers, in many cases public-spirited citizens, should have the right to sell easements or even portions of their land to the Federal government should they choose to do so and if it is in the national interest. In addition to some needed linkages, there is a safety issue: willing seller authority is needed so that some sections

of the current trail can be moved from roads where hikers and other trail users are unsafe.

Under this bill, if a landowner chooses to sell a corridor or easement crossing his or her land and the federal government chooses to acquire it, we must allow reasonable access across the new federal corridor for that landowner. Acquisitions, of course, will be controlled by the federal appropriations process. In short, the willing seller authority restored through Senate Bill 324 for these three trails is sensible and reasonable and both enforces and is respectful of private property rights.

Senate Bill 324 is essential to completing these legacy trails. This legislation would restore greater parity to the National Trails System for these trails. I look forward to working with the Committee to again pass this important legislation.

Senator THOMAS. Thank you, Senator. Just a couple quick questions while we are focusing on that. This North Country Trail is very long, I believe you said from Maine to North Dakota, apparently. Do you envision that all of it would be contiguous?

Senator LEVIN. Yes.

Senator THOMAS. All 1,200 miles or whatever it is?

Senator LEVIN. It is 3,200 miles, it is even longer than the chairman stated. It will be the longest contiguous trail. And again, we have about half in already, we have something over 1,400 miles that are in already.

Senator THOMAS. What are they in, easements you mean?

Senator LEVIN. Yes, easements over private land which has been donated, easements over corporate land, a lot of corporate land where easements have been given. There is a lot of national forest lands in there, a lot of State parks and State forests are in there. It is very doable. Just like the Appalachian Trail was doable, it is a matter of time and with some segments, not a lot, but with some segments it will require acquiring from willing sellers. I emphasize the word willing. There is no condemnation authority in this request.

Senator THOMAS. Is there any limits on the size of the parcels that would be put into the trail in terms of width?

Senator LEVIN. How wide the easement is, I do not know the width of the easement. It is very narrow, as far as I know, because I have been on portions of the trail. They are very narrow easements, wide enough just to have a trail and a little protection on the sides. It could be a matter of yards. As far as I know, we are not talking about significant width here. Perhaps I should have the answer, but perhaps the Park Service or the trails folks could answer that.

Senator THOMAS. And who owns these easements?

Senator LEVIN. They would be transferred to the Park Service.

Senator THOMAS. This is a Park Service function then when you are through, for them to maintain it, and them to have it and all that?

Senator LEVIN. That is the same for easements for most of these. Most of our trails are maintained with volunteers, put in by volunteers by the way. Sometimes with prisoners, when you are talking about State lands, but these trails are actually put in with volunteer help. A huge number, thousands of volunteers are involved in this effort. This is not some easy project to install and maintain a trail, this is truly a volunteer effort.

Senator THOMAS. Thank you, Senator.

Senator Allard.

**STATEMENT OF HON. WAYNE ALLARD, U.S. SENATOR
FROM COLORADO**

Senator ALLARD. Thank you, Mr. Chairman. I would like to also join my colleagues here in thanking you for holding this very timely hearing and specifically for allowing me the opportunity to appear before you today for your consideration of the National Trails Systems Willing Seller Act. I have been a strong—you have been a strong supporter of trails like the Continental Divide Trail, and I commend you for your efforts to find the proper balance between public and private land ownership.

As a Senator from the neighboring State of Colorado, where only 36 percent of the land is owned by the Federal Government, compared to your 48.5 percent, I understand your concerns to protect access, private property and multiple use. I look forward to working with you and the other members of the committee on this bill as we pursue legislation that fulfills the intent of the National Trails System and protects the land use balance.

The Willing Seller Act is not new to this committee. Starting in the 103rd Congress, some form of this legislation has been introduced by Senator Campbell, my colleague of Colorado, or Congressman McInnis of Colorado's 3rd Congressional District, and also Senator Levin. While I have cosponsored the legislation before, this is the first time I have carried the bill outright. I look forward to working with my colleagues and those who have put so much time into this effort, as we finally pass this bill into law.

On October 2, 1968, the National Trails System Act which authorizes the National Trails System, became law. The intent of the Act was to create a national system of trails to provide outdoor recreational opportunities and that promotes the preservation of access to the outdoor and historic resources of the Nation.

From our earliest years of education, we learned that trails served as routes for the commerce and migration that expanded our Nation and connected our geographically diverse populace. Today, these same trails serve as a proud link to our past heritage and scenic beauty, connecting the paths of our Nation with the present generation of Americans.

By way of review, the Congress authorized nine national scenic and historic trails between 1978 and 1986. However, unlike the other trails within the system, these trails were stripped of the ability to purchase lands from willing sellers, land that would complete the trails. In other words, even if a landowner wants to furnish land that would fill the gaps in trail ownership, connecting the trail dots, he or she does not have the ability to do so. That is why I have introduced the legislation. Completion of these trails is important to me and my State, and I hope you will support the Willing Seller bill. S. 651 restores the ability of the Federal agencies to carry out their responsibility to protect nationally significant components of our Nation's cultural, natural and recreational heritage.

The willing seller authorization granted in S. 651 only authorizes land acquisition from willing sellers. The trails affected by the bills cross 24 States and 81 congressional districts. With willing seller authority, sections of these trails now located on roads can be moved to overland routes that will provide safer and better condi-

tions for hikers and other trail users. Under the willing seller bills, no contract is valid unless the landowner receives compensation for his land, reflecting basic contract law. The Federal Government specifically denies its power to condemn land for the trail.

Congress enacted the National Trails System Act in 1968 to provide the means to provide for the ever-increasing outdoor recreational needs of an expanding population and in order to promote the preservation of public access to, travel within, and enjoyment and appreciation of the open-air outdoor areas and historic resources of the Nation by instituting a national system of recreation, scenic and historic trails. Congress provided necessary authority for appropriate Federal agencies to administer the trails of that system, but they later changed that. S. 651 restores consistency to the National Trails System Act by providing the means to complete the National Trails System on all trails. Without the ability to acquire sites and segments of these nine trails as they become available from willing sellers important resources and experiences of our national heritage will be lost forever. S. 651 provides the authority for Federal administering agencies to help protect the sites and segments critical to preserving the integrity and continuity of nearly one half of the National Trails System.

Mr. Chairman, it is my hope that we can reach an agreement on this bill through legislative means or a memorandum of understanding that will preserve our interests while serving the intent of the National Trails System. Bottom line, I want this legislation to be a good neighbor bill that makes the Federal Government respect the property rights of its neighbors. I thank you for your time and consideration.

Senator THOMAS. Thank you, sir. Just generally, Senator, does this authority have any limitations, any constraints, or is it just clearly whatever willing sellers are willing to do?

Senator ALLARD. I think it is whatever they can work out with a contract. Certainly we do not want a contract that is put in place by willing sellers that might have some ramifications to a neighbor, for example, of the property owner. And we want to make sure in this legislation that those kind of issues are protected and that any other landowners who would be along the trail do not have their property value somehow or the other adversely impacted. I cannot help but think that in most cases that this would not increase perhaps the value to that property, because people are frequently looking for ways to enjoy recreational purposes and those kinds of things.

In both your State and my State, we have seen recreational purposes actually increase the value of the property, so I would think that—our intent to is to protect private property rights and hopefully not create a problem for any of the properties of any neighbors.

Senator THOMAS. Does this then affect only certain trails or is it sort of a general authority?

Senator ALLARD. Well, we need to work that out with the committee and everything, but our main focus obviously is on the Continental Divide Trail, and that runs through Colorado, Wyoming and other States on the Continental Divide.

Senator THOMAS. Thank you, sir.

Senator Hatch, thank you for joining us.

**STATEMENT OF HON. ORRIN HATCH, U.S. SENATOR
FROM UTAH**

Senator HATCH. Thank you, Mr. Chairman. First of all, I want to thank you for holding this hearing on the National Historic Trails and for allowing the consideration of two bills which are important to my home State of Utah and the West in general. S. 634, regarding the Trail of the Ancients, and S. 635, the Pioneer Trails Historic Trails Studies Act, both seek to highlight the human history in this region.

I introduced the Trail of the Ancients bill in hopes of highlighting the unique system of ancient ruins and the travel system that connected them in the Four Corners region of Utah, Colorado, Arizona and New Mexico. Today, these sites are connected by a modern day system of roads and scenic byways. Visitors now have automobile access to the many world-renowned examples of ancestral Puebloan or Anasazi cultures found in the Four Corners region. Chairman Pete Domenici, Ranking Democratic member Jeff Bingaman, and Senator Ben Nighthorse Campbell of the Senate Energy Committee, are cosponsors of this bill, as is Senator Wayne Allard of Colorado.

Mr. Chairman, I truly appreciate your willingness to give this legislation a hearing today. As you know, in working with the National Park Service and other interested parties, we have come up with a plan to expand and improve on our original concept. Rather than pursue a study regarding a national historic trail designation, I would like to announce our intention to direct a study of the Four Corners Trail of the Ancients area for potential designation as a national heritage area. All involved are very excited about the heritage area approach, and I am pleased to see this move in a direction that will lead to official acknowledgment of the incredible history of this area as well as the rich culture of its communities that survives even to this day.

Mr. Chairman, as you know, I have provided the committee with legislative language for this change, and I would ask that at the appropriate time it be substituted for the current version of S. 634. I understand that sometime in the near future your committee may hold hearings on national heritage area legislation, and I ask that you consider at that time our proposal to study the Trail of the Ancients National Heritage area.

I would now like to address S. 635, the Pioneer National Historic Trails Studies Act. This legislation would authorize a Federal study of the alternate routes for the Mormon Pioneer, the Pony Express, the California, and the Oregon National Historic Trails. These were the trails used by our early settlers of the West, including our own Utah pioneers.

For various reasons, early settlers often used routes to arrive in the West which were variations of the main routes now recognized as National Historic Trails. Not every pioneer embarked on his journey from Omaha or Independence, and not every great or tragic event took place along the main routes. To the contrary, tens of thousands of settlers set out from other places, and many of the

most memorable and important events occurred along the historical side roads and alternative routes.

Because of the confining “point to point” wording now found in the Trails Act, many crucial parts of the story are not being adequately highlighted. Since the enactment of the National Trails System Act in 1968, support has been building to broaden the law to include alternate routes that branch off of the main trails. The Pioneer National Historic Trails Studies Act calls for the National Park Service to study these variant routes and to make recommendations to Congress on which variant routes should be included in our National Historic Trails system. We need to make sure that these stories do not slip through the cracks under a strict interpretation of the current law. For Utahans and other Westerners, these trails are the highways to our history, and this legislation will highlight our Nation’s westward expansion.

Mr. Chairman, as you and the members of this subcommittee will recall, the Senate approved legislation identical to S. 635 in the last days of the 107th Congress. However, because its language differed slightly from the version passed in the House, it was not sent to the President. Finally, I would like to point out that S. 635 would not have an impact on private property nor create new paths across private or public lands. Rather, it would simply create the opportunity for the National Park Service to recommend new routes to Congress and to update existing routes.

This bill and the study it calls for would help us to take an important step in preserving some of the most important stories of our Nation’s history. I want to thank the subcommittee for the opportunity to address this trail proposal today, and I would urge my colleagues to support this legislation. Thank you.

Senator THOMAS. Thank you, Senator. We will certainly deal with the Heritage Act when we have a hearing on that.

Just as a general concept, as you see these trails, some of which are very long, clear across the country pretty much, do you envision that an entire area of the whole trail consistently be listed, or would it be focused on areas where there were certain historic, or more historic and memorable things happened?

Senator HATCH. These basically are study bills that will help us to make those determinations as to what exactly what we are about to do, but I would hope that they would come up with a very effective approach that would help to preserve the historical heritage and naturally, I think they would focus on those that are more relevant, more impactful at the beginning.

Senator THOMAS. Well, I must tell you that I think the idea of studies before we make a decision is a good idea, particularly something that is a little different and really difficult for the Congress sometimes to work on things that are like that.

Gentlemen, thank you all for being here, I appreciate it very much and look forward to working with you.

Let us see. Next, we have our Panel 1. Thomas Ross, Assistant Director for Recreation and Conservation, who will be accompanied by Mr. Bob Bennett, who is the Director for the State of Wyoming of the Bureau of Land Management. Welcome, gentlemen.

Obviously we have before us several bills which we would appreciate your comments and your agencies’ position, if they have one,

on these bills. But further, I think we would also welcome your perception of how we ought to proceed with this idea of trails and how we might best do it, how we might best keep it in a manageable vein of some kind, and at the same time preserve those things that ought to be preserved.

So, Mr. Ross, would you like to begin?

**STATEMENT OF D. THOMAS ROSS, ASSISTANT DIRECTOR,
RECREATION AND CONSERVATION, NATIONAL PARK SERVICE,
DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY
BOB BENNETT, DIRECTOR, STATE OF WYOMING, BUREAU OF
LAND MANAGEMENT**

Mr. ROSS. Yes, thank you, Senator, and as you indicated, Mr. Bennett is here with me representing the Bureau of Land Management in the State of Wyoming, and will be able to respond to questions when we get into that part of the discussion.

Mr. Chairman, members of the subcommittee, thank you for the opportunity to appear before you today to present the Department's views on S. 324, to amend the National Trails System Act to clarify Federal authority related to land acquisition from willing sellers for the North Country, the Ice Age, and Potomac National Heritage National Scenic Trails. S. 324 would provide land acquisition authority from willing sellers for three national scenic trails established between 1978 and 1986.

Trails can provide an important opportunity to promote citizen involvement in scenic opportunities. It is this type of opportunity that is at the center of the Department's plan to implement new environmentalism and what Secretary Norton has termed the Four C's, communication, consultation, and cooperation, all in the service of conservation. Within this framework, the Department recognizes the positive role the Federal Government could play in the protection of these trails with the authority provided under S. 324.

For example, landowners wishing to donate land cannot do so under current law because of prohibition on using funds to acquire land has meant that activities required for donation to occur, such as land protection plans or pre-acquisition surveys, also cannot be funded. The current prohibition also applies to the acquisition of interest in land. Thus, the Federal Government cannot purchase easements from interested landowners.

It is paramount that we work closely with private landowners, the community, private volunteer groups, and the State and local governments to discover creative solutions for trail protection that may not result in fee simple acquisitions. To ensure that such alternative solutions are fully explored, we have provided a proposed amendment at the end of this testimony.

Amendments added to the National Trails System Act in 1980 and 1983 prohibited expenditures by Federal agencies to acquire lands or interest in lands for the Continental Divide National Scenic Trail, the North Country, Ice Age, and Potomac Heritage National Scenic Trails outside of existing Federal areas. This means that the generic land acquisition authority provided in section 7 of the National Trails System Act cannot be used on any of these scenic trails.

Since 1983, most of the trails established under the National Trails System Act have had language similar to the following sentence. "No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the United States except with the consent of the owner thereof." This willing seller authority as proposed falls somewhere between the land acquisition authority used to protect the Appalachian and Pacific Crest National Scenic Trails and the ban on Federal funding for acquiring segments that fall outside of national parks and forests on the trails included in this bill.

By bringing the land acquisition authority on these trails, these three trails in line with those in the majority of national scenic and national historic trails in the National Trails System, S. 324 will allow the Federal Government to assist in the protection of these trails through donation, easements, and as a last resort, fee simple acquisition from landowners actively interested in selling land for trail protection.

Mr. Chairman, let me move now to the Department's view on S. 651, the National Trails System Willing Seller Act. S. 651 would amend the National Trails System Act to provide land acquisition authority from willing sellers, but specifically exclude the use of condemnation, for nine national scenic and national historic trails established between 1978 and 1986.

Again, within this framework, the Department recognizes the positive role the Federal Government could play in the protection of these trails with the authority provided under S. 651. To ensure that, again, to ensure that alternative solutions are fully explored, we have provided a proposed amendment at the end of this testimony.

By bringing the land acquisition authority on these nine trails in line with those in the majority of national scenic and national historic trails in the National Trails System, S. 651 would allow the Federal Government to assist in the protection of these trails, through donation, easements, and as a last resort, fee simple acquisition from landowners actively interested in selling land for trail protection.

Mr. Chairman, thank you for the opportunity to present the views of the Department of the Interior on S. 634, a bill to authorize the Secretary of the Interior to conduct a study on the Trail of the Ancients along various scenic byways in the Four Corners area.

The Department does not support S. 634. The Trail of the Ancients appears to be a set of modern scenic byway and highway tour routes. S. 634 would authorize feasibility studies to determine if the Trail of the Ancients meets the criteria to be designated as a national historic trail in the National Trails System. One of the criteria for designation as a national historic trail is that, ". . . must be a trail or route established by historic use and must be historically significant as a result of that use." The roads proposed for this trail are highways built by the States to connect the various sites, which would seem to preclude their designation as a national historic trail.

Given that the proposed area to be studied appears to be unlikely to meet the criteria for designation as a national historic trail, we

believe our limited funds are best used to complete pending studies and other high-priority studies.

Finally, Mr. Chairman, thank you for the opportunity to present the Department of the Interior's views on S. 635, which would amend the National Trails System Act to update the feasibility and suitability studies of the Oregon, California, Pony Express and Mormon Pioneer National Historical Trails.

The Department supports S. 635 with an amendment to the bill included at the end of this testimony. We suggest the bill be amended to make the deadline for completion and submission of the studies to Congress be 3 years after funds are made available for the studies.

The feasibility study for the Oregon National Historic Trail was completed in 1977, the study for the Mormon Pioneer National Historic Trail in 1978, and the one for the California and Pony Express National Historic Trails in 1987. Since these studies have been completed, additional routes and trails and cutoffs were identified that may qualify as segments of these trails. The National Trails System Act does not provide the authority to evaluate and add any additional routes without certain legislative amendments.

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

[The prepared statements of Mr. Ross pertaining to S. 324, S. 634, S. 635, and S. 651 follow:]

PREPARED STATEMENT OF D. THOMAS ROSS, ASSISTANT DIRECTOR, RECREATION AND CONSERVATION, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, ON S. 324

Mr. Chairman and members of the subcommittee, thank you for the opportunity to appear before you today to present the Department's views on S. 324, to amend the National Trails System Act to clarify Federal authority relating to land acquisition from willing sellers for the North Country, the Ice Age, and the Potomac Heritage National Scenic Trails. S. 324 would provide land acquisition authority from willing sellers for three national scenic trails established between 1978 and 1986.

The Department supports the 23 long-distance trails, 15 national historic trails, 8 scenic trails, and 900 national recreation trails that make up the approximately 50,000 miles of trails in the National Trails System. National trails are a popular way of linking together thousands of significant historic sites and drawing attention to local cultural and natural resources. This network of trails has provided millions of visitors across the country with rewarding and enjoyable outdoor experiences. Thousands of volunteers each year work tirelessly to plan, promote, build, maintain and otherwise care for these trails.

Trails can provide an important opportunity to promote citizen involvement and bring together communities. It is this type of opportunity that is at the center of the Department's plan to implement a new environmentalism and what Secretary Norton has termed the "Four C's"—Communication, Consultation, and Cooperation, all in the service of Conservation. The focus of the Four C's is the belief that enduring conservation springs from partnerships involving the people who live on, work on, and love the land. One example of this vision is the Secretary's Cooperative Conservation Initiative (CCI), which builds on existing conservation partnership programs and provides new and expanded opportunities for landowners, land managers, and others to participate in projects that foster innovation and create incentives for stewardship.

Consistent with this vision, we have developed a set of principles that will serve as an important guide for all land transactions conducted by the Department. The principles include:

1. Integrity: Transactions shall meet the highest ethical standards and comply with all applicable laws, rules, regulations and codes of professional conduct.
2. Good Faith: Transactions shall occur in good faith and only with willing parties.

3. Transparency: Transactions shall be pursued transparently with appropriate opportunities for public participation.
4. Mission: Transactions shall promote fulfillment of Departmental and Bureau missions.
5. Citizen Stewardship: Transactions shall be consistent with the promotion of private stewardship.
6. Innovation: Transactions shall employ easements, donations and other alternatives to full fee title when appropriate.
7. Congressional Direction: The Department shall provide technical assistance and policy recommendations to Congress, when requested, and in a manner consistent with these principles.

Within this framework, the Department recognizes the positive role the Federal government could play in the protection of these trails with the authority provided under S. 324. For example, landowners wishing to donate land cannot do so under current law because the prohibition on using funds to acquire lands has meant that activities required for a donation to occur, such as land protection plans or pre-acquisition services (surveys, tract maps, inventories, priority lists), also cannot be funded. The current prohibition also applies to the acquisition of interest in lands, and thus, the Federal government cannot purchase easements from interested landowners. It is paramount that we work closely with private landowners, the community, private volunteer groups, and State and local governments to discover creative solutions for trail protection that may not result in fee simple acquisition. To ensure that such alternative solutions are fully explored, we have provided a proposed amendment at the end of this testimony.

In addition to the considerations in our proposed amendment, we understand that several additional steps would have to occur before purchase of a trail segment from a willing seller occurs including: developing a land protection plan; undergoing a public review process; and requesting, obtaining and prioritizing appropriate funding.

The National Trails System Act was initially developed by Congress principally to offer Federal assistance and support for protecting the land base of the Appalachian National Scenic Trail. When the act was passed in 1968, both the previously existing Appalachian and Pacific Crest National Scenic Trails were established as the two initial components of the National Trails System and 14 more trails were proposed for study as potential additions to the National Trail System. The core authorities of the act addressed how to establish nationally significant trails.

Amendments added to the National Trails System Act in 1980 and 1983 prohibited expenditures by Federal agencies to acquire lands or interests in lands for the Continental Divide National Scenic Trail, the North Country, Ice Age, and Potomac Heritage National Scenic Trails outside of existing Federal areas. This means the generic land acquisition authorities provided in Section 7 of the National Trails System Act cannot be used on any of these scenic trails.

Since 1983, most of the trails established under the National Trails System Act have had language similar to the following sentence: "No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the United States for the Pony Express National Historic Trail except with the consent of the owner thereof." This "willing seller authority" falls somewhere between the full land acquisition authority used to protect the Appalachian and Pacific Crest National Scenic Trails and the ban on Federal funding for acquiring segments that fall outside of national parks and forests on the trails included in this bill.

From its beginning, the National Trails System was premised on the establishment, operation, and maintenance of national trails as collaborative partnership efforts. For land protection, specifically, state governments and nonprofit partners are encouraged to protect what they can of the national trails, with the Federal government embarking on land acquisition only as a last resort. For example, in Wisconsin, an arrangement was set up for the Ice Age National Scenic Trail under which the State of Wisconsin took the lead in acquiring trail lands, with support from the Ice Age Park and Trail Foundation and coordination by the National Park Service. Further, trail nonprofit partners have been encouraged to develop land trusts to acquire critical lands. This bill is supported by a broad coalition of trail organizations across America.

It would be impossible to estimate funding requirements associated with this bill at this time, as the number of willing sellers is unknown, whether donation, easements, or fee simple acquisition would be employed is unknown, and the cost of the land segments for each trail would vary due to geographic location and the long time span over which the acquisition work would take place. The Administration will identify the costs for each trail on a case-by-case basis.

By bringing the land acquisition authority on these three trails in line with those in the majority of national scenic and national historic trails in the National Trail System, S. 324 would allow the Federal government to assist in the protection of these trails, through donation, easements, and, as a last resort, fee simple acquisition from landowners actively interested in selling land for trail protection.

Mr. Chairman, this concludes my prepared testimony. I would be happy to answer any questions you or your committee may have.

PROPOSED AMENDMENT

On p. 2, line 3, after "interest." insert "In acquiring lands or interests therein, the Federal Government shall employ easements, donations, and other alternatives to fee title when appropriate."

On p. 2, line 9, after "interest." insert "In acquiring lands or interests therein, the Federal Government shall employ easements, donations, and other alternatives to fee title when appropriate."

On p. 2, line 17, after "interest" insert ". In acquiring lands or interests therein, the Federal Government shall employ easements, donations, and other alternatives to fee title when appropriate."

PREPARED STATEMENT OF D. THOMAS ROSS, ASSISTANT DIRECTOR, RECREATION AND CONSERVATION, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, ON S. 634

Mr. Chairman, thank you for the opportunity to present the views of the Department of the Interior on S. 634, a bill to authorize the Secretary of the Interior to conduct a study on the Trail of the Ancients, along various scenic byways in the Four Corners area.

The Department does not support S. 634. The Trail of the Ancients appears to be a set of modern scenic byway and highway tour routes. The scenic byway is approximately 710 miles long and extends through the states of Utah, Colorado, Arizona, and New Mexico, known as the Four Corners Area. S. 634 would authorize a feasibility study to determine if the Trails of the Ancients meets the criteria to be designated as a national historic trail in the National Trail System. One of the criteria for designation as a national historic trail is that a trail ". . . must be a trail or route established by historic use and must be historically significant as a result of that use." The roads proposed for this trail are highways built by the States to connect the various sites, which would seem to preclude their designation as a national historic trail.

Additionally, The National Park Service is in various stages of progress with 37 studies previously authorized by Congress. Eight of those studies involve potential additions to the National Trails System. Our highest priority is to complete the studies previously authorized by Congress, and to only begin work on newly authorized studies when funds are available. If authorized, the study is estimated to cost approximately \$250,000. Given that the proposed area to be studied appears to be unlikely to meet the criteria for designation as a national historic trail, we believe our limited funds are best used to complete pending studies and other high-priority studies.

Mr. Chairman, this concludes my prepared testimony. I would be happy to answer any questions you or your committee may have.

PREPARED STATEMENT OF D. THOMAS ROSS, ASSISTANT DIRECTOR, RECREATION AND CONSERVATION, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, ON S. 635

Mr. Chairman, thank you for the opportunity to present the Department of the Interior's views on S. 635, which would amend the National Trails System Act to update the feasibility and suitability studies of the Oregon, California, Pony Express and Mormon Pioneer National Historic Trails (NHT).

S. 635 would update the feasibility and suitability studies and make recommendations through the examination of additional routes and cutoffs not included in the initial studies of all four trails. The Secretary of the Interior would determine if any of these routes and cutoffs are eligible as additions to the four NHTs at the completion of these studies and report back to the Congress.

The Department supports S. 635 with an amendment to the bill included at the end of this testimony. We suggest the bill be amended to make the deadline for completion and submission of the studies to Congress be three years after funds are made available for the studies.

The National Park Service is in various stages of progress on 37 studies previously authorized by Congress. Eight of those studies are being funded from the same appropriation that would be used for these updated trail studies. The Department's priority has been to complete the studies previously authorized by Congress, and to begin work on newly authorized studies as funding becomes available. We therefore suggest that the bill be amended to make the deadline for completion and submission of the studies to Congress be three years after funds are made available.

The feasibility study for the Oregon NHT was completed in 1977, the study for the Mormon Pioneer NHT in 1978, and the one for the California and Pony Express NHTs in 1987. Since those studies have been completed, additional routes and cutoffs were identified that may qualify as segments of these trails. The National Trails System Act does not provide the authority to evaluate and add any additional routes and cutoffs without certain legislative amendments.

The Oregon NHT, authorized in 1978, commemorates the "primary route" used by emigrants beginning in 1841 between Independence, Missouri and Oregon City, Oregon. Traveled by thousands, the trail contained routes and cutoffs used through the years. These secondary routes had substantial emigrant traffic over several decades that demonstrate historical significance and may be worthy of examination in an updated study.

The authorization of the Mormon NHT in 1978 commemorates the journey of the pioneer party in 1846-1847 from Nauvoo, Illinois, to Salt Lake City, Utah. As with the Oregon NHT, emigrant traffic occurred on many additional routes during the Mormon migration westward. As with the other trails, these routes frequently coincide with one another. Preliminary data indicate historic traffic along these routes.

Authorized in 1992, the California NHT commemorates the gold rush to the Sierra Nevada. Dozens of routes and cutoffs were traveled by thousands of pioneers, but no single route dominated.

The Pony Express NHT was included in the same authorizing legislation as the California NHT. It commemorates the efforts of this nation struggling to establish a system of communication across the Trans-Missouri west. The trail primarily follows routes beginning at St. Joseph, Missouri and ending in San Francisco, California. The firm of Russell, Majors, and Waddell, a western Missouri freighting company, established and operated the Pony Express for one and a half years before it fell on hard times and ceased to exist. A short section of the trail, from the Missouri River into Kansas, may be worthy of study and is included in S. 635.

All four trails overlap one another in many locations and several of the routes and cutoffs proposed for study in S. 635 are already part of designated trails. These shared routes are prominent where the trails depart from various points along the Missouri and Mississippi Rivers, particularly in the Kansas City, St. Joseph, Nebraska City, Council Bluffs and Omaha areas. Several other shared locations include routes in western Nebraska, Kansas, Colorado, Wyoming, Idaho, Nevada and California.

The National Trail System Act requires that studies of lands proposed for trails be made in consultation with federal, state, and local agencies, as well as nonprofit trail organizations. Between 1994 and 1999, the National Park Service in collaboration with the Bureau of Land Management, USDA Forest Service, trail advocacy groups and others completed the Comprehensive Management and Use Plan and Environmental Impact Statement (1999) for the four trails. This was the initial plan for the recently established California and Pony Express NHTs as well as revised plans for the earlier established Oregon and Mormon Pioneer NHTs. S. 635 would allow for the consideration of these additional alternates and cutoffs by authorizing an update of the original studies done for these four trails to evaluate which are eligible for designation as NHT segments. S. 635 maintains the requirements of the National Trail System Act to work closely with federal agencies, state, local and tribal governments, local landowners and other interested parties. We anticipate the cost of doing these studies to be approximately \$175,000.

The intent of the National Trails System Act is one of respecting private property rights. Given that historic trails cross public and private lands, the development of strong partnerships is critical to administering and managing the historic trails and achieving preservation of trail resources and interpretation of the trail to the public. The four national trails in this legislation demonstrate existing public and private partnerships.

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

AMENDMENT TO S. 635:

S. 635 is amended on page 2, line 24 by striking “the date of enactment of this section” and inserting “funds are made available”.

PREPARED STATEMENT OF D. THOMAS ROSS, ASSISTANT DIRECTOR, RECREATION AND CONSERVATION, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, ON S. 651

Mr. Chairman and members of the subcommittee, thank you for the opportunity to appear before you today to present the Department's views on S. 651, the National Trails System Willing Seller Act. S. 651 would amend the National Trails System Act to provide land acquisition authority from willing sellers, but specifically exclude the use of condemnation, for nine national scenic and national historic trails established between 1978 and 1986.

The Department supports the 23 long-distance trails, 15 national historic trails, 8 scenic trails, and 900 national recreation trails that make up the approximately 50,000 miles of trails in the National Trails System. National trails are a popular way of linking together thousands of significant historic sites and drawing attention to local cultural and natural resources. This network of trails has provided millions of visitors across the country with rewarding and enjoyable outdoor experiences. Thousands of volunteers each year work tirelessly to plan, promote, build, maintain and otherwise care for these trails.

Trails can provide an important opportunity to promote citizen involvement and bring together communities. It is this type of opportunity that is at the center of the Department's plan to implement a new environmentalism and what Secretary Norton has termed the “Four C's”—Communication, Consultation, and Cooperation, all in the service of Conservation. The focus of the Four C's is the belief that enduring conservation springs from partnerships involving the people who live on, work on, and love the land. One example of this vision is the Secretary's Cooperative Conservation Initiative (CCI), which builds on existing conservation partnership programs and provides new and expanded opportunities for landowners, land managers, and others to participate in projects that foster innovation and create incentives for stewardship.

Consistent with this vision, we have developed a set of principles that will serve as an important guide for all land transactions conducted by the Department. The principles include:

1. Integrity: Transactions shall meet the highest ethical standards and comply with all applicable laws, rules, regulations and codes of professional conduct.
2. Good Faith: Transactions shall occur in good faith and only with willing parties.
3. Transparency: Transactions shall be pursued transparently with appropriate opportunities for public participation.
4. Mission: Transactions shall promote fulfillment of Departmental and Bureau missions.
5. Citizen Stewardship: Transactions shall be consistent with the promotion of private stewardship.
6. Innovation: Transactions shall employ easements, donations and other alternatives to fee title when appropriate.
7. Congressional Direction: The Department shall provide technical assistance and policy recommendations to Congress, when requested, and in a manner consistent with these principles.

Within this framework, the Department recognizes the positive role the Federal government could play in the protection of these trails with the authority provided under S. 651. For example, landowners wishing to donate land cannot do so under current law because the prohibition on using funds to acquire lands has meant that activities required for a donation to occur, such as land protection plans or pre-acquisition services (surveys, tract maps, inventories, priority lists), also cannot be funded. The current prohibition also applies to the acquisition of interest in lands, and thus, the Federal government cannot purchase easements from interested landowners. It is paramount that we work closely with private landowners, the community, private volunteer groups, and State and local governments to discover creative solutions for trail protection that may not result in fee simple acquisition. To ensure that such alternative solutions are fully explored, we have provided a proposed amendment at the end of this testimony.

In addition to the considerations in our proposed amendment, we understand that several additional steps would have to occur before purchase of a trail segment from

a willing seller occurs including: developing a land protection plan; undergoing a public review process; and requesting, obtaining and prioritizing appropriate funding.

The National Trails System Act was initially developed by Congress principally to offer Federal assistance and support for protecting the land base of the Appalachian National Scenic Trail. When the act was passed in 1968, both the previously existing Appalachian and Pacific Crest National Scenic Trails were established as the two initial components of the National Trails System and 14 more trails were proposed for study as potential additions to the National Trail System. The core authorities of the act addressed how to establish nationally significant trails.

In 1978, the national historic trails category was added to the National Trails System accompanied by authorization of four historic trails (Oregon, Mormon Pioneer, Lewis and Clark, and Iditarod). National historic trails were seen as primarily commemorative with only limited need for acquisition authority. Amendments added to the National Trails System Act prohibited expenditures by Federal agencies to acquire lands or interests in lands for these trails outside of existing Federal areas. Amendments added in 1980 and 1983 made this prohibition applicable to the Continental Divide National Scenic Trail, as well as to the North Country, Ice Age, and Potomac Heritage National Scenic Trails. This means the generic land acquisition authorities provided in Section 7 of the National Trails System Act cannot be used on any of these scenic and historic trails.

Since 1983, most of the trails established under the National Trails System Act have had language similar to the following sentence: "No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the United States for the Pony Express National Historic Trail except with the consent of the owner thereof." This "willing seller authority" falls somewhere between the full land acquisition authority used to protect the Appalachian and Pacific Crest National Scenic Trails and the ban on Federal funding for acquiring segments that fall outside of national parks and forests on the nine trails included in this bill.

From its beginning, the National Trails System was premised on the establishment, operation, and maintenance of national trails as collaborative partnership efforts. For land protection, specifically, state governments and nonprofit partners are encouraged to protect what they can of the national trails, with the Federal government embarking on land acquisition only as a last resort. For example, in Wisconsin, an arrangement was set up for the Ice Age National Scenic Trail under which the State of Wisconsin took the lead in acquiring trail lands, with support from the Ice Age Park and Trail Foundation and coordination by the National Park Service. Further, trail nonprofit partners have been encouraged to develop land trusts to acquire critical lands. This bill is supported by a broad coalition of trail organizations across America.

Along historic trails, the major means of protecting the trail corridor has been through a voluntary certification process. These five-year renewable agreements between the Federal trail agency and the landowner have enabled trail sites and segments to remain in private ownership and still receive Federal government recognition as part of a national trail. The advantages to certification are that it is less costly for the government and the land remains in private (or State) ownership, continuing to generate taxes.

It would be impossible to estimate funding requirements associated with this bill at this time, as the number of willing sellers is unknown, whether donation, easements, or fee simple acquisition would be employed is unknown, and the cost of the land segments for each trail would vary due to geographic location and the long time span over which the acquisition work would take place. The Administration will identify the costs for each trail on a case-by-case basis.

By bringing the land acquisition authority on these nine trails in line with those in the majority of national scenic and national historic trails in the National Trail System, S. 651 would allow the Federal government to assist in the protection of these trails, through donation, easements, and, as a last resort, fee simple acquisition from landowners actively interested in selling land for trail protection.

Mr. Chairman, this concludes my prepared testimony. I would be happy to answer any questions you or your committee may have.

PROPOSED AMENDMENT

On p. 4, line 3, after "thereof." insert "In acquiring lands or interests therein, the Federal Government shall employ easements, donations, and other alternatives to fee title when appropriate."

On p. 4, line 10, after "thereof." insert "In acquiring lands or interests therein, the Federal Government shall employ easements, donations, and other alternatives to fee title when appropriate."

On p. 4, line 17, after "thereof." insert "In acquiring lands or interests therein, the Federal Government shall employ easements, donations, and other alternatives to fee title when appropriate."

On p. 4, line 24, after "thereof." insert "In acquiring lands or interests therein, the Federal Government shall employ easements, donations, and other alternatives to fee title when appropriate."

On p. 5, line 7, after "thereof." insert "In acquiring lands or interests therein, the Federal Government shall employ easements, donations, and other alternatives to fee title when appropriate."

On p. 5, line 14, after "thereof." insert "In acquiring lands or interests therein, the Federal Government shall employ easements, donations, and other alternatives to fee title when appropriate."

On p. 5, line 21, after "thereof." insert "In acquiring lands or interests therein, the Federal Government shall employ easements, donations, and other alternatives to fee title when appropriate."

On p. 6, line 2, after "thereof." insert "In acquiring lands or interests therein, the Federal Government shall employ easements, donations, and other alternatives to fee title when appropriate."

On p. 6, line 7, after "thereof." insert "In acquiring lands or interests therein, the Federal Government shall employ easements, donations, and other alternatives to fee title when appropriate."

Senator THOMAS. All right, sir, thank you. Mr. Bennett, do you have a statement you care to make?

Mr. BENNETT. I do not. I defer to Mr. Ross.

Senator THOMAS. Okay. Let me ask of this of both of you, I guess. How do you go about, what are your standards, what are your bases for identifying potential land for the National Trails System?

Mr. ROSS.

Mr. ROSS. Thank you, Mr. Chairman. We have at this point only developed standards for identifying segments of land for the Appalachian National Scenic Trail. That is the only trail currently that has a land protection plan. The other trails have identified in their comprehensive plans areas where the corridor would generally go through, but it has not identified particular parcels of land at this point because there have not been land protection plans developed for those trails.

Senator THOMAS. I guess my question was more, before it receives a designation as a national trail, part of the National Trails System, is there any sort of condition or criteria?

Mr. ROSS. Yes, sir. The National Trails System Act does have specific criteria for creating a national scenic or national historic trail. Those can only be designated by an act of Congress. We have at this point 23 national scenic and historic trails that have done so by Congress, but we do not, only through a planning study to be authorized by Congress or by an actual designation, do we then begin to identify where the corridor might be.

Senator THOMAS. Mr. Bennett, how is this handled in the Bureau of Land Management?

Mr. BENNETT. It is virtually the same system. In fact, the process is the same. The authorization would occur, the plan would be developed, and in essence following that plan, attempts would be made to locate the trails specifically and then to plan for the management of the trail. It is virtually the same with the Bureau and, in fact, the Park Service is normally the lead in this initiative.

Senator THOMAS. Has every trail that the Congress has approved to be a part of this had a study?

Mr. ROSS. I believe there have been only several trails that have not actually been preceded by a study. I believe that is the case in the Ice Age National Scenic Trail, I believe, if I may check with our staff here to identify whether they have.

Appalachian and Pacific Crest trails were done without a study when the National Trails System Act was authorized. So the three trails that have not been preceded by a study would be the Appalachian Trail, Pacific Crest, and the Ice Age National Scenic Trail.

Senator THOMAS. It seems like, and maybe I am mistaken, but it seems like Congress has authorized some trails here without study being required. In fact, just recently in our bill not too long ago, we required studies before park designations could be made, and I am not sure that has been the case in the trails. Do you think it has?

Mr. ROSS. All the remaining trails have been preceded by a study to determine whether or not the trail meets the criteria for the significance of a national trail. So I believe it is only those three, and again, I believe, Senator, that the reason was when the National Trails System was authorized in 1968, it was seen as a mechanism to protect the Appalachian Trail, which was sort of the guiding force behind that act.

Certainly our position is that we would recommend that a study precede any sort of actual designation by Congress.

Senator THOMAS. I would agree with that, but I am not sure that is necessarily the case now. I guess I am asking if that needs to be strengthened so that we ensure that that does, in fact, happen.

Mr. ROSS. Well again, with the exception of the Ice Age Trail, all these remaining trails, and the Appalachian and Pacific Crest, all the remaining trails have been preceded by a study prior to being designated.

Senator THOMAS. The Oregon Trail, all those trails, all 200 of them that go across Wyoming?

[Laughter.]

Mr. ROSS. Yes, sir. There have been numerous trails that have been studied.

Senator THOMAS. Mr. Bennett, is this the way you function in BLM as well?

Mr. BENNETT. In fact, for the most part, the trails are, in fact, identified by Congress, and we do precisely the same thing. We do not actually, or we have not to my knowledge done a lot of acquiring additional lands for trails. In fact, what we have done is basically managed those trails that are on public lands specifically.

But I would like to point out, I think the intent here is not to acquire lengths of trail but actually those things that are historically significant along the trail, rather than—what we really want to do is, I think, identify those things that have value, significant value to the trail, and I think priority-wise, those kinds of things would be targeted. That is from my perspective.

Senator THOMAS. I guess I am not sure how this works. Have you ever had a study and said no, that does not qualify?

Mr. ROSS. Yes, sir. There have been a number of studies that have been authorized, we have gone through the process, we have

looked at the suitability and feasibility in accordance with the National Trails System guidelines, and we have recommended that they not be designated as a national historical or national scenic trail. I would be pleased to provide those for the record.

Senator THOMAS. I wish you would, please.

Who then, what agency then has the responsibility for continuing to maintain and work with this trail that has been designated as a national trail, part of the National Trails System?

Mr. ROSS. The trails are assigned to an agency for administration. However, because of the interagency relationships that occur, there is a great deal of cooperation and collaboration between the agencies. For example, the Lewis and Clark National Historic Trail is assigned to the National Park Service for management. However, it is an interagency endeavor which involves the Bureau of Land Management, since much of the trail crosses BLM lands. There are Forest Service lands, there are local lands. So what we envision in our management of these resources from a National Park Service perspective is a very cooperative relationship, a very limited Federal role that works cooperatively with Federal, other Federal agencies, other State agencies, local agencies in protecting the trail and its resources.

Senator THOMAS. I asked one of the Senators about the continuity of the trails, Mr. Bennett. When a trail is designated and lands are maybe, some effort to acquire lands and so on, do they go from the beginning in history to California without—is the whole thing designated?

Mr. BENNETT. I am not sure of the specifics of that. However, you know, what we try to focus on as I said earlier, is those things that are historically significant. Clearly in some areas the trail has been obviated or it has been removed, and we attempt to focus and try to protect those portions of the trails, of the trails that we manage in Wyoming at least, we try to focus on those things that are there and still for the enjoyment of the people.

In some cases because of the mixture of ownership as well as activities that have occurred along the trail, the level of protection clearly has declined, and there are some areas that are pristine. Again, what we are trying to do is focus on those portions of the trail that are on public lands, and those portions of the trail that might be on private land, those activities are at the discretion of a private individual. I do not know if that answers your question or not.

Senator THOMAS. Well, I think so. I mean, you go across 500 miles of trails and there are segments that are particularly notable and there are segments that either have now been developed or are quite different, and so I just wondered how you deal with that change. Yes, sir?

Mr. ROSS. Senator, if I may respond to that question as well, I think that the continuous route or continuous linkage comes directly from the National Trails System Act related to the national scenic trails. The intent was, we believe that the scenic trails would be a continuous route so that participants could, or users could use that from one end to the other.

National historic trails, which were added later to the National Trails System Act are different in that they may be a series of

interrelated kinds of resources that may not be a physical connection. It is much more in the way of linking important areas or sites and helping to protect those sites rather than a continuous route, as national scenic trails. I hope that clarifies that.

Senator THOMAS. What would be the status for example of the North Country Trail, the 3,200 miles of it?

Mr. ROSS. The intent, again, is for that to be a continuous route. The early efforts have been, because the efforts have been focused on acquiring segments or certifying segments that are already in public ownership, Forest Service areas, Park Service areas, other State or local lands that are already in public ownership that can be identified for the trail. The large unprotected areas are primarily in private ownership at this point.

Senator THOMAS. Well, is it contiguous?

Mr. ROSS. No, sir, it is not at this point.

Senator THOMAS. But is that—

Mr. ROSS. The intent is to have a continuous route, yes, sir.

Senator THOMAS. And your view of that, does it make sense?

Mr. ROSS. Yes, it does. Again, with the National Trails System Act, the planning process is in place, and the objective is to complete that at some point so there can be a continuous route.

Senator THOMAS. Has the Park Service condemned lands for additional trails systems?

Mr. ROSS. The only authority that exists for the National Trails System is for the Appalachian Trail, and condemnation authority has been used in limited cases on the Appalachian Trail, either friendly condemnation to quiet a title or in those areas where an agreement could not be reached.

Senator THOMAS. What do both of you, in fairly brief comment if you would, what do you think needs to be done to strengthen our efforts in the trail program for the future? And again, the Park Service is always concerned that they have more to do than they can handle, and then at the same time you have heritage areas and trail areas that seem to be just going and going and going. What would you do about the program, anything different?

Mr. ROSS. That is a hard question for me to answer, Senator. I think that the legislation that we have testified on today would go a long way toward helping provide authorities to those trails to acquire land through willing seller and other kinds of authorities. Beyond that, I am not in a position to offer any suggestions at this point.

Senator THOMAS. So you do not have any concern about how many trails we will have, what kinds of trails, what is the requirement for trails and all that sort of thing? You have not turned down many trails. I know you are going to give us some information on that, but I think that is a fact.

Mr. ROSS. Well, we have not turned down any trails that have been authorized by Congress, I believe.

Senator THOMAS. Why do you have a study then? Why do we not just authorize it by the Congress. If your study does not show anything different than authorization, why do you bother?

Mr. ROSS. Our studies have clearly shown a number of trails that we do not feel meet the criteria for either national scenic or national historic trails.

Senator THOMAS. I would like to see a list of those that you have you have studied and have not gone forward with.

Mr. ROSS. I would be glad to provide that for the record, Senator.

Senator THOMAS. Mr. Bennett.

Mr. BENNETT. I think from our perspective, and again, my emphasis is really on the operations or management of trails, but my sense is that at least the Bureau needs to look at the trails that have been established and look at the consistency and uniformity of management across the public lands, so that both the citizens as well as industry and those folks that use the public lands understand that you know, the rules that we have with regard to the trail and the kinds of things we need to do to protect the trails, that those are commonly understood. I think that will be very beneficial.

I think the bill for the most part, we feel that under FLPMA, that we have the authority to acquire land for the trail. However, I think proposed legislation would clearly validate that, you know, if there was any question about it. So to that extent, I believe we would support that as well.

I think our real issue, though, is the actual management of the trail and making sure that both those people that enjoy the trail, that use the trail, understand it. And quite frankly, the trails get a tremendous amount of use in Wyoming from visitors, and we do need to identify those portions of the trail that need to be protected. In some cases they are being used to the extent that some damage is occurring, and we need to identify those areas and plot more intensive management.

Senator THOMAS. One final question. As you lay these out and particularly in the acquisition of other lands, how do you see the corridor? We have had propositions in Wyoming up to 15 miles on each side for the visual aspects of it. We have had some that are much more narrow. Do you have a view about the width of the corridor that would be dedicated to the trail?

Mr. ROSS. Senator, that is going to vary from trail to trail, depending upon the needs of that trail and the trail use. I think the Appalachian Trail is the only one with an established corridor at this point, and that is 1,000 feet in width. But essentially, the need exists for a sufficient corridor to allow for the kind of use that would occur on that trail consistent with the management plan that established that.

Senator THOMAS. The visual is usually the controversial part.

Mr. ROSS. Yes, it is.

Senator THOMAS. What do you do with that?

Mr. ROSS. Well, we will be seeking to deal with the visual impact of what kind of environment the trail user is associated with. We believe that as in the case of many of the trails, there are local groups, local agencies, local land trusts, the trail organizations that work very hard and cooperatively with adjacent landowners and others in the area to work toward assuring that the visual sense of that trail is maintained as much as possible.

Senator THOMAS. Really? Okay.

Mr. Bennett.

Mr. BENNETT. As a corridor, our current policy is trying to restrict the disturbance along the trail within a quarter mile. How-

ever, personally, I am not sure that that is not somewhat arbitrary because again, there are portions of the trail that because of the ownership pattern and because of development, you know, that management is somewhat arbitrary and I think that activities can occur even within that. However, we are charged with protecting the context of the trail.

I would hate to see a corridor established and set in stone. I think what we need to be able to do is to look at the impacts of what occur along the trail and then work with the applicant or the industry or whoever, to try to either mask those or to camouflage, to use the term, or to reduce those impacts. In other words, I would hate to have something arbitrary. I think the best thing for us would be able to work with the applicant. We have always had a great deal of good luck with industry in Wyoming, they are very cooperative in terms of what it takes to try and reduce the impact.

So I guess, you know, if we can locate the route, personally I think the best thing is to be able to recognize that we have to protect those trails and then work, try to find the yes answer rather than a no answer. And again, I would hate to see an arbitrary corridor established.

Senator THOMAS. Gentlemen, thank you. I just would urge that in your agencies that you give a little thought, perhaps a little more thought to where you see us in 10 years or 20 years down the road, and pursue what we are doing now, what would be the impact 20 years now, or better yet, have a vision of where we want to be 20 years from now so that the decisions that we make in the interim will lead us to that point. I just have a sense that we are properly wanting to protect historic places and historic things, but I do not think you have any vision particularly of how that is going to look when we get down the road. And I would hope that we could do that, and we would like very much to share with you any thoughts that you have in that regard. Thank you very much, I appreciate it.

Let us do our second panel now. Mr. Gary Werner, executive director of Partnership for the National Trails System, Madison, Wisconsin; Mr. Dave Cioffi, landowner from Etna, New Hampshire; and Ms. Dru Bower, vice president, Petroleum Association of Wyoming.

Unless there is any objection, why do we not just go as we are listed here. Mr. Werner, if you would go first.

STATEMENT OF GARY WERNER, EXECUTIVE DIRECTOR, PARTNERSHIP FOR THE NATIONAL TRAILS SYSTEM, MADISON, WI

Mr. WERNER. Good morning, Senator. Thank you for the opportunity to testify this morning. I am the executive director of the Partnership for the National Trails System, which is a federation of 24 nonprofit organizations that work in partnership with the Federal agencies to sustain the three national scenic and historic trails.

I want to note in the context of many of your questions and concerns, that the National Trails System is, I will not say it is unique, but it is certainly very unusual as a Federal program, because it is conceived as a public-private partnership and we take great pride as private citizens in the role that we play to help sup-

port these public resources. For instance, in 2002, the more than 70,000 members of our organizations contributed over 660,000 hours of labor to support the trails that was valued at about \$10.5 million, and we made about \$7 million of financial contributions beyond that.

So that each of these trails is made on a whole series of partnerships like this, with various levels of government and private entities, and that comes into play in the land acquisition as well as the day-to-day management of the trails. The Partnership supports very strongly the two willing seller bills and S. 624, the Historic Trails Feasibility Studies Bill.

While we support both of the willing seller bills, we definitely prefer S. 651, which includes all of the nine trails for which that authority is currently lacking. We think it is fitting, we think it is only right that those nine trails be given the same authority that the other trails in the National Trails System have been given, particularly the trails, the nine trails that have been authorized since then, including the Old Spanish Trail last November, with exactly the authority that is included in S. 651, the authority to purchase land by Federal agencies only from willing sellers.

It is important for these trails. It is ironic that two of the trails that cross your State, the Oregon and Mormon Pioneer Trails follow the same route as the California and Pony Express trails, and those two other trails, California and Pony Express, the Federal agencies can buy land from willing sellers, but they cannot buy land for the Oregon or the Mormon Pioneer Trails. This is an inconsistency on the Trails Act, as I think both Senator Allard and Senator Levin mentioned, that we think is important to redress.

We also believe, as Senator Levin mentioned, that this is, in fact, a restoration of private property rights and I think that is important. Willing sellers do abound out there on these trails. The State of Wisconsin, where I am from, the State of Wisconsin Department of Natural Resources and some of the local county parks departments have been buying land for the Ice Age Trail from willing sellers for a number of years, and, in fact, closed on another parcel just last week. And so I know that the sellers are there, I know the need is there, particularly for the trails that are meant to be continuous foot paths, the scenic trails. There are critical sites to the historic trails that need protection as well.

In terms of the questions you mentioned about the planning for the trails, in terms of the historic trails, section 7.A of the National Trails System Act specifically restricts any land acquisition to what are called high potential sites and segments. Those are those places you were asking about where the significance of the historical features are the greatest. These are the maps from the comprehensive management plan for the Oregon National Historic Trail through Wyoming, and it is showing the places in Wyoming that are those sites. I think there are about 12 on private land in Wyoming that would be affected by S. 651.

In terms of corridor for, again, the Ice Age Trail, we do have plans that have been done on a county-by-county basis that identify specific, what they call a corridor of opportunity to buy potential land from landowners. That corridor is usually a mile to two miles wide, several ownerships in width, so there is an opportunity to

work with whatever landowner may want to sell land for the trail. The actual land that has been acquired for the trail is much less than what is in the corridor.

And I have a map here that shows a section of the Ice Age Trail near Madison where I live, and you see in green what has actually been acquired within a broader band of white corridor.

As I mentioned also in Wyoming, I think with the Continental Divide Trail, 95 percent of the trail is on public land already. There is one stretch through the Checkerboard area that is on private land. The landowner is I believe willing to sell an easement, a narrow easement about 100 feet wide, to the Bureau of Land Management, and that would complete the Continental Divide Trail in Wyoming.

We support also very strongly Senator Hatch's bill, the Historic Trails Feasibility Study Bill, and that is the kind of study we understand that you were asking about and is required under the National Trails System Act, and has actually very stringent requirements in the act for those bills, or trails to come forward.

The important thing about that, as he mentioned, is that research has indicated more routes and cutoffs, has indicated that some of the routes were used by multiple people on different trails for different purposes, and they are not recognized in the initial legislation. So we feel it is very important that you provide the authority to the Park Service to restudy these trails, and then you have the opportunity to either accept whatever recommendations they may make or reject those, as designating them as parts of the trail.

I would like to briefly close by mentioning—you have asked a couple times about sort of the impact of the trails on adjacent lands and things like that. There are authorities in the act that require the managing agencies to provide right-of-way and access across the trail for adjacent landowners. And I know of several cases in Wyoming where natural gas pipelines, where stock fences, where roads, things like that, and they cut across the Continental Divide Trail, and those have been worked out amicably.

I also note in terms of the effect on adjacent lands, in Wisconsin we found that the parcels that had been purchased for the Ice Age Trail, that typically land adjoining those purchased for that amenity go up in value by anywhere from 10 to 20 percent because of the public amenity that is created by protecting that piece of the trail.

Tourism has become important in all these States. I know your State is a major tourism State, Wisconsin is also, and people are more and more flocking to the historic and cultural and recreational values of the trails.

So, we urge you to go ahead with these bills. We would prefer S. 651, as I said, to S. 324, and hope that you will expedite the process. We thank you very much for your interest, and of course I would be happy to answer questions.

[The prepared statement of Mr. Werner follows:]

PREPARED STATEMENT OF GARY WERNER, EXECUTIVE DIRECTOR, PARTNERSHIP
FOR THE NATIONAL TRAILS SYSTEM, MADISON, WI

The Partnership for the National Trails System strongly supports both Senate Bill 324 introduced by Senator Levin and Senate Bill 651, the "National Trails System

Willing Seller Act,” introduced by Senator Allard. Senate Bill 324 is identical to legislation passed by the Senate by unanimous consent near the end of the 107th Congress. Senate Bill 324 provides authority to Federal agencies to purchase land and interests in land from willing sellers to help preserve permanent, continuous rights-of-way for the Ice Age, North Country, and Potomac Heritage National Scenic Trails, components of the National Trails System authorized by Congress 20 or more years ago.

Senate Bill 651 provides authority to Federal agencies to purchase land and interests in land from willing sellers for all nine trails for which Federal agencies currently are prohibited from buying land: the Oregon, Mormon Pioneer, Lewis and Clark, Iditarod and Nez Perce National Historic Trails and the Continental Divide, Ice Age, North Country and Potomac Heritage National Scenic Trails. Although the Partnership supports both bills, we prefer S. 651 because it provides necessary land acquisition authority for all nine trails and restores consistency of authority to the National Trails System Act. The Partnership urges you to promptly recommend S. 651 for passage by the Senate.

The Partnership for the National Trails System is a federation of 24 citizen organizations with 70,000 members that directly support and help manage national scenic and historic trails in partnership with the National Park Service, USDA Forest Service, and the Bureau of Land Management.

S. 651 and S. 324 are important remedial bills that correct a gross disparity and inconsistency in the National Trails System Act. While Congress created the Act in 1968 to foster and sustain a nationwide system of trails with a full array of authority necessary for Federal agencies to administer them, nine scenic or historic trails have been authorized without any Federal land acquisition authority. Federal administering agencies lack the fundamental and often essential means for protecting the integrity of the resources and the continuity of the footpaths for more than one third of the National Trails System, while Congress has provided those agencies with such willing seller or greater land acquisition authority for the rest of the System, including the Old Spanish National Historic Trail authorized in 2002.

This inconsistency of land acquisition authority severely hampers appropriate administration of more than one third of the National Trails System. Perhaps the most striking example of this inconsistency and disparity is the four national historic trails administered by the National Park Service in Salt Lake City, Utah. Currently the Park Service has authority to buy land from willing sellers along the California and Pony Express National Historic Trails, but is prohibited from doing so along the Oregon and Mormon Pioneer National Historic Trails.

This inconsistency seems highly ironic since the four trails share the same route across most of Nebraska, Wyoming and Utah. If a landowner offers to sell land to the Federal government containing historic traces of these four trails it is unclear what authority the Park Service has to act upon. With authority to buy land for two of the trails but not for the other two, would the conflicting authorities cancel each other or would the land be able to be purchased for the two trails and the other two left unrecognized on the site? Perhaps this is an odd situation, but it illustrates a peculiar and frustrating inconsistency in the Trails Act with important consequences for the day to day management and protection of these trails.

S. 324 begins to restore consistency and parity to the National Trails System Act by providing willing seller authority for three of the nine scenic and historic trails for which land acquisition authority is lacking so that Federal agencies will be able to help protect their continuity and critical natural and cultural resources along them. While S. 324 provides essential authority to help complete three of the national scenic trails, to restore consistency and parity to the National Trails System Act it is critical that willing seller land acquisition authority be provided for all nine trails for which Federal agencies currently are prohibited from buying land.

S. 651 does just that. This bill provides willing seller land acquisition authority for the Oregon, Mormon Pioneer, Lewis and Clark, Iditarod and Nez Perce National Historic Trails and the Continental Divide, Ice Age, North Country and Potomac Heritage National Scenic Trails.

There is real need for Federal agencies to be able to help protect the resources and continuity of these trails by acquiring land from willing sellers. Of the three trails in the eastern half of the country affected by S. 324, the Ice Age, North Country and Potomac Heritage Trails, which lie primarily across private land, slightly more than one third, about 2421 miles, of their projected 6115 mile length is permanently protected for public use. The other national scenic trail without Federal land acquisition authority, the Continental Divide Trail, mostly crosses public land and is nearly complete. Only about 113 miles of right-of-way for the Continental Divide Trail remain to be acquired. In total these four national scenic trails are projected to be more than 9300 miles long when completed, yet 20 years after their authoriza-

tion only about 5500 miles, slightly more than half their length, are permanently protected for public benefit. Without the ability for Federal agencies to purchase permanent rights of way from willing sellers it is unlikely that these trails will ever be the continuous pathways intended by Congress.

The degree of protection of the five national historic trails without Federal land acquisition authority is comparable to the condition of the four national scenic trails. Only 194 of the 730 significant sites and segments documented to date along the Oregon, Mormon Pioneer, Lewis and Clark, Nez Perce and Iditarod National Historic Trails are permanently protected. This amounts to only 26% of the recognized places along these trails that can provide visitors first hand experience of where important events of our Nation's history occurred. The attached table documents the degree of protection of the resources and rights of way for each of the nine trails without Federal land acquisition authority.

Without the ability for Federal agencies to acquire sites and segments along these nine trails from willing sellers, irreplaceable resources and experiences of our Nation's heritage will be lost forever. An example of this loss occurred recently on the Ice Age National Scenic Trail in Dane County, Wisconsin. Several properties in the Towns of Middleton and Verona, totaling about two miles of trail in a rapidly urbanizing area, were put up for sale over the past several years. Their purchase for the Ice Age Trail would have protected a nationally significant portion of the terminal moraine of the most recent continental glaciation, providing a stunning opportunity for the public to appreciate and enjoy the contrast of two startlingly dissimilar landscapes. Lacking buyers able to purchase and protect these properties they were subdivided for rural residential development. Local government zoning authority was used to preserve a narrow corridor for the Ice Age Trail to weave among the luxury homes.

The chance to permanently protect a critical link in the North Country National Scenic Trail in New York was lost in a similar manner. At the west end of Watkins Glen State Park, New York there is roughly a half mile of private woods, a thin strip along the creek that tumbles into the Glen previously belonging to an adjacent farm. To the west of the private strip is a long stretch of mostly state forest, protecting a days' worth of walking on the North Country Trail. The Department of Environmental Conservation (DEC) had been negotiating with the farmer over that strip along the creek for years, and he was willing to sell, but the DEC was waiting for funding. A willing seller who also seemed willing to wait held the property, which would consolidate many miles of North Country Trail and protect the border of a park potentially beleaguered by development along its edges.

However, the state waited too long. When they finally had the money to buy the land they found that he had sold out, unannounced, to a new party who, while he has not thrown out the trail, is not interested in selling to the state.

The willing seller land acquisition authority provided for the three trails included in S. 324 and subsequent appropriations from the Land & Water Conservation Fund will enable the Federal agencies administering them to respond to such conservation opportunities as they arise. Each year willing sellers offer for sale many parcels along critical segments of these trails.

The State of Wisconsin has been purchasing land from willing sellers to protect segments of the Ice Age and North Country Trails for the past ten years, matching Land & Water Conservation Fund money with Wisconsin Stewardship Fund money. Four fee title acquisitions, from 40 acres to 339 acres in size, have been completed by the State to protect segments of the North Country Trail over the past four years. The State also has acquired two easements for the trail.

The State of Wisconsin and several counties have spent more than \$10 million in purchasing land for the Ice Age Trail over the past decade. More than three dozen willing sellers have sold their parcels of land, ranging in size from 5 acres to 360 acres, for the Ice Age Trail. Negotiations are underway with more than a dozen additional willing sellers. State and county land agents have mostly been responding to landowners who have contacted them offering to sell their land. Dealing with these offers from willing sellers has left little time to contact others of the hundreds of landowners along the Ice Age Trail about their interest in selling land.

S. 651 and S. 324 provide the authority for Federal administering agencies to respond to these and similar opportunities provided by willing sellers to acquire land for recreation and education that will be appreciated for generations to come. Federal assistance will be a necessary complement to all the efforts of private organizations and state and local agencies to help protect the three national scenic trails aided by S. 324 and the nine national scenic and historic trails aided by S. 651.

Providing willing seller land acquisition authority for the six national scenic and historic trails in the West without it will have little potential impact on the amount of land owned by the Federal government. More than 95% of the Continental Divide

National Scenic Trail is already on public land. Federal land acquisition for the national historic trails is limited by Section 7(a)(2)(g) of the National Trails System Act to the identified “high potential sites and segments”: “For national historic trails, direct Federal acquisition for trail purposes shall be limited to those areas indicated by the study report or by the comprehensive plan as high potential route segments or high potential historic sites.” These “high potential sites and segments” are very specific, documented locations along these trails.

In Wyoming, for instance, which is crossed by four of these trails, the sites that could be acquired by the Federal government if Congress provides willing seller authority are limited to a few areas:

- Continental Divide National Scenic Trail: The route of this trail in Wyoming is on public land through Yellowstone National Park, several national forests, and Bureau of Land Management land except for a stretch of 20 miles or so in the “checkerboard area” north and south of Interstate 80 near Rawlins. This section of the Continental Divide Trail currently follows highways, but can be moved “off-road” by acquiring a right-of-way from the Union Pacific Railroad, which owns all the Sections of private land in the checkerboard between the Sections of public land administered by the Bureau of Land Management. According to BLM staff in Lander and Rawlins, representatives of the Union Pacific Railroad are willing to sell a 100-foot wide easement for the Continental Divide Trail across their land. Acquisition of a trail right-of-way via an easement will add no acres to the fee title holdings of the Federal government in Wyoming.
- The “Comprehensive Management and Use Plan for the Oregon, California, Mormon Pioneer and Pony Express National Historic Trails” identifies 37 “high potential sites” along the Oregon and Mormon Pioneer National Historic Trails in Wyoming. Of these sites, 12 are on private land. Although a precise survey of each site has not been made, National Park Service staff estimate that purchase of either fee title or a conservation easement to 1 to 10 or possibly 20 acres from willing sellers would be sufficient to protect the critical historic resources at each site. The other 25 “high potential sites” are on public land or a combination of public and private land.

Of the 6 “high potential segments” of the Oregon and Mormon Pioneer National Historic Trails identified in Wyoming, one 15 mile long segment is on private land. The other 5 segments, some 268 miles of the historic trails, cross a mixture of public and private land.

- Nez Perce National Historic Trail: Approximately 99% of the route of this trail in Wyoming is already on public land through Yellowstone National Park, Shoshone National Forest and State of Wyoming land. Of the 137 miles of the one “high potential segment” in Wyoming, 135 miles are on public land and 2 miles are on private land.

In summary, the main impact of willing seller land acquisition authority for these trails on Federal and private land ownership in Wyoming would be along the one section of the Continental Divide National Scenic Trail, one 15 mile long “high potential segment” and 12 “high potential sites” along the Oregon and Mormon Pioneer National Historic Trails and 2 miles of one “high potential segment” of the Nez Perce National Historic Trail.

The need and opportunity to use willing seller land acquisition authority will arise at different times for the various trails. For some, the authority may not be used for many years or only infrequently. For others the need for this authority is more acute and it is likely to be used as soon as Congress makes it available and to be used often. Although the National Park Service has had authority to buy land from willing sellers for more than a decade for the California and Pony Express National Historic Trails, no land has been purchased to protect sites along these trails. On the other hand, there is a very urgent need for the National Park Service to join State and local agencies and private land trusts in buying land to provide continuous rights-of-way for the Ice Age and North Country National Scenic Trails.

While the Partnership for the National Trails System is very grateful to Senator Levin for introducing S. 324 to provide willing seller authority for the Ice Age, North Country, and Potomac Heritage National Scenic Trails, we greatly prefer that Congress provide this essential authority for all nine national scenic and historic trails that lack it. Thus, we ask that you recommend S. 651 for passage to the Senate. If it is not possible for some reason to approve S. 651, we ask that you pass S. 324, as the Senate did in November of 2002, so that some significant progress can be made toward restoring parity and consistency within the National Trails System.

SENATE BILL 635—PIONEER NATIONAL HISTORIC TRAILS STUDIES ACT

The Partnership for the National Trails System strongly supports S. 635, The Pioneer National Historic Trails Studies Act, introduced by Senator Hatch, and requests that you request the Senate Energy and Natural Resources Committee to recommend adoption of S. 635 to the full Senate. This bill authorizes the National Park Service to update the Feasibility Studies for the Oregon, California, Mormon Pioneer and Pony Express National Historic Trails by examining additional routes and cutoffs of these trails for possible inclusion in the National Trails System. The bill also authorizes the Secretary of Interior, upon completion of those studies, to recommend to Congress which of those routes and cutoffs qualifies under the National Trails System Act for addition to the National Trails System. Congress would then decide whether to add the recommended routes and cut-offs to the National Trails System. An identical companion bill, H.R. 1051, has been introduced in the House of Representatives.

Considerable research, much of it done by volunteers of the Oregon-California Trails Association, Mormon Trails Association and National Pony Express Association, has documented important routes and cutoffs used by the 19th Century travelers of these trails that were not recognized in the original feasibility studies. Although those feasibility studies and the authorization as national historic trails by Congress based upon them recognized the main routes of the four trails, many of the "feeder trails" at the eastern ends and "dispersal routes" at the western ends of them were not recognized. To preserve to the fullest extent all the historic and cultural resources associated with these important routes of development of the United States and to present the richness of their stories as completely as possible, it is essential and right that the National Park Service should be authorized to evaluate all their routes and cutoffs for possible inclusion in the National Trails System.

Several important "main routes" were not included in the original feasibility studies. The Cherokee Trail, for instance, included in S. 635, was an important route used by Native Americans to travel from Indian Territory to the gold fields of California. To overlook this significant, but probably not widely appreciated, chapter of our history would be a very unfortunate oversight. Examination of the Cherokee Trail for possible national recognition will allow the opportunity for many more Americans to more fully understand the range of aspirations of some 19th Century Native Americans.

The understanding of our history and the diverse cultures it has produced is not static. Rather, like a living organism it is dynamic and grows with new discoveries and re-interpretations of previous information. As a Nation we are much richer and stronger because of such advances in the understanding of our history that enable us to more fully appreciate both the contributions of the many peoples and cultures that have inhabited our land before us and the injustices brought upon them through ignorance, prejudice and greed.

Our National Trails System should be in the forefront of recognizing the full stories of our past, as we are best able to understand them and to preserve the physical reminders of those stories to the fullest extent possible.

S. 635 and H.R. 1051 provide the opportunity to update the Feasibility Studies for these four trails to reflect significant new research since the original studies were completed. The bills are a necessary opportunity to assure that significant components of our history are recognized and preserved to enrich our understanding of our past and to provide the opportunity for future generations to do so, too.

The Partnership urges you to recommend adoption of S. 635 to your colleagues on the Energy and Natural Resources Committee and to the full Senate.

The Partnership for the National Trails System appreciates the prompt consideration you have given to S. 324, S. 651 and S. 635 and the opportunity to provide these comments in support of them for the hearing record. We urge you to promptly recommend passage of this legislation important for restoring consistency to the National Trails System Act and for authorizing a study of the feasibility of adding important components to existing national historic trails.

STATUS OF NINE NATIONAL SCENIC AND HISTORIC TRAILS WITHOUT
FEDERAL LAND ACQUISITION AUTHORITY

National scenic trail	Projected length	Protected length	Unprotected length
Continental Divide Trail	3,200 miles	3,087 miles	113 miles
Ice Age Trail	1,200 miles	405 miles	795 miles
North Country Trail	4,200 miles	1,551 miles	2,649 miles
Potomac Heritage Trail	715 miles	465 miles	250 miles
Total	9,315 miles	5,508 miles	3,807 miles

National historic trail	No. significant sites/segments	Protected sites/ segments	Unprotected sites/ segments
Iditarod Trail	approx. 75	11	approx. 64
Lewis & Clark Trail	approx. 270	123	approx. 147
Mormon Pioneer Trail	88	6	82
Nez Perce Trail	80	40	40
Oregon Trail	217	14	203
Total	730	194	536

The figures given are the most accurate available; however they are approximate for all of these trails. Improvements in mapping techniques and historic research are increasing understanding of the full nature of these trails and the resources upon which they are based.

S. 324 provides "Willing Seller" land acquisition authority to Federal agencies for three of these nine trails: Ice Age, North Country and Potomac Heritage National Scenic Trails.

S. 651 provides "Willing Seller" land acquisition authority to Federal agencies for all of these nine trails. May 1, 2003

Senator THOMAS. Very good, thank you.

Ms. Bower, you are on my list second here.

**STATEMENT OF DRU BOWER, VICE PRESIDENT, PETROLEUM
ASSOCIATION OF WYOMING, CASPER, WY**

Ms. BOWER. That is just fine, wherever you want to put me. Thank you for having me here today. I am the vice president for the Petroleum Association of Wyoming, specializing in public land issues. I also represent several agricultural and oil and gas associations doing business in the State of Wyoming.

Wyoming has the most miles of historic trails of any State in the West. What I like to say is that everybody came to Wyoming, but nobody wanted to stay.

[Laughter.]

Senator, you know that is true.

Former President Clinton signed an executive order, Trails for America in the 21st century, which was signed January 18, 2001. It outlined the directives to protect trail corridors and ensure that values for each trail were established and remained intact. In May 2001, Wyoming BLM announced its intent to implement interim guidance for managing surface-disturbing activities in the vicinity of national historic trails, to expand protection of viewsheds associated with congressionally designated trails. The four congressionally designated trails that would have been most affected by these new guidelines, and placed the largest burdens on private enter-

prise, were the Oregon, California, Mormon Pioneer, and Pony Express trails.

Currently in Wyoming, the controlled surface use stipulation contained in the existing BLM resource management plan for protection of congressionally designated historic trails mandates that the area within a quarter mile or the visual horizon, whichever is less, is to be an avoidance area for surface-disturbing activities. Wyoming BLM's May 21, 2001 interim guidance document arbitrarily extended the surface-disturbing avoidance area beyond the current quarter mile restriction contained in the existing resource management plan to as far as five miles on either side of a congressionally designated trail.

This proposed policy change would have imposed an extreme adverse effect on agriculture, the development of oil and gas, and private property rights. This Wyoming BLM interim guidance was eventually withdrawn. However, that interim guidance, if indicative of the direction BLM intends to take, clearly demonstrates why private landowners, agriculture and other business interests in Wyoming were and remain very concerned regarding the congressional designation and protection of historic trails.

The agency is currently developing a trail management plan for the congressionally designated trails which will be subject to public review and eventually amended to a resource management plan. There are two separate issues that we are faced with in managing for trails and trail viewsheds. The first being the protection of the actual trail, which there is a current quarter mile stipulation or visual horizon, whichever is less. The second issue is the protection of viewshed or visual resource management stipulation, which is extremely subjective as you alluded to earlier, Senator.

Currently, there are no permit requirements to use or access the trails, and in most areas, there is no off-road vehicle restriction. Therefore, the general public can access the trails for recreation, hunting, off-road vehicle use, without any enforcement from the agency. On the other hand, the agencies want to restrict and protect access to trails and trail viewsheds from agricultural and oil and gas development. This presents a situation where the agency can manage only those entities that they can control, which are permitted uses. This philosophy seems to be unbalanced.

For decades, ranchers have used these trails for the purposes of moving cattle and sheep to provide good land stewardship and prevent overgrazing. In some instances it is because of this activity that the trail segment still exists today. Agencies should look closely to make sure that in its rush to preserve history, it does not actually facilitate the demise of many portions of the trail system, leaving nothing more than a written memory.

Even more troublesome than the potential expansion of viewshed protection is the agencies' current practice of applying the same criteria to trails that have not been congressionally designated. For example, the Cherokee and Overland, which have the same quarter mile restriction on either side or visual horizon, whichever is less.

Any future consideration of congressional designations of these two trails in Wyoming must take into account the fact that these two trails go through what is known as checkerboard or the land grant area in southwest Wyoming.

We do understand that Federal land managers have a responsibility to manage public lands for all uses and that the managers must analyze for the cumulative effects of a proposed action regardless of land ownership. However, we do not believe Federal land managers have the authority to manage private properties or cultural resources or historic trails.

Trails were not designed to preserve the West, deny private property rights or limit progress.

The subcommittee is considering enactment of S. 324 and S. 651. We would like to reiterate our concern with any potential legislation that would authorize acquisition of private land. Regarding willing sellers, the subcommittee must consider measures that protect the surrounding private landowners and their property.

The subcommittee is also considering S. 634 and S. 635. If it is determined that any of these trail segments are, in fact, located in Wyoming, we do not believe they should be studied or designated at this time.

There are differing opinions as to the identification of trail and trail segments that warrant congressional designation under the National Historic Trails Act. The Petroleum Association of Wyoming continues to work with trail enthusiasts in Wyoming and we do not oppose national historic trail designations. However, it is the management prescriptions to protect the trail and trail viewshed that is concerning. For those whom I appear before you today, it is our position that until BLM has completed the trail management plan, it has been subjected to public review, and is amended to the resource management plan, no new trails or trail segments should be congressionally designated or studied in Wyoming at this time.

Mr. Chairman and members of the subcommittee, thank you again for the opportunity to share with you our perspective regarding historical trails in Wyoming.

[The prepared statement of Ms. Bower follows:]

PREPARED STATEMENT OF DRU BOWER, VICE PRESIDENT, PETROLEUM ASSOCIATION
OF WYOMING, CASPER, WY

Mr. Chairman and members of the Subcommittee, my name is Dru Bower and I am the Vice President of the Petroleum Association of Wyoming (PAW), specializing in public land issues. PAW would like to thank the Subcommittee on National Parks of the Committee on Energy and Natural Resources for the opportunity to testify regarding Senate bills 324, 634, 635, and 651 which pertain to different aspects of historic trail designations and willing sellers for certain trail segments in the National Trail System.

PAW is Wyoming's oldest and largest trade organization, the members of which account for over ninety percent of the natural gas and over eighty percent of the crude oil produced in the State. PAW is recognized as Wyoming's leading authority on petroleum industry issues and is dedicated to the betterment of the state's oil and gas industry and public welfare.

The following organizations are also in support of, and a party to, this testimony: Wyoming Stock Growers Association, Wyoming Wool Growers Association, Wyoming Farm Bureau Federation, Public Lands Advocacy, and the Independent Petroleum Association of America.

The Wyoming Stock Growers Association, with over 1,200 members, has represented the Wyoming cattle industry for over 130 years. It is their mission "to serve the livestock business and families of Wyoming by protecting their economic, legislative, regulatory, judicial, environmental, custom and cultural interests." Management of historic trails on both private and public lands has and will continue to impact Wyoming ranching families and businesses.

The Wyoming Wool Growers Association represents the interests of the lamb and wool producers of Wyoming and has done that for nearly one hundred years. Its

membership consists of over 80% of the active sheep producers of Wyoming, as well as many out-of-state producers as well. It focuses its efforts in four broad areas: (1) governmental policy and the effects of such on the industry; (2) enhancement of returns to producer operations; (3) protection of producers interests and rights; and (4) educational efforts regarding and relating to the sheep industry and Wyoming agriculture in general.

The Wyoming Farm Bureau Federation is the largest farming and ranching organization in the State. There are approximately 9,000 total members in Wyoming.

Public Lands Advocacy is a non-profit organization whose members include major and independent petroleum companies as well as non-profit trade and professional organizations that have joined together to foster the interests of the oil and gas industry relating to responsible and environmentally sound exploration and development on federal lands.

Founded in 1929, the Independent Petroleum Association of America represents America's thousands of independent oil and natural gas producers and service companies. Independent producers drill 85 percent of the wells in the United States and produce 65 percent of the nation's natural gas and 40 percent of the crude oil (60 percent in the Lower-48 states).

Wyoming is a uniquely rural state comprised of 97,914 square miles and is the ninth largest state in the Union. Lands in the state, which are owned and controlled by the federal government equate to approximately forty-nine percent (49%) of the surface and sixty-six percent (66%) of the mineral estate. These federal lands are managed by agencies such as the National Park Service (NPS), United States Forest Service (USFS) and the Bureau of Land Management (BLM). The remaining 51% of the surface and 34% of the mineral estate are owned by private entities, the State of Wyoming and the Tribes.

Agriculture and the oil and gas industries have been operating in Wyoming since before statehood. These industries provide a solid job base for residents and generate a significant portion of the state's revenue. This revenue funds education and other programs and services that could not otherwise be supported absent substantial new taxes on the state's residents.

Last year, the oil and gas industry alone accounted for approximately 50% of the assessed valuation of property in Wyoming. This translates into approximately \$1,900 of taxes paid for every Wyoming resident. The mineral industry (oil, gas and mined minerals) provides over 60% of the total education budget, and 65% of Wyoming's total annual budget. The petroleum industry directly employs nearly 21,000 jobs. If one concludes that there are three (3) indirect jobs for every direct job, the result is 63,000 indirect jobs. Combined, a total of 84,000 jobs are attributable to oil and gas development in the state and the 2000 Census reported that there are approximately 494,000 people living in Wyoming. Using this calculation, the petroleum industry directly and indirectly employ's 17% of the residents in the State.

Wyoming is also the largest contributor to the federal onshore minerals program with a submission of approximately \$778 million in fiscal year 2002 from rents, royalties, and bonus bids from mineral development activity on public lands. Fifty percent (50%) of that total is allocated back to the state. In Wyoming, as with many other western states, access to public lands is critical for the very survival of the state's economy, maintaining quality jobs, sustaining a reasonable tax base and providing a revenue stream for state and local governments.

Wyoming has the most miles of historic trails of any state in the West. There are five (5) congressionally designated trails in Wyoming. Those are the Nez Perce Trail, which runs through Yellowstone National Park, and the Oregon, California, Mormon Pioneer, and Pony Express Trails, which traverse east to west across central and southern Wyoming.

As background information, former President Clinton's Executive Order 13195, "Trails for America in the 21st Century", was signed on January 18, 2001. The Executive Order outlined the directive to protect "(b) the trail corridors associated with national scenic trails and the high priority potential sites and segments of national historic trails to the degrees necessary to ensure that the values for which each trail was established remain intact (c) Coordinating maps and data for the components of the national trails system and Millennium Trails network to ensure that these trails are connected into a national system. . . ." The Millennium Trails network allows for the classification of National, Legacy, or Community Millennium Trails.

Depending on the protection measures eventually developed by federal land managers, implementation of the Executive Order could significantly curtail economic and resource development in Wyoming and across the West.

For example, in May of 2001, Wyoming BLM announced its intent to implement interim guidelines (Interim Guidance for Managing Surface-Disturbing Activities in the Vicinity of National Historic Trails) to expand protection of viewsheds associated

with congressionally designated trails and provide management recommendations and prescriptions for specific trail segments and sites that are eligible for listing on the National Register of Historic Places.

The four congressionally designated trails that would have been most affected by these new guidelines, and correspondingly placed the largest burdens on private enterprise, are the Oregon, California, Mormon Pioneer, and Pony Express. These trails have a combined length of 1,260 miles as they cross the state.

As a matter of information, the National Park Service oversees the National Trail System; however, where BLM lands exist and the trails traverse these lands, BLM is the managing agency of those trails and implements protection measures associated with multiple uses on those lands.

Currently, the Controlled Surface Use (CSU) stipulation, contained in the existing BLM Resource Management Plans (RMP) for protection of congressionally designated historic trails, mandates that the "area within 1/4 mile or the visual horizon, (whichever is less) is to be an avoidance area for surface disturbing activities". In essence, the stipulation, where applied, could place a "no surface occupancy" (NSO) requirement on lands adjacent to trail segments. However, in some cases, BLM in Wyoming is currently insisting on mitigation beyond the present 1/4 mile CSU. Mitigation in this case is not always an NSO stipulation but may include requirements such as moving locations, using low profile equipment and/or off-site funding of such things as web sites, trail markers and GIS documentation on segments of the trail that are not affected by the project proposal.

Certain segments of historic trails still maintain visual settings similar to that which was present when the trail was used for settlement of the West. These are the areas in which the strongest efforts to restrict man-made intrusions beyond 1/4 mile is occurring. As a result, concurrent resource uses are usually placed in a subservient position. While we recognize the desire to preserve the historical integrity of these areas, some land managers should also take into consideration the effect of restrictions on efficient recovery of minerals and management of other uses such as development of water resources and fencing for grazing management.

Important segments of our National Historic Trails exist today in a largely undisturbed condition as a result of the stewardship of both public and private lands by generations of ranchers. Today, many of these same ranchers feel threatened with the loss of needed flexibility in their operations due to excessive constraints placed on them in the name of trail viewsheds.

The Executive Order does not specifically define the extent or the parameters that a "trail corridor" should be protected. Instead, the federal land managers are in the process of establishing "viewshed protection" through the development of guidance documents.

For example, Wyoming BLM's May 2001 interim guidance document arbitrarily expanded the surface disturbing avoidance area beyond the current 1/4 mile restriction contained in existing RMPs to as far as five (5) miles on either side of a congressionally designated trail. This proposed policy change for viewshed management around historic trails was a major land use action that would have imposed an extreme adverse effect on agriculture, the development of oil and gas and private property rights within an area of up to 12,000 square miles.

This Wyoming BLM interim guidance was eventually withdrawn. However, despite some guidance contained in that document for determining the integrity of the trail, the process contained inherent flaws of subjectivity and in some cases, reflected individual desires rather than adherence to guidelines or directives. That interim guidance, if indicative of the direction BLM intends to take, clearly demonstrates why private landowners, agriculture and other business interests in Wyoming were, and remain, very concerned regarding the congressional designation and protection of historic trails.

The BLM has withdrawn the 2001 Instruction Memorandum and is currently developing a Trail Management Plan (TMP) for Congressionally Designated National Historic Trails, which will be subject to public review and eventually amended to the existing Resource Management Plan's. It is BLM's intent that this TMP will outline guidelines for managing congressionally designated trails and appropriate stipulations for trail and trail viewshed protection.

There are two separate issues that we are faced with in managing for trails and trail viewsheds, the first being the protection of the actual trail. We believe that the protection measure in place, which implements an avoidance area of a 1/4 mile on either side of the trail or visual horizon (whichever is less), is sufficient in its protection of the trail for oil and gas activity and should not be expanded. The second issue is the protection of the viewshed or the Visual Resource Management (VRM) stipulation. This restriction is placed on activities outside of the 1/4 mile on either

side of the trail. It is this stipulation that is even more concerning and can be highly subjective in working with land managers.

Currently, there are no permit requirements to use or access the trails, and in most areas there is no off-road vehicle (ORV) restriction. Therefore, the general public can access the trail for recreation, hunting, ORV use, etc. without any enforcement from the agency. On the other hand, the agencies want to restrict and protect access to the trail and trail viewshed from agriculture and oil and gas development. This presents a situation where the agency can manage only those entities that they can control, which are permitted uses (agriculture, oil and gas activities). This philosophy seems to be unbalanced.

When, and if, guidelines are eventually adopted, we agree that the agencies responsible for management of the trails should have to develop such guidelines within the parameters of the land management planning process. If it is determined that the historic integrity of the trail segment has been compromised, then the land management agency, along with the historic preservation officer, should immediately be directed to pursue a determination of No Adverse Effect, with the provision that no additional impacts to the physical segment of the trail occur. This action would facilitate timely development and utilization of other resources in the immediate area.

For those areas where visual intrusions are similar to the historic period of the trail, historical significance and scenic integrity should not be the sole factor in determining the extent to which the trail setting is to be protected. Other equally important factors are the mineral potential of the area and considerations of effective management of other resource uses that are dependent on the area in question.

For those oil and gas organizations for whom I appear before you today, we maintain that the current controlled surface use (CSU) stipulation (interpreted by some land managers as a "no surface occupancy" stipulation) within 1/4 mile on each side of the specified trail segments satisfies the Executive Order for protection of the "trail corridor" and "trail values" and no adverse impact will occur due to development or utilization of the adjacent natural resources. In our opinion, subsequent land use plans should affirm but not expand this level of protection for oil and gas development. Further, land managers should have the discretion to issue an exception to the 1/4 mile parameter on any portion of a trail that has been obliterated or compromised through the passage of time.

A blanket application of the 1/4 mile restriction to every mile of every trail is not practical or justifiable. Additionally, many trail segments are adjacent to existing structures, roads, mineral extraction points and interstates. These segments do not warrant any expanded restriction.

Title 16 USC, Chapter 27, Section 1246(a)(2) provides, in part, "Provided, That in selecting the rights-of-way full consideration shall be given to minimizing the adverse effects upon the adjacent landowner or user and his operation. Development and management of each segment of the National Trails System shall be designed to harmonize with and complement any established multiple-use plans for that specific area in order to insure continued maximum benefits from the land." Agriculture's experiences of the past several years in Wyoming with ever-expanding viewsheds are clearly inconsistent with this mandate.

A member of the agriculture community recently related an experience in seeking approval for a livestock water well that is desperately needed in this time of severe drought. After a total of five visits to the area with BLM personnel over a period of one year to identify a site, a location with an acceptable impact on the viewshed was finally designated. In the words of the grazing permittee, "This is an untenable situation, but we as permittees are also at their mercy if we wish to see any improvements made. We have all been tiptoeing around trying not to anger the 'cultural and trail Gods'."

For decades, ranchers have used these trails for the purposes of moving cattle or sheep to provide good land stewardship and prevent overgrazing. In some instances it is because of this activity that trail segments still exist today. Agencies should look closely to make sure that in its rush to preserve history, it does not actually facilitate the demise of many portions of the trail system, leaving nothing more than a written memory.

Even more troublesome than the potential expansion of the viewshed protection is the agencies' current practice of applying the same criteria to trails that have not been congressionally designated. For example, even though Congress has not acted by officially designating the Overland and Cherokee Trails, these trails are currently subject to the same restrictions as are congressionally designated trails (an avoidance area of 1/4 mile or visual horizon, whichever is less).

Any future consideration of congressional designation for these two trails in Wyoming must take into account that such action and the resulting management alter-

natives would be significantly complicated by the fact that these two trails travel through what is known as “checkerboard” or the “land grant” area located in southern Wyoming.

In the 1860’s, the federal government granted every other section of land for twenty (20) miles on each side of the main line, both surface and subsurface estates, to Union Pacific as an incentive to build the transcontinental railroad.

To raise funds for construction and operation of the railroad, the railroad sold much of the original land grant acreage to private individuals. Consequently, every other section of land over which large portions of the Overland and Cherokee Trails pass belongs to entities other than the federal government. Because these trails pass through private lands, designation of these trails may encourage parties to trespass on private land. Congress and the federal land managers need to be mindful of this fact when developing management practices where a significant portion of the area is not controlled by the federal government.

Further, these private lands are used by enterprises engaged in a host of activities including agriculture and mineral development—activities which are the backbone of the state and local economies. While federal restrictions on protective areas around trails might theoretically be limited to just those lands administered by the federal government, this is not always the case. Because of this checkerboard land pattern, agriculture and mining alike must work with federal land managers to acquire rights-of-way across federal lands to access such things as ranching property, lambing sheds, meadows, watering sites, drill locations and avenues to take produce to markets.

When developing Environmental Assessments and Environmental Impact Statements in response to proposed activities on federal lands, agencies must analyze, among other issues, for cumulative impacts, regardless of land ownership. Agencies often use this process to “urge” the applicant to commit to additional, “voluntary” mitigation measures regardless of land ownership. If the applicant agrees to the committed measures, “conditions of approval” are created. Should the applicant oppose the additional “voluntary” mitigation measures on private land, the project may be denied or delayed to the point where surrender is all but assured. If the project is approved with “voluntary” mitigation measures, regardless of land ownership, the private landowner may be denied access based on the fact he does not accept the “condition of approval”. In either case, the project stopped. This misuse of a law to obtain regulatory control over private land is troubling to both the agriculture and petroleum industries.

We understand federal land managers have a responsibility to manage public lands for all uses and that the managers must analyze for the cumulative effects of a proposed action regardless of land ownership. However, we do not believe federal land managers have the authority to manage private property for cultural resources or historic trails.

Trails were carved out of a hostile territory to settle the West, provide better economic opportunities, and improve living conditions for our emigrants. Trails were not designed to preserve the West, deny private property rights or limit progress.

The Subcommittee is considering enactment of S. 324 and 651. We would like to reiterate our concern with any potential legislation that would authorize acquisition of private land. The National Trails System Act envisions acquisition of private lands from willing sellers or donors through purchase, gift or exchange. However, Congress has further granted condemnation authority to the appropriate Secretary. As is so often the case, a rancher or farmer whose operation is dependent on federal grazing permits and/or water allocations and who faces possible condemnation unwillingly becomes a “willing seller”. The rights of private landowners and the opportunity to maintain or create economic opportunities should be acknowledged and protected.

Regarding willing sellers, the Subcommittee should consider the following: 1) In order for the willing seller to manage and access private lands surrounding the trail segment, the seller should be allowed to continue to cross the trail as necessary; 2) It is the intent of the federal agencies to acquire these trail segments from the willing seller not only to preserve them but for public enjoyment. The willing seller should be indemnified of injury should the public be injured on the trail or if the public leaves the trail and are injured on the willing sellers private property; 3) The federal agencies should be required to provide property protections, rules and regulations to address potential damages to private property by trail users; and 4) The federal agencies should indicate that a failure or breach by the agencies to provide the above mentioned points will be grounds for the willing seller or its assignee to revoke and void the sale, easement, etc.

The subcommittee is also considering S. 634 and S. 635. As we read the proposals, we do not believe the request to study the Cherokee Trail segment in the central

route (S. 635, Section 5A(e)(2)(A)) refers to any portion within the borders of Wyoming. If it is determined this trail segment is in fact located in Wyoming, we do not believe it should be studied at this time.

There are differing opinions as to the identification of trails and trail segments that warrant congressional designation under the National Historic Trails Act. PAW continues to work with trail enthusiasts in Wyoming and we do not oppose National Historic Trail designations; however, it is the management prescriptions to protect the trail and trail viewshed that is concerning. For those whom I appear before you today, it is our position that until BLM has completed the Trail Management Plan, it has been subjected to public review and is amended to the Resource Management Plans, no new trails or trail segments should be congressionally designated or studied in Wyoming, including the Sublette Cutoff (S. 635, Section 5A(g)(3)).

For those organizations referenced above which are supporting this testimony, we conclude the following:

- Support the recognition of historical trails;
- Support protecting our nation's history;
- Oppose any additional congressional designations or studies of trails or trail segments in Wyoming until BLM has completed the Trail Management Plan, it has been subjected to public review and is amended to the Resource Management Plans;
- Oppose de-facto management of trails and trail viewsheds not designated by Congress;
- Oppose expansion of the trail protection area (for all trails) beyond the current 1/4 mile or the visual horizon; whichever is less, stipulation until the Trail Management Plan in Wyoming is completed;
- Oppose management alternatives, which infringe or limit private property rights;
- Oppose policies and actions, which limit or restrict rights under valid existing leases; and
- Oppose policies and actions, which limit maximum recovery of natural resources and multiple use of our public lands.

Mr. Chairman and members of the Subcommittee, thank you again for the opportunity to share with you our perspective regarding historical trails in Wyoming.

Senator THOMAS. Thank you very much.

Mr. Cioffi.

STATEMENT OF DAVE CIOFFI, LANDOWNER, ETNA, NH

Mr. CIOFFI. Thank you. I am Dave Cioffi, a landowner from Etna, New Hampshire. We have family land, and about 135 acres that was affected by the Appalachian Trail.

I wish I could turn this meeting back 25 years ago to 1978, sitting here listening to the National Park Service tell you that they had no plan for the Appalachian Trail. I and the neighbors told them that as they went through Hanover. Likewise, using eminent domain was leveraged by everybody in our community organizations.

At any rate, what I want to do is just read from the beginning of my prepared remarks that I put into the committee hearing as testimony, and then just point to a few things. Basically I am here to show you, or to tell you a little bit about what it is like to have gone through the process of being threatened with eminent domain.

I welcome the opportunity to appear before your committee. I am a member of a family that has undergone a long, personally time consuming and mentally exhausting ordeal with the National Park Service and its associates. Specifically, our experience was with the National Trails System Act regarding the relocation of the Appalachian Trail through Hanover, New Hampshire during the period from 1978 through 1983.

I am thankful that that part of my life is over, and it finally ended in a win-win situation for us, the National Park Service and

the hikers who now enjoy the Appalachian Trail as it passes through our family land. Somehow, I survived this experience without losing my sense of humor or submitting to gray hair before my time. But this would not have been the situation if we had simply rolled over and not stood our ground when the National Park Service and its associates moved into our village, the Village of Etna, which is part of Hanover, to carve out a route for the Appalachian Trail.

The mistake they made was to work very closely with local organizations like a local conservation commission, Appalachian Trail Conference, local conservation council, and a local educational institution, Dartmouth College, that supported their endeavors for their own selfish reasons, because of the power and influence they asserted in the local community. That is why the National Park Service worked particularly with us.

Meanwhile, most affected landowners, like our family, were not consulted during the early stages of designing the foot path. That mistake at the outset dragged the process on much longer than it would have if they had kept landowners informed and listened attentively to our needs with regard to our land.

I am here to encourage your committee to support the bill and shepherd it successfully through the legislative process to amend the National Trails System Act, to clarify Federal authority relating to land acquisition from willing sellers for certain trails in the National Trails System. Indeed, this will save time, money and needless aggravation for all concerned.

Basically what I submitted to you was some documents I have pulled from a file during our 5-year ordeal, but I just wanted to point them out and relate to you how they affected us as a landowner.

In the first instance, I am showing you a letter from the Dartmouth Outing Club, and it is coming to us on Dartmouth Outing Club stationery. In fact, it is a National Park Service employee who is using Dartmouth Outing Club stationery, using their office, and using their telephone number. In our community, when you get something from the Dartmouth Outing Club, you know, you deal with it or you do not deal with it. They are always trying to put trails around, sometimes it is okay and sometimes it is not.

So when we get a letter like this, our family got a letter like this, we did not treat it very seriously. We had no idea this guy was a National Park Service employee. But then we began getting suspicious because there were flags on our land, and we wondered how these flags got out there because we never had given permission for flags to be out there. So we put two and two together at some point and said ah, now we know what is going on, there is something going on with the Appalachian Trail. Because frankly, the Appalachian Trail never crossed our property, it was up in the back.

At any rate, I have a neighbor who has land contiguous to ours and we got together and started to investigate this. He said, you know, what kind of study has gone on here. When we take a look at this map, and we see you are avoiding all these public trails that we already have, we have these trails that cross over, including land that was purchased by heritage funds, has anybody taken a look at a northern route to the Appalachian Trail?

And the answer was no, not really, but if you guys want to do it, we will give you some maps, you have 30 days, and we will do an environmental assessment. This was back in the summer of 1980. We said fine, give us the maps, we will go right at it. And we did that. What we did was map a trail that we considered to be a northern route. We knew when the trail came across the bridge out of Vermont, comes underneath the interstate highway, you come across the Connecticut River, we knew at some point you have to cross the Connecticut River back there, so we knew there was a trail up that way.

At any rate, what happened was that the Park Service put together what they called an environmental assessment. They got a bunch of people to go out and hike the trail we had routed, plus the trail they had, and they prepared a report. It was interesting, because the document they carried with them to make points on the study that each of them was going to do said AT preferred route, and then northern route. And the people who did the—they would not let us participate in this environmental assessment unfortunately. But it was the president of the Hanover Conservation Council and his wife, a member of the Appalachian Mountain Club and his wife, a member of the Hanover planning board and his Boy Scout son, the Appalachian Trail Conference representative, and the Hanover Conservation Council representative. We did not have anybody in there to make comments, just to show you the modus operandi of the National Park Service when they have this thing hanging over you of eminent domain.

The next item I want to show you is a letter on the stationery of the Office of the President, State University, Cortland, New York. This is someone who lived behind me, his land is contiguous to me. He has since passed away. But for some reason back in March 1978, he knew what the heck was going on. We did not know what was going on until we got this letter in June 1978. And how did I find out about this? I found out about this because I got suspicious throughout this and went down to Concord, New Hampshire and started digging into the Appalachian Trail files, and I found this letter.

And I wondered why the National Park Service would not go where I wanted them to go through my land, and that was on the back boundary which bounded his land, so we could share the corridor. So anyway, this was a letter he wrote to the guy who was directing the trail.

Senator THOMAS. Can you kind of sum up now please?

Mr. CIOFFI. What I want to show you is that if you do not have someone who is looking after landowner rights, then these are the kinds of things that can happen to a landowner, because they are very good at putting groups together to take land away from the landowner. And if you do not have an eminent domain, they will work much closer with the landowner. And when you work closely with the landowner in the beginning and bring him into the study, you will find out what the landowner considers to be important on his land so when you put the path through, you do not affect it as much as you would.

With regards to the width of the foot path, you were asking the question, and the foot path itself is 150 feet through our land, and

there is a 100-foot easement on both sides of the footpath, so it is less than they were originally looking at. They compromised and they came down to 350 feet. The reason why they compromised is because we made connections through the National Inn Holders Association that got us the ability to come down to Washington into the Interior Department and debate the folks that put the trail together, and brought maps of other landowners who said here is where the trail can go through our land, start compromising with us. And in effect that is what happened. We went back to Hanover, the National Park Service came back, compromised.

The trail wound up on my back corridor. My neighbor was able to keep the foot path out of his pasture in the summer where he had cattle, so the path goes around the pasture, and in the winter they can come through the field if they want to cross it.

[The prepared statement of Mr. Cioffi follows:]

PREPARED STATEMENT OF DAVE CIOFFE, LANDOWNER, ETNA, NH

Dear Senator Thomas and Committee, I welcome the opportunity to appear before your Committee. I am a member of a family that has undergone a long, personally time consuming and mentally exhausting ordeal with the National Park Service (NPS) and its associates. Specifically our experience was with the National Trail System Act regarding the Appalachian Trail (AT) through Hanover, NH during the period 1978-1983. I am thankful that phase of my life is over and it ended in a win-win situation for us and the hikers who now traverse the Trail as it passes through our family land. Somehow I survived this experience without losing my sense of humor or submitting to gray hair before my appointed time. But this happy ending would not have been the situation if we had simply thrown in the towel and not stood our ground when the National Park Service (NPS) and its associates moved into our village to carve out a new route for the AT. The mistake they made in our view was to work very cozy with local organizations (Conservation Commission) and a local educational institution that supported their endeavors for their own selfish reasons because of the power and the influence they exerted in the local community. Their mantra was the Trail was a great idea as long as it had little or no affect on their land. Meanwhile most affected landowners like our family were not consulted during the early stages of designing the footpath. That crucial mistake at the outset dragged the process on much longer than it would have if they had kept landowners informed and listened to our concerns.

I am here today to encourage your Committee to support Bill S. 324 and shepherd it successively through the legislative process to amend the National Trail System Act to clarify federal authority relating to land acquisition from willing sellers for certain trails in the National Trails System. Indeed that will save time, money, and needless aggravation for all concerned. Listening to the concerns of landowners early on is a must if a project is to be brought to a mutually satisfying conclusion.

Our ordeal commenced in the spring of 1978 when we received a letter from a temporary employee of the NPS, which was written on the letterhead of a local Outing Club (ENCLOSURE #1 IN SUBMITTED MATERIAL).^{*} Although at that time we did not know he was on the NPS payroll. My opinion is this was subterfuge to mask the import of where we were headed. In the letter he told us he was writing to inform us that the NPS was in the process of finalizing the relocation of the AT through Hanover and our village of Etna and it was his job to meet with affected landowners to explain what was happening. Prior to this there apparently had been some public meetings to discuss the relocation of the AT but most affected landowners like us were not informed about these meetings despite the fact the NPS knew who we were.

When my neighbor Kevin Cunningham (another impacted landowner) and I got involved in the process (fall 1979) we asked the NPS if they had seriously considered an alternate route for the AT through Hanover going north rather than south because in doing so they would be able to permanently protect the Connecticut River riverbank and eventually proceed through land already owned by the Federal Government. They admitted they hadn't but if we wanted to map a northern route they would consider it. We were given a set of maps and 30 days to submit our rec-

^{*}All enclosures have been retained in subcommittee files.

ommended trail. We accomplished this and the NPS did an environmental assessment of our trail (ENCLOSURE #2 IN SUBMITTED MATERIALS—PARTIAL) as well as their southern trail route. A kangaroo court was organized to judge the routes most of whom were already on record as opposing our route and some from organizations that had helped map the NPS route. We were not asked to participate in the assessment. Needless to say our northern route got dinged and the NPS moved forward with securing a footpath on their preferred route.

That was the point when the real battle began because the NPS assumed they had the support of the community and that coupled with the sword of eminent domain would force affected landowners like us to accept their dictates. In our case they were proposing a 600 ft. 1,000 ft. corridor through the middle of our 70 acres offering us a 40 ft. corridor through to access our land on the other side of the footpath.

In the ensuing two years we had several meetings and hikes on our land with NPS representatives with the goal being to find a footpath that would be mutually agreeable. But the NPS would not agree to move the Trail closer to our back boundary where our land would not be segmented. I wondered why there was such resistance since the neighbor on the other side also owned a large forested lot. It seemed reasonable that the Trail corridor could be shared so our land would not be segmented.

One day during this time period while inspecting AT files in Concord, NH I found the answer why the NPS was reluctant to meet our request. ENCLOSURE #4 IN SUBMITTED MATERIALS is a copy of a letter written by my neighbor (a college president in upstate New York) in March 1978 to the AT Project Manager pleading that his land be spared the ravages of the Trail. Note that date was before we ever knew about the Trail crossing our land so he evidently had a heads up somehow. This was another example of folks in influential positions getting preferential treatment.

Eventually after we hit a brick wall with negotiations in November 1982 our family received a letter (ENCLOSURE #4 IN SUBMITTED MATERIALS) from the NPS indicating that our land would be taken from us by eminent domain. Shortly before this letter arrived we made contact with Chuck Cushman a National Park System Advisory Board Member and explained our plight to him. He investigated the situation and was able to secure for us the "record of negotiations, appraisal, and other material" referred to in Enclosure #4. He told us we had to rebut this report as soon as possible and he provided us a name and address in the Department of Interior to submit our rebuttal to (ENCLOSURE #5 IN SUBMITTED MATERIALS). We did that and the result was the Interior Department instructed the Justice Department to put a hold on our condemnation until they investigated further.

Eventually the Interior Department requested me and my neighbor Kevin Cunningham to come to Washington and meet with them, representatives from the Interior and Justice Departments, and the AT Project Director and his staff. We did that and what ensued was more or less a debate while Interior and Justice observed and intermittently injected questions. We had brought with us a map with a proposed route for the AT through our lands and the lands of many of our affected neighbors which situated the AT on our lands where it was compatible with the needs of the Trail as well as where it had the least impact on our uses of the land. At the end of the day we were requested to return to Hanover to work with our neighbors and now a more amenable NPS to accomplish the relocation of the AT through Hanover. Eventually this came to pass.

In our case the AT did move to the back quarter of our property so our property would not be segmented and it did include a small part of my reluctant neighbor's land. We sold 150 ft. of land on each side of the footpath and leased 100 ft. more on each side. As you can see there was significant compromising by the NPS and us. Plus we retained "agricultural rights" which means we can continue to tap our maple trees, harvest firewood and timber, and plant an orchard in an open part of the land. We could also pasture animals if we decide to raise sheep again. Plus my wife and I are avid cross-country skiers and we have connecting trails with the AT. Our neighbors enjoy the trails with us. Often when I am out cutting firewood I encounter hikers and the relationship is cordial as it should be. In fact, I unofficially keep the footpath clear of fallen branches and trees with the help of my trusty chainsaw.

In conclusion I want to thank you all for the opportunity to be here today. It has been my goal to illustrate how listening to the needs of landowners can result in a happy ending if and when more land is needed to protect trails. This can happen when the sword of eminent domain is kept in its sheath and negotiation is used as the ultimate tool.

Senator THOMAS. Thank you very much, thanks to all of you.

Mr. Werner, do you feel as if private property rights are sufficiently protected as trails are developed under this system that we have?

Mr. WERNER. I think, Senator, the legislation that you have before you, either S. 324 or S. 651, which models what has been the practice under the new trails authorized under the National Trails System, yes, it does protect private property rights.

I mean, I have experience, again, with the Ice Age Trail in Wisconsin in which people have negotiated with landowners, tried to come up with a price, tried to come up with an agreed right-of-way, and there because there was no eminent domain involved, the landowners ultimately said no, they did not accept it and no deal happened, the trail did not go on the land.

Senator THOMAS. The other thing Ms. Bower mentioned is public lands where there is generally a commitment for multiple use, and even though you are not dealing with a landowner, you are limiting the use of those lands to some extent. Do you agree with that?

Mr. WERNER. Yes. As you well know, we have public lands for a number of different uses and even those that are most open for multiple use, you know, not every use works on every individual foot of land or piece of land. And I think it is important that we have protections for certain kinds of uses in certain places, and that we allow other uses in other places on the public lands.

And I think part of what I was trying to express to you before was that my understanding of the authority with the National Trails System Act and the practice in Wyoming by the Bureau of Land Management has been to accommodate the adjacent uses to, say, the Continental Divide Trail or the historic trails by allowing rights-of-way to cross and things like that.

So I think there are sufficient safeguards. I note also that since the hearing a year ago, or approximately a year and a month ago on similar legislation, that OCTA, Oregon-California Trail Association, at that time agreed to work with the Petroleum Association of Wyoming on private land issues, and some of the public lands areas were put in historical trails. And they have been monitoring, frankly, the Bureau of Land Management since, and we supplied you with a letter that indicates that, I think there have been over 120 permits issued by the Bureau of Land Management for oil and gas, other mineral leasing along the historic trails in Wyoming. And of those, I think only seven had some mitigation requested, and basically there has been no holdup on the use of the oil and gas.

Senator THOMAS. What changes would you make, Ms. Bower, in terms of our processes here?

Ms. BOWER. Senator, our major concern, and Mr. Werner is right, we have been working very hard with the Oregon-California Trail Association in Wyoming. The process for us is not about the designation of the trails. The process for us comes—we can protect the actual trails; in fact, the oil and gas industry provides more protection measures for the trail than most uses on public lands. The problem that we have has been this idea of a viewshed protection. In Wyoming we have a lot of open space, Senator, and the majority

of these four congressionally designated trails go right through a very rich gas project in the Green River basin.

So we have concerns with the management prescription. We are working with the Bureau of Land Management to deal with those. Once we figure out what the game is and how those will be managed, then we can have an idea about further designation of the trails.

The other problem that we have, Senator, as you well know, is the land grant area in southern Wyoming. Every other section is private property intermixed with Federal land. When you start looking at a designation with such a checkerboard land pattern, it becomes a concern. The largest land owner in that area happens to be Arco Petroleum. The concern has been, when you have the easements across the private property, what happens if the public strays off the property and they are injured? Does that then become an issue for the private land owner to deal with because he allowed the public to cross his land?

So I think there are other things that need to be looked at in dealing with willing seller.

Senator THOMAS. What changes would you make after your experience, Mr. Cioffi?

Mr. CIOFFI. I think basically just what I said. Bring the landowners in early on and look at all of the options. Because in our case, we were willing to donate land to the Park Service for the trail if they had gone where we wanted. And in fact, there was a piece of family land up along beside us that we could not even identify, which we allowed them to take by eminent domain because nobody knew where it was, but we knew the trail part of it went through there.

Senator THOMAS. Mr. Werner, do you have any view, and I know this is a difficult issue, but do you have any view of where we are in terms of trail development, in terms of the future? Are we reasonably well developed in the trails that will be there, are we just beginning, or what do you see happening in terms of trail designations?

Mr. WERNER. In terms of the 23 authorized national scenic routes or historic trails, we figure that they are only about half complete and by complete I mean—

Senator THOMAS. Those 23 are half complete?

Mr. WERNER. Those 23. And by complete, what I mean is that there are only two of those trails, two of the eight scenic trails, and those are the original two, the Appalachian and the Pacific Crest, where the user can actually follow the trail from one end to the other on a mostly off-road route that is safe for use. The other 6 scenic trails, like the North Country Trail that was mentioned by Senator Levin, and Continental Divide Trail through your State, range anywhere from about 70 to 80 percent complete, to less than half complete, meaning that someone could actually follow them all the way on the ground off road.

Of the historical trails, there are these specific sites, these significant sites and segments, and of the nine trails, there are five historic trails involved with the legislation before you, and there are some 700 sites that are identified. Only about one quarter of those sites are actually really available for the public.

Senator THOMAS. So what is your view of where we are going, are we going to have 10,000 trails?

Mr. WERNER. No. Frankly, you have asked this question a couple times, and the answer I give you is that the Partnership for the National Trails System, our association has taken the position that we do not really support the designation or authorization of more trails until we get the trails that are currently authorized more complete, more available for the public to use.

And I know you have asked the question a couple of times about the studies, and I believe that actually in terms of the historic trails and the scenic trails, there are probably more trails that have been studied and rejected than have actually been authorized by Congress, so that process does actually work.

Senator THOMAS. I would be interested in seeing those numbers. You may be right, but I have never seen one turned down.

Mr. WERNER. Well, the problem may be more with Congress, frankly, than—

Senator THOMAS. Maybe so.

Mr. WERNER. But I appreciate very much the point that you are making about the vision, because we talk about that in the trails community quite frequently and we do have a concern that we do need more trails in some places, but that we need to finish what we have already begun. And you hear that all the time in the parks and—

Senator THOMAS. Set some priorities.

Mr. WERNER. Yeah.

Senator THOMAS. It is interesting, and I have mentioned in this North Country Trail, I can hardly imagine that anybody is going to get on that thing and walk all the way around through Cincinnati and do that 3,200 miles.

Mr. WERNER. I understand, but I have to tell you that there actually are several people who have already walked the entire route of it, even though it is largely unmarked.

Senator THOMAS. Because several people have done it, that is hardly a justification. Now Appalachian, I understand that is what that is for. I do not know, maybe there are. It would just be curious to me, but at any rate—

Mr. WERNER. One of the benefits for a trail in the East, and you will appreciate that we do not have the amount of public land for recreation that you do have in your beautiful State in the West—

Senator THOMAS. We have sometimes more than we would like.

Mr. WERNER. I understand. But we found that with the Ice Age Trail in Wisconsin, and I think the same would be true with the North Country Trail, is that there are many, many more people, and that is true with Appalachian as well, who go out and hike a few miles of it rather than the whole distance, but the fact that it is part of a continuous longer trail is part of the extra mystique that they get out of being on that trail.

Senator THOMAS. You know, I am not complaining or objecting to what you are saying, but we have got to have some concept of what we are doing and where we are going, and where we ought to put our emphasis, whether it is on shorter trails in more places where more people can use it or whether it is adding endless trails somewhere that people only use parts of. I do not know the answer

to that, but I think it is important that we look at it. We are just about through here.

Dru, what size of—how do you see the width of the Continental Divide Trail?

Ms. BOWER. Senator, I will be honest in that I have not studied the Continental Divide Trail. We as an industry have been operating under the quarter mile or visual horizon, whichever is less, on each side of the trail, and that seems to be adequate.

We have also, just so you know, we are working with the Oregon-California Trail Association to identify and ask them to identify truly pristine sites that have not been compromised, and that we would work with them and work with the Federal agencies for protection measures outside of that quarter mile, but not to identify the entire trail.

Senator THOMAS. I see. Mr. Cioffi, how would you better—you know this whole concept, the Secretary of the Interior has indicated a movement towards including more local people in these kinds of decisions, and private groups are very much involved. Is there a process that you envision that, I think the way it is now, the groups that are involved are people that are advocating for the trail things as opposed to the general public maybe. What would you do about that, how would you get more local involvement?

Mr. CIOFFI. Well, in our area is an organization called the Upper Valley Land Trust, and they work with landowners when something significant needs to be acquired in the area, as an example, a farm along the Connecticut River. Likewise, they are taking a look at perhaps in some places, widening the Appalachian Trail and purchasing the land. So working with organizations like that, within local communities, every community has that, and these folks understand the value of land and appreciate the rights of landowners, as well as if you are going to have the trail, fine, but let us do it with less impact.

Senator THOMAS. We are very proud of the trails and we are very proud of the trail center that we have there now and so on, but sometimes I do think there is a little difference between those people who are in the trail business as opposed to just the general community in which they are working.

Mr. WERNER. Senator, I held this up before. This study for one section of the Ice Age Trail in Wisconsin is typical of the process that has been used by the National Park Service, the Wisconsin Department of Natural Resources, and the Ice Age Park and Trail Foundation as the nonprofit partner, where a study has been done where all of the landowners within the study corridor have been notified by letter about the interest in involving, potentially involving their land in the route of the trail, public meetings have been held in each of the townships involved as well as general public meetings, comments have been solicited, and then they go through the process of refining all of that, coming up with a corridor, this is their opportunity corridor. It then goes out to public hearing again to the public in general and to the county boards involved, and then to the State's Natural Resources Board for approval. So they have done a lot of public outreach of the sort that Mr. Cioffi is talking about.

And the interesting thing about it is, each of those processes that I am aware of, what ends up happening is a number of landowners who for whatever reason really like these trails, come forward and say I would be willing to sell my land if you would be interested in buying it.

Senator THOMAS. Understood.

Mr. CIOFFI. Senator, I want to make a little comment about something like the Upper Valley Land Trust. Sometimes they do not have to buy the land, the land is given to them and they manage it.

Senator THOMAS. Sure, I understand.

Well, I want to thank you, and I do want to make it clear that I am supportive of trails, I think it is a good thing. I do believe, however, that the agencies that are basically responsible need to have a little more of an idea of where they are going and what the final result will be. We constantly hear about having more jobs than they have the resources to handle, and so on and so on. So there needs to be some priorities set there and some standards, I think, some sort of a measurement as to what, you know—often these efforts are driven really by local economic interests and that is fine, but I do not know that that fits into a national system particularly.

So, at any rate, I think it is a challenge for us, I hope you continue to work on it, strengthen our program, make it work with other people, and I appreciate very much you being here. Thank you so much. The hearing is adjourned.

[Whereupon, at 11:33 a.m., the hearing was adjourned.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

STATEMENT OF JEANNE AND BILL WATSON, TRAILS LIAISON CO-CHAIRS, OREGON-CALIFORNIA TRAILS ASSOCIATION, IN SUPPORT OF STATEMENT BY GARY WERNER

Mr. Chairman and members of the Subcommittee on National Parks thank you very much for providing this opportunity to include our testimony with that of Executive Director Gary Werner, Partnership for the National Trails System

SENATE BILL 635—PIONEER NATIONAL HISTORIC TRAILS STUDIES ACT

The Oregon-California Trails Assn. is an active member of the Partnership for the National Trails System and joins in strongly supporting S. 635, The Pioneer National Historic Trails Studies Act. The wording of this bill matches that S. 213 unanimously passed by the Senate in the final minutes of the 107th Congress.

S. 635 would authorize studies of additional routes/cutoffs on the Oregon, California, Mormon Pioneer and Pony Express National Historic Trails to determine which ones meet the criteria of the National Trails System Act and deserve later Congressional authorization for addition to the National Trails System.

As pointed out by Congressman Doug Bereuter in his testimony: No condemnation of private lands or Federal leases is to be contemplated to add any of these proposed study routes to the trails. Although the National Park Service is supportive of efforts to examine these additional routes, it has determined that Congressional legislation is needed to provide authorization.

A National HISTORIC Trail is a series of significant sites and/or segments connected by adjacent roads or highways. On Private Land, if the Historic Trail remnants are j under a plowed field or the owner will not grant public access, the adjacent road or j highway is used to reach the next trail segment open to the public. This is different from a National SCENIC Trail where you can hike its entire length or a segment or part of a segment.

OCTA President Randy Wagner, Cheyenne, Wyoming, recently pointed out to Senator Thomas that nothing in the National Trails System Act applying to National Historic Trails gives the government any rights to: condemn private land or land leases; to force access through private property or land leases; or in any way to trample on landowners rights.

COOPERATION WITH PRIVATE LANDOWNERS

The Oregon-California Trails Assn. (OCTA) works with private land owners and managers, calling attention to the importance of these trails, obtaining permission to mark trail ruts and emigrant graves, and requesting access to trail sites for special occasions. We call the land owners attention to the Site Certification Agreement provision of the National Trails Act where they designate conditions of public access: every day, one day a year and what date or no public access. This program protects them from liability for giving public access. Many landowners along the Oregon and California trails participate in this Certification program.

Each year OCTA holds their convention at a different place along the trail. This year we will meet in Manhattan, Kansas, to see the results of a cooperative venture between OCTA's KANZA chapter, the National Park Service and three landowner families to do side-scan radar studies of emigrant grave sites on the landowners' property. The three families have preserved these graves for 160 years as part of their family heritage. While OCTA is in Manhattan, other landowners will show us and tell us about the trail ruts, stream crossings, etc. they protect on their land.

During each convention, OCTA presents Friend of the Trail (formerly Rancher of the Year) awards to private land owners/managers in recognition of the work they have done to preserve emigrant graves, trail segments, stream crossings, etc on

their land. OCTA previously presented 50 of these awards and more will be given in Manhattan, KS, in August.

A number of years ago, a retiring rancher sold an easement to OCTA covering the noted California Hill Trail ruts in Nebraska. The easement price was donated by an OCTA member. After the deal was closed, the retired owner's son took over the ranch and found that the only water well on the entire property was on our easement. Without water, the entire ranch was unusable for cattle grazing. OCTA traded access to the well water to the rancher for a cattle proof fence and roadside pedestrian gate. Visitors were warned that if the large bull was standing in the trail ruts, they waited until the bull moved off before walking the ruts. Subsequently, OCTA transferred this easement to the Nebraska Historical Society.

The owner of a truck stop near Fernley, Nevada, had a beautiful segment of the California Trail on his land and away from the truck stop. A three-way agreement was reached where the Bureau of Land Management obtained a fee simple easement covering the trail ruts and the California/Nevada Chapter of OCTA agreed to maintain and mark this easement for public use.

COOPERATION WITH FEDERAL LEASEHOLDERS

In 1985, OCTA members worked with EXXON to minimize the number of times a proposed pipeline would cross the Oregon Trail near South Pass. EXXON modified their proposed route to cross the trail only once and later wrote this up in their corporate magazine as an example of good neighbor cooperation to protect this landmark.

In March 2001, representatives of Wolverine Oil met with the Bureau of Land Management, National Park Service, Wyoming State Historic Preservation Officer and OCTA to discuss plans to drill exploratory wells on federal land leases near the Sandy Crossing and South Pass. The Wolverine President proposed that on sites where drilling would be detrimental to the Oregon, California, Mormon Pioneer and Pony Express National Historic Trails, they could drill laterally and still be at least 1/4 mile from the trail as required by the BLM. They successfully drilled wells on several sites following the BLM requirements and providing another example of cooperative multiple use of public lands.

During the past year, OCTA has worked very closely with the Wyoming Bureau of Land Management to promptly review 140 permit applications that might impact the Oregon and California Trails. The Bureau of Land Management and/or the Wyoming State Historic Preservation Officer slightly delayed a hand full of applications for mitigation. However, OCTA has not delayed any permit application nor caused any economic hardship for any permittee.

SHARED TRAIL SEGMENTS

A number of the routes/cutoffs proposed for study are already part of an authorized National Historic Trail. For example, the APPLGATE ROUTE from northwest Nevada and up to Salem, Oregon, is an authorized part of the California Trail. The Applegate was used during the California gold rush and also was the Southern route to Oregon. It crosses 300 miles through southern Oregon, yet Oregon Trail markers cannot be installed. This study would justify the addition of the Oregon Trail logo to that route, while not adding any miles to the trail. During the Oregon Trail sesquicentennial, the Oregon Legislature passed a resolution urging that this route be authorized for the Oregon Trail. Today, only the California Trail logo is allowed on the trail marker outside the Oregon State Capitol. Authorization of this Oregon Trail study would lead to the correction of this problem.

A portion of the California Trail from WESTERN WYOMING to SALT LAKE CITY was also used in the 1860s by MORMON PIONEER covered wagons that went to Rollins, Wyoming, to pick up emigrants at the end of the railroad and transport them to Salt Lake City. If the study is authorized and meets the Trails Act criteria, the Mormon Pioneer Trail logo would join the California Trail logo to mark this segment and no new trail miles would be created.

CALIFORNIA TRAIL STUDY ROUTES

In the MISSOURI VALLEY, subsequent to the 1987 completion of the feasibility study, extensive diary research plus ground searches by OCTA members located numerous swales, ruts, remnants of river and creek crossings, etc. Many of these new sites are on private land and have been preserved for 160 years by landowners' families. This research identified 19 routes that are proposed for study, most of which will be multi-use shared routes. For example, the FORT LEAVENWORTH to BIG BLUE RIVER Route in Kansas was used by Oregon and California bound emigrants and by Pony Express riders.

Seven CENTRAL ROUTES are proposed for study including the CHEROKEE TRAIL which was heavily used by Native Americans, Anglos and blacks from the Oklahoma Territory heading west for the California gold fields. During the March 2002 Senate hearing on S. 213, members of the Cherokee Nation and Trail of Tears Assn. stood in support of this study. In Wyoming, the Cherokee Trail is protected by the Bureau of Land Management under the Historic Preservation Act even though not yet part of the National Trails System.

Eight WESTERN ROUTES are proposed for study. Most were omitted from the original Feasibility Study or were ordered to be deleted from the Comprehensive Management Plan. For example, the Solicitor's Order deleted the BIDWELL-BARTLESON Route from the California Trail Management Plan. On May 12, 1841, the Bidwell-Bartleson Company left from the Kansas City area. They did not have a map showing the way to California because none existed. Thirty-one men and one woman (Mrs. Nancy Kelsey) with an infant daughter followed the Oregon Trail. About 560 miles west of Fort Laramie, they left the Oregon Trail to find a route across the unknown territory stretching to California. After leaving their wagons in the desert and wandering lost for several days, the Bidwell-Bartleson party finally reached the Sierra Nevada Mountains. They crossed somewhere near the present day Sonora Pass and arrived in California on October 30, 1841. The accomplishments of the Bidwell-Bartleson company include those of Nancy Kelsey who became the first white woman to cross the Sierras, and are widely celebrated.

OREGON TRAIL STUDY ROUTES

When the Oregon National Historic Trail was authorized in 1978, it was treated as Point-to-Point, similar to a Scenic Trail. This action ironically excluded the WHITMAN MISSION ROUTE which was first traveled in 1836 and was THE Oregon Trail. As Narcissa Whitman wrote in 1840: "We are emphatically situated on the highway between the States and the Columbia River." Narcissa and her husband, Dr. Marcus Whitman, along with the Rev. Henry Spaulding and wife, Eliza, were Presbyterian missionaries from upper New York state. Narcissa and Eliza, the first white women to cross the Rockies, are remembered with a special marker at South Pass. Their company took a two-wheeled cart to Oregon; proving wheeled vehicles could make the trip successfully. The Whitman Mission Route served as the main stem of the Oregon Trail during the earliest years of the mass overland migration but was later bypassed and omitted from the 1978 authorization.

In 1843-44 the UPPER COLUMBIA RIVER ROUTE became the only trail to the Willamette Valley. A day's horseback journey west of the Whitman Mission, it started as a Hudson Bay Company post, where emigrants built rafts to float down the river to The Dalles, a treacherous trip with loss of lives and belongings. Then, Oregon bound emigrants found a way to bypass the Whitman Mission by following the Umatilla River to the Columbia, saving days of travel.

From 1848 to 1884, the CUTOFF TO THE BARLOW ROAD made it easier for emigrants to cross the Cascades to reach Oregon City. This Cutoff saved 100 miles as well as a week's travel time. Similarly, the FREE EMIGRANT ROAD was opened in 1853 and the COWLITZ RIVER ROUTE was established in 1845. The NACHES PASS TRAIL opened in 1853, bypassed the Columbia River and the Willamette Valley and was known as the Walla Walla to Steilacoom Pioneer Citizens Trail.

In Idaho, the NORTHSIDE ALTERNATE connected to the NORTH ALTERNATE. Also, the GOODALE CUTOFF began on the north side of the Snake River at Fort Hall and rejoined the Oregon Trail south of the Boise Valley.

CENSUS OF EMIGRANT DOCUMENTS (COED)

The Oregon-California Trails Assn. has just created a copyrighted Emigrant Names CD database of approximately 66,000 names of emigrant to the west between 1832 and 1899. Based upon 2,263 diaries, journals, letters and reminiscences by pioneers researched by more than 200 volunteers working over 15 years who collectively contributed more than 100,000 hours to this project. Using this CD, researchers can search for a specific name during a time period and find information about the primary documents and their location.

FOUR TRAILS GIS DATABASE

Volunteers continue mapping the Oregon, California, Mormon Pioneer and Pony Express Trails. They use OCTA's Mapping the Emigrant Trails Manual to identify trail segment conditions and hand-held Global Positioning System units, obtained under the National Park Service Challenge Cost Share program, to identify site and segment locations. The Park Service checks these readings for accuracy and adds them to the Four Trails GIS database managed by the University of Utah. New data

and the Geological Survey 7.5 topo maps completed by OCTA and other volunteers are scanned and digitalized for the GIS database. These activities are part of a National Trails pilot GIS Database study.

We urge passage of S. 635 the Pioneer Historic Trails Studies Act.

S. 324—WILLING SELLER AUTHORIZATION FOR SELECTED SCENIC TRAILS

The Oregon-California Trails Assn. supports passage of Senate bill S. 324, which would extend Willing Seller Authorization to the North Country and Ice Age National Scenic Trails. They need this Authority to achieve their Congressionally authorized objective.

This bill does not affect the Oregon and Mormon Pioneer National Historic Trails, which do not have this authority or the California and Pony Express National Historic Trails, which do have this authority. These four trails share a common corridor along the Platte River basin and west through South Pass. Along that portion of these trails, there is little need for Willing Seller Authorization because no acreage is involved now. Only a few acres might be involved in the future and those concerns could be addressed through Fee Simple Easements.

S. 651—WILLING SELLER AUTHORIZATION FOR NATIONAL TRAILS

The Oregon-California Trails Assn. supports passage of Senate bill S. 651, which would extend Willing Seller Authorization to all National Scenic and Historic Trails that do not already have that Authority.

This bill would extend Willing Seller Authorization to the Oregon and Mormon Pioneer National Historic Trails. However, OCTA does not currently have need to apply this Authority and has in previous situations used the Fee Simple Easement approach to these matters.

Thank you for the opportunity to provide this testimony on behalf of the 4,000 members of the Oregon-California Trails Association.

STATEMENT OF CELINA MONTORFANO, DIRECTOR OF CONSERVATION PROGRAMS,
AMERICAN HIKING SOCIETY

Mr. Chairman and members of the subcommittee, I represent American Hiking Society's more than 5,000 members and the 500,000 members of our 160 affiliated organizations. As the national voice for America's hikers, American Hiking Society (AHS) promotes and protects foot trails and the hiking experience. As the only national recreation-based conservation organization dedicated to establishing, protecting, and maintaining America's foot trails and a long-time partner and advocate of the National Trails System, AHS and its constituents have a very strong interest and stake in willing seller land acquisition authority for the national scenic trails included in S. 324 and S. 651. We urge the Subcommittee to recommend S. 324, as introduced by Senator Levin, and S. 651, as introduced by Senator Allard, for a vote in the Senate.

S. 324 is critical to the protection and completion of the North Country, Ice Age, and Potomac Heritage National Scenic Trails. This bill amends the National Trails System Act to give these three national trails that lack federal land acquisition authority the ability to buy land from willing sellers to protect the trail corridors. S. 651 provides willing seller land acquisition authority for all nine trails, including the Continental Divide National Scenic Trail, for which the federal agencies currently are prohibited from buying land.

Enacting this authority will help protect critical resources along these congressionally-designated trails. Without this authority, trail managers' hands are tied when development threatens important links in the natural landscapes of the national scenic trails. The legislation would not commit the federal government to purchase any land or to spend any money but would allow managers to purchase land to protect the national trails as opportunities arise and as Congress appropriates the necessary funds.

Willing seller authority will provide the following benefits:

I. WILL HELP COMPLETE CRITICAL PORTIONS OF THE NATIONAL TRAILS SYSTEM

Willing seller land acquisition authority will enable federal agencies to play an essential role in protecting resources and rights-of-way critical to the integrity and continuity of the affected trails. Congress' intent to provide opportunities for outdoor recreation and appreciation and enjoyment of natural and historic resources may never be fully achieved along these trails without the agencies' ability to purchase land from willing sellers.

The three national scenic trails included in S. 324 have a combined projected length of approximately 6,115 miles. Twenty years after their authorization, only about 2,421 miles slightly more than one-third of their length are protected so they will be permanently available for public use and enjoyment. The routes of these trails lie mostly across private land in eastern and midwestern states. The Continental Divide National Scenic Trail crosses mostly public land (over 95%) and is nearly complete. Willing seller authority will have little to no impact on the amount of land owned by the federal government in several western states.

Without the ability to purchase permanent rights-of-way from willing sellers, it is highly unlikely that these trails will ever be the continuous pathways that Congress intended. In addition, willing seller authority can allow sections of these trails now located on roads to be moved to overland routes that will provide safer and better conditions for hikers and other trail users.

II. RESTORES BASIC PROPERTY RIGHTS

S. 324 and S. 651 protect private property rights, as landowners along the affected trails are currently denied the right to sell land to the federal government if they desire to do so. Many landowners have offered to sell their land to the federal government to maintain the continuity of a national scenic trail. Individual families have voluntarily protected many unique and special sites along the trails for several generations. Granting willing seller authority will restore basic property rights to thousands of landowners.

The decision to sell land is made freely by the landowner. The bill only authorizes land acquisition from willing-sellers. The owner must want to sell his land, and he/she must want to sell it to the federal government. Under the willing-seller bill, no contract is valid unless the landowner receives compensation for the land, reflecting basic contract law.

Neither the National Trails System Act (NTSA) nor the amendments through this bill would affect the rights of landowners adjacent to the trails or within the trails' viewsheds. On the contrary, the Act includes some protections for neighboring landowners. Sec 7(a)(2) states that the appropriate Secretary, in selecting the rights-of-way, give full consideration to "minimizing the adverse effects upon the adjacent landowner or user and his operation. Development and management of each segment of the National Trails System shall be designed to harmonize with and complement any established multi-use plans for the specific area in order to insure continued maximum benefits from the land." The Secretary must also allow reasonable access across the federal corridor for adjacent landowners.

III. RESTORES THE ABILITY OF FEDERAL AGENCIES TO FULLY ADMINISTER THE NATIONAL TRAILS

S. 324 and S. 651 restore a critical tool to the federal agencies that administer the national trails. The NTSA authorizes the administering agencies to collaborate with other federal agencies, state and local governments and private organizations in planning, developing and managing the trails; develop uniform standards for marking, interpreting and constructing the trails; regulate their use; and provide grants and technical assistance to cooperating agencies and organizations. The NTSA provides for these and other authorities to be applied consistently throughout the National Trails System; however, land acquisition authority—an essential means for protecting the resources and continuity that form the basis for these trails—has been applied inconsistently. This hinders effective administration of significant portions of the National Trails System. Progress on these trails is greatly impeded without the authority for federal land acquisitions or easements.

Willing seller land acquisition authority for the National Trails System is nothing new. Congress authorized two trails before 1978 and twelve trails since 1983 with federal land acquisition authority, including the three newest trails established in 2000, the Ala Kahakai and El Camino Real National Historic Trails, and the Old Spanish National Historic Trail, established in 2002.

S. 324 and S. 651 restore the ability of the federal agencies to carry out their responsibilities under the NTSA to protect nationally significant components of our nation's cultural, natural, and recreational heritage. One of the fundamental responsibilities given to the federal agencies is to protect the trails' important cultural and natural resources and to provide public access to and travel within them. Absence of willing-seller authority prevents the agencies from directly protecting resources along the affected trails.

IV. PROVIDES REASONABLE CONSERVATION OPPORTUNITIES

Willing seller land acquisition authority and subsequent appropriations from the Land and Water Conservation Fund (LWCF) will enable the federal agencies to respond to conservation opportunities presented by willing landowners. Each year landowners offer critical sites and segments of these trails for sale. The need and opportunity to use this authority will arise at different times for the various trails. For some, the authority may not be used for many years or only infrequently. For others the need for this authority is more acute and is likely to be used as soon as Congress makes it available.

With willing seller authority, as provided by S. 324 and S. 651, federal agencies will only be able to buy land from willing sellers if Congress appropriates the funds for them to do so. Ultimate control over how much land may be purchased for the national scenic and historic trails remains with Congress through the annual appropriation process. Acquisitions will also be controlled by the limited funding available for acquisitions combined with the linear nature of these trails. However, if the administering agency can only protect a segment of trail corridor by acquiring a whole parcel larger than needed for the corridor, the NTSA allows agencies to exchange or dispose of land acquired as part of a whole tract that falls outside the area the area of trail acquisition. Agencies can also avoid expanding the federal estate through the use of easements over fee title acquisitions.

V. PROTECTS LAND AND RECREATION RESOURCES AT-RISK

In Wisconsin, scores of landowners along the Ice Age and North Country National Scenic Trails have offered to sell their land to the Wisconsin Department of Natural Resources, the Ice Age Park & Trail Foundation, North Country Trail Association, and to the National Park Service. The State has been purchasing trail lands from willing sellers for the past ten years, matching LWCF money with Wisconsin Stewardship Fund money. Despite successful efforts to protect segments of the trails, the process has been slow, and land values keep escalating. The State has neither the funds nor enough land acquisition agents to meet the demand of potential transactions. Portions of these two trails are at risk from housing development, especially near urban areas and countryside attractive for vacation homes. The federal agencies are needed as partners to add their staff and acquisition dollars to the efforts of state/local agencies and private organizations to protect the rights-of-way that will enable these trails to become the continuous footpaths Congress intended.

Without willing seller land acquisition authority for these trails, our nation will lose irreplaceable and invaluable resources and experiences. The purchase of several properties in Dane County, a rapidly urbanizing area of Wisconsin, would have protected a nationally significant portion of the terminal moraine of the most recent continental glaciation, providing an excellent opportunity for the public to experience two remarkably dissimilar landscapes. Local government zoning authority preserved only a narrow corridor for the Ice Age Trail to weave among luxury homes in a new subdivision.

Passing within fifteen miles of Grand Rapids, the North Country Trail will offer extensive recreational opportunities to residents and visitors of western Michigan. However, with only scattered public land holdings in the area, the trail is extremely vulnerable to closures and relocations as private lands change hands. In addition, rapidly expanding development threatens the trail corridor throughout lower Michigan, especially as more and more people build second homes in the region. In the Upper Peninsula, permanent easements are needed across vast expanses of corporate land to ensure permanent protection of the trail. These challenges represent common themes throughout the seven states linked by this 4,600-mile long national scenic trail.

VI. BENEFITS OF TRAILS

Trails provide invaluable environmental, recreational, economic, health, and transportation benefits to the nation. They offer family oriented recreation in a safe environment. By increasing physical activity, trail use such as walking/hiking reduces the risk of life-threatening diseases such as heart disease, diabetes, cancer and other serious medical conditions. Trails provide economic vitality to communities, increasing property values and enhancing regional tourism. They also offer significant educational value as outdoor classrooms for natural and cultural history. Hiking represents one of the fastest growing recreational activities—75 million Americans hike regularly or occasionally according to the Outdoor Industry Association's Participation Study 2001. In 2001, sales of outdoor gear, clothing, footwear, and other accessories amounted to more than \$18 billion.

CONCLUSION

American Hiking Society is very grateful to Senator Levin and Senator Allard for introducing S. 324 and S. 651, respectively. Last year, identical legislation to S. 324 passed in the Senate by unanimous consent, and identical legislation to S. 651 passed in the House by a 409-3 vote. Willing seller bills have received bipartisan support, are generally considered noncontroversial, and are critical to the protection and completion of the National Trails System. We urge the National Parks Subcommittee to recommend these bills for a Senate vote as soon as possible. American Hiking appreciates the opportunity to provide these comments in support of S. 324 and S. 651 for the hearing record. Thank you for your consideration. April 18, 2003

STATEMENT OF DEBORAH STEWART-KENT, EXECUTIVE DIRECTOR, FLORIDA
TRAIL ASSOCIATION

SENATE BILL 324—WILLING SELLER AUTHORITY FOR NATIONAL TRAILS

Mr. Chairman and members of the Subcommittee on National Parks: The Florida Trail Association strongly supports Senate Bill 324, the National Trails System Willing Seller Act, as introduced by Senator Levin and urges you to promptly recommend it for passage by the Senate. Senate Bill 324 provides authority to Federal Agencies to purchase land and interests in land from willing sellers to help preserve permanent, continuous rights-of-way for the Ice Age, North Country, and Potomac Heritage National Scenic Trails, components of the National Trails System authorized by Congress 20 or more so years ago. S. 324 is an important remedial bill that begins to correct a gross disparity and inconsistency in the National Trails System Act.

The Florida Trail Association is the USDA Forest Service's primary partner for the Florida National Scenic Trail, a 1,300-mile trail running the length of Florida from Big Cypress National Preserve to Gulf Islands National Seashore. When Congress designated the Florida Trail as a National Scenic Trail twenty years ago, Congress granted the USDA Forest Service authority to purchase land from willing sellers outside of Federal lands. This authority has been instrumental to the USDA Forest Service's ability to purchase land from willing sellers to protect the route of the Florida Trail. To date, the USDA Forest Service has acquired three tracts of land to protect 2.8 miles of the FNST (615.6 acres) in the Apalachicola National Forest, St. Marks National Wildlife Refuge and a tract near Orlando. Additionally, eight other acquisition projects are underway with willing sellers that should result in the acquisition of an additional 1,190 acres to protect 8.5 miles of the FNST. The Forest Service has also initiated acquisition of an additional 5,000 acres that would protect 60 miles of trail corridor. With this simple change in the Act, similar strides can be made in protecting the routes of the nine other national scenic and historic trails that do not have this authority.

The Florida Trail Association hereby adopted the following trail policy which is incorporated into the Trail Manual for the Florida Trail System.

The Florida Trail Association supports the acquisition of land to provide a permanently protected route for the Florida National Scenic Trail. The FTA supports the limited land acquisition authority that federal law grants to the USDA Forest Service to acquire land for the Florida National Scenic Trail. The National Trails System Act, P.L. 90-543, 82 Stat. 919, as amended; 16 U.S.C. 1241, allows the Federal government to purchase of land outside of boundaries of Federally administered areas only with the consent of the landowner. It is FTA's goal that the Florida National Scenic Trail will be completed in partnership with landowners and willing sellers.

The Florida Trail Association urges you to give prompt consideration and passage of this legislation important for protecting private property rights, restoring consistency to the National Trails System Act and for providing Federal agencies with authority to protect important and cultural resources and continuity of America's premier trails. We believe that this authority is essential to the completion and success of the National Trails System.

SENATE BILL 635—PIONEER NATIONAL HISTORIC TRAILS STUDIES ACT

The Florida Trail Association strongly supports S. 635, The Pioneer National Historic Trails Studies Act, and requests that you request the Senate Energy and National Resources Committee to recommend adoption of S. 635 to the full Senate. This bill authorizes the National Park Service to update the Feasibility Studies for the Oregon, California, Mormon Pioneer and Pony Express National Historic Trails

by examining additional routes and cutoffs of these trails for possible inclusion in the National Trails System. Our National Trails System should be in the forefront of recognizing the full stories of our past and protecting the physical reminders of those stories. The Florida Trail Association urges you to recommend adoption of S. 635 to your colleagues on the Energy and Natural Resources Committee and to the full Senate.

The Florida Trail Association appreciates prompt consideration you have given to S. 324 and S. 635 and the opportunity to provide these comments in support of them for the hearing record.

○