

**H.R. 588, VIETNAM VETERANS DONOR
ACKNOWLEDGMENT ACT OF 2013;
H.R. 716, TO DIRECT DOI TO CONVEY
CERTAIN FEDERAL LAND TO THE CITY
OF VANCOUVER, WASHINGTON; AND
H.R. 819, PRESERVING ACCESS TO CAPE
HATTERAS NATIONAL SEASHORE
RECREATIONAL AREA ACT**

LEGISLATIVE HEARING

BEFORE THE

SUBCOMMITTEE ON PUBLIC LANDS
AND ENVIRONMENTAL REGULATION

OF THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

FIRST SESSION

Thursday, March 14, 2013

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LEGISLATIVE HEARING ON H.R. 588, TO PROVIDE FOR DONOR CONTRIBUTION ACKNOWLEDGMENTS TO BE DISPLAYED AT THE VIETNAM VETERANS MEMORIAL VISITOR CENTER, AND FOR OTHER PURPOSES. "VIETNAM VETERANS DONOR ACKNOWLEDGMENT ACT OF 2013"; H.R. 716, TO DIRECT THE SECRETARY OF THE INTERIOR TO CONVEY CERTAIN FEDERAL LAND TO THE CITY OF VANCOUVER, WASHINGTON, AND FOR OTHER PURPOSES; H.R. 819, TO AUTHORIZE PEDESTRIAN AND MOTORIZED VEHICULAR ACCESS IN CAPE HATTERAS NATIONAL SEASHORE RECREATIONAL AREA, AND FOR OTHER PURPOSES. "PRESERVING ACCESS TO CAPE HATTERAS NATIONAL SEASHORE RECREATIONAL AREA ACT."

Thursday, March 14, 2013
U.S. House of Representatives
Subcommittee on Public Lands and Environmental Regulation
Committee on Natural Resources
Washington, D.C.

The Subcommittee met, pursuant to notice, at 10:05 a.m., in room 1334, Longworth House Office Building, Hon. Rob Bishop [Chairman of the Subcommittee] presiding.

Present: Representatives Bishop, Stewart, Young, Tipton, Grijalva, Holt, Bordallo, Hanabusa, Horsford, Shea-Porter, and Garcia.

Also Present: Representatives Jones and Herrera Beutler.

Mr. STEWART [presiding]. The hearing will come to order. The Chair notes the presence of a quorum. The Subcommittee on Public Lands and Environmental Regulation is meeting today to hear testimony on three bills.

Under the Rules, opening statements are limited to the Chairman and Ranking Member. However, I ask unanimous consent to include any other Members' opening statements in the hearing record, if submitted to the Clerk by the close of business today.

[No response.]

Mr. STEWART. Hearing no objection, so ordered.

Chairman Bishop is delayed, due to work on another Committee. But he may provide his statement later in the briefing.

[The prepared statement of Mr. Bishop follows:]

PREPARE STATEMENT OF THE HONORABLE ROB BISHOP, CHAIRMAN,
SUBCOMMITTEE ON PUBLIC LANDS AND ENVIRONMENTAL REGULATION

I would like to thank the Members that are here today to explain their legislation, as well as the witnesses who have travelled here to help us better understand the issues involved. Your comments are appreciated.

I *am* concerned that today we find ourselves investigating separate issues where there has been a failing of a federal agency to work cooperatively with local residents. We have two situations where locals feel betrayed by those that have been entrusted to care for the nationally significant resources in their community.

We will hear stories, facts and figures, some more convincing than others, but the net result is a breakdown in the relationships which are critical to the success of these parks. While the temptation is to point fingers and assign blame, I hope we come out of this with a better understanding of how things can be done better in the future, and how to best serve the communities' interest.

I believe that people visit our national parks, seashores and historic sites to experience the resources, not to experience the park service. When situations erupt to

a point where congressional action is the best solution, it seems to me that somewhere along the line we lost sight of that point.

Again, thank you for being here and providing testimony to the committee.

Mr. STEWART. Today's hearing will consist of four panels. The first panel we are pleased to hear testimony from the sponsors. Ms. Herrera Beutler will provide comments on H.R. 716, a bill to direct the Secretary of the Interior to convey land to the City of Vancouver, Washington; Mr. Jones, on H.R. 819, to authorize pedestrian vehicular access in Cape Hatteras National Seashore; and Mr. Young, the distinguished past Chairman of the Resources Committee—thank you, sir—will provide testimony on H.R. 588 to permit donor recognition at the Vietnam Veterans Memorial Visitors Center. Thank you all for being here today.

First, I would like to recognize the gentleman from Arizona, Mr. Grijalva, for his opening statement.

STATEMENT OF THE HON. RAÚL M. GRIJALVA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARIZONA

Mr. GRIJALVA. Thank you very much, Mr. Chairman, and I want to thank the panelists. This is the Subcommittee's first legislative hearing of this 113th Congress. I thank the witnesses, and look forward to hearing your views and testimony on the legislation before us.

Traditionally, as this Committee works, the Minority on the Committee, Democrats, have been provided a level of courtesy, in terms of including some of the bills sponsored by Members of the Minority. One of the bills that we requested inclusion was H.R. 885, the San Antonio Missions bill, which passed the House on a bipartisan vote in the 111th Congress, on a bipartisan vote in the 112th Congress. Once sponsored by a former colleague, a Democrat, and the second time sponsored by a former colleague, a Republican. We again would encourage the Chair to consider bills as we see some before us today that have passed in the past and have received bipartisan support, that we would be extended that courtesy, as we go forward. And I hope that the Majority would consider this approach.

I also want to say each of the bills today really deserve our attention. With the drastic cuts coming and being proposed for the Park Service budget, we need to understand how to balance the demand for the Park experience, and the increased reliance of the National Park Service on private money, and look forward to those discussions, as well.

Thank you again, Mr. Chairman, and let me thank our witnesses. And I yield back.

[The prepared statement of Mr. Grijalva follows:]

PREPARED STATEMENT OF THE HONORABLE RAÚL M. GRIJALVA, RANKING MEMBER,
SUBCOMMITTEE ON PUBLIC LANDS AND ENVIRONMENTAL REGULATION

Today is the subcommittee's first legislative hearing of the 113th Congress.

I want to thank the witnesses and look forward to hearing your views on the testimony before us today.

Traditionally, when hearings are scheduled, Democrats are provided the courtesy of including their bill of choice in the hearing agenda. We requested the inclusion of H.R. 885, the San Antonio Missions bill which passed the House by a bipartisan vote in the 111th Congress and the 112th Congress. This request was denied. We

also requested that the bill be included in next week's hearing agenda and were denied again. While I appreciate the comity the Chairman has afforded the minority, this is not a positive way to begin a new Congress and I hope the Majority will reconsider their approach.

Each of the bills on the agenda today deserve our attention. With drastic cuts to the Park Service budget we need to understand how to balance the demand for park experiences and the increased reliance of NPS on private money. Thank you again to our witnesses.

Mr. STEWART. Thank you, sir. We will now turn to the first panel. I would ask my colleagues to please keep their testimony to 5 minutes.

Ms. Herrera Beutler, welcome, ma'am. And you are now recognized.

STATEMENT OF THE HON. JAIME HERRERA BEUTLER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON

Ms. HERRERA BEUTLER. Thank you, Mr. Chairman and Ranking Member Grijalva. It is a pleasure to be here. I would like to consider—or I would like to thank the Committee. You guys are considering H.R. 716, which is a really important bill to my neck of the woods. It has got a pretty innocuous title. It is a land conveyance of the Pearson Air Museum and surrounding land from the National Park Service to the City of Vancouver, Washington.

Here is what this bill is not. It is not an ideological-driven bill attacking the Park Service, Federal ownership of land, the Administration, or the preservation of history. That is not what this bill is. In fact, it is the opposite. The bill is designed to maintain the quality and level of management that has made the site nationally renowned, an example of public-private partnership, and community access for almost the last 20 years.

The Fort Vancouver National Historic Reserve was established in the Omnibus Parks and Public Lands Management Act of 1996. Bordered by freeways, an airport, a busy rail line, this Reserve includes a seven-acre complex described in the bill on which the Pearson Air Museum is located.

For all intents and purposes, the caretaker and the manager of the museum has been the nonprofit Fort Vancouver National Trust. It has raised virtually all of the funds, privately, mostly from my community for the museum's upkeep, which totals nearly \$10 million. Until the last month, the museum was filled with privately owned planes that highlighted the rich history of aviation in southwest Washington. It has also housed countless education programs as one of the region's most popular venues, and has hosted more than 100 community events each year.

The shining example of a well-maintained community treasure contrasts sharply with the shell of a museum that now sits on the Fort Vancouver land. In the last year, since I became involved in this unfortunate situation, our community has watched their access to this venue disappear. Over a period of a few months, the National Park Service unilaterally began denying local community events, a charity concert to benefit military veterans, an annual all-church picnic and a youth soccer fair among them.

I struggle to describe the Park Service's approach as anything but anti-public. Over the last year, my staff and I organized and attended countless meetings with staff from every level of the Park Service, from Director John Jarvis to the local level. And despite these talks, last month the Park Service decided to terminate a 30-year cooperative management agreement.

When I say sudden, the Park Service sent a letter to the Trust, once its partner, demanding the immediate handover of the museum's alarm code and keys in a 24-hour turnaround. This is a situation Congress never intended. When the Park Service ended the agreement, the museum transformed into something completely unrecognizable by our community. It has been well-documented on cover after cover of my district's largest newspaper.

At the owner's request, the contents were removed and the educational classes were either moved or canceled. And for weeks the aviation museum sat empty, and it now houses an old sailboat and a covered wagon.

Perhaps the most concerning is that it now appears that the Park Service was intending to take sole control of the museum. An internal Park Service document unearthed by the Vancouver Columbian newspaper through a FOIA request suggests that the Park Service was planning this takeover as early as 2009. In the document I have given to the Committee and staff—I will submit for the record, the Park Service refers to the eventual ownership and management of the museum and its assets. I look forward to Mr. Frost's clarification on these comments.

And for my last point I would like to illustrate for the Committee the benefit of maintaining the successful local partnership in managing the Pearson Air Museum. Compare the difference in the photos that you all have on your desk. The first is Fort Vancouver's East Barracks, which has been, for years, managed by the Park Service. They are boarded and shut. Compare that to the museum, when it was still under the Trust management. This is why this—at a time when we need these public-private partnerships, we need those funds to operate, as you can clearly see, from the illustrations.

Mr. Chairman, my legislation is supported by the City of Vancouver, virtually every citizen, civic, and community organization in our region. The Save Pearson Air Museum Facebook Page now has more than 1,300 likes, dozens have gathered in protest of the current situation, and my office has been flooded with pleas by my constituents to pass this legislation.

I urge the Committee to support this bill, and I ask that you help us preserve the treasures of Fort Vancouver. Thank you, and I yield back.

[The prepared statement of Ms. Herrera Beutler follows:]

PREPARED STATEMENT OF THE HONORABLE JAIME HERRERA BEUTLER, A
REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON, ON H.R. 716

Thank you Mr. Chairman,

First I'd like to thank the Committee for its consideration of H.R. 716, a land conveyance of the Pearson Air Museum and surrounding land from the National Park Service to the city of Vancouver, Washington.

Here's what this bill is not. This is not an ideological driven bill attacking the Park Service, federal ownership of land, the administration, or the preservation of history. In fact, it is the opposite. This is a bill designed to maintain the quality

and level of management that has made this site a nationally renowned example of public-private partnership and community access for almost 20 years.

The Fort Vancouver National Historic Reserve was established in the *Omnibus Parks and Public Lands Management Act of 1996*. Bordered by freeways, an airport, and a busy rail line, this reserve includes the 7 acre complex described in the bill on which the Pearson Air Museum is located. For all intents and purposes, the caretaker and manager of this museum has been the nonprofit Fort Vancouver National Trust. It has raised virtually all of the funds—privately—for the museum’s upkeep, which totals nearly \$10 million. Until last month, the museum was filled with privately-owned planes that highlighted the rich history of aviation in Southwest Washington. It has also housed countless education programs, and as one of our region’s most popular venues, it has hosted more than 100 community events each year.

This shining example of a well-maintained community treasure contrasts *sharply* with the shell of museum building that sits on the Ft. Vancouver land today. In the last year since I became involved in this unfortunate situation, our community has watched their access to this venue quickly disappear. Over a period of a few months, the National Park Service unilaterally began denying local community events: a charity concert to benefit military veterans, an annual all-church picnic, and a youth soccer fair among them. I struggle to describe the Park Service’s approach as anything other than anti-public.

Over the last year, my staff and I organized and attended countless meetings with staff from every level of the Park Service—from Director Jon Jarvis to the local level. Despite these talks, last month the Park Service decided to terminate a 30-year cooperative management agreement. When I say sudden, the Park Service sent a letter to the Trust—once its partner—demanding the immediate hand over of the museum’s alarm code and keys.

This is a situation Congress never intended. When the Park Service ended the agreement, the museum transformed into something unrecognizable by the community. It has been well-documented on cover after cover of my district’s biggest newspaper. At the owners’ requests, the contents were removed, and educational classes were either moved or cancelled. For weeks the *aviation* museum sat empty, and now it houses an old sailboat and a covered wagon.

Perhaps most concerning is that it now appears the Park Service always intended to take sole control of the museum. An internal Park Service document unearthed by the Vancouver Columbian newspaper through FOIA suggests the Park Service was planning a takeover as early as 2009. In the document I have given to committee staff and will submit to the record, the Park Service refers to eventual “ownership” and “management” of the museum and its assets. I look forward to Mr. Frost’s clarification of these comments.

For my last point, I’d like to illustrate for the Committee the benefit of maintaining the successful local partnership in managing the Pearson Air Museum. Compare the difference in the photos:

The first is Ft. Vancouver’s East Barracks, which has for years been managed by the Park Service. They are boarded shut and perform no function other than an eye sore for Fort Vancouver.

Compare that to the Pearson Museum—when it was still under Trust management.

Mr. Chairman, my legislation is supported by the City of Vancouver and virtually every citizen, civic, and community organization in our region. The Save Pearson Air Museum Facebook page has more than 1,300 likes. Dozens have gathered in protest of the current situation, and my office has been flooded with pleas by my constituents to pass this legislation. I urge the committee to support this bill and ask that you help us preserve the treasures of Fort Vancouver.

Thank you. I yield back.

Mr. STEWART. Thank you, Ms. Beutler.
Mr. Jones, sir, the time is yours.

STATEMENT OF THE HON. WALTER B. JONES, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH CAROLINA

Mr. JONES. Mr. Chairman, I thank you and the Ranking Member for this opportunity to testify on my bill, H.R. 819. This bill is about jobs, it is about taxpayers’ rights to access the recreational

areas they own, and it is about restoring balance and common sense to Park Service management.

H.R. 819 would overturn a final rule implemented by the National Park Service in February of last year, as well as a 2008 United States District Court-ordered consent decree. The rule and the consent decree excessively restrict taxpayers' access to Cape Hatteras National Recreational Area, and they are unnecessary to protect the wildlife.

H.R. 819 would re-institute the Park Service's 2007 interim management strategy to govern visitors' access and species protection at Cape Hatteras. The interim strategy was backed by a 113-page biological opinion issued by the United States Fish and Wildlife which found that it would not jeopardize piping plover, sea turtles, or other species of concern.

In addition to providing adequate protection for wildlife, H.R. 819 would give taxpayers more reasonable access to the lands they own. It would reopen the 26 miles of beach that are now permanently closed to motorized beach access, and give seashore managers flexibility to implement more balanced measures that maximize both recreational access and species protection.

Mr. Chairman, we are going to hear a lot of claims today about how this bill isn't necessary, about how taxpayers have more than enough access to the seashore, and about how the local economy is doing just fine. That is not true. Tell that to the tackle shop owner in Buxton, who laid off a third of his employees because of an arbitrary government decision. Tell that to the motel owner on Hatteras who lost 65 percent of her customers after the Park Service decided to close the beach. Tell that to the taxpaying families from Virginia, Pennsylvania, or Ohio that canceled their vacation to the Outer Banks because they can no longer fish at this spot at Cape Point, where they came for years and years before the Park Service closed it off.

Mr. Chairman, the bottom line here is that the Federal Government is unnecessarily blocking the public from a National Seashore created for their recreation and, in so doing, it is destroying jobs. We can fix this problem by enacting H.R. 819, and there is broad bipartisan, public support for doing so.

I am grateful that North Carolina's two Senators, Senator Richard Burr and Senator Kay Hagan, came together last week to jointly introduce a Senate companion to H.R. 819. And I am very grateful to both Republican and Democrat for joining in this effort to protect the people of the Northeast and North Carolina.

The bill is also supported by a wide variety of national sportsmen's fishing and access groups, including the American Sports Fishing Association, Coastal Conservation Association, Congressional Sportsmen's Foundation, National Marine Manufacturers, and Americans for Responsible Recreational Access.

Mr. Chairman, you and the Ranking Member and the Committee staff will hear next on the third panel the Chairman, Warren Judge, of the North Carolina Dare Commissioners. This is another situation of an over-reach by a Federal Government agency, instead of trying to work with the taxpayers and coming up with a common-sense resolution. And I hope that this Committee will look seriously at moving this bill, H.R. 819, forward.

And I thank you and the Ranking Member for the opportunity to address the Committee. Thank you.

[The prepared statement of Mr. Jones follows:]

PREPARED STATEMENT OF THE HONORABLE WALTER B. JONES, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH CAROLINA, ON H.R. 819

Mr. Chairman, thank you very much for holding this hearing and allowing me to testify on my bill, H.R. 819.

This bill is about jobs, it's about taxpayers' right to access the recreational areas they own, and it's about restoring balance and common sense to Park Service management.

H.R. 819 would overturn a final rule implemented by the National Park Service (NPS) in February of last year, as well as a 2008 U.S. District Court-ordered consent decree.

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I am grateful that North Carolina Senators Richard Burr and Kay Hagan came together last week to jointly introduce a Senate companion to H.R. 819.

The bill is also supported by a wide variety of national sportsmen's, fishing and access groups, including:

- The American Sportfishing Association;
- Coastal Conservation Association;
- Congressional Sportsmen's Foundation;
- National Marine Manufacturers; and
- Americans for Responsible Recreational Access.

Mr. Chairman, this is a good bill, it's urgently needed, and I urge the Subcommittee to quickly take action to approve it. Thank you.

Mr. STEWART. Thank you, Mr. Jones.
Mr. Young, sir?

STATEMENT OF THE HON. DON YOUNG, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ALASKA

Mr. YOUNG. Mr. Chairman, I first want to thank the panel before I make my short presentation of my bill. I do thank you and Mr. Bishop for including the Vietnam Veterans Donor acknowledgment

in today's hearing. I appreciate the Committee's attention toward this time-sensitive issue.

Mr. Chairman, in 2003 Congress passed the Vietnam Veterans Memorial Visitors Center Act to authorize the construction of an education center at the Vietnam Wall. Not a single Member voted against it. We passed this bill with such strong support because every year an increasing number of the millions of visitors to the Wall, stand in awe of the moving display of the over 58,000 names, but who do not fully understand the context and importance of this memorial.

Unfortunately, the Senate tossed a wrench, as usual, into the Vietnam Veterans Memorial Visitors Center, by prohibiting donor recognition in the education center. In spite of this restriction, the Vietnam Veterans Memorial Fund has raised over \$40 million from private donors. Yet this amount falls far short of the funds needed to build the education center.

Mr. Chairman, my bill, H.R. 588, is actually quite simple, and helps solve the fundraising problem for the center. My bill allows for the Vietnam Veterans Memorial Foundation to recognize the donors. Additionally, H.R. 588 dovetails exactly with existing Park Service guidelines, and ensures that donor recognition is discreet, unobtrusive, and does not contain any advertising or company logos.

Mr. Chairman, it is ridiculous to force any organization to fundraise without the ability to recognize donors. How are they supposed to raise any money? Even the National Park Service understands the importance of donor recognition. I have personally seen a lot of benches in the National Parks across this country that have plaques on them, thanking people for their generous donation.

Overall, my bill is supported by a number of veteran organizations, including the Veterans of Foreign Wars, among others. I would like to submit this letter in support of the VFW, for the record. Without objection, I hope that can be done.

I would also like to welcome Jan Scruggs, President and Founder of the Vietnam Memorial's memorial fund, and I look forward to hearing testimony on this important bill. Mr. Chairman, I do thank you for having a hearing on this bill.

[The prepared statement of Mr. Young follows:]

PREPARED STATEMENT OF THE HONORABLE DON YOUNG, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF ALASKA, ON H.R. 588

Mr. Chairman, thank you for including my bill, the Vietnam Veterans Donor Acknowledgement Act, in today's hearing. I appreciate the Committee's attention towards this time sensitive issue.

In 2003, Congress passed the Vietnam Veterans Memorial Visitor Center Act to authorize the construction of an Education Center at the Vietnam Wall; not a single Member voted against it. We passed this bill with such strong support because every year an increasing number of the millions of visitors to the Wall stand in awe of the moving display of the over 58,000 names, but do not fully understand the context and importance of this memorial.

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existing Parks Service guidelines and ensures that donor recognition is discreet, unobtrusive, and does not contain any advertising or company logos.

Mr. Chairman, it is ridiculous to force any organization to fundraise without the ability to recognize donors. How are they supposed to raise any money?!? Even the National Parks Service understands the importance of donor recognition. I've personally seen a lot of benches in National Parks all across this country that have plaques on them thanking people for their generous donations.

Overall, my bill is supported by a number of Veteran Organizations including the Veterans of Foreign Wars (VFW), among many others. I would like to submit this letter of support from the VFW into the record.

I would also like to welcome Jan Scruggs, President and Founder of the Vietnam Veterans Memorial Fund. I look forward to hearing his testimony on this important bill.

Mr. Chairman, thank you again for having a hearing on this bill.

Mr. STEWART. Thank you, Mr. Young. And to all the members of the panel, thank you. And I ask unanimous consent that Ms. Herrera Beutler and Mr. Jones be permitted to sit on the dais with us and participate in the hearing.

[No response.]

Mr. STEWART. Hearing no objection, then so ordered. You are welcome to join us.

Our second panel we are pleased to welcome Dr. Frost and Mr. Scruggs. Dr. Herbert Frost is the Associate Director for Natural Resource Stewardship and Science at the National Park Service. He will provide testimony on all three bills. Mr. Jan Scruggs is a member—I am sorry, is President of the Vietnam Veterans Memorial Fund, testifying on behalf of H.R. 588.

Your written testimony will appear in full in the hearing record, so I ask that you keep your oral statement to 5 minutes. And I suppose you know the rules on this, but when you begin to speak a green light will come on before you. After 4 minutes, a yellow light will appear and you should begin to conclude your statement. At 5 minutes a red light will appear, and we ask that you conclude at that time.

We will begin with Dr. Frost, then. Sir, please begin your testimony only on H.R. 588.

STATEMENT OF DR. HERBERT C. FROST, ASSOCIATE DIRECTOR, NATURAL RESOURCE STEWARDSHIP AND SCIENCE, NATIONAL PARK SERVICE, U.S. DEPARTMENT OF THE INTERIOR

Dr. FROST. Thank you, Mr. Chairman, and thank you for the opportunity to appear before the Subcommittee to present the Department of the Interior's view on this bill today. I will submit our full statement of this bill for the record, and summarize the Department's view.

The Department supports H.R. 588, as amended, in accordance with our testimony. This bill would amend this legislation that authorized the Vietnam Veterans Memorial to allow a display of donors that contributed to the Memorial's visitor center. We strongly recommend that this legislation be broadened to provide a donor recognition policy for commemorative works on lands under the jurisdiction of the Commemorative Works Act.

We would like to work with the Committee, the General Services Administration, the Commission of Fine Arts, and the National Capital Planning Commission on amendments to this bill.

The Commemorative Works Act forbids donor acknowledgment in any manner as part of the commemorative work or its site. We believe changes to this provision should be undertaken thoughtfully. We believe a change of guidance related to donor recognition should be considered for all memorials under the Commemorative Works Act, rather than by individual memorial exception. Proposed changes should conform to all applicable guidelines, including, but not limited to, National Park Service guidelines of donor recognitions.

We believe that the following guidelines should be considered: an appropriate location for the donor recognition; attributes of the display; whether it is a physical or a digital recognition; and a requirement that the donor recognition is temporary, and the requirement the display does not include any advertising slogans or company logos.

This concludes my statements; I will be happy to take questions. [The prepared statement of Dr. Frost follows:]

PREPARED STATEMENT OF DR. HEBERT C. FROST, ASSOCIATE DIRECTOR, NATURAL RESOURCE STEWARDSHIP AND SCIENCE, NATIONAL PARK SERVICE, U.S. DEPARTMENT OF THE INTERIOR

H.R. 588.—TO PROVIDE FOR DONOR CONTRIBUTION ACKNOWLEDGEMENTS TO BE DISPLAYED AT THE VIETNAM VETERANS MEMORIAL VISITOR CENTER, AND FOR OTHER PURPOSES.

Mr. Chairman, thank you for the opportunity to present the views of the Department of the Interior regarding H.R. 588, a bill to provide for donor contribution acknowledgements to be displayed at the Vietnam Veterans Memorial Visitor Center, and for other purposes.

The Department supports H.R. 588, as amended in accordance with this testimony. We strongly recommend that this legislation be broadened to provide a donor recognition policy for commemorative works on lands under jurisdiction of the Commemorative Works Act (CWA). We would like to work with the committee, the U.S. General Services Administration, the U.S. Commission of Fine Arts, and the National Capital Planning Commission on amendments to the bill.

H.R. 588 would amend the legislation that authorized the Vietnam Veterans Memorial (Pub. L. 96-297) to allow a display of donors that contributed to the Vietnam Veterans Memorial Visitor Center. The display would have to meet certain criteria and would require the approval of the Secretary of the Interior. This legislation is necessary for a display of donors to be allowed because Congress directed, in Pub. L. 108-126, that the Vietnam Veterans Memorial Visitor Center be constructed in accordance with the CWA (40 U.S.C. Chapter 89), and the CWA (40 U.S.C. 8905(b)(7)) forbids donor acknowledgement in any manner as part of a commemorative work or its site.

The CWA prohibition on donor recognition helps preserve the unique civic character of Washington's public realm, including commemorative works. Memorials honor events and figures of national significance and are often located in prominent historic and cultural settings within the nation's capital. Through the design process outlined in the CWA, we work with Congressionally-authorized sponsors to build memorials that appropriately convey commemorative themes and subjects for the benefit of all Americans. Donor recognition at a memorial site may detract from the memorial's design, historic setting and narrative. For these reasons and to promote fairness and parity in the process, we believe the CWA provision prohibiting donor recognition in a permanent manner has merit and changes to this provision should be undertaken thoughtfully.

However, the Department acknowledges the challenge of funding new memorials. Given the reliance of the Congressionally-authorized memorial sponsors on the generosity of the public in order to establish and construct memorials that Congress has authorized, the Department recognizes the importance of acknowledging large

donations for effective fundraising, and believes that donor recognition may be appropriate with specific guidelines.

To promote a uniform process for all memorial sponsors and to ensure a strong design review, a change of guidance related to donor recognition should be carefully considered more broadly for all memorials under the CWA rather than by individual memorial exception. Any proposed changes should conform to all applicable guidelines for donor recognition, including but not limited to National Park Service Director's Order #21, the National Park Service Management Policies 2006, and the National Mall and Memorial Parks Donor Recognition Plan (Mall Donor Recognition Plan).

The Mall Donor Recognition Plan, adopted in 2011, applies only to structures and sites that are not covered by the CWA. The plan provides that donor recognition must be located on the interior of a facility, must be temporary and non-structural, must not detract from the visitor experience, and must not be affixed to historic structures or museum collections, benches, park furnishings, bricks or plantings. The plan currently sets a minimum \$1 million donation for such recognition, although we anticipate that this minimum may need to be raised over time.

Should the committee consider legislation that permits recognition of large donations for the Vietnam Veterans Memorial Visitor Center and future commemorative works on lands under jurisdiction of the CWA, we recommend that the committee consult with the Department and the other agencies with responsibilities for commemorative works to develop appropriate guidelines for donor recognition. Other agencies to consult include the U.S. General Services Administration, the U.S. Commission of Fine Arts, and the National Capital Planning Commission.

We believe that the following should be considered in the development of the guidelines for donor recognition for commemorative works:

- appropriate location for the donor recognition;
- attributes of the display, whether physical or digital (such as a discreet statement or credit acknowledging the contribution, appropriately scaled for the setting and the commemorative work);
- a requirement that the donor recognition is temporary and is displayed for no more than 5–10 years; and
- a requirement that the display does not include any advertising slogans or company logos.

Should the Congress move forward with a version of H.R. 588, the Department believes that certain specific provisions for approval of donor recognition in H.R. 588, in particular, subparagraphs (D), (E), (F) and (G) of amended section 40 U.S.C. 8905(b)(7) (from page 3, line 4 through page 4, line 8) are unnecessary. This approval process, as described, would be redundant to the approval process already required by the CWA for the approval of the design of a memorial, and specifies an approval time frame that is unworkable. The Department strongly supports the current process as required by the CWA by which the design of commemorative works and related support facilities are considered by the National Capital Memorial Advisory Commission, reviewed and approved by the Commission of Fine Arts, the National Capital Planning Commission and the Secretary of the Interior. The review and approval of donor recognition displays within the National Mall and Memorial Parks can be seamlessly integrated with the existing approval process for commemorative works because these displays would be part of the plan of the memorial and its site.

The Department would be happy to assist the committee working with the U.S. General Services Administration, the U.S. Commission of Fine Arts, and the National Capital Planning Commission, in drafting revisions to H.R. 588 in accordance with this statement.

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

H.R. 716.—A BILL TO DIRECT THE SECRETARY OF THE INTERIOR TO CONVEY CERTAIN FEDERAL LAND TO THE CITY OF VANCOUVER, WASHINGTON, AND FOR OTHER PURPOSES

Mr. Chairman, thank you for the opportunity to present the views of the Department of the Interior regarding H.R. 716, a bill to direct the Secretary of the Interior to convey certain federal land to the City of Vancouver, Washington.

The Department strongly opposes the enactment of this legislation. H.R. 716 requires the conveyance to the City of Vancouver of seven acres of federal land within the boundaries of Fort Vancouver National Historic Site, including the park's main historic hangers, headquarters, and munitions building. Such a conveyance threatens the values and resources of the National Historic Site. We believe that contin-

ued management of this federal land by the National Park Service would be the best way to ensure the protection of the park's nationally significant cultural resources in perpetuity and to continue to provide top-quality education and interpretation of its unique history.

The federal land within the boundaries of Fort Vancouver National Historic Site that would be conveyed to the City of Vancouver under H.R. 716 includes the Pearson Air Museum complex, which contains the main hangar and three historic structures dating to World War I or before. The federal land also includes archaeological sites associated with the Hudson's Bay Company multi-cultural fur trade post, containing resources from many indigenous peoples; the early U.S. Army Vancouver Barracks; and early Army aviation history tied to Pearson Field. These seven acres would be transferred to the City of Vancouver, Washington, without consideration, with the City of Vancouver paying only the cost of conveyance.

Removing this property from federal ownership would also remove federal protections under cultural resources preservation laws such as the National Historic Preservation Act, the Archeological Resources Protection Act, the Native American Graves Repatriation Act, and the American Indian Religious Freedom Act.

Fort Vancouver National Monument was authorized by Congress in 1948 and established in 1958 to preserve cultural resources associated with, and to tell the story of, colonial fur trading, American settlement, and U.S. Army history in the Pacific Northwest. In 1961, the authorized boundaries were expanded to include adjacent areas and the park designation was changed to Fort Vancouver National Historic Site. In 1972, the National Park Service purchased a 72-acre parcel of land within the boundary of Fort Vancouver National Historic Site from the City of Vancouver, which included the Pearson Air Museum complex. While there are over a dozen general aviation museums in the Northwest, the place-based history of Pearson Field makes the Pearson Air Museum complex a unique nationally-significant part of Fort Vancouver National Historic Site.

In 1994, the City of Vancouver and the National Park Service entered into a Memorandum of Agreement to allow for the development of a new air museum within the historic site, and the park's General Management Plan was amended to conform to this mutual goal. In 1995, the National Park Service and the City of Vancouver entered into a cooperative agreement for operation of the air museum on behalf of the National Park Service. In 2005, the City entered into a sub-agreement with the Fort Vancouver National Trust to operate the museum on behalf of the City of Vancouver.

For several years the Trust allowed special events to occur at the museum site without National Park Service review and outside of federal policies. The National Park Service worked for several years behind the scenes to resolve the handling of special events, but unfortunately these efforts were unsuccessful. Although the National Park Service is held accountable for events that occur on federal property, the Trust stated that it did not want to be subjected to federal rules and NPS oversight and they approved events that were in violation of NPS laws, regulations, and policies. In the summer of 2012, the Trust was in the process of charging fees and issuing permits for several large scale, multi-thousand person outdoor events when the NPS determined that aspects of these events conflicted with NPS law and policy. The National Park Service offered to work directly with the applicants to adapt their events in order to meet NPS laws and regulations.

Since April 2012, the NPS and the Trust have been unable to agree to terms of a new cooperative agreement for operation of the museum that would adhere to NPS regulations, laws and policies. Consequently, the NPS and the City of Vancouver terminated their agreement on February 1, 2013, which resulted in the cancellation of the sub-agreement with the Trust. The Trust no longer operates the museum.

Our strong opposition to this bill is grounded in the fact that these seven acres and their cultural resources are integral to Fort Vancouver National Historic Site. Removal of this land from the management of the National Park Service would diminish the level of protection afforded to this area and would diminish the integrity of resources, including the reconstructed fur trade post, within the rest of the National Historic Site that are essential to the enabling legislation of the park. This bill would create a non-federal area within the boundaries of the park. These adjacent sites would be managed by different entities according to different standards for resource protection and special events management, and would create not only confusion for the public but also friction in their management. This would likely adversely affect the resources of the surrounding national park areas while creating a cumulative negative impact on the park, its setting, and the ability of the visitor to connect with and understand its historical significance in totality.

Congress entrusted the National Park Service with the care and stewardship of Fort Vancouver National Historic Site. Pearson Air Museum has been a vital and valued part of the park, and for the past 18 years, the National Park Service has worked with partners, including the City of Vancouver, to ensure that the museum's resources are preserved and that it is open and accessible to the public. The National Park Service understands the goal of local residents and the City of Vancouver to have the museum open and we have achieved that shared goal. The National Park Service reopened the museum on February 27, 2013, and has waived admission for the public. We have developed temporary exhibits around the theme of historic transportation in the region and intend to refocus the exhibits on aviation when we secure the necessary artifacts and exhibits. We have contacted other aviation museums, organizations and private owners to explore housing loaned aviation artifacts.

The National Park Service is also actively working with the public who are interested in holding special events at the site and we have already issued several permits for the near future.

We look forward to continuing to work with the City of Vancouver to protect these nationally-significant resources and to serve their local residents. To that end, we have asked the City of Vancouver to reinstall the exhibits that were specifically designed for this museum. We have made several attempts to contact City officials through letters and phone calls and will continue to reach out to City officials in the hopes that they would like to work with us to see this museum operate to full capacity.

Mr. Chairman, this concludes my statement. I would be pleased to answer questions that you or other members of the committee might have.

H.R. 819.—TO AUTHORIZE PEDESTRIAN AND MOTORIZED VEHICULAR ACCESS IN CAPE HATTERAS NATIONAL SEASHORE RECREATIONAL AREA, AND FOR OTHER PURPOSES

Mr. Chairman and members of the subcommittee, thank you for the opportunity to appear before you today to present the Department of the Interior's views on H.R. 819, a bill entitled "to authorize pedestrian and motorized vehicular access in Cape Hatteras National Seashore Recreational Area, and for other purposes."

The Department strongly opposes H.R. 819. This bill would reinstate the 2007 Interim Protected Species Management Strategy (Interim Strategy) governing off-road vehicle (ORV) use at Cape Hatteras National Seashore (Seashore).

The Department supports allowing appropriate public use and access at the Seashore to the greatest extent possible, while also ensuring protection for the Seashore's wildlife and providing a variety of visitor use experiences, minimizing conflicts among various users, and promoting the safety of all visitors. We strongly believe that the final ORV Management Plan/Environmental Impact Statement (EIS) and special regulation are accomplishing these objectives far better than the defunct Interim Strategy. Contrary to some reports, there is not now and never has been a ban on ORVs at the Seashore. The great majority of the beach is open to ORVs, visitation is rising, and tourist revenues are at record levels. At the same time, beach-nesting birds and sea turtles are finally showing much-needed improvements.

The Seashore stretches for about 67 miles along three islands of the Outer Banks of North Carolina. It is famous for its soft sandy beaches, outstanding natural beauty, and dynamic coastal processes that create important habitats, including breeding sites for many species of beach-nesting birds, among them the federally listed threatened piping plover, the state-listed threatened gull-billed tern, and a number of species of concern including the common tern, least tern, black skimmer, and the American oystercatcher. Long a popular recreation destination, Cape Hatteras attracts about 2.3 million visitors a year who come to walk the beach, swim, sail, fish, use ORVs, and enjoy the ambiance of the shore. In the towns that dot the Outer Banks, a major tourism industry has developed to serve visitors and local beachgoers, including fishermen. In 2011, visitors to the three islands spent approximately \$121 million (an increase of 13 million dollars from 2010), and supported about 1,700 jobs.

Under the National Park Service Organic Act, the Endangered Species Act, the Migratory Bird Treaty Act, the Seashore's enabling act, and National Park Service (NPS) regulations and policies, the NPS has an affirmative responsibility to conserve and protect wildlife, as well as the other resources and values of the Seashore. Executive Order 11644 (1972), amended by Executive Order 11989 (1977), requires the NPS to issue regulations to designate specific trails and areas for ORV use based upon resource protection, visitor safety, and minimization of conflicts among uses of agency lands.

The special regulation that went into effect on February 15, 2012, brings the Seashore into compliance with applicable laws, policies, and Executive Orders after many years of non-compliance. In addition to resource impacts, the approved plan addresses past inconsistent management of ORV use, user conflicts, and safety concerns in a comprehensive and consistent manner.

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

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

Under the science-based species protection measures of the Consent Decree, many of which are incorporated into the ORV management plan and special regulation, a trend of improving conditions for beach nesting birds and sea turtles has emerged. Although breeding success depends on a number of factors including weather, predation, habitat availability, and level of human disturbance, there has been a striking improvement in the condition of protected beach-nesting wildlife species. The Seashore has experienced a record number of piping plover pairs and fledged chicks, American oystercatcher fledged chicks, least tern nests, and improved nesting results for other species of colonial waterbirds. The number of piping plover breeding pairs has increased from an annual average of 3.6 pairs from 2000 to 2007 under the Interim Strategy to an average of 11.75 pairs between 2008 and 2011 under the Consent Decree. In 2012, the NPS documented 15 piping plover breeding pairs. The number of sea turtle nests also significantly increased, from an annual average of 77.3 from 2000 to 2007 to an average of 129 from 2008 to 2011. In 2012, sea turtle nesting in the Seashore climbed to an all-time high of 222.

Although the prescribed buffers have resulted in temporary closures of some popular locations when breeding activity was occurring, even at the peak of the breeding season there have generally been many miles of open beach entirely unaffected by the species protection measures. Under the Consent Decree from 2007 to 2011, annual visitation at the Seashore continued at a level similar to that of 2006 to 2007. In 2012, visitation increased 17 percent from 2011, and it was a 6 percent increase from the average visitation between 2007 and 2011. Dare County, where the Seashore is located, experienced record occupancy and meal revenues in 2012, as reported by the Outer Banks Visitor Bureau, despite the impacts of Hurricane Sandy that closed or substantially limited traffic along North Carolina Highway 12 to Hatteras Island from late October to late December 2012. This occupancy revenue has continued to climb over the last several years as follows: 2009 (\$318 million), 2010 (\$330 million), 2011 (\$343 million), 2012 (\$382 million through the end of November) while meals revenue has also increased as follows: 2009 (\$185 million), 2010 (\$188 million), 2011 (\$191 million), and 2012 (\$201 million through the end of November).

The final ORV management plan and regulation provide long-term guidance for the management of ORV use and the protection of affected wildlife species at the Seashore. The plan not only provides diverse visitor experience opportunities, manage ORV use in a manner appropriate to a unit of the National Park System, and provide a science-based approach to the conservation of protected wildlife species, but also adapts to changing conditions over the life-span of the plan. It includes a

5-year periodic review process that will enable the NPS to systematically evaluate the plan's effectiveness and make any necessary changes.

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

Moreover, if the Interim Strategy were to be reinstated, it could well be counter-productive to visitor access. Under the Interim Strategy, popular destinations such as Cape Point and the inlet spits still experienced resource protection closures. Several of the beach-nesting bird species at the Seashore may renest several times during the same season if eggs or very young chicks are lost, which is more likely when there is a higher level of human disturbance in proximity to nests and chicks. Under the Consent Decree, with its science-based buffers, there has been a noticeable reduction in the number of these renesting attempts for piping plovers and American oystercatchers, which means the duration of closures is typically shorter. Because the Interim Strategy allows smaller buffers and more disturbance of nests and chicks at these key sites, it increases the likelihood that birds will renest one or more time at those sites, and so even though the closures may seem smaller, they may be in place for a longer time than under the ORV plan or Consent Decree. This is even more likely to be the case now, because the number of nesting birds has increased significantly since 2007.

The Seashore has taken steps to enhance access in areas favored by beach fishermen. Specifically, a bypass below Ramp 44 allows ORV access to the eastern side of Cape Point and areas not closed during bird breeding season in the event of access blockage on the beach proper, whether from weather and tide events or resource closures. At Hatteras Inlet, at the end of Hatteras Island, a trail has been created and maintained to allow ORV access and the ability to park closer to what have traditionally been preferred fishing areas. In the proximity of Ramp 4, a pedestrian access trail adjacent to the Oregon Inlet Fishing Center to provide access for fishing in the ocean for those visitors without ORVs. Also, as a mitigation measure with the building of the new Bonner Bridge project, a new access ramp will be installed at approximately mile 2.5 that will expedite access to the northern end of the park. The Seashore is also in the final stages of completing an Environmental Assessment titled "Proposal to Construct New Development that Facilitates Public Access" which may include additional access points to areas that are traditionally closed off due to resource closure; these will enhance the fishing/beach driving opportunities.

In addition to reinstating the Interim Strategy, H.R. 819 provides authority for additional restrictions only for species listed as "endangered" under the Endangered Species Act of 1973, and only for the shortest possible time and on the smallest possible portions of the Seashore. This would conflict with numerous other laws and mandates including the National Park Service Organic Act, the Endangered Species Act, the Migratory Bird Treaty Act, the Seashore's enabling act, the aforementioned Executive Orders, and NPS regulations implementing these laws, which provide for the protection of other migratory bird species and other park resources.

H.R. 819 also provides that the protection of endangered species at Cape Hatteras shall not be greater than the restrictions in effect for that species at any other national seashore. Species protection measures cannot reasonably be compared from seashore to seashore without considering the specific circumstances at each site and the context provided by the number and variety of protected species involved, the levels of ORV use, and the underlying restrictions provided by the respective ORV management plans and special regulations. Even though Cape Hatteras has a wider variety of beach nesting wildlife species than Cape Cod or Assateague, for example, its plan actually allows for a much higher level of ORV use on larger portions of the Seashore. It would be neither reasonable nor biologically sound for Cape Hatteras to use less protective measures if they were designed for a location where the level of ORV use is much lower to begin with. Nor does it appear that such an arbitrary approach could possibly comply with the "peer-reviewed science" requirement imposed elsewhere in the bill. The Cape Hatteras plan was specifically designed to be effective for the circumstances at Cape Hatteras.

The bill would require, to the maximum extent possible, that pedestrian and vehicle access corridors be provided around closures implemented to protect wildlife nesting areas. This concept was thoroughly considered during the preparation of the plan and EIS. The plan already allows for such access corridors when not in conflict

with species protection measures. For example, under the current regulation, the Seashore works with the communities and has the ability to allow access around a turtle nest when the alternative route is between the nest and dunes but does not cause impairment to the existing dunes/vegetation.

Shorebird nesting areas are often close to the shoreline because of the Seashore's typically narrow beaches. A concentration of nests occur near the inlets and Cape Point, and access corridors cannot always be allowed without defeating the fundamental purpose of such closures: protecting wildlife. Several species of shorebirds that nest at the Seashore have highly mobile chicks, which can move considerable distances from nests to foraging sites. Inadequate resource closures in the past have resulted in documented cases of human-caused loss or abandonment of nests and chick fatalities. Corridors that cut through a resource closure area would essentially undermine the function of the closure and render it compromised or even useless.

Finally, the final ORV management plan/EIS and special regulation are the products of an intensive 5-year long planning process that included a high level of public participation through both the National Environmental Policy Act (NEPA) process and negotiated rulemaking, including four rounds of public comment opportunities. The Negotiated Rulemaking Advisory Committee's function was to assist directly in the development of special regulations for management of ORVs and met from 2007 to 2009. Although the committee did not reach consensus on a proposed regulation, it provided a valuable forum for the discussion of ORV management and generated useful information for the NPS. The NPS received more than 15,000 individual comments on the draft plan/EIS and more than 21,000 individual comments on the proposed special regulation. In completing the final ORV management plan/EIS and special regulation, the NPS considered all comments, weighed competing interests and ensured compliance with all applicable laws.

Currently, the ORV management plan/EIS and special regulation are the subject of a complaint that was filed by a coalition of ORV organizations with the US District Court in the District of Columbia on February 9, 2012. The Memorandum of Order to transfer the complaint to the U.S. District Court of North Carolina was issued on December 23, 2012.

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

Mr. YOUNG [presiding]. Mr. Scruggs, you are up next.

STATEMENT OF JAN D. SCRUGGS, ESQ., PRESIDENT, VIETNAM VETERANS MEMORIAL FUND

Mr. SCRUGGS. Well, Mr. Chairman, members of the Committee, a pleasure to be here. This is really a very special day in which we are working to straighten out a piece of legislation which was not really drafted to assist us in this very important task.

We are building an education center at the Vietnam Veterans Memorial. This is really important for the Nation. This is a place where service will be celebrated. This is a place where the photographs of our fallen heroes who died, as the Congressman pointed out, who gave their lives for the Federal Government of the United States will be displayed. Yet, when this legislation was written, it was crafted in such a way that we could not only not receive any Federal funds, but, because of no donor recognition, we really can't get the private funds to get this built. So we merely need to get this underway.

We had very wide support back in November, ceremonial groundbreaking, and very happy to have Dr. Joe Biden there, the leadership of the House and Senate. Both parties were a part of this groundbreaking, the leadership of the military. There is just wide support for this, because this will be a place where the military veterans of Vietnam will be recognized. It will also be a place displaying the photographs of the casualties from Iraq and Afghanistan until they get their own memorial one day.

So, we have been the greatest partners, I think, that the Park Service has ever had, for over 30 years. You know, right now I have people at the Vietnam Veterans Memorial today. They are going to every light there, every gasket. They are measuring it, they will be replacing the gaskets. We have a lawn service program. Four times a year we send somebody to put the proper chemicals on the statues there.

There is no end to what we do. In irrigation, we have irrigated the site and constantly we are putting money into it. As a matter of fact, I just gave the National Park Service \$150,000. This is a contract that will allow the National Park Service people to select the photos and some of the items that have been left at the Memorial. So this will be a special place.

And I just want to thank everybody on the Committee for having us here today. It is just such a magnificent opportunity.

And I really must note the support of Congressman Young of Alaska. I went to him to help solve this problem, and he said he was going to give it his best shot. And we appreciate this day.

[The prepared statement of Mr. Scruggs follows:]

PREPARED STATEMENT OF JAN D. SCRUGGS, ESQ. PRESIDENT AND FOUNDER OF THE VIETNAM VETERANS MEMORIAL FUND, ON H.R. 588, VIETNAM VETERANS DONOR ACKNOWLEDGEMENT ACT OF 2013

I. Introduction

I am Jan Scruggs, President and Founder of the Vietnam Veterans Memorial Fund. I am pleased and grateful to have the opportunity to speak today about the Vietnam Veterans Memorial Fund's Education Center at the Wall ("the Education Center") and the critical need for H.R. 588, the Vietnam Veterans Donor Acknowledgement Act of 2013 ("H.R. 588"). Thank you for the opportunity to explain why this legislation is so important to the effort to build the Education Center.

II. The Education Center at the Wall

The Education Center at The Wall will be a place on the National Mall where America's military heroes' service and sacrifice will never be forgotten. It will be an inspirational place, where visitors leave yearning to learn more. The Education Center will be an ideal complement to The Wall in honoring those who have selflessly served the nation and sacrificed their lives. It will provide a more complete picture of these patriots—the lives they lived and the lives they touched. It will bring into clearer focus and personalize their level of sacrifice and the price that is inevitable whenever our nation goes to war.

Construction of the Education Center could not be more timely. The Nation is in the midst of recognizing the 50th anniversary of the Vietnam War. More than 400 Vietnam veterans die each day—American heroes who will not see the Education Center come to fruition. In fact, if we were to begin construction TODAY, almost 300,000 Vietnam-era veterans would pass before completion. So, it is imperative that this important project remain on track.

In addition, The Education Center will be built by veterans. VVMF has entered into agreements with construction contractors to ensure that they will make a special effort to employ Afghanistan and Iraq veterans in building the Education Center. This will create 800 or more jobs for 18 to 24 months.

III. H.R. 588—The Donor Recognition Legislation—Why It is Needed

The enabling legislation for the Education Center mandates that it be privately funded. The level of private donations received or pledged already has been impressive—over \$40 million. This includes a \$3.3 million contribution from the government of Australia that was presented in 2011 to VVMF by the Australian Prime Minister and more than \$16 million in in-kind contributions.

That, however, will not be enough to complete the job.

The contributions thus far total about 25 percent of the amount needed to complete the project. While vigorous fund-raising continues on a daily basis, the enabling legislation includes a restriction on donor recognition that inhibits a more successful effort among some of the potentially most generous donors. Some potential donors over the years have given donations elsewhere because of this issue.

H.R. 588 is intended to remove that restriction while respecting the inviolability of the National Mall.

The Education Center was authorized in 2003 as “The Vietnam Veterans Memorial Visitor Center” by the 108th Congress in Title I of Public Law 108–126 (“the Act”).¹ Section 204 of Title II (“Commemorative Works”) of the Act (40 U.S.C. Section 8905(b)(7)), however, included the following restriction:

DONOR CONTRIBUTIONS.—Donor contributions to commemorative works² shall not be acknowledged in any manner as part of the commemorative work or its site.

H.R. 588 lifts this restriction, but does so in a manner entirely consistent with National Park Service Director’s Order 21: Donations and Fund-Raising, dated June 11, 200.³

IV. The Donor Recognition Permitted by H.R. 588 Underscores National Park Service’s Understanding and Appreciation of the Importance of Donor Recognition

We understand that the National Park Service may be updating their guidelines on donor recognition. The fact remains that the National Park Service has made it clear that donor recognition is important. In the section of the National Park Service website on “Partnerships” and “Donor/Partner”⁴, that conclusion is explicit:

Why recognize donors?

Recognizing donors is key to successful fundraising. Donor recognition is actually mutual appreciation. The donors first express their respect, passion and appreciation for a NPS park or program in the form of their contribution. We, in turn, express our appreciation to the donors for their contributions. People have many causes they can support and they have made our parks and programs their giving priority. They deserve our full recognition and appreciation.

NPS managers need to recognize donors for their generosity and support and report on the good work made possible by their donations

The National Park Service also understands that donor recognition can lead to even more successful fund-raising:⁵

Cultivating relationships through the personal touch

In addition to simple good manners and courtesy, recognizing donors in meaningful ways is an effective means of cultivating stronger relationships that may lead to additional, larger gifts, and stronger personal engagement. Appropriate donor recognition can strengthen a sense of connection, ownership and commitment between your park or program and your donors because it makes the act of giving more personal and rewarding

The donor recognition envisioned for the Education Center also is consistent with the concept of partnering with private sector donors to share in the support of our nation’s parks and memorials. In times of limited and decreasing budgets, this partnering approach is even more important.

¹See ATTACHMENT (“Att”) 1—Vietnam Veterans Memorial Visitor Center Authorization, Public Law 108–126—NOV. 17, 2003

²Title 40, Section 8902(a)(1) defines “commemorative work” as “. . . any statue, sculpture, memorial, plaque, inscription, or other structure or landscape feature, including a garden or memorial grove, designed to perpetuate in a permanent manner the memory of an individual, group, event or significant element of American history, except that the term does not include any such item which is located within the interior of the structure or which is primarily used for other purposes.”

³See Att 2—U.S. Department of the Interior, National Park Service, Director’s Order #21: Donations and Fundraising (July 11, 2008). This Order provides in relevant part:

10.2 In-Park Recognition. In some cases a gift may warrant in-park recognition. This section describes the in-park recognition options available to park managers. The form of donor recognition will likely occur in the park’s visitor center or other similar facility or developed area.

In-park recognition is typically provided in the form of a credit line or statement of appreciation by a park. A credit line is a short, discrete [sic], unobtrusive statement expressing appreciation typically found at the end of the material or item, or on a donor recognition plaque.

To maintain NPS policy that parks be free of commercialism, advertising and marketing slogans and taglines may not appear under any circumstances.

⁴See <http://www.nps.gov/partnerships/donor-partner.htm> (Att 4).

⁵See <http://www.nps.gov/partnerships/donor-partner.htm> (Att 4).

V. The Donor Recognition Permitted By H.R. 588 Follows the Model Already Present on the National Mall

The donor recognition permitted by H.R. 588 would not be unique on the National Mall. The donor recognition would be similar to the recognition on the Franklin D. Roosevelt Memorial. As with that memorial, the recognition permitted by H.R. 588 would be discreet, unobtrusive and free from advertising or company logos. More important, the donor recognition envisioned for the Education Center will be inside this underground facility and will not be visible from the National Mall.

Donor recognition in this form is entirely consistent with the essential nature of the Education Center which will truly be a place of learning and reflection about the values exemplified by the lives of those who have served and died for our country. Any donor recognition would have to be in harmony with this serious and thoughtful environment.

VI. H.R. 588 is Supported by Key Veterans and Veterans Support Groups

I am gratified that H.R. 588 has the full support of the Veterans of Foreign Wars, the American Gold Star Mothers, the Iraq and Afghanistan Veterans of America, the Military Order of the Purple Heart, and Sons and Daughters in Touch.

VII. Conclusion

The Vietnam Veterans Memorial Fund has undertaken this unique project with total dedication and commitment. When the Education Center is completed, it will provide an opportunity for visitors from around the world to more fully understand and appreciate the extraordinary sacrifice of those who have given their lives in the nation's defense. Visitors will not simply read their names. They will see these patriots and get to know them in ways not envisioned in any other facility on the National Mall.

Over the past quarter century, VVMF has spent millions of its own privately-raised dollars for the upkeep and maintenance in the five acres around the Vietnam Veterans Memorial. We will continue to take on these expenses to ensure that this portion of the National Mall remains a beautiful, inspiring place for all Americans. We have a proven track record of partnering with the National Park Service in a positive and cost effective manner. We will do no less when it comes to the Education Center and donor recognition.

Notwithstanding the fundraising success achieved already for the Education Center, more must be done. H.R. 588 will allow us to maximize our fund-raising effort with major donors in a way we know will make an enormous difference. We need the leverage this legislation can provide now. As more time passes, the costs of the project will only go up, not down. Without doubt, H.R. 588 will move us much closer to making this extraordinary and worthwhile project a reality.

On behalf of the Vietnam Veterans Memorial Fund, I thank you for your time and consideration, and I respectfully request your strong support for H.R. 588.

Mr. BISHOP [presiding]. I appreciate the people who have—I apologize for being late, I am sorry about that. I had another Committee I had to do an introduction in. I appreciate Congressman Young and Stewart for leading. Thank you for being here. You finished your opening statements already? My, you are fast. Appreciate your opening statements. You are ready for questions?

Mr. Young, I will turn to you. I told you you had to wait your turn, and this is your turn.

Mr. YOUNG. OK. Thank you, Mr. Chairman. Again, I want to thank you for having this hearing on my bill today.

Mr. Scruggs, I want to thank you for the work you have done. It is an outstanding piece of work for this Nation and for the Vietnam veterans that were very much maligned. And, unfortunately, over a period of time we find out that those warriors that were involved, our soldiers, are people that didn't volunteer for the Army, they were drafted, and they were actually looked down upon by the American people. And I think this is an attempt to really apologize.

And the idea of a visitors center—a wall is fine, and I recognize that. But to explain why that wall there is what you are doing, and

this education center and raising money without being recognized is hard to do. And so, I have been a big supporter. I was there, we broke ground for this center, and I again want to congratulate you.

But my understanding, this will still be property of the Federal Government. It is on Federal Government land. Is that correct?

Mr. SCRUGGS. Yes, that is correct.

Mr. YOUNG. And you will display photos of the soldiers, that will be digitized, or just actually photographs? Or how—

Mr. SCRUGGS. Yes—

Mr. YOUNG. How big will those have to be? There are a lot of them.

Mr. SCRUGGS. These will be digitized. There will be a wall on which these photos are displayed, approximately twice the size of that wall.

Mr. YOUNG. OK. This will produce money for the Park Service, correct?

Mr. SCRUGGS. Yes. We estimate between \$3 to \$5 million, if not more, can be raised on an annual basis. And this has been certified by Ernst and Young, the big accounting firm.

Mr. YOUNG. OK. And this bill is time-sensitive, is that correct?

Mr. SCRUGGS. This bill is time-sensitive, you are correct. And we don't need another extension, we need to get this bill through so we can raise the money. There are an awful lot of people waiting for this to be built.

Mr. YOUNG. The employment that would be used at the visitors center, will they be veterans, or will they have to go through the Park Service, or will you do the hiring capability? How will that be done?

Mr. SCRUGGS. We have instructed the construction managers to find ways to hire unemployed military veterans from Iraq and Afghanistan to build this through veteran-owned companies and other sources. So we want this to be built by the veterans of Iraq and Afghanistan.

Mr. YOUNG. Just out of curiosity, did you include Vietnam veterans in this program, or are they too old?

Mr. SCRUGGS. Yes, yes. Those who are still working for a living, like myself, yes.

Mr. YOUNG. Well, I am a big supporter of this legislation, and hopefully the Committee will move it very quickly. And then you have the work on the other side of the dark hole. That is on the other side of the aisle. And so we have to keep pursuing this, and making sure it is done.

Mr. Frost, I know you want to broaden this. You make suggestions. Again, you heard Mr. Scruggs say that this is a time-sensitive bill, and I don't want this thing to get bogged down. I suggest, respectfully, that you can come back to us later on and maybe we will move another bill. But this is really for the Vietnam education center, that is my suggestion. Don't push that too hard. I am being nice to the Park Service today, one of the few times in my life.

Dr. FROST. We appreciate it.

Mr. YOUNG. Yes, good, because I am not happy with some of the conduct out of your realm of how the Park Service has never considered people as part of the parks. It has always been, "We are

the government, you do as we tell you to do and shut up.” And I have seen this in Alaska over and over and over again.

And I am going to introduce legislation that we take over the management of the parks, because they are not managing the parks. They just have their little visitor—the Yukon Charley has 9 million acres of land. They use 100 acres of that land as a footprint. And none of the Alaskans can go into that park without asking the Park Service first. And I am saying, “Come on. That is wrong.”

That is not your problem, I just want you to know I want those people to hear this. The Park Service is badly managed with an arrogance you cannot believe. And I think that is not the right way to go. And I am glad to see you are working with Mr. Scruggs. I ask you to continue to do that. That is your role. And make sure this system is developed, this visitors center is finished. And with that you will be in my good graces for about 2 seconds. But that is long enough, believe me. I yield back.

Mr. BISHOP. Thank you. We let him go first because he has the best attitude toward you of anyone on the panel.

[Laughter.]

Mr. BISHOP. The gentlelady from Guam.

Ms. BORDALLO. Thank you. Thank you, Mr. Chairman and Ranking Member Grijalva.

I am a member of the House Armed Services Committee and a cosponsor of this bill. And I stand firm in recognizing the commitments and the sacrifices made by our soldiers. I want to thank Congressman Young for introducing this legislation. We have many veterans organizations on Guam, which I represent, and one of the most active is the Vietnam veterans organization.

The education center under the Vietnam Veterans Memorial Wall would be a fitting testament to the soldiers who have given their lives to protect our country. And I just have a few questions for you, Mr. Scruggs. Can you describe the cooperation partnership between the Vietnam Veterans Memorial Fund and the National Park Service over the past decade?

Mr. SCRUGGS. Over the past decade and over the past three decades, it has been a good and fruitful partnership. We have always been able to work things out, which is why the current desire to change this bill is incorrect. We have ways of working with the Park Service to get this donor recognition done. So we don't need to change this bill. It is very well written.

Ms. BORDALLO. Thank you. H.R. 588 calls for donor recognition. And I have to agree with Mr. Young. Donors normally like to be recognized. Sometimes there are cases where they do not want to be recognized. But, all in all, it is a nice thing to recognize the donors. So, this bill calls for the recognition to be done in a manner consistent with existing National Park Service guidelines. Do you anticipate any challenges or obstacles that would hinder your ability to work cooperatively with the National Park Service on this particular topic?

Mr. SCRUGGS. No. As written, this legislation solves a problem that was created 10 years ago.

Ms. BORDALLO. And then my last question is can you explain how the education center will have an impact on villages—where I come from—and cities in my district?

Mr. SCRUGGS. You see, the magnificent idea behind this is that when people go back to Guam or to Maui, which is very near you—

Ms. BORDALLO. That is right.

Mr. SCRUGGS [continuing]. By the way, we have now all the photographs of the casualties from Maui. When they go back to their village, they will have to do one thing. In order to honor one of the casualties from Guam, they will have to do four hours of volunteer work. It can be at a church, it can be at a synagogue, it can be at a community center. So, when they come back to Guam, this will be about Guam, not about something in Washington, D.C.

Ms. BORDALLO. Now you mentioned you have a list of casualties from Maui—

Mr. SCRUGGS. Yes.

Ms. BORDALLO [continuing]. From the State of Hawaii. Do you have that list from Guam?

Mr. SCRUGGS. We have the list, and we have about a third of them. So we need some more help to get the rest. They—

Ms. BORDALLO. Good. You let my office know if you need any assistance in that area.

Mr. SCRUGGS. Very nice, yes.

Ms. BORDALLO. All right. And again, many thanks to Congressman Young. I appreciate this bill. All right. And I yield back my time, Mr. Chairman.

Mr. BISHOP. Thank you. Ms. Herrera Beutler, do you have any questions on this bill?

Ms. HERRERA BEUTLER. I don't.

Mr. BISHOP. Ms. Hanabusa, on this bill?

Ms. HANABUSA. Mr. Chair, I just have a short statement.

Mr. BISHOP. Please.

Ms. HANABUSA. First of all, I am a spouse of a Vietnam veteran. And I would also like to join my colleague from Guam for thanking Mr. Young for allowing me to be a original cosponsor. And, Mr. Chair, I believe that this is a bill that has bipartisan strong support, and one that I would like to see that we will all move out of this Committee. Thank you, Mr. Chair.

Mr. BISHOP. Thank you. Mr. Horsford, on this bill?

Mr. HORSFORD. No, Mr. Chairman, other than I would like to respectfully ask Mr. Young if I could sign on as a cosponsor.

Mr. YOUNG. You got it.

Mr. BISHOP. That easy? Isn't there cash involved or something? [Laughter.]

Mr. BISHOP. I think I saw your two nameplates in the other committee, as well, so thank you for being here.

Ms. Shea-Porter, to this bill?

Ms. SHEA-PORTER. Yes. I just wanted to thank you for bringing this up. I am the spouse of a Vietnam-era veteran, and I recall the era quite well. And I think doing this and doing it quickly now is appropriate, and I want to thank everybody for working in a bipartisan manner to honor the men and women.

Mr. BISHOP. Thank you. Mr. Ranking Member Grijalva?

Mr. GRIJALVA. Just to thank Mr. Young, although the accolades are flowing today. Thank you very much for the legislation. Also, I think it is very important. At MLK and the Roosevelt Memorials, the donors are recognized. And I think that this should be OK. And I agree with Mr. Young, it needs to be expedited.

From that Vietnam era, when my friends came back from service, they were treated as though they were the villains and they were the ones responsible for this war, not the policymakers. Thank God that has changed with time, and the warrior is acknowledged for his service. We debate the policy, but never the warrior any more.

And I think this visitors center is very important. That war dictated many things in this country, not just the war. And to have that center there is important, because it is part of the redemption of treating these Vietnam veterans as they should have been treated when they first came home.

So thank you very much. And the legislation is a good one, and needs to be expedited. I yield back.

Mr. BISHOP. Thank you. Are there any further questions for this panel?

[No response.]

Mr. BISHOP. If not, we thank you for your presence here and your testimony. Thank Congressman Young for the bill, as well as helping out, sitting in, getting us started. I appreciate that.

Mr. Scruggs, if you would like to stay, you are welcome to. Personally, I can't think of a reason why you would want to.

[Laughter.]

Mr. BISHOP. But you can, if you would like to. We would like to ask Mr. Strahan if he would come up and join the panel. Mr. Frost, if you would stay, I would be appreciative of that.

We will now go into House Bill 716, introduced by the gentlelady from Washington.

Mr. Strahan, if you have a comment?

Mr. STRAHAN. I do.

Mr. BISHOP. Thank you. You are, as I understand, the President of the Fort Vancouver National Trust.

Mr. STRAHAN. Yes, I am.

Mr. BISHOP. You are recognized for 5 minutes for any kind of oral comments you have. Your written statement will be part of the record.

**STATEMENT OF ELSON STRAHAN, PRESIDENT AND CEO,
FORT VANCOUVER NATIONAL TRUST**

Mr. STRAHAN. Thank you. Good morning, Chairman Bishop, Ranking Member Grijalva, and members of the Subcommittee. Thank you for inviting me to testify.

I am here today to ask for your help to save the Pearson Air Museum. I work for the Fort Vancouver National Trust, which operated the museum on behalf of the City of Vancouver, Washington. Eighteen years ago, using community funds and city support—yes?

Mr. BISHOP. Can I interrupt you for a second? Is your mic on?

Mr. STRAHAN. I have a green light.

Mr. BISHOP. Yes. Can you pull it closer to your mouth? It is hard to hear. Thank you.

Mr. STRAHAN. OK. Eighteen years ago, using community funding and city support, the City of Vancouver built the museum on the corner of a larger area owned by the National Park Service. And therefore, the city's development and operation of the museum was guided by a cooperative agreement with the National Park Service.

Until last month, the air museum was packed with classic planes, aviation exhibits, and hands-on simulators. With the help of community volunteers who had contributed over 5,000 hours each year, it excelled in delivering programs designed to inspire and to educate about the golden age of aviation. It was a first-class air museum.

Between general visitation, our educational programs and events, the museum had over 30,000 visitors a year. We hosted over 100 local community events annually at the museum. We believe that because the community built and funded the museum, the doors should be open and accessible to everyone in the community for special events like church picnics and benefit concerts for military families and our veterans, and for many area nonprofits.

By making it available at low rental rates, we were also able to sustain operations. In fact, since the museum opened its doors in 1995, it has operated using a sustainability model with the purpose of independently supporting operations and educational programs without Federal funds.

In February, the Park Service terminated the cooperative agreement and assumed control of the museum. We were given less than 48 hours notice to turn over the keys and alarm codes. Because we would not simply turn over to the NPS the exhibits we owned, or those on loan for which we had stewardship responsibility, we were effectively forced to vacate, leaving the museum empty.

The NPS's termination was based on what appeared, from my perspective, to be arbitrary grounds. The community's partnership to operate the museum that had worked so well for so long was suddenly fraught with problems. For over a year we tried to work through all of the issues raised by NPS in order to save the museum ourselves. Our attempts failed.

I understand that the Park Service must follow its own rules as it interprets them. But as my written comments reflect, the Park Service appears to be applying its rules inconsistently. They have characterized our permitting of an outdoor benefit concert for veterans and an annual community picnic for churches as violation of those regulations.

All I can tell you is that events like these have been occurring at Fort Vancouver for many, many years. The Park Service was aware of and permitted them, such as Independence Day, with more than 35,000 attendees. In fact, the NPS even hosts events such as these, like the annual National Cross Country Championship, that draws hundreds of runners and has a severe impact on the grounds. Accordingly, NPS's new approach for events at Pearson is simply not right.

The Trust has established a record of caring for historic properties, as the entire site, including city property, is on the Historic Register. In fact, my organization is already responsible for caring for the oldest building on the reserve, the city-owned Grant House,

constructed in 1850, as well as the Marshall and O.O. Howard Houses, and all of Officers Row.

We understand very well the importance of preserving and the standards for preserving our Nation's historic treasures. The community response to the loss of the museum has been stunning: protests, petitions, letters to the editor, op eds, and editorials from our city's daily newspaper calling on the Park Service to return the museum to the community which has built and sustained the asset. Today, the museum is no longer the vibrant air museum it once was.

Included with my written statement are photographs that reflect that change. I have also included the maps of the area that provide a sense of the urban setting and location of the museum. The City and the Trust are ready to restore the museum to what it once was before the Park Service took it over: a valuable, community resource that could be operated without Federal funding. To do that we ask for your help in supporting H.R. 716. Thank you.

[The prepared statement of Mr. Strahan follows:]

PREPARED STATEMENT OF ELSON STRAHAN, PRESIDENT AND CEO, VANCOUVER NATIONAL HISTORIC RESERVE TRUST, DBA FORT VANCOUVER NATIONAL TRUST, ON H.R. 716

I. Introduction

Chairman Bishop, Ranking Member Grijalva, and Members of the Subcommittee, thank you for inviting me to testify. I am here today to ask for your help to save the Pearson Air Museum. I work for the Fort Vancouver National Trust, which operated the air museum on behalf of the City of Vancouver. Eighteen years ago, using community funding and city support, the City of Vancouver built the Pearson Air Museum adjacent to Pearson Airfield, a city-owned airport that is one of the oldest operating airfields in the United States. The air museum itself was built on the corner of a larger area that is owned by the National Park Service ("NPS"), and therefore the City's development and operation of the museum, on NPS grounds, was guided by a cooperative agreement.

Until last month, the Pearson Air Museum was packed with dozens of classic planes, models, and hands-on flight simulators. It made lasting impressions on the over 30,000 people each year who came to visit, and with the help of community volunteers, it excelled at delivering educational programs designed to inspire and educate about the Golden Age of Aviation. The museum hosted after-school programs, summer camps, provided specialized tours for the deaf and blind, and used cutting edge approaches to teach aviation history in a way that also equipped students with Science, Technology, Engineering, and Mathematics (STEM) based, real life skills. It was a first class air museum, offered at a minimal cost.

The Pearson Air Museum also hosted over 100 local community events annually. We believed that since the community built and funded the museum, the doors should be open to everyone for special community events—for example, benefit concerts for the military, church picnics, weddings and proms. By opening the doors of the museum to the community, at low rental rates, we were also able to sustain operations. Since the museum opened its doors in 1995, it has operated using a sustainability model with the purpose of independently supporting operations and educational programs without federal funds.

Last month, Pearson Air Museum was vacated. We did not take that step lightly, but did so only because the NPS terminated the longstanding cooperative agreement that had been expected to last well into the next decade. NPS's termination was based on what appeared, frankly, to be arbitrary grounds. The community's partnership to operate the museum that had worked so well, for so long, was suddenly fraught with new problems. For over a year we tried to work through all the issues raised by the NPS in order to save the museum ourselves. Our attempts failed.

Today, I am here to ask you to support H.R. 716. It will save the Pearson Air Museum by directing the Secretary of the Interior to convey the seven-acre air museum complex to the City of Vancouver. Our community is ready to restore the museum to what it once was. To do that, we ask for your help.

II. History of the Pearson Air Museum Complex

The National Park Service property that is the subject of H.R. 716 was originally owned by the City of Vancouver. In 1972, the City sold the NPS 72 acres of airfield property for \$7,562 an acre, including the seven-acre parcel on which the Pearson Air Museum complex currently sits. This was motivated, in part, to allow the City to move active airport operations further away from the NPS's reconstruction of historic Fort Vancouver.

The Pearson Air Museum complex, as it stands today, was developed in 1995, pursuant to a cooperative agreement between the City and the NPS. The NPS gave the community permission to build the air museum on a small parcel of NPS's larger historic site that was adjacent to the city-owned, and also historic, Pearson Airfield. The cooperative agreement expressly provided that the contract was "to reflect the relationship between the Fort Vancouver National Historic Site and the City because the principal purpose of the relationship is to carry out a public purpose . . . rather than to acquire property or services for the direct benefit of the United States Government." The cooperative agreement was drafted to remain in effect until at least 2025, with renewals thereafter. In reliance on the cooperative agreement, the City and the community raised \$4.2 million for capital investment in the museum complex.

In 1996, Congress formally incorporated the larger 366-acre Vancouver National Historic Reserve, which the community refers to as the Fort Vancouver National Site, as a partnership between the NPS and the City of Vancouver. This included the Jack Murdock Aviation Center, the seven-acre complex on which the Pearson Air Museum hangars are located. A copy of that legislation is included in your materials. You will also find an aerial photo of the Reserve and a site map.

For approximately 10 years, the Pearson Air Museum was managed and operated on behalf of the City by The Pearson Field Historical Society. In 2005, my organization, the Fort Vancouver National Trust, assumed this responsibility. Since 2005 there has been a minimum \$2 million operating investment by the Trust and the City, and similar operational support was provided through the Pearson Society and City from 1995 until 2005. I estimate the total community investments in the Pearson Air Museum to be well over \$8 million, inclusive of initial capital contributions and operational support since the museum complex was developed. Over these past 18 years, the NPS has contributed negligible capital and operational support to the museum.

The Pearson Air Museum's exhibits, including planes, were owned by the Trust or were on loan to the Trust by the local aviation community. The Trust's annual budget for Museum operations and educational programs was over \$300,000. This capital commitment was augmented by our more than 35 community volunteers who contribute more than 5,000 hours each year.

III. Education and Community Events at the Pearson Air Museum

The Trust viewed its investment in the museum complex as mission driven for educational programs, and we have been extremely successful in developing a community asset that inspires and educates about the Golden Age of Aviation while equipping students with skills for their future. For example, we have worked with the regional high schools and other educational partners to provide cutting edge STEM (Science, Technology, Engineering and Math) curriculum that is steeped in history as part of a Careers in Aerospace program; established a partnership with *Air Science Kids* for their after-school program; developed a series of week-long aviation summer camps; created specialized tours for the Washington State School for the Blind and School for the Deaf, which are both located in Vancouver; and initiated an Aviation Merit Badge program for the Boy Scouts of America. A list of many of the programs developed, partnerships forged, and assets secured is included in your attachments.

Since the Museum opened its doors in 1995, events were incorporated into a sustainability model to help support operations and educational programs. Each year, we facilitated over 100 community events, and we believe that since the community contributed the capital to build and operate the museum complex, the community should be able to utilize and enjoy the facilities through special events as well as general visitation. In fact, because of our low rental rates, the museum has been a primary event site for nonprofits such as the YWCA, Northwest Association of Blind Athletes, Southwest Washington Medical Center Foundation, March of Dimes, Rotary Foundation, Multiple Sclerosis Society, and the Chamber of Commerce, to name just a few.

IV. Loss of the Museum

In early February, the NPS Superintendent Tracy Fortmann issued a letter to the City and the Trust that NPS was terminating the cooperative agreement, and the Superintendent announced that her staff would be assuming control of the Pearson Air Museum. The Trust was given less than 48 hours' notice to turn over keys and alarm codes. Because we could not simply turn over to a third party our exhibits and those on loan from generous donors for which the Trust had stewardship responsibility, we were effectively forced to vacate, leaving the museum empty. Today, the Pearson Air Museum contains some new NPS-owned exhibits—a boat, a tractor, a steam powered car—but it is no longer the air museum it once was. Included with my statement are photographs that reflect the change.

The community response to the loss of the Pearson Air Museum has been stunning: protests, signs in the windows of local businesses, editorials and letters to the editor calling for transfer of the museum from the NPS to the City, children collecting signatures to send to their federal and local representatives. If you Google, "Save Pearson Air Museum" you will find postings that reflect the real sense of loss by the community.

It is very disappointing that it came to this. While the partnership between the NPS, the City and the Trust was successful for many years, the relationship between the NPS and the Trust recently began to inexplicably deteriorate, and the Trust's Executive Committee could not understand why.

Our Executive Committee flew to San Francisco to meet with Chris Lehnertz, the NPS Pacific West Regional Director, seeking to re-establish a positive relationship. It was not a successful effort. The Regional Director told us that NPS regulations are the same for all NPS parks and that our site is no different than Yellowstone in this respect. The Director also told us that under those regulations the Superintendent was to have unilateral control of anything on NPS land. We understand the NPS must follow its own rules, as it interprets them; however, the position that the NPS has expressed with regard to the Pearson Air Museum will not work well for our community.

During the discussion that led up to the termination of the cooperative agreement, we were asked to sign a new agreement that, among other provisions, would have required:

- The transfer of ownership and management of the Trust's collections and exhibits to the NPS.
- The Trust to agree to submit to the unilateral authority of the NPS Superintendent over all programs, activities and events.
- Current relationships and agreements the Trust had with education partners would be transferred to NPS management, and the NPS would also prohibit the Trust from entering into any other agreements with education partners.
- NPS authorization of all of the more than 100 events inside and outside the museum complex with very restrictive criteria for approvals.
- NPS approval of all Trust income and expenditures associated with the museum complex, even though the NPS would bear no financial responsibility for operational or capital support for the museum complex.

A primary justification for the NPS termination of the current agreement was an assertion that the Trust was not acting in accordance with NPS laws and regulations because the Trust had approved certain events that the Park Service deemed inappropriate for the museum complex. These include an All Church Picnic, a USO benefit concert, and a benefit concert for veterans called the *Night of the Patriot*. In addition to being wonderful community events, we believed that they were especially well suited to the site because many of our area churches originated at Fort Vancouver and the Army had been on the site from 1849 until last year. The NPS effectively prohibited these outdoor events by imposing so many restrictions that they were no longer feasible to hold as planned. The determination by the NPS that these events were unsuitable for the site was perplexing to me, as events comparable to those being denied have been held since the museum opened in 1995 and elsewhere on NPS property.

For example, one reason that a church picnic and the two benefit concerts were not allowed was because amplified music was deemed by the NPS to interfere with the tranquility of the site. The Reserve is in the middle of the City, and a highway, a freeway, and a rail line border the site. It is under the flight path of the nearby Portland International Airport and, of course, there is an active airfield on the site which has a runway that is parallel to the entire length of the Fort palisade. It is a wonderful gathering place, but it is far from tranquil.

Further, the All Church Picnic, which is a community picnic that brings together church members from across the county, had been held successfully at the Museum

site for the three previous summers. Last summer, the Chief Historian at the park suddenly informed picnic organizers that their event lacked a meaningful association with the park (where a number of the earliest churches in the Northwest were established) and effectively denied the event, forcing it to be canceled. This struck us as curious, since NPS had itself permitted other church events, with music, on its grounds.

For many years the NPS has permitted Fourth of July celebrations to occur at the Reserve that draw 35,000 people, feature bands, amplified music, fireworks, and all of the types of activities that one would expect to find at an urban park. The NPS has also recruited and permitted a National Cross Country Championship on its property for the past 3 years, which last Fall involved driving some 500 metal "T" and flag string posts into the ground throughout the park to mark the course. At the same time the NPS has recently applied what has seemed like a very different set of standards to events proposed by the local community—raising concerns about "archeological sensitivities" of the grounds, amplified music, tranquility, and the number of community attendees—and in the last year, the NPS's permitting practices caused a number of long running, successful community events to be canceled.

These are just a few examples that highlight what many in the local community believe to be the contradictory, subjective, and arbitrary application of the NPS's regulations to events at the Pearson Air Museum over the past year. From our perspective, the new found concerns about long-running events seemed more like a justification to terminate the cooperative agreement and assume federal control of the air museum, than an even-handed application of the permitting policies that the NPS is entrusted to enforce.

V. Conclusion

The Pearson Air Museum's exhibits are now in storage hangars at the nearby city-owned airfield and our museum staff, volunteers, and community members are working diligently to save the museum. H.R. 716 gives us hope.

In their film series, Ken Burns and Dayton Duncan asserted that the creation of our National Parks was "America's best idea," and I agree. A primary focus of their film was on our natural resource parks, with their unsurpassed grandeur. Indeed, it is from these National Parks that many of the regulations governing use of our National Parks were created, and therein lies part of the challenge confronting our community. What H.R. 716 accomplishes is that it relieves the NPS of its regulatory burdens that appear to be preventing it from allowing the museum to flourish, as it had done for so many years.

This legislation will save the Pearson Air Museum by directing the Secretary of the Interior to convey the seven-acre air museum complex to the City of Vancouver. Our community is ready to restore the museum so that it can continue to provide the educational programming and services on which the community has come to rely.

Accordingly, the Trust and the City of Vancouver ask you to support H.R. 716.

LETTER FROM ELSON STRAHAN

FORT VANCOUVER NATIONAL TRUST,
VANCOUVER, WASHINGTON,
MARCH 19, 2013.

The Honorable DOC HASTINGS,
Chairman,
House Committee on Natural Resources,
1324 Longworth House Office Building,
Washington, DC 20515.

The Honorable EDWARD J. MARKEY,
Ranking Member,
House Committee on Natural Resources,
1329 Longworth House Office Building,
Washington, DC 20515.

DEAR CHAIRMAN HASTINGS AND RANKING MEMBER MARKEY:

I appreciated the opportunity to testify in support of H.R. 716 before the House Subcommittee on Public Lands and Environmental Regulation on March 14, 2013. Chairman Bishop and Ranking Member Grijalva, as well as the other members of the committee, were very thorough in their review of this proposed legislation. The

bill would direct the Secretary of the Interior to convey the Pearson Aviation Museum complex, including the main and historic hangars, headquarters, and munitions building, and the approximately 7-acre complex site to the city of Vancouver, Washington. This correspondence is supplemental to the written testimony I submitted for the hearing.

Although we were not surprised that the National Park Service opposes this legislation, I was quite surprised by the erroneous statements made by the NPS representative, Dr. Herbert Frost, in both his written and oral testimony. Dr. Frost indicated that removal of this land from the management of the National Park Service would diminish the level of protection afforded to this area and would diminish the integrity of resources. However, this site has in fact been under City and Trust management since the community developed the museum complex 18 years ago. He also stated that this bill would create a non-Federal area within the boundaries of the park and that this presented a challenge because the City-owned and NPS-owned adjacent sites would be managed by different entities according to different standards for resource protection and special events management.

While the transfer of the Pearson Air Museum property to the City would result in different entities owning and managing different properties, this would not be a new circumstance. The city of Vancouver owns Officers Row, the West Barracks, the Pearson Airport complex, and half of the Pearson Field runway, as well as Old Apple Tree Park, the Water Resources Education Center and adjoining wetlands. The Fort Vancouver National Trust has had a master lease to develop and manage Officers Row and the West Barracks, and also managed the Pearson Air Museum Complex on behalf of the City.

The "Omnibus Parks and Public Lands Management of 1966" established the boundaries of the 366-acre Vancouver National Historic Reserve, which includes both National Park Service and city of Vancouver property. Thus, while H.R. 716 would create a non-Federal area within the boundaries of the federally incorporated Reserve, this is not a new development as the City already owns substantial portions of historic properties within the Reserve and through the incorporation of City and National Park properties as a National Historic Reserve the City has subjected itself to Federal standards, as well as parallel Washington State standards enforced through the Washington State Department of Archeology and Historic Preservation.

I have attached a copy of a map showing the property ownership on the site as well as a more detailed site map. The total area incorporated within the footprint of the Reserve created by Federal legislation is under the protection of Federal standards.

The Omnibus legislation provides that the Reserve is to be administered through a general management plan. In that adopted plan the City and the NPS stipulated that, while the different parts of the Reserve are managed pursuant to the laws of the respective authorities, for management purposes they have the same goals. All the land within the Reserve boundary is on the National Register of Historic Places and the City agreed that the management of their properties will be in accordance with the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation and the Directors Order No. 28, National Park Service Cultural Resources Management Guideline 1998. The City also agreed with the NPS that a principal goal of managing the area is "Preservation of historic structures, physical assets, and cultural landscapes."

Further, through a memorandum of agreement, the City has stipulated that the National Park Service is the designated lead agency for the purposes of National Historic Preservation Act (NHPA) Section 106 undertakings proposed by the City on City-owned or managed property within the Reserve. More specifically, the City has designated the Superintendent of the Fort Vancouver National Historic Site as the lead agency official with the legal responsibility for compliance with the Federal historic preservation and archeology regulations, which the Reserve legislation contemplated and to which the City has agreed, and which is compliant with 36 CFR 800: Protection of Historic Properties, which states: "The agency official may be a State, local, or tribal government official who has been delegated legal responsibility for compliance with section 106 in accordance with Federal law."

Not only are the City and the Trust committed to respecting these properties in accordance with the Federal standards, we are bound by them. Within the perimeter of the Reserve all property is protected regardless of ownership. We have many examples to illustrate how the NPS, as the site's cultural resources expert, is routinely called upon by the City and the Trust whenever a proverbial shovel goes in the ground, or the historic fabric of a building is in need of repair or replacement.

During his oral testimony, Dr. Frost also stated that the air museum property is adjacent to a Native American burial ground. This is also not true. The cemetery to which Dr. Frost refers is the cemetery established during the development of the

Hudson's Bay Company operations and records do indicate that Native Americans and Native Hawaiians were buried in this cemetery.

However, the cemetery is nowhere near the air museum grounds and is instead on the opposite end of the site in the East Barracks, which was recently transferred from the Army to the NPS. I have attached a map prepared by the National Park Service showing that the Hudson's Bay Cemetery boundary within the East Barracks, mapped through a joint NPS—U.S. Army survey from 2000 to 2003.

I appreciate that the Cowlitz Indian Tribe and the Yakama Nation are understandably concerned by the written and oral testimony offered by Dr. Frost on behalf of the National Park Service indicating that the Federal protections would be removed if the air museum site was transferred to the City and that the air museum property is next to the Hudson's Bay Cemetery.

Unfortunately, both assertions are gross misrepresentations of the facts.

Furthermore, beyond the required compliance of the City already noted above, there are other controlling Federal regulations that provide the site protection of cultural resources associated with City-owned property:

- The American Indian Religious Freedom Act of 1978 requires all governmental agencies, including the City, "to eliminate interference with the free exercise of Native religion."
- Under the Native American Graves Protection and Repatriation Act of 1990, both Federal lands and private lands that receive Federal funds are subject to NAGPRA. The Pearson Air Museum did receive a \$325,000 Federal appropriation and the site is therefore subject to NAGPRA. Further, the City receives multiple Federal funds and according to NAGPRA any local government that receives Federal funds is automatically subject to NAGPRA.
- With respect to the Archeological Resources Protection Act of 1979, since the City is already subject to section 106 of the NHPA the City is in compliance with the ARPA.

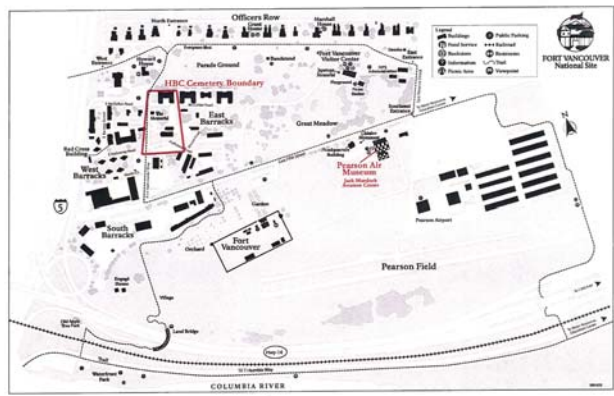
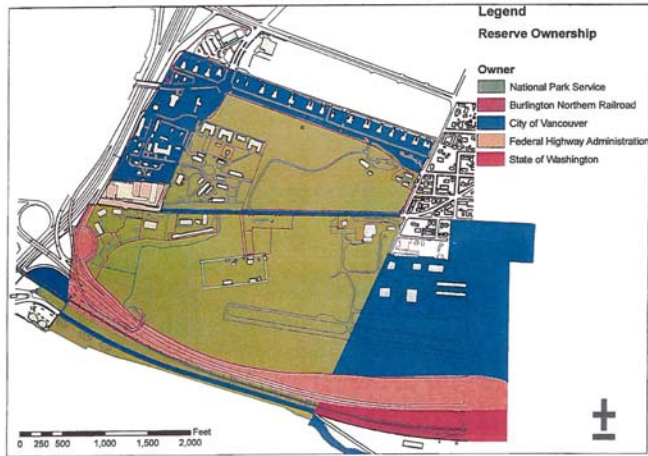
Some of the erroneous information contained in Dr. Frost's written testimony was corrected during the hearing, but it is important to correct the written record so there is absolutely no confusion about the fact that the transfer of the museum property from the Park Service to the City will not compromise its protection under Federal standards and that the site is in fact not adjacent to Native ancestral remains, which are in a cemetery located in the East Barracks on the opposite side of the historic site, and owned by the National Park Service.

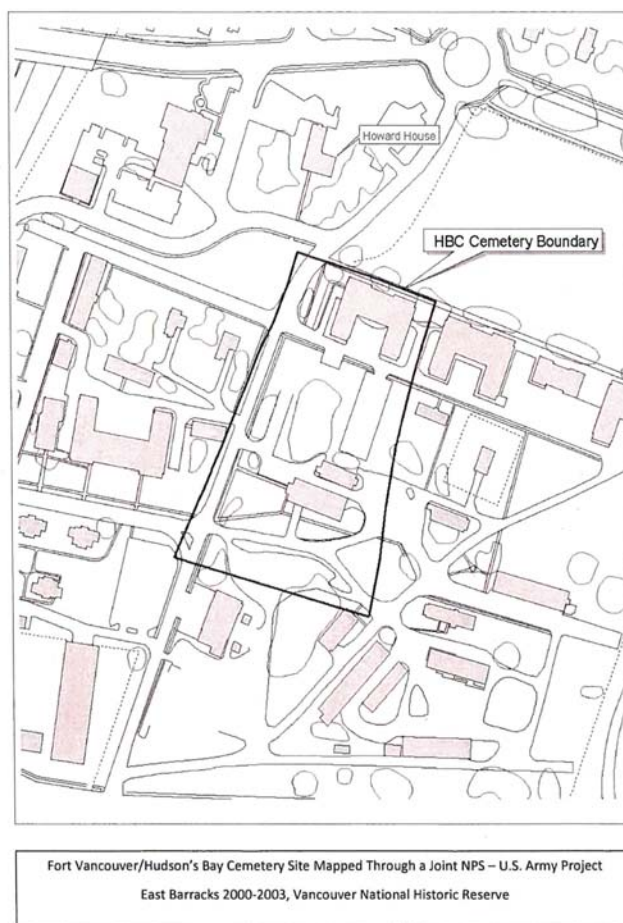
Thank you for your consideration.

Sincerely,

ELSON STRAHAN,
President and CEO.

Vancouver National Historic Reserve





QUESTIONS SUBMITTED FOR THE RECORD TO ELSON STRAHAN

QUESTIONS SUBMITTED FOR THE RECORD BY THE HONORABLE ROB BISHOP

Question. What are the gross revenues from rental of the Pearson Air Museum for 2009, 2010, and 2011? Also, what are the gross revenues from the sale of items at the bookstore?

Answer. Below are the gross and net rental revenues for the Pearson Air Museum. As we have finalized our numbers for 2012 I have also included this information. In addition, I am not only providing you with our gross retail revenues, I have also included the retail revenues net of cost of goods sold for the bookstore.

Pearson Air Museum	2009	2010	2011	2012
Rental Revenue	\$82,400	\$82,545	\$83,778	\$90,677
Expenses—Event Manager, Labor, Janitorial, Other	\$68,510	\$69,802	\$77,335	\$69,098
Net Revenue	\$13,890	\$12,743	\$6,443	\$21,579

Expenses include our events manager, who also assisted with staffing the Museum and working with our volunteers. This position, plus all of our other event related expenses, are not only fully covered through our rentals, but we also capture some excess revenue to help support Museum operations and education programs.

As I noted in my testimony before the Subcommittee, since the Museum opened its doors in 1995, space rental was incorporated into a sustainability model as we hosted over 100 local community events each year. We believed that since the community contributed the capital to build and operate the museum complex, the community should be able to utilize and enjoy the facilities through special events as well as general visitation.

Because of our comparatively low rental rates as contrasted with commercial venues, the museum has been a primary event site for nonprofits such as the YWCA, Northwest Association of Blind Athletes, Southwest Washington Medical Center Foundation, March of Dimes, Rotary Foundation, Multiple Sclerosis Society, and the Chamber of Commerce, to name just a few. However, as you will note with respect to our net revenue, events were certainly not our primary source of income. Events also provided the added benefit of introducing the Museum to guests who were part of our over 35,000 visitors each year, and we work to turn these event attendees in to general visitors, participants in our education programs, and donors.

Pearson Air Museum	2009	2010	2011	2012
Retail Gross Revenue	\$23,814	\$22,934	\$22,568	\$22,904
Retail Revenues Net Cost of Goods Sold	\$10,528	\$10,718	\$8,919	\$8,362

While our retail bookstore serves to generate income, it is also an integral part of our educational programming. Accordingly, a primary focus on what we merchandise is how materials will contribute to the learning experience, as opposed to simply maximizing profit margin. The net revenue reported here is strictly the difference between the cost of the goods purchased and sold. Consequently, while net revenues do not fully cover our retail staff member, it does help offset this personnel cost. Just as our events manager assists with the management of the Museum, so too does our retail manager, and the net retail revenue helps to sustain this position.

The balance of our funding comes from general donations, grants, and memberships. Nevertheless, the Trust has always subsidized the Museum but regards this as support of our core education and interpretation mission.

Question. In a follow-up letter to the Committee you claim that the City and the Trust are required to comply with American Indian Religious Freedom Act of 1978, the Native American Graves Protection and Repatriation Act of 1990, and the National Historic Protection Act. Is this based on legal opinion provided to the Trust? If so, can you please provide that opinion.

Answer. The Trust did not seek a legal opinion because the Trust and the City in practice have acted in accordance with these very important protective standards. However, subsequent to testifying before your committee, I participated in a meeting on March 26th initiated by Representative Herrera Beutler, which included several individuals representing the Cowlitz Tribe, which had filed a letter of concern about HR 716. The representatives were Dave Burlingame, Cultural Resource Department; Philip Harju, Legal Counsel; and William Iyall, Chairman. The meeting also included Vancouver's Mayor Pro Tem and the City Manager's Program and Policy Development Manager.

During that meeting I noted our understanding that these Federal protective standards applied to the City's property, and to the Trust as the City's property manager, for the reasons stated in my supplemental testimony of March 19th. The response from these Cowlitz Tribal leaders was that our interpretation of the applicability of these federal laws was correct.

However, these leaders indicated that from their experience local governments do not always willingly comply with these Federal laws and the tribes must sometimes resort to legal action to compel compliance, while the National Park Service much more readily acknowledges and abides by these regulations. Accordingly, while these

representatives believe as we do that the City and Trust are bound by these protective regulations, they are simply more comfortable with land under the jurisdiction of the NPS. While we understand that some local jurisdictions may not readily comply with these Federal protective standards, the record of and the obligations assumed by the City of Vancouver and the Trust clearly demonstrate that we are in alignment with these laws.

Beyond this general understanding, we are clearly bound to abide by these regulations for several reasons, as indicated in my letter of March 19, 2013:

- The 1996 legislation establishing the Reserve requires that the Reserve be administered through a general management plan. All the land within the Reserve boundary is on the National Register of Historic Places and in the general management plan the City agreed that the protection of their properties will be in accordance with the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation as well as the Directors Order No. 28, National Park Service Cultural Resources Management Guideline 1998.
- Through a memorandum of agreement, the City has stipulated that the National Park Service is the designated lead agency for the purposes of National Historic Preservation Act (NHPA) Section 106 undertakings proposed by the City on City-owned or managed property within the Reserve. The City has also designated the Superintendent of the Fort Vancouver National Historic Site as the lead agency official with the legal responsibility for compliance with the federal historic preservation and archeology regulations, compliant with 36 CFR 800: Protection of Historic Properties.

I also noted the following:

- We believe The American Indian Religious Freedom Act of 1978 requires all governmental agencies, including the City, "to eliminate interference with the free exercise of Native religion."

In asserting its applicability the following authority clarifies our obligation:

- The American Indian Religious Freedom Act of 1978: <http://www.narf.org/pubs/nlr/nlr5-1.pdf> Native American Relief Fund Announcements Newsletter, Winter 1979:

Page 7: This Act, however, applies only to Federal or Federally-related activities. However, although there must be a Federal connection, it does not have to be direct Federal action itself for the Act to apply. Federal funds which support organizations or colleges whose activities are violating a Native group's religious rights may be sufficient Federal connection to invoke the Act.

Of course, the City receives Federal funds and accordingly has an associated Federal connection that allows the act to be invoked.

However, not only are the City—and the Trust as its agent—bound by this Federal law, the City has demonstrated leadership in promoting the free exercise of Native religion. For example, attached is a flyer for the 16th Annual Memorial to remember Chief Redheart's band, for which Nez Perce tribal members travel to the Fort Vancouver site to conduct a traditional memorial to honor their ancestors. After the ceremony, a traditional Native American meal is prepared and served by the Northwest Indian Veterans Association, which will be held in the City-owned Artillery Barracks. This ceremony was initiated by the City when Vancouver's Mayor traveled to Lapwai, Idaho to extend an invitation to the Nez Perce to come to Vancouver.

With respect to the Native American Graves Protection and Repatriation Act of 1990, I stated that:

- Both federal lands and private lands that receive federal funds are subject to NAGPRA. Accordingly, we believe that since the Pearson Air Museum did receive a \$325,000 federal appropriation from the Department of Interior the site is therefore subject to NAGPRA.

More specifically, the following National Park Service citation validates our understanding that NAGPRA would be applicable if the Air Museum property was transferred to the City:

- NAGRPA: <http://www.nps.gov/nagpra/FAQ/INDEX.HTM>
— Page 2: "Who is responsible for complying with NAGPRA"—*All public and private museums that have received Federal funds, other than the Smithsonian Institution, are subject to NAGPRA.*

— 25 U.S.C. 3001 Definitions: (8) “museums” means any institution or State or local government agency (including any institution of higher learning) that receives Federal funds and has possession of, or control over, Native American cultural items. Such term does not include the Smithsonian or any other Federal agency.

Finally, I stated that:

- With respect to the Archeological Resources Protection Act of 1979, since the City is already subject to section 106 of the NHPA the City is in compliance with the ARPA.

Language contained in the National Historic Preservation Act supports this conclusion:

- National Historic Preservation Act of 1966: <http://www.nps.gov/history/local-law/nhpa1966.htm>;

— Section 2 (16 U.S.C. 470):

It shall be the policy of the Federal Government, in cooperation with other nations and in partnership with the States, local governments, Indian tribes, and private organizations and individuals to—

(4) contribute to the preservation of nonfederally owned prehistoric and historic resources and give maximum encouragement to organizations and individuals undertaking preservation by private means;

(5) encourage the public and private preservation and utilization of all usable element of the Nation’s historic built environment; and

(6) assist State and local governments, Indian tribes and Native Hawaiian organizations and the National Trust for Historic Preservation in the United States to expand and accelerate their historic preservation programs and activities.

Mr. BISHOP. Thank you, Mr. Strahan.

Mr. Frost, do you have a statement on this particular bill?

Dr. FROST. Yes, I do.

Dr. FROST. The Department strongly opposes the enactment of H.R. 716. This legislation requires the conveyance to the City of Vancouver of 7 acres of Federal land within the boundaries of Fort Vancouver National Historic Site.

The bill would create a non-Federal area within the boundaries of the Park. These adjacent sites would be managed by different entities according to different standards for resource protection and special events management, and would create not only confusion for the public, but also friction in their management. This would likely adversely affect the resources of the surrounding National Park areas, while creating a cumulative negative effect on the Park, its setting, and the visitor understanding of its significance. Such a conveyance would threaten the values and resources of the National Historic Site by removing Federal protection under cultural resource preservation laws.

Pearson Air Museum has been a vital and valued partner of the Park for the past 18 years. And the National Park Service has worked with the partners, including the City of Vancouver, to ensure that the museum’s resources are preserved, and that it is open and accessible to the public. The National Park Service and the City of Vancouver dissolved their cooperative agreement on February 1, 2013, which canceled the subagreement the City of Vancouver had with the Fort Vancouver National Trust to operate the Pearson Air Museum and coordinate events on the surrounding 7-acre property.

The National Park Service understands the goals of local residents in the City of Vancouver to have the Pearson Air Museum

open, and we have achieved that shared goal. We are looking forward to working with the City of Vancouver to reinstall exhibits. We are also actively working with the public, who are interested in holding special events at the site. And we have already issued several permits in the near future. Thank you.

Mr. BISHOP. We appreciate both of you presenting your testimony. We will turn to questions on this particular bill to the Committee. Ms. Herrera Beutler, we will turn to you first.

Do you have questions for this one?

Mr. YOUNG. Maybe.

Mr. BISHOP. All right. Let's start with you.

Ms. HERRERA BEUTLER. Thank you, Mr. Chairman. And I am going to make these brief, because I have a lot. And so please be brief in your answers. I am going to direct these first couple to Dr. Frost.

Have you reviewed the FOIA document submitted by the Committee?

Dr. FROST. I have not seen that, no.

Ms. HERRERA BEUTLER. OK. So we have heard now for months—and you expressed it in your statement—that the Park Service has worked in earnest to find a solution to the disagreements between these interested parties. Now that it is public that the Park Service has been planning to take over the museum, which was built with private funds, and all of the property held in the museum, which is all private property, either owned or on loan to the Trust, do you still stand by the claims of the good faith discussions and negotiations here?

Dr. FROST. As I understand it—and, like I said, I haven't seen the FOIA material—what you are referring to is that in 2010 the City of Vancouver had given notice to the Park Service that it was going to be unable to operate the museum and the facility there in 2016. And so, we began preparations in advance of that. So it wasn't a takeover, but it was planning in anticipation of what the City had told us was going to happen in the future.

Ms. HERRERA BEUTLER. All right. And, Mr. Strahan, are you aware that that conversation was a planned event, or were you aware that they were talking about assuming responsibilities that you had?

Mr. STRAHAN. I was not aware that they were planning on assuming responsibilities. As for the contract with the City, the reason that the City was going to have to terminate—or thought it might—the agreement that was supposed to go until 2025 was because there was a financial requirement that they contribute approximately \$75,000 in utilities and maintenance, and they were unable, because of the City budget, to do that.

So, our organization stepped up and said we would cover the difference, as we have been paying for the museum all along. And at that point the City said there was no reason to cancel the agreement.

Ms. HERRERA BEUTLER. Great. Second question, again, to Dr. Frost. Your testimony states that removing the property from the Federal ownership would remove the Federal protections. According to the Trust, the entire site, including the City-owned Officers Row, where my district office sits, and the West Barracks—not to

be confused with the boarded-up East Barracks—is under the Secretary of the Interior standard, as the entire site is on the Register. Why would the museum be any different? And why would it be removed from those protections, if the other City-owned buildings are not?

Dr. FROST. Well, I am not an expert on cultural resource law and policy, but I will give it my best. And we may have to get back with you. But, as I understand it, so this is going to be a transfer of title of land out of the hands of the Federal Government into the hands of a non-governmental organization. And, as a result of that, the Park Service could not manage—the Federal Government couldn't have the same amount of oversight and management of those cultural resources.

Ms. HERRERA BEUTLER. So can I—have you ever been to Fort Vancouver?

Dr. FROST. I have not.

Ms. HERRERA BEUTLER. You have not. OK. So when you look at those boarded-up pictures of the historic Army barracks that the Park Service is managing, would you say the Park Service is doing an acceptable job of maintaining the quality and the integrity of the resource, as compared with the buildings that the Trust manages, that is City-owned, the property that my office sits on? I can tell you it is in pristine historic condition. We are not even allowed to mess with the flowers, OK?

So would you say that in that situation it is best for the Park Service to continue to manage that, when at this point we have now lost the educational interpretative services because the Park Service simply hasn't, doesn't—and we are not even sure has the money to—continue to provide them?

Dr. FROST. Well, I think you just hit the key right there. I think, within the resources that we have available for Fort Vancouver National Historic Site, we are doing the best job that we can.

Ms. HERRERA BEUTLER. So wouldn't you say, at a time like this, across the Nation, when we are struggling, we know you don't have all the resources you need. We know that. Everybody is hurting. At this time, shouldn't we take extraordinary measures to maintain public-private partnerships, where there is an active partner that raises money to help facilitate this public resource? Wouldn't you say that this is what we want to preserve and replicate, not just board things up and say, "Well, my way or the highway"?

Dr. FROST. I would agree with you 100 percent, but the key is not the partnership itself. I think we are fully vested in private-public partnership. It is the scale of the events that the partnership wants to do. And if it is a—

Ms. HERRERA BEUTLER. So let me jump in there, because one thing that the Park Service runs every year, I love, I have gone to since I was a kid, is the Fourth of July Celebration on those grounds. Hundreds of thousands of people have come. I don't think the Trust has ever done an event anywhere near that size. I guess I would say that you are kind of comparing—you are not comparing apples to apples here, if we are talking about footprint.

Dr. FROST. I am not talking about footprint, per se. I am talking about the size and the scale, but also of the relationship of the event to why the Park was established. It is—

Ms. HERRERA BEUTLER. So can I—

Mr. BISHOP. All right. There will be another round that you can ask questions.

Ms. HERRERA BEUTLER. Thank you.

Mr. BISHOP. Can I just make one clarification here for the record? I think the gentleman stated that this would be conveyed to a private entity. Is that what your bill does? To a private entity, or to the City?

Ms. HERRERA BEUTLER. To the City. Thank you.

Mr. BISHOP. All right, thank you.

Dr. FROST. My apologies.

Mr. BISHOP. Mr. Grijalva, do you have questions on this bill?

Mr. GRIJALVA. Yes, if I may. Dr. Frost, the testimony from the Trust claims that events that were previously approved were no longer approved by the current superintendent. So my question. Is this a case of a change in Park leadership, or a change in the standards and operating procedures?

Dr. FROST. Again, I think it goes back to when I started to answer the congresswoman's question, is that size and scale has effect, but it is also how the event relates back to the purpose of the Park. And if you can connect the purpose of the event to the purpose of the Park, and you can pull off the event within the regulations, guidelines, and laws that we have to follow, we are right there with them, wanting to do those types of events.

And so, as these events have changed over time, and the trusts have been unwilling to meet our requirements that we are required by Federal law, policy, and regulation, that is where we come to the impasse. So, we want to work with the trusts, we want to work with the City. We want to have this partnership. But if it is a partnership, it has to be a true partnership. And so we have regulations and guidelines that have to be followed, and we just can't ignore those.

Mr. GRIJALVA. OK. My question is to one of uniformity. Is it a uniform standard, or is it leadership interpretation, or decision-making by a different leader? I think that is—

Dr. FROST. Well, I—

Mr. GRIJALVA. It is kind of a crux question, to a great degree, but—

Dr. FROST. Right.

Mr. GRIJALVA. I will leave it. Mr. Strahan, how much income did the Trust receive from rental revenues?

Mr. STRAHAN. Our budget is about \$300,000 for operations of the museum. Currently we subsidize, of that amount, about \$30,000 out of general trust revenue. The events account for about 36 percent of the operating revenue for the museum.

Mr. GRIJALVA. OK. So were the revenues from the bookstore and the rental of the museum for other private or other public activities, is that the largest share of the total income for the Trust?

Mr. STRAHAN. Yes, the 36 percent. But however, the remainder is made up—we had annual members of the museum, the bookstore you mentioned, as well as general admissions and other—just general contributions.

Mr. GRIJALVA. The reason I ask that—well, we will follow up with a question, because—

Mr. STRAHAN. OK.

Mr. GRIJALVA [continuing]. As we added up the figures, it was much more than 36 percent. And we will follow up and get some clarification. Maybe it is our—

Mr. STRAHAN. Happy to provide that.

Mr. GRIJALVA [continuing]. Interpretation of the 990 Form, interpreting it differently.

I yield back, Mr. Chairman.

Mr. STRAHAN. If I may?

Mr. GRIJALVA. Of course, please.

Mr. STRAHAN. The 990 Form is for the Trust as an overall organization. We produce a variety of events. We have a Marshall lecture series. We manage the properties on Officers Row and the West Barracks. So the 990 Form, if you are looking at the aggregate, really is dealing with an entire—

Mr. GRIJALVA. So when it says “rental income” in that 990 Form, it is not—you are saying it is not just rental of the—

Mr. STRAHAN. That is correct, Mr.—

Mr. GRIJALVA [continuing]. This property, but—

Mr. STRAHAN. That is correct.

Mr. GRIJALVA. OK. Maybe we will clarify that, so that we have it for the record.

Mr. STRAHAN. OK.

Mr. GRIJALVA. Thank you. I yield back.

Mr. BISHOP. Thank you, Mr. Grijalva. Mr. Young, do you have questions?

Mr. YOUNG. This is for the Park Service. What regulations are you talking about? And are these new regulations?

Dr. FROST. No, these are the regulations that, whenever we permit a special use, we have our special use permit regulations. And they are in the CFR. So any time we permit an activity on the mall, or anywhere across the country—and we do thousands of these—I mean they are the regulations that have been passed. And so it is nothing new, it is nothing that has been created—

Mr. YOUNG. This is what I am leading up to. This partnership has been going on for how many years, 18 years?

Mr. STRAHAN. Correct.

Mr. YOUNG. So what different regulations are there that you are trying to implement now that the partnership doesn't work?

Dr. FROST. I don't think the regulations have changed. I think it is the—

Mr. YOUNG. Then why did it work for 18 years?

Dr. FROST. I think over the last 3 or 4 years the size, the scale, and the non-relationship of the event to the purposes of the—the reason why the Park was created was the difference. So it is not the regulations, it is the connection to the Park.

Mr. YOUNG. But what I am looking—why does this even occur when there was a working relationship benefiting the City and the Trust and the Park Service? I mean what changed, that all of a sudden we got some little genius—it wasn't you—at least it better not have been you.

Dr. FROST. No, it was not me.

Mr. YOUNG. Whose brainchild was this, to say, "Oh, we are going to change this now, and we are going to do this, because we are the Park Service"?

Dr. FROST. Well, I don't think it was a sudden change. I think that, like I said, over the years I think that we had permitted activities for a number of years. And then one year the Trust came in with a request and we said that in our view it is not going to meet the standards that we require and the regulations in our policies. And so—

Mr. YOUNG. Yes.

Dr. FROST. And we didn't say no at that point in time. And that was our mistake. And it has just sort of ramped up over time.

And finally, we thought we would try to work behind the scenes, work closely with the Trust to try to resolve our differences, and that didn't work. And so, finally, this past year we sort of held the line and said, "We are going to have to deny this activity if you don't scale it back to where we think it is," and that is where sort of the negotiations broke down.

Mr. YOUNG. Would you like to comment on that?

Mr. STRAHAN. Yes, thank you very much. The regulations haven't changed. But, in fact, events have occurred for—the Independence Day Commemoration is in its 50th year. As far as the relevance to the site, all of the—well, not all, but most of the major churches in the community originated on that site: the Episcopal church, the Catholic church, with Mother Joseph, and the Protestant churches. So, our feeling was that since the churches originated on the site, it made sense for an all-church picnic to occur there.

The military has been on the site since 1849, until this last round of BRAC closures, and they left this last fall. So having a USO benefit concert or a concert, Night of the Patriot, to really assist Iraq and Afghan veterans and their families also seemed appropriate.

So that is where we are puzzled by the issue of relevance and scale. As was already mentioned, Independence Day is over 35,000 people. The Park Service permitted the NAIA National Cross Country Championship, which has hundreds of participants, and is certainly a very large and impactful event.

Mr. YOUNG. And then you would say this decision was made arbitrarily by the Park Service, because the City supports it, the churches support it, the veterans support it, the people support it. The only people that object to this is the Park Service.

And again, I think the whole Park Service has to be looked at by this Committee, Mr. Chairman, and the attitude. This is for people, not the Park Service. I mean if you have a regulation that doesn't meet the wishes of the people, who in the hell are you? That is the thing. I don't understand where this arrogance comes from. Comment on it. Where does it come from?

Dr. FROST. Could I make a clarification? So we had actually agreed to permit the church function this year. That wasn't the issue. It was the other sort of—again, and this was really the scale thing. There were jumbotrons, there was going to be a band, there was going to be a stage with bands and things. And so the—

Mr. YOUNG. So, wait a minute. What is wrong with that? This is for the people. How does that demean the Park?

Dr. FROST. Well, you have the historic—you have the area around the Pearson Museum, but then you have Fort Vancouver over here. And not everybody is here on the site, but you have other people over at Fort Vancouver, trying to understand the significance of Fort Vancouver, and its importance, and stuff. And so the influence of this event on the rest of the Park—

Mr. YOUNG. Well, but wait a minute. The rest of the Park? How does that—

Mr. BISHOP. All right.

Mr. YOUNG. No, wait a minute. I want to just finish—just a second. How does that affect—

Mr. BISHOP. You have five; go for it.

Mr. YOUNG. OK, thank you.

Mr. BISHOP. Because if you don't ask the question, I will. Go ahead.

Mr. YOUNG. OK, no, go ahead.

Mr. BISHOP. No, no, no. Go ahead.

Mr. YOUNG. How does it affect the Park? What is the damage to the Park?

Dr. FROST. I won't say there is, but potentially there is some resource damage, in terms of the setting up and the taking down, and all that stuff. And I don't know how extensive that is.

But it is not so much the Park, it is to the visitor experience. So the visitors that aren't participating in the event, that are participating in other aspects of the Park, trying to listen to a ranger activity or something like that, and you have a concert going on, and things like that, you have two competing interests there.

Mr. BISHOP. All right.

Dr. FROST. And we are not saying—

Mr. YOUNG. All right, all right.

Mr. BISHOP. You got the answer there.

Ms. HANABUSA, do you have questions on this particular bill?

Ms. HANABUSA. Yes, I do. Mr. Strahan, is that—

Mr. STRAHAN. Yes.

Ms. HANABUSA. Am I saying that correctly?

Mr. STRAHAN. That is fine, thank you.

Ms. HANABUSA. Can you tell me, have you spoken to the City of Vancouver? And are they OK, is it within their procedures to accept the land, if transferred?

Mr. STRAHAN. The city of—oh, to transfer? Yes. There is a letter in your packet from the City Manager indicating that.

Ms. HANABUSA. And I heard earlier that part of the problem was they didn't want to pay the electrical cost, or something. I think that is what Mr. Frost said. So they are able to assume all of the necessary financial responsibilities.

Mr. STRAHAN. The Trust is able to cover that element of the contract.

Ms. HANABUSA. But the City of Vancouver is going to be the recipient of the land. So I want to know what the City's position is. If the Trust, for example, runs out of money, it is going to fall on the City. So has the City said that it has the contingency funds and is willing and able to, in fact, accept the responsibility of the Park Service lands, if they were to come over?

Mr. STRAHAN. I presume that, since the City is supporting the legislation, they would certainly understand that there is an inherent risk and are willing to accept it.

Ms. HANABUSA. But you don't know for sure if they have created an account or anything like that for this specific transfer.

Mr. STRAHAN. No, I do not.

Ms. HANABUSA. If it were to occur.

Mr. STRAHAN. No.

Ms. HANABUSA. OK. Mr. Frost, in reading your testimony, I was struck by the fact that you mentioned what we call NAGRA, the Native American Graves Repatriation Act, and the American Indian Religious Freedom Act, that you felt that somehow the transfer of these lands would remove Federal protections for the cultural resources and preservation of land.

My one question is—well, my question is, why do you feel that is a potential threat? And, in addition to that, what part of the lands that would potentially transfer would raise this specific concern?

Dr. FROST. So that land has been there for many hundreds of thousands of years, right? And so there are many layers that are on top of the land that—obviously, you have the Native American culture. That was there way before any of the white people showed up. And so there is that lens in which there is significant archeological data, not only on the 7 acres that we are talking about, but throughout the whole Park. On top of that, then you have the Hudson Bay Company that came in and built the Fort, and the whole understanding of the culture that happened there. Then you have the Army coming in and doing the work that they did.

And so, with these many different layers, it is not as discreet. Cultural protection isn't as easy as drawing a line around an area and say, "You can protect this and you can't protect that." If you don't understand it in context, it is basically useless.

So, our concern is if this 7 acres is removed from Federal ownership, that our ability to protect those resources under those laws will be severely diminished, because we don't own the land any more. We don't have management of the land. It is going to be managed by the City of Vancouver, or possibly another entity. And so we still have the laws there, but the ability for us to get access and things like that, it just creates a bureaucracy that doesn't need to be created.

Ms. HANABUSA. Well, my understanding is that these laws are there, and that the City of Vancouver wouldn't be able to simply ignore these laws just because of a transfer of the rights.

So the other question I have is, are there specific cultural sites that you are concerned about that would be transferred in the 7 acres itself? Like a burial site for example, or some kind of a historic artifact of some sort? Is there something like that within the 7 acres?

Dr. FROST. Absolutely. The historic fort footprint is much larger than just the standing re-creation of the fort. You have the whole complex of the fort, which is very large. And so you have all of the archeological records—I mean archeological significance that are within part of that 7 acres of the fort's footprint.

In addition, I don't believe there are any burial sites. There is a Native American cemetery that is right adjacent to the 7 acres that, again, it concerns us about how the activities occur on those things, and the appropriateness of the activity's relation to the cemetery, and the other cultural aspects of the larger National Historic Site.

Ms. HANABUSA. Thank you, Mr. Frost. Mr. Chair, my time is up. Thank you.

Mr. BISHOP. Thank you. Mr. Garcia, do you have a question to this particular bill? If not, I do have a couple of questions.

I will start with Mr. Strahan, let me ask you a couple of questions, first, and then I will get to Mr. Frost. And one of the things you should know, Mr. Frost, is when you are in a hole you should quit digging.

But you were given 48 hours to turn over the key?

Mr. STRAHAN. Yes.

Mr. BISHOP. Was that the way it was supposed to have been?

Mr. STRAHAN. No. Under the cooperative agreement, if the contract was terminated, then there was supposed to be 180 days for a transition to occur.

Mr. BISHOP. OK. I don't know if that number there—but there was supposed to be several—yes, some time.

Can you tell me very succinctly what you have done to try and fix this situation with the Park Service on behalf of the Trust?

Mr. STRAHAN. Mr. Chairman, clarification. To fix the situation with the Park Service?

Mr. BISHOP. Yes. What you have done to resolve this situation prior to legislation.

Mr. STRAHAN. We have worked, Mr. Chairman, for the past year, trying to get this situation resolved with the Park Service. And what occurred was that the—in tandem with this—was that the Park Service was proposing a new agreement to be signed. And when we wouldn't sign that agreement, then the current agreement was canceled. The new agreement would have required us to turn over all of our assets to the Park Service, to have the site unilaterally managed under the supervision of the Superintendent and a number of other issues. So that is why we couldn't sign the new agreement.

Then the events issue came up, and that led to the termination of the current agreement. And we have moved our assets to hangars on Pearson Field.

Mr. BISHOP. All right. Let me go to Mr. Frost for just a second. Your statement was that there would be resources within Fort Vancouver that would be adversely impacted if this land were given back to the City, which seems to be in direct contradiction to what Director Jarvis has said, that you are within your boundaries. So I don't want to hear any crap about viewscapes or noisescapes, or anything like that.

Is there some specific resource within Fort Vancouver Park, within the boundaries of that Park, which would negatively be impacted if this were to be going into the City? And I want it to be specific.

Dr. FROST. Again, I think, as I said earlier, the archaeological resources—

Mr. BISHOP. What archaeological resources?

Dr. FROST [continuing]. That are there as a result of the larger fort complex. Not the fort itself, but the larger fort complex, as a result—I mean Fort Vancouver was not just a fort, but there were outbuildings, there were other—

Mr. BISHOP. Within the boundaries of Fort Vancouver National Park?

Dr. FROST. Yes.

Mr. BISHOP. So having the City own this is going to destroy the archaeology within the boundaries of the fort.

Dr. FROST. Well, within that seven—not going to—we are not going—

Mr. BISHOP. How within the 7 acres? Just within Fort Vancouver National Park.

Dr. FROST. But the 7 acres are within the boundaries of—so I guess I am not understanding your question.

Mr. BISHOP. Obviously. Look. Let me try and make this a statement, because I am getting very frustrated here. Both Ms. Hanabusa and Mr. Young came to the crux of what the question should be. This is not about policy, this is about personality. There are two bills we have in front of this Committee because the Park Service failed. It failed because the people on the ground who have that uniform of the Park Service on were authoritarian, arrogant, and autocratic. And that is a policy only reserved for the U.S. Senate. Only Harry Reid and his band of merry geezers can have that attitude.

[Laughter.]

Mr. BISHOP. If the Park Service was willing to work with people, this would not be here. There is no reason this bill or the next bill should be here, except for the failure on the part of the Park Service. So your testimony you have given is a mass of platitudes that have no specific value to what we are talking about here. This worked very well before the Park Service got it, it worked very well until you had a change in leadership at the Park Service. It can work very well if the City has this land over again.

And all the other complaints about it that were written in your testimony are silly. They are simply silly. You have not failed, but the Park Service has failed over here. And you should be ashamed of your record of activity up there. There is no reason a bill like this should ever come before the House. This should be solved easily and quickly at the local level. And the Park Service has failed.

And that is why I said you are digging a deeper hole with all the efforts at trying to rationalize your way out of the failure that has happened up there. This should have been solved on the local level years ago, but it has not been. And I put the blame on the Park Service for this. Not on the Trust, but on the Park Service. And it seems like the best way of getting out of this is simply to remove the problem area, which is the Park Service. That is why I said Mr. Young was the nicest member of the panel in his attitude to what the Park Service has actually done.

A second round of questions. I was the last—

Ms. HERRERA BEUTLER. Just a couple of clarifications. And I think, Mr. Chairman, you summed it up. It really comes down to the fact that this—it is such a shame that this is taking an Act of

Congress. It should have been fixed. I personally have been involved in this since last May, when I started conversations with the Park Service Director, called her on the phone, said, "We got a problem here locally, we got to fix it." And from that point, I have felt very strongly that the Park Service has resisted efforts.

You refer to partnership—and I apologize; you probably don't know all the ins and outs of what has been happening—but you referred to partnership. This Trust, along with the City, has operated in partnership for, gosh, most of my life. I don't know what happened in the last 6 months to a year, and as we have seen from these FOIA documents, obviously the Park Service was moving to control the assets. They were moving behind the scenes. But the message publicly, even from the regional director to the Trust was, "You are not partners, you are vendors."

So, you are saying partnership on one side, but they are getting a directly different message on the other. And that is part of why we are at this head we are. I do wish that the local director had had a chance to come out here, because I think it would shine some light on the personality problems that have taken place.

I guess we can shoot down every single one of those premises you talked about, size, scale, and relationship to the Park. Look, I grew up going to this Park as a kid. I went to these Fourth of July picnics. I have taken part in these events. This is my community's backyard. We are there and growing because the fort started, because the Hudson Bay started, because it all grew. So we can prove relationship of churches or community events to this site. And when you talk about archaeological challenges, there is an airfield, an active airfield, planes come and go on these 7 acres.

So, to say that there is something there that is going to be damaged if we transfer the ownership is really stretching it. I mean I watch these planes come and go, and you would think if there was a burial site under these 7 acres, those planes wouldn't be allowed to come and go, because Ms. Hanabusa is right, those laws are in place, regardless of whether you own it or the City owns it.

And so, I guess I would ask, as we move forward, and having talked with Director Jarvis, he said, "We want the partnership to work, we want the partnership to work." I think what has failed has been at that local level. Decisions became subjective, not based on standards. And I would ask that, as we move forward, that unless you have real specifics that can't be—specific objectives, not, as the Chairman alluded to, platitudes, that the Park Service would strongly consider just backing away on this one.

Dr. FROST. Well, I will just say that we would—I would agree with you that we want the partnership with the City to work, too. Absolutely. You think I enjoy coming here?

[Laughter.]

Dr. FROST. But we want the partnership to work. It is a better situation on many different levels, as you well know, if the partnership works. And I think you are right, the local issues have sort of overtaken events. And hopefully we can resolve them. I don't know if we can. I know we haven't to date, but—

Ms. HERRERA BEUTLER. So can I speak to that?

Dr. FROST [continuing]. I would say that we would be interested in trying to "reinvigor" those conversations to—

Ms. HERRERA BEUTLER. So let me speak to that.

Dr. FROST. Yes.

Ms. HERRERA BEUTLER. When the Park Service closed or essentially effectively closed the museum by their actions, what, 30-plus days ago now, I got on the phone with Director Jarvis. And he said, "I am giving them 30 days to make this work."

And I said, "Great. I am going to introduce a bill, just in case." In those 30 days, from what I have been told, the City and the Park Service—or the Trust—have not been reached out to. In fact, the Park Service, rather than work with the Trust, put up a covered wagon, an old boat, and raised the Park Service flag over the museum and, in the same time, did not reach out to the Trust.

So I am hearing a lot of partnership, partnership, but your actions are speaking so much louder than your words.

Dr. FROST. And I can't speak to what has happened in the past 30 days.

Ms. HERRERA BEUTLER. All right. Well, with that, I guess I yield back.

Mr. BISHOP. Ms. Hanabusa, do you have any more questions? Mr. Grijalva?

Mr. GRIJALVA. Yes. If I may yield to sponsor legislation, is there a companion piece of your legislation that is moving in the Senate?

Ms. HERRERA BEUTLER. It is not, although we have been working with our Senators' offices.

And, actually, I don't know if you would let me to yield to Mr. Strahan, who has actually been working with both of our Senators' offices on that, they are aware.

Mr. STRAHAN. Yes.

Mr. GRIJALVA. If I may—

Ms. HERRERA BEUTLER. I don't think it is—I don't know that it is drafted. Or I don't know that it is in—

Mr. GRIJALVA. Well, reclaiming my time, the point I am making is probably more directed at Dr. Frost. Given the fact that there is legislation here, and from the comments of the Chairman, it is legislation that he is going to move. And the absence of legislation in the Senate at this point, I think, affords the Park Service an opportunity. And I would urge the Park Service, so we don't begin to set some precedents here, that if something can be done and done expeditiously, I think it would be in everybody's best interest to do so. Thank you, Mr. Chairman.

Dr. FROST. I will relay that message.

Mr. BISHOP. Do you have any other questions? Any other questions?

[No response.]

Mr. BISHOP. Then we thank you, and I appreciate your response to Mr. Grijalva. The Park Service needs to prove that they deserve those 7 acres.

Mr. Strahan, same thing as I did before. You are welcome to stay, if you would like to. Don't know why in the hell you would want to—

Mr. STRAHAN. Thank you, Mr. Chairman—

Mr. BISHOP [continuing]. But you are welcome to stay. If we could ask—

Mr. STRAHAN [continuing]. Mr. Ranking Member, members of the Committee, thank you.

Mr. BISHOP. Thank you very much. And once again, your written testimony is in the record. We appreciate your willingness to come here. Thank you, Representative.

I would ask Mr. Frost to stay, and call up Warren Judge, who is the Chairman of the Dare County, North Carolina Board of Commissioners, as well as Derb Carter, who is at the Chapel Hill Office of the Southern Environmental Law Center, to join us at the panel.

And I also invite Mr. Jones—who has had a chance to testify already, right—to join us on the panel, if he would like to. This is dealing with H.R. 819, another issue that would have been nice to have been resolved at some other venue than this one.

So, let me just go down the panel this time. Mr. Frost, I gave you the last time last time. Why don't you go first this time on this particular bill?

Dr. FROST. All right, thank you, Mr. Chairman. Let me make sure I have the right testimony here.

The Department strongly opposes H.R. 819. This legislation would overturn the Offroad Vehicle Management Plan at Cape Hatteras National Seashore, and restate the defunct interim strategy. We believe that the final ORV management plan and the special regulation that is now in effect will allow the appropriate public use and access to the seashore to the greatest extent possible. At the same time, it will also ensure wildlife protection, provide a variety of visitor use experiences, and minimize conflicts among various users, and promote the safety of all visitors.

Under the ORB management plan, the great majority of the beach is open to ORVs, visitation is rising, and tourist revenues are at record levels. At the same time, beach-nesting birds and sea turtles are finally showing much-needed improvement.

This concludes my statement. Thank you.

Mr. BISHOP. Thank you. Mr.—it is Judge, correct?

Mr. JUDGE. Yes, sir.

Mr. BISHOP. Commissioner, you are recognized. Once again, your written statement is part of the record. You have 5 minutes for an oral statement. Please go.

**STATEMENT OF WARREN JUDGE, CHAIRMAN, DARE COUNTY,
NORTH CAROLINA BOARD OF COMMISSIONERS**

Mr. JUDGE. Thank you, thank you, Mr. Chairman. Chairman Bishop, Ranking Member Grijalva, and Congressman Jones, I come before you on behalf of the 33,000 people who call Dare County their home, and the millions who visit the Outer Banks of North Carolina each year from every State of our great Nation.

Dare County is proud to be the centerpiece of the Cape Hatteras National Seashore Recreational Area. This special place has the distinction of being America's first national seashore, and was created for a different mission and purpose. It is unique, in that it was planned and purposefully designed to be a recreational area, a place where families could experience the joy of interacting with nature in this special way.

H.R. 819 represents a practical solution for providing American taxpayers access to their national seashore, while at the same time assuring science-based protection of shore birds and sea turtles.

H.R. 819 would reinstate a National Park Service management tool known as the "interim plan." This was a fully vetted, comprehensive plan that provided reasonable recreational access, while at the same time safeguarded and managed protected resources. It has a NEPA review, and was backed up by a biological opinion issued by the U.S. Fish and Wildlife Service, finding that species of concern would not be jeopardized.

This plan worked, and it gave the seashore superintendent the authority to use his or her professional judgment to make science-based, peer-reviewed adjustments in response to actual conditions at the seashore on a real-time basis. Unfortunately, after a small handful of special interest groups filed a lawsuit, the management plan was set aside, and a rigid and arbitrary consent decree was put into place. This consent decree never had a NEPA review or the healthy input of transparent, public participation through public hearings.

Since the consent decree, I have seen firsthand how the people have suffered. Their county, like some of the places you represent, is a rural area where small businesses are the economic backbone of our community. Tourism is our primary industry. It is the engine that drives our economy. Many have experienced a dramatic drop in revenue that is directly related to the heavy-handed beach access restrictions that have caused a ripple effect, hurting businesses, employees, and families. This negative impact is most vivid for those nearest the closure areas.

Dare County has a unique geography. As part of a long, thin stretch of barrier islands, it extends over 80 miles in length, or about the distance from Washington, D.C. to Richmond, Virginia. This helps you understand that even when tourism may be up in some neighborhoods that are far removed from Hatteras Island, it is still a fact that people near the closures are struggling to hold on to the American Dream. For critics to tell you that tourism on the Outer Banks has increased and everything is hunky dory, is like telling someone in Richmond that they should be happy that tourists are visiting the Nation's Capital.

Another way the special interest groups try to razzle dazzle the American public is by drawing conclusions about resource management that are not based on scientific fact. You will hear them say that a certain species has seen X percent increase since the consent decree, and imply that it is reason for success. However, even the seashore superintendent is on record of saying that it is too early to draw the conclusion that it was the consent decree that caused the increase.

History shows that successful resource management on the vulnerable Barrier Islands of the Outer Banks is a long-range process that is directly linked to two variables: first, weather; second, natural predators. When storms are mild the populations increase, and vice versa. That is why the relatively recent consent decree cannot be credited as the cause or the factor for bird and turtle increases with any scientific integrity or certainty, and then etched in stone with the new rule.

The few who oppose H.R. 819 call themselves special interest groups, but they really are single interest groups. As elected officials, we do not have the luxury of representing just one single interest. Our calling is to do the greatest good for the largest number of people. Today I appeal to you, as an elected official, to do what is right for the diverse group of people who love the Cape Hatteras National Seashore Recreational Area. These include the families who cherish their tradition of working hard all year to go on an affordable vacation at our seashore. It includes many senior citizens and those with physical disabilities who desperately need access to the ocean our unique recreational area was designed to give.

That is why I am urging you to enact H.R. 819, to reinstate a management plan that has worked. It is a good plan for protecting shore birds and sea turtles, it is good for the people. I respectfully ask you to help us preserve our culture, our history, and our way of life. Thank you.

[The prepared statement of Mr. Judge follows:]

PREPARED STATEMENT OF WARREN JUDGE, CHAIRMAN, DARE COUNTY BOARD OF COMMISSIONERS, COUNTY OF DARE, NORTH CAROLINA, ON H.R. 819

The regulations at the Cape Hatteras National Seashore Recreational Area are out of balance and unless remedied soon they will have permanent consequences. The livelihood and future of our people depends on the passage of H.R. 819. This bill would reinstate a proven and well-vetted plan that balances resource protection with reasonable recreational access consistent with the seashore's enabling legislation.

The Cape Hatteras National Seashore Recreational Area (CHNSRA) was established as America's first national seashore with the promise that this unique area would always have recreational access for the people. Dare County North Carolina, known as the Outer Banks, is home to the Cape Hatteras National Seashore Recreational Area with most of the seashore being within Dare County, and a portion in Ocracoke in neighboring Hyde County.

The people of Dare County have cooperated with the National Park Service (NPS) in developing America's seashore into a popular attraction with cultural and historical significance. At the urging of the NPS, people built businesses and infrastructure to support and promote tourism to the area. For generations the area flourished and the area became a popular tourism destination because of its world-class fishing and a host of family-oriented recreational activities.

The County of Dare through its elected leaders, and in concert with grassroots community partners, has actively participated in every phase of the Federal Government's planning and rulemaking process. We advocated for the "Interim Management Strategy" and participated in the negotiated rulemaking process. We also engaged in Public Hearings on the Draft Environmental Impact Statement (DEIS), Final Environmental Impact Statement, (FEIS) and ORV Management Plan. We, and others, offered practical solutions to address concerns required by Executive Orders 11644 and 11989 without compromising the area's unique culture and economy.

The National Park Service's ORV Management Plan, and the Final Environmental Impact Statement upon which it is based, are seriously flawed. It lacks a sound scientific basis and reflects a distorted economic analysis. It also does not reflect the will of the people that was articulately expressed during public hearings.

Throughout the public process, there was an outpouring of positive and substantive comments by the people of Dare County. Thousands of others, from across the nation, who love the Cape Hatteras National Seashore Recreational Area, joined us in this effort. We, the people, spoke as a virtually unanimous voice in recommending practical solutions for management of the seashore. However, the National Park Service did not listen to the clearly expressed will of the people and incorporate our concerns and suggestions.

It has been our longstanding position that people and wildlife can live in harmony and that reasonable recreational access is consistent with proper resource management. For decades, we have maintained that meaningful access is fundamental to the visitor experience and the continued growth and economic vitality of the Outer Banks.

The passage of H.R. 819 would reinstate the "Interim Management Plan," a tool developed by the National Park Service that was in place before the consent decree and proven effective in balancing resource protection with responsible recreational access. The Interim Management Plan was fully vetted and had a National Environmental Policy Act (NEPA) review.

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

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

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

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

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

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

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

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

Without ORV access, the physically disabled, the elderly, and the many who suffer from chronic medical conditions are unable to reach the seashore and enjoy the place that is supported by their tax dollars. This is inconsistent with the recreational purpose for which the CHNSRA was originally created. Mobility impaired visitors depend upon their vehicle not only for transportation to the seashore, but as a necessary lifeline in the event of a medical emergency, a sudden change of weather or temperature conditions, or need for toilet facilities. It is unfair that these people be restricted to the areas directly in front of the villages as is now provided in the ORV Management Plan.

Highly restrictive beach closures have had a devastating impact on the community surrounding the seashore. Tourism is our primary industry. It is the engine that drives our economy. Family-owned businesses are the backbone of Dare County and those who offer service and hospitality to Outer Banks visitors are suffering because of restrictive closures.

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

Our people are being forced to work harder, deplete their savings, and short-change their family's future. Meanwhile, by cherry-picking economic indicators, the special interest groups rationalize that tourism is up in spite of unprecedented closures. Sadly, even businesses whose revenue has stayed level or showed a modest increase have accomplished this at a costly price. Many have had to cut back employee hours, forego much-needed capital improvements, and sacrifice profits. Our small business owners do not ask for special favors or government handouts, just a fair opportunity to earn their part of the American dream.

SCIENCE TO REGULATE THE SEASHORE MUST HAVE INTEGRITY

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

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

Dr. Berry has long been a dedicated champion in advocating that the scientific process be the basis for determining public policy. He explains, "Best available science as touted by environmental groups is opinion disguised as science." Following are nine (9) items identified by Dr. Berry and Dare County as important scientific principles and rationale to consider in evaluating the success of resource management in the Cape Hatteras National Seashore Recreational Area.

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

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

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

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

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

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

Based on the analysis presented in the strategy/EA, the NPS identified Alternative D—Access/Research Component Focus as the preferred alternative for imple-

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

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

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

(2) Prior to the implementation of the Interim Plan, there was concern voiced mainly by environmental activist organizations that species decline was occurring on the national seashore as the result of increased public access, mainly off road vehicles. For 5 consecutive years (2001–2006), published resource numbers were low compared to previous years and were often touted to indicate that species populations, particularly birds, were in decline due to anthropogenic causes. However, it is often not mentioned that during this same time period the Cape Hatteras National Seashore Recreational Area experienced back-to-back storms that produced a significant distorting and transforming effect on the seashore ecosystem.

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

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

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

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

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

The public was given no opportunity to review or comment on the poorly crafted environmental management provisions of the consent decree. The provisions were

slapped together in a period of about 3 weeks in April of 2008, behind closed doors, with no independent technical input and discussion.

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

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

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

(4) Environmental activists often referred to National Park Service annual resource reports in their self-promoting press releases, public testimony, and periodic presentations to the federal judge overseeing the consent decree. They use the reports to make claims that the public access restrictive resource closures of the consent decree, which they crafted and imposed without public review, are resulting in “highest ever” bird and turtle observations. The annual resource reports have never been independently reviewed or verified for accuracy.

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

In the absence of an enhanced monitoring program prior to 2007, it is plausible that various bird counts were not as depleted and low as claimed by environmental activists but that they were simply not being observed, counted, and reported as at the current intense monitoring level. It is also plausible that any noted increase in bird counts since 2007 are due to a new enhanced program for seeking out, observing, and reporting birds rather than the creation of public access restrictive closures.

At no time in the past 4 years has any federal official demonstrated through independent audit or review, the validity of these reports or taken a hard look at environmental activists claims. None of the annual reports related to the consent decree for 2008, 2009, 2010, and 2011 were ever peer reviewed or validated by competent independent science advisors in open public forum or openly discussed by interested parties.

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

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

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

Nowhere in any annual resource report of the past 4 years does National Park Service demonstrate or claim a cause and effect relationship between overly restrictive closures provided by the consent decree and bird and turtle production.

Environmental activists and the National Park Service cannot demonstrate or prove that wildlife production of birds and turtles was improved under the overly restrictive provisions of the consent decree any more than would have occurred had the provisions of the publically reviewed Interim ORV Plan been allowed to move forward for 4 years.

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

judge, the Seashore Superintendent has explained to the Court that it is in fact too early to ascribe a cause/effect relationship.

For turtles, production and sightings during the years of the consent decree are up all along the Atlantic Coast, not just the region governed by the consent decree. For birds, natural processes and variability alone can produce such a statistically insignificant 1 or 2 year "uptrend" for a very small number of birds in previous years.

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

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

(7) From a scientific viewpoint, "best professional judgment" closures are more effective and technically sound than closures imposed by the Consent Decree and Final ORV Regulation. Smaller closures limit the free movement of predators. They do not promote the food chain manipulation and transformation in the ecosystem to the same extent as the larger consent decree closures. The huge closure distances in the consent decree and final plan restrictions keep pedestrians and ORVs off the seashore while birds are nesting. At the same time, the extensive closures also provide for the proliferation and increased free movement of predators. In effect, the extensive closures create an ecological trap for birds in that large closure areas enhance predation.

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

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

(8) Over the past 40 years, federal agencies have adopted formal peer review policies to ensure they comply with the "Hard Look Doctrine". Federal Courts expect agencies to take a "Hard Look" at the science and not be informal or sloppy in their treatment of fact. The National Park Service has failed to ensure a valid science basis to a regulation that restricts public access to the national seashore. An independent review to determine the validity of the so-called "scientific fact" never occurred during the consent decree proceedings of the past 4 years. As a result, the public lost access to the beaches of its national seashore. Such government inaction in responding to and collaborating with politically powerful special interests will only further public outrage and distrust of government.

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

The so-called "USGS Protocols" continue to be touted as "best available science" in the development of the final ORV management plan for the Cape Hatteras Seashore Recreational Area. The USGS Protocols were cited as being "in press" 5 years after they first appeared on the Park Service website. There was no date on the document, no responsible federal official identified, no government document number.

The final publication was not accessible, publically reviewed, or fully explained by government authority at the time the DEIS was submitted to the public for comment.

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

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

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

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

- There is no public record that the protocols, which have been the source of closures, have been officially peer reviewed following USGS peer review policy. <http://www.usgs.gov/usgs-manual/500/502-93.html>
- There is no public file, docket, or documentation of peer review questions, comments, or author response.
- There is no indication that the protocols were ever published in a peer reviewed journal or publication or ever referred to as what they are, management guidelines and opinions as opposed to in-depth science assessment.
- Scientists having any kind of conflict of interest association, whether through membership, collegial associations, funding, or grants must disclose the relationship. Some authors and reviewers of the protocols were members and associates of organizations now using the protocols to restrict public access to the beaches of the national park, a fact never disclosed openly and not in compliance with USGS peer review policy.

As has been stated many times in public comment to the National Park Service, the best course of action to resolve the matter of valid science is to turn the science review and update over to the National Academy of Sciences or some other neutral party, to objectively, critically, and comprehensively review all relevant science, disclose the facts and restore some public trust in the scientific process used as the basis for environmental management decisions at Cape Hatteras National Seashore Recreational Area.

Most importantly, for the restrictive provisions of the final ORV management plan, there is no indication that NPS ever plans to revisit the USGS Protocols and the science basis for closure boundaries.

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

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

Closure boundaries are overly restrictive at CHNSRA and are not used at other NPS properties. There has been no administrative or science based explanation given to the public for these uniquely restrictive closures

CONCLUSION

The testimony outlined above carefully documents that there is not a cause effect relationship to the restrictive provisions of the consent decree. The special interest groups who want to severely limit recreational access rely on flawed science that lacks integrity, peer review, and without regard to the full consideration of the law, the economy, and public use. Now, more than ever, the people need federal agencies, such as the Park Service, to be held accountable for policies that have hurt the people.

Dare County supports H.R. 819 as sound legislation that will benefit the residents and visitors of the Cape Hatteras National Seashore Recreational Area. We believe the Interim Management Plan, which would be reinstated upon passage

of H.R. 819, best balances resource protection with recreational access. It would allow access decisions to be made by the Park Superintendent, who is ultimately accountable to Congress, rather than the courts or a rigid and flawed ORV Management Plan.

On behalf of the residents and visitors of Dare County North Carolina, we respectfully ask you to help us preserve our culture, our history, and our way of life by supporting H.R. 819.

QUESTIONS SUBMITTED FOR THE RECORD TO WARREN JUDGE

Question. In your Disclosure Form submitted to the Committee, you provided the response “None that I am aware of” to a question regarding lawsuits and petitions filed by you against the Federal Government in the current year and the previous 4 years. You provided the same answer, “None that I am aware of”, to a second questions regarding lawsuits and petitions filed by the organization you represent.

According to the docket of the U.S. District Court of the District of Columbia, Dare County is plaintiff to ongoing civil litigation involving critical habitat designation. The Defendants in the case are the United States Department of the Interior and the U.S. Fish and Wildlife Service. The Case number is 1:09–CV–00236–RCL.

Please explain why the information you are required to disclose pursuant to the letter of invitation sent to you by the Chairman is incorrect.

Answer. Our participation in the critical habitat designation matter began in around May of 2008. We provided comments and participated with the other named Plaintiffs in an effort to prevent the designation of large coastal areas as critical habitat and thereby allow further regulation that might prevent beach access. While I was aware that suit was filed and that Dare County was Plaintiff in that suit, I was not aware that it was filed in 2009, my belief was that it was filed in 2008 around the time we became involved and outside the 4 year period you inquired about. I apologize for my error and certainly did not intend to mislead the committee in any way.

Question. What concrete, measurable, publicly verifiable data do you have to substantiate your statement that the Park Service’s management of off-road vehicles is causing any harm at all to the Hatteras Island economy?

Answer. As outlined in my oral testimony on H.R. 819 before the Subcommittee, the management of off-road vehicles in the Cape Hatteras National Seashore Recreational Area has caused economic harm. This is most evident for small, family owned businesses near the closure areas.

In a series of notarized affidavits, Dare County has documented the adverse economic impact on a variety of businesses encompassing a wide range of the business community including—automotive parts and repair, bait and tackle shops, campgrounds, charitable service providers, child care centers, fishing rod builders, marinas, motels, professional artists, restaurants, and retail establishments.

Many of these businesses have had to lay-off valued employees, suffer cutbacks, and deplete their savings. Even those whose revenue stayed level or showed a modest increase have had to cut back employee hours notably for students and forego much-needed capital improvements. Following are three examples –

Frank Folb, owner of Frank & Fran’s, The Fisherman’s Best Friend, has seen a dramatic revenue decline in a business that has historically prospered during every economic downturn in the past 22 years. He has been forced to eliminate employee hours which has caused a financial hardship for each of their families.

Anne Bowers, owner and operator of Indian Town Gallery, has documented progressive business declines caused by beach closures that have caused a do-or-die struggle to survive.

Steve Hissey, the Co-Manager of Teach’s Lair Marine suffered a loss of \$300 to \$600 for every day that access was restricted to the seashore. This resulted in the lay-off of two people solely related to the closures.

These are but a few of the real voices on the front lines of the beach access struggle. As explained during my oral testimony, Dare County has a unique geography. It is part of a long, thin stretch of barrier islands extending over 80 miles in length. In such a vast geographical region, even when tourism may be up one in one sector far removed from the beach closures, it does not reflect or mitigate the harm that those nearest the closures are experiencing.

Those that would oppose this bill point to increases in gross occupancy tax numbers from Dare County or from Hatteras Island to argue that the Final Rules have had no impact on the economy. From a macro standpoint looking at the whole county, occupancy tax numbers are up. However if you look at the individual villages

on Hatteras Island during the time of the most closures under the final rules, the numbers tell a different story.

Changes in Gross Occupancy Sales by village from FY 10–11 versus FY11–12 (the first year of the final rules and which covers the spring and early summer when closures have the most impact) were as follows:

Buxton	– \$828,719
Frisco	– \$7,161
Rodanthe	– \$496,861
Salvo	– \$694,489
Total	– \$2,027,230
Avon	+ \$419,062
Waves	+ 76,119
Hat. Village	+ 7,761
	+ \$502,942
Total Occupancy Sales Lost on Hatteras Island in FY 10–11 through FY11–12	\$1,524,288

The Villages showing declines and Waves are most dependent on ORV access. One would expect them to be the hardest hit and occupancy sales except for Waves reflect that. In fact Buxton was at less than FY 05/06 levels during that period. Avon is a bedroom community with multiple oceanfront dwellings and few restrictions on access. One would expect little impact from the rules in Avon and in fact Avon's sales increased. All six other towns in the county also had increased occupancy sales during this period. What's different about those towns, they have no restrictions on access to the beach and are not affected by the final rules.

As an elected official, it is my duty and obligation to be a voice for those in my community who are suffering because of the harsh closures. The people have documented their loss not only by affidavit, but also by an outpouring of hundreds of comments that are recorded in the official record of Public Hearings conducted by the National Park Service

Mr. BISHOP. Thank you, Commissioner.
Mr. Carter.

STATEMENT OF DERB S. CARTER, JR., DIRECTOR, CHAPEL HILL OFFICE, SOUTHERN ENVIRONMENTAL LAW CENTER

Mr. CARTER. Chairman Bishop, members of the Subcommittee, Congressman Jones, thank you for the opportunity to testify on the proposed legislation to overturn the Offroad Vehicle Management Plan for Cape Hatteras National Seashore. I will summarize the key points in my written testimony.

Before I begin I want to say that I spent some time a couple of weeks ago at the Walter Jones Center for the Sounds in Columbia, North Carolina. Those of us from Eastern North Carolina appreciate all that Congressman Jones and his father, former Congressman Jones, Senior, have done for our region. However, this is one bill on which we disagree.

We support the balanced Offroad Vehicle Management Plan adopted by the National Park Service in February of last year to manage vehicle use on the beaches of Cape Hatteras National Seashore. The plan was nearly 40 years overdue, mandated by Executive Orders from President Nixon and President Carter. This plan went through 4 years of public review and comment, including a negotiated rulemaking with all stakeholders involved, and detailed environmental and economic analysis. Over 20,000 comments were submitted by the public on this proposed plan, the vast majority supporting the plan, or even more stringent offroad vehicle restrictions.

We oppose H.R. 819, which would repeal that plan and reinstate policies that were resulting in significant harm to the wildlife and natural resources of this national seashore.

The Park Service plan is a balanced plan that provides minimum protections for the seashore's natural resources. It accommodates visitors with different interests, and gives wildlife a chance. I am one of the 4 to 5 percent of the visitors to the seashore who drive on the beaches. I have regularly driven on the beaches of this seashore for over 35 years. And I have seen the many changes: more and more vehicles, less and less wildlife, fewer vehicle-free areas for the 95 to 96 percent of the visitors who do not drive on the beaches, but come to this national seashore.

The actual area of the seashore beach open to vehicles and pedestrians, pedestrians only, and temporarily closed for wildlife is depicted on this graphic, which simulates last year. The plan designates 41 miles of the seashore, 67 miles of beaches for year-round or seasonal ORV use. Since the plan was implemented beginning in February, the Park Service has issued over 9,000 annual permits for ORV use, and 23,000 weekly permits for ORV use. Twenty-six miles of beaches are designated as vehicle-free areas for pedestrians and families to enjoy who do not want to drive on the beach.

Sea turtles are protected by restricting driving at night during the turtle nesting season, and breeding birds in sensitive areas are protected by buffers that are temporary and established if and only if birds are attempting to breed in an area.

By all objective measures, the Park Service's plan has been a success. Visitation to the seashore has remained steady or increased over the past several years under the court-ordered ORV restrictions that began in 2008. In 2012, last year, the first year under this ORV plan, the seashore had over 2.3 million visitors, the highest number of visitors since 2003. Dare County reports record occupancy numbers for hotels and rental houses. Occupancy tax receipts for Dare County from rental homes, hotels, and campgrounds have exceeded receipts ever since the consent decree and the plan were put in place, compared to the year 2007. Occupancy revenue from Hatteras Island, the area with the most area of seashore, was 7 percent higher in 2012 under this plan than it was in 2007, the plan that this bill would revert to.

Since the court-imposed wildlife protection restrictions in 2008, the number of colonial waterbird nests on the seashore have quadrupled, and the number of sea turtle nests have tripled, to a record 222 nests last year.

In conclusion, the Park Service has developed a balanced management plan for all users of the seashore. Visitation to the seashore is up. Tourism in the surrounding communities is thriving. And wildlife is recovering. We respectfully request that the Subcommittee allow this management plan to work, to continue to work, and not favorably report H.R. 819. Thank you very much for the opportunity to testify.

[The prepared statement of Mr. Carter follows.]

PREPARED STATEMENT OF DERB S. CARTER, JR., DIRECTOR OF THE NORTH CAROLINA OFFICES OF THE SOUTHERN ENVIRONMENTAL LAW CENTER, ON BEHALF OF AUDUBON NORTH CAROLINA AND SOUTHERN ENVIRONMENTAL LAW CENTER, ON H.R. 819

This testimony is submitted on behalf of Audubon North Carolina and Southern Environmental Law Center (SELC). In addition, SELC has represented Defenders of Wildlife in litigation prompting the rulemaking process, in the rulemaking process itself, and in intervening in litigation on the side of the National Park Service to defend the Final Rule that would be abolished by H.R. 819. SELC also represents National Parks Conservation Association in defending the Final Rule.

We strongly oppose H.R. 819. We support of the National Park Service's Final Rule to manage off-road vehicle use on Cape Hatteras National Seashore in North Carolina. The bill would abolish the Final Rule which was adopted by the National Park Service after extensive public review and comment. The bill would eliminate sensible safeguards to preserve Cape Hatteras National Seashore for current visitors and future generations to explore and enjoy. In the one year of management under the Final Rule, visitation to the Seashore increased, tourism set record highs, and wildlife on the Seashore continued to rebound.

Passage of H.R. 819 would ignore and undermine:

Extensive public involvement in adoption of the Final Rule:

The public process informing the National Park Service's management plan included numerous public meetings, a negotiated rulemaking process that included opportunity for public comment at each meeting, and two public comments periods, during which 21,258 written comments were received on the draft Final Rule and its supporting environmental impact statement. The vast majority of commenters wrote in favor of stronger wildlife protections and more stringent off-road vehicle (ORV) restrictions than even those contained in the Final Rule. The National Park Service weighed all the comments and public input and struck a careful and fair balance among competing uses of the Seashore, which is embodied in the Final Rule. The Final Rule should be given a chance to succeed.

Detailed economic and environmental review:

The Park Service's extensive review culminated in lengthy economic reports and cost-benefit analyses, an environmental impact statement that examined six alternatives to the Final Rule, and a detailed biological opinion issued by the U.S. Fish & Wildlife Service, all of which supported the Final Rule as it was written. The management measures in the Final Rule are based on a robust scientific record supported by leading experts.

Balanced access for pedestrians and ORV users provided by the Final Rule:

The Final Rule provides a balanced approach to Seashore visitation, designating 41 miles (28 year-round and 13 seasonal) as ORV routes of the Seashore's 67 miles of beaches. Only 26 miles of beaches are designated as year-round vehicle-free areas for pedestrians, families, and wildlife, to promote pedestrian access and reduce user conflicts between motorized and non-motorized visitors. While limiting off-road vehicular traffic in these areas, the new plan will also provide new parking facilities and access ramps to facilitate visitor access to beaches.

The Final Rule and management plan only closes beaches when necessary to protect nesting waterbirds and sea turtles from disturbance. Today, one hundred percent of the Seashore beaches are open to pedestrians and 61 percent of the beaches are open to ORV and pedestrian use. The remaining 39 percent of the beaches are reserved for pedestrian use only. During the breeding season for waterbirds (late April through July) only those areas where birds are attempting to nest are closed when prescribed disturbance buffers require closure. Once nesting is completed, these areas are opened.

Most other national seashores either have regulations in place to manage and restrict ORV use or do not allow ORV use at all; only one national seashore continues to allow beach driving without a regulation in place. Four national seashores have long prohibited ORVs entirely, while four others have regulations restricting ORV use. All of those, except Padre Island, allow driving on a much smaller percentage of their beaches than does the Cape Hatteras Final Rule. Thus, the number of miles Cape Hatteras's beach set aside for ORV use in the Final Rule is significantly more extensive than most other national seashores.

The overwhelming weight of scientific authority:

In contrast to the utter dearth of science to support H.R. 819, an extraordinary amount of scientific evidence shows that the Final Rule's beach driving restrictions

are warranted and are the minimum necessary to preserve the natural resources of the Seashore for future generations. The rulemaking record includes hundreds of peer-reviewed articles, the peer-reviewed protocols developed by the government's own scientists at the U.S. Geological Survey, and the support of scientists at the U.S. Fish & Wildlife Service and the North Carolina Wildlife Resource Commission. Arguments for ORV use on the entire Seashore are not only contradicted by substantial scientific studies at the Seashore and other locations, they are not supported by any scientific evidence in the record.

Five years of thriving tourism:

In the 4 years under reasonable wildlife protections and ORV restrictions similar to those implemented in the Final Rule¹ and one year under the Final Rule, tourism has thrived, park visitation has held steady and increased in some years, and tourism revenues grew. Notably, in the last two years, new records have been set for visitor occupancy and tourism revenue in Dare County, North Carolina, where much of the Cape Hatteras National Seashore land is located.

With the exception of 2011, when Hurricane Irene cut off access to Hatteras Island for nearly 2 months, visitation to Cape Hatteras National Seashore has remained steady or increased for the past 9 years, from a low of 2,125,005 (in 2006) and a high of 2,302,040 in 2012. In the first year of management under the Final Rule, Seashore visitation was the highest since 2003.

Year	Cape Hatteras National Seashore visitation
2012	2,302,040
2011	1,960,711 *
2010	2,193,292
2009	2,282,543
2008	2,146,392
2007	2,237,378
2006	2,125,005
2005	2,260,628

* Hurricane Irene cut access for nearly 2 months.

(See "Annual Park Visitation" Report for CAHA at <http://www.nature.nps.gov/stats/park.cfm>)

Dare County, NC, where the majority of the Seashore is located, reports that visitor occupancy tax receipts for each year under the court ordered ORV restrictions (2008 to 2012) exceeded receipts in 2007 and prior years, with 2008, 2010, 2011, and 2012 setting successive records for all-time high receipts. Tourism revenue for Hyde County, NC (the Ocracoke Island portion of Cape Hatteras National Seashore) has held steady or increased since 2005, to a record high \$31.69 million in 2011. The chart below shows tourism revenue data for Hyde and Dare Counties, both before the court ordered ORV restrictions went into effect in 2008 and afterwards:

Year	Dare County tourism expenditures (millions of dollars)	Dare County percent change from prior year	Hyde County tourism expenditures (millions of dollars)	Hyde County percent change from prior year
2011	\$877.18	+ 5.14	\$31.69	+ 2.6%
2010	\$834.29	+ 8.8%	\$30.90	+ 11.6%
2009	\$766.56	(- 1.4%)	\$27.70	(- 1.5%)

¹ These wildlife protections were established in a consent decree was entered by the U.S. District Court for the Eastern District of North Carolina in the federal lawsuit entitled *Defenders of Wildlife et al. v. National Park Service et al.* (E.D.N.C. case no. 2:07-CV-45). It imposed protections and beach driving restrictions beginning in 2008 that are very similar to those in the Final Rule.

Year	Dare County tourism expenditures (millions of dollars)	Dare County percent change from prior year	Hyde County tourism expenditures (millions of dollars)	Hyde County percent change from prior year
2008	\$777.41	+ 1.9%	\$28.11	+ 3.0%
2007	\$762.65	+ 8.6%	\$27.29	(- 4.1%)
2006	\$702.25	+ 8.7%	\$28.46	+ 3.5%
2005	\$646.08	+ 4.8%	\$27.49	+ 7.6%

(See North Carolina Department of Commerce reports on tourism revenue at: www.nccommerce.com/tourism/research/economic-impact/)

The majority of the national seashore is on Hatteras Island in Dare County. Dare County reports that occupancy revenue from hotels, rental homes, campgrounds, etc. on Hatteras Island was 7 percent higher in 2012 (the first year under the Final Rule) than in 2007 (the year that the Interim Management Strategy, to which HR 819 would return the Seashore, was in effect). This was true despite the fact that access to Hatteras Island was cut off after Hurricane Sandy for nearly 2 months in late 2012. Occupancy receipts have been steadily rising in recent years under reasonable wildlife protections and ORV restrictions similar to those implemented in the Final Rule. The Dare County Visitor's Bureau reports that Hatteras Island visitors spent a record-setting \$27.8 million on lodging during the month of July 2010 (surpassing July 2009 by 18.5 percent). July 2011 occupancy receipts on Hatteras Island then set a new high of \$29.6 million. Then July 2012 set yet another new all-time occupancy high on Hatteras Island at \$30,577,703. July has the maximum restriction on ORV use due to seasonal safety ORV closures in front of villages, breeding bird closures, and night driving restrictions for nesting sea turtles. The occupancy receipts for June and September 2012, the first year under the Final Rule, also exceeded the levels for the prior years posted on Dare County's Visitor's Bureau website, and may also represent all-time records. (See <http://www.outerbanks.org/outerbanks-statistics/> (graphs for "Occupancy by District").

Although only 4–5 percent of Seashore visitors have an interest in driving on the beaches, these visitors have this opportunity at all times under the Final Rule. Since the Final Rule went into effect on February 15, 2012 (through March 4, 2013), the National Park Service has issued 32,893 permits to operate an ORV on Seashore beaches (9,086 annual and 23,807 weekly permits). Permits require an applicant to view a short educational video on safe driving on the beaches. In the first year under the permit system instituted by the Final Rule, speeding violations on the beaches decreased by 88 percent from 200 in the prior year to 23.

Recovery of protected species under reasonable ORV restrictions:

The various federally endangered, federally threatened, and state-protected species of shorebirds, water birds, and sea turtles that live and/or breed on Cape Hatteras National Seashore beaches have rebounded in the 5 years under court ordered ORV restrictions and the Final Rule. These species are sensitive to human disturbance during the nesting season. All species had declined—and some had even disappeared from the Seashore—under the prior plan that H.R. 819 seeks to reinstate. Under the court ordered ORV restrictions and Final Rule, records have been set for the number of sea turtle nests, piping plover breeding pairs, piping plover fledged chicks, American oystercatcher fledged chicks, least tern nests, and gull-billed tern nests.

Sea turtle nests on Seashore beaches have nearly tripled from 82 in 2007 to a record 222 in 2012. The number of breeding pairs of threatened piping plovers increased from 6 pairs in 2007 to 15 in 2012. The number of nests of beach nesting colonial waterbirds including terns and black skimmers has quadrupled, from 314 nests in 2007 to 1314 nests in 2012. By all measures, the ORV use restrictions during the nesting season from May to July have been an unqualified success in restoring wildlife to the Seashore.

	2007	2008	2009	2010	2011	2012
Sea turtle nests	82	112	104	153	147	222
Piping plover pairs	6	11	9	12	15	15

	2007	2008	2009	2010	2011	2012
Piping plover fledged chicks	4	7	6	15	10	11
American oystercatcher pairs	21	21	21	20	20	21
American oystercatcher fledged chicks	10	15	10	26	24	15
Colonial waterbird nests	314	255	691	414	1,289	1,314

(See *National Park Service, Cape Hatteras National Seashore Annual Reports 2012*)

The requirements of numerous federal laws:

Executive Order 11644 and 36 CFR §4.10 require all public land managers to adopt special regulations to authorize ORV use and requires that those plans not harm wildlife or degrade wildlife habitat.

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

The enabling legislation for Cape Hatteras National Seashore declares that it shall be “permanently preserved as a primitive wilderness” and that “no development of the project or plan for the convenience of visitors shall be undertaken which would be incompatible [] with the preservation of the unique flora and fauna of the physiographic conditions now prevailing in the area.” 16 U.S.C. § 459a–2.

The Endangered Species Act requires that all federal agencies provide for the recovery of endangered species. 16 U.S.C. § 7(a)(1). H.R. 4094, in contrast, prescribes that any management plan for the Seashore only provide minimum protection to endangered species, but not recovery.

The National Environmental Policy Act requires preparation of an environmental impact statement (EIS) for federal actions that significantly affect the environment. The Final Rule is supported by an EIS, but the Interim Strategy mandated by H.R. 4094 is not.

Conclusion

In marked contrast to the National Park Service’s Final Rule, H.R. 819 would return Cape Hatteras National Seashore to the failed protocols of the Interim Protected Species Management Strategy that were proven to be devastating to birds, sea turtles, other natural resources, and the public’s enjoyment of the Cape Hatteras National Seashore beaches prior to the introduction of the consent decree. Even the Interim Strategy itself states that it was not developed as a long-term solution for managing ORV use at Cape Hatteras National Seashore, but rather expressly and repeatedly states that it was intended only to be implemented temporarily until the Final Rule was in place. The Biological Opinion for the Interim Strategy reiterates that it will negatively impact the natural resources of the Seashore in the long-term.

In contrast to the Final Rule, the Interim Strategy that H.R. 819 seeks to reinstate:

1. Was not supported by the same degree of public participation and contradicts the wishes of the vast majority of people who commented on the Final Rule;
2. Is not supported by any data or evidence that it will have a greater positive impact (or avoid a negative impact) on tourism than the Final Rule;
3. Is not supported by an environmental impact statement or extensive economic studies, as the Final Rule is;
4. Will reserve an extraordinary percentage of the miles of Seashore beaches for a small minority of park users, to the exclusion of the majority of park users who prefer to enjoy the Seashore without the danger, visual blight, noise, and odor of trucks monopolizing the beach;
5. Is not supported by the great weight of scientific literature, as the Final Rule is;
6. Was responsible, in part, for the decline in population of the many protected species at the Seashore by 2007; and
7. Will violate and undermine the requirements of the federal laws listed above.

In sum, the National Park Service's Final Rule is a balanced plan to manage ORV use on Cape Hatteras National Seashore while providing areas for wildlife, and the vast majority of visitors who come to walk and not drive on the Seashore's beaches.

Please oppose H.R. 819, and instead support the National Park Service's balanced and common sense management plan for Cape Hatteras National Seashore.

Mr. BISHOP. We thank both of you for coming here and giving your testimony. We will turn it over to the panel for questions.

Mr. JONES, do you have some questions to start us off?

Mr. JONES. Yes, Mr. Chairman. Thank you very much. Mr. Carter, thank you for your kind words about my father and myself, as well.

Mr. Chairman, I have been in Congress for 19 years. And the first bill that I introduced was to protect the horses down at Shackleford Banks. That dealt with the Park Service, not Fish and Wildlife. Erskine Bowles, who was chief of staff to President Clinton, was fighting the Department of the Interior, because those horses were going to ruin the vegetation at Shackleford Banks. Dr. Pilkey at Duke University said, "These horses will destroy the vegetation." It's not true. It has never happened. The horses are existing down there with whatever insects, ducks, or birds—they are living together. I mean it is just unbelievable.

Since then, this decree was signed by a Federal judge, that is true. But Dr. Frost, my comments earlier—and I want to ask you—when I said that the Park Service in 2007 had an interim management strategy to govern visitors' access, species protection, the strategy was backed by a 113-page biological opinion issued by the United States Fish and Wildlife, which found that it would not jeopardize piping plover, sea turtles, and other species. Do you remember that report?

Dr. FROST. I don't remember that report, personally. But as I understand it, the biological opinion that was issued on the interim report was issued—there was no jeopardy found, because it was an interim plan. It was only designed to be in place for 1 or 2 years, until we could do the final planning.

Mr. JONES. Dr. Frost, let me say that in the 19 years I have been in office—and this was one plan that even the residents of Dare County were not happy with, but they agreed to it. And then the extremists, which are destroying America—I wish that the piping plover could pay taxes, by the way. I don't think they can. I wish the sea turtles could pay taxes, but they can't. But the American people have a right to these recreational areas.

And, yes, I would agree in protecting the species. I worked hard to protect the red wolf down in Terrell County. But I will tell you this. If there is not a balance, then one day we won't protect the endangered species, because there will be no tax money. That is where this thing is headed. And if the extremists had not filed a court order regarding the interim—the plan in 2007 or 2008 that the people in Dare County agreed to, if the judge had not been involved in it, the lawsuits had not been filed, we would not even be here today, because you all would have worked together, you would have agreed. And again, the people in Dare County weren't really happy, but they said, "We will work with the Park Service on this."

So, my comment, before I close, Mr. Chairman, I want Mr. Judge to respond to the good news from Mr. Carter. I didn't realize that the good news was so good for that part of Dare County.

Mr. JUDGE. Thank you, Congressman. And it is not. This is a question of macro versus micro economics. As I stated in my oral testimony, if things are going great in D.C., it doesn't necessarily mean they are going great in Richmond. And that is the distance we have from our two boundaries, the northern boundary to the southern boundary of our county.

The village of Buxton, you see that—Cape Point is on the screen right there, and that is the Cape Point Campground. That is July 31st of this past summer. The business is gone. The village of Buxton, in the summer time, it sometimes looks like it is January, it looks like it is a ghost town. And that affects rental homes, it affects hotels, motels, it affects the shops and the storekeepers. It affects gasoline sales, everything.

That village is based on that point, right there, the most sought-after piece of beach on the East Coast, and possibly the entire world, for surf fishing, for surfing. At that point you have the confluence—you have the ocean coming at you two different ways. It is just a wonderful thing to sit there and watch it happen. And just to the west of that, as you see it goes to the left of your screen, is South Beach, a south-facing beach. It is protected because of the Point, and it is a huge family vacation destination, because the Atlantic waters are a little bit calmer there.

And, yes, sir, Congressman, that is—we can sit here and look at the great success that Dare County has because of the thousands of hard-working entrepreneurs. But just because the village of Duck on the northernmost part of our county experiences double-digit growth does not make a lot of sense, nor does it help, the people of Hatteras Island, the village of Buxton, and Frisco.

Mr. BISHOP. All right. We will have another round of questions, if possible.

I am intrigued by—you say you have horses down there? You have horses down there?

Mr. JONES. Well, we have horses down at Shackleford Banks, and we have horses in Corolla, which is Currituck, which—

Mr. BISHOP. I have about 30,000 head on BLM lands in the West, if you would like to take them.

Mr. JONES. Well, you are going to have to talk to the Park Service, because we are fighting them now over the horses in Corolla.

Mr. BISHOP. You got horses coming down there.

Mr. JUDGE. They would have to get a permit, sir.

Mr. BISHOP. Not if you go at night. Mr. Grijalva?

Mr. GRIJALVA. Commissioner, as a consequence of the lawsuit that my colleague was referencing, everyone signed it. There was a consent decree, and everybody signed it. And the final rule, as I understand it, reflected many of the recommendations.

Mr. Judge, did you sign off on this consent decree?

Mr. JUDGE. Yes, and that is a wonderful question, Ranking Member, and I appreciate the opportunity to respond to that. Yes, I did. I chaired the Dare County Board of Commissioners. My six colleagues and I, after a painful discussion, we did sign off on it.

There are a couple of gentlemen on the back row in this hearing room today who thought I was crazy when I came home that day.

But our alternative was this, sir. It was to agree to the consent decree or close down the Cape Hatteras National Seashore. When the very first hearing on this was held on April 4th in 2007 or 2008, excuse my memory, the judge opened the hearing that he is ready to rule, he is ready to close the seashore to the public until it can be done.

So, yes, sir. A question of being shot in the head or shot in the foot, it was a painful decision to make. I had to go to Hatteras Island and stand before hundreds of people and defend it.

Mr. GRIJALVA. Yes. Having been a supervisor, a county supervisor back home, I have had to shoot myself in the foot a couple of times on some stuff. But nevertheless, you end up with a binding signature at the end of the day.

Mr. CARTER. How do you reconcile the Hatteras Islands occupancy rate with the anecdotes that Commissioner Judge made in terms of the economic disparity as a consequence of the policy there?

Mr. CARTER. Representative, the only information that we can go on in terms of how the economy has responded to these actions on Cape Hatteras Seashore is to look at data that is actually provided by the county, itself, to the State of North Carolina, based on their ability to levy a special tax for occupancy. That requires the counties, who take advantage of that, to report monthly their occupancy tax, which reflects their rate of occupancy, obviously.

So, we rely on that information. We have provided that to the Committee. That is all we can really go on. I guess maybe the lawyer in me—what I have heard in terms of specific effects and specific instances, as a lawyer, in court that is called hearsay, and it is basically not probative. And the only thing that we can rely on is this objective information that, in fact, in this case, is provided by the county itself.

And we have actually taken a step of trying to take that down to Hatteras Island and the area that would be potentially most affected by this, because it has the greatest area of seashore.

Mr. GRIJALVA. Mr. Carter, this bill puts in place an interim plan that was rejected by the court. And so, if that interim plan was insufficient for the court, what becomes the legal consequences of this, to become law?

Mr. CARTER. Well, the court agreed to the consent decree that was signed by all the parties involved: the conservation organizations that filed the lawsuit, the county, the ORV groups, and the Park Service. So it, in effect, did override the interim plan that this would revert to.

The problem with the interim plan, and the reason the lawsuit was filed, was that we considered it to be in violation of the Organic Act, the Enabling Act for Cape Hatteras National Seashore, the Endangered Species Act, in terms of its effect on listed species on the seashore. If we went back to that interim plan, all of those issues would still exist, in terms of the—

Mr. GRIJALVA. OK.

Mr. CARTER [continuing]. Basic fact that this plan does not comply with the laws that underlie the management of the National Parks, generally Cape Hatteras National Seashore, specifically the

executive orders that require certain things be done regarding ORV use on our public lands—

Mr. GRIJALVA. So we opened the box.

Mr. CARTER. Oh, the box—yes.

Mr. GRIJALVA. Yes, OK.

Mr. CARTER. The lid would be totally opened, correct.

Mr. GRIJALVA. OK. Thank you.

Mr. BISHOP. Thank you. Mr. Holt, do you have questions to this particular bill?

Dr. HOLT. Yes, I would like to have the time. First, I believe that the Ranking Member wanted to pursue some other questioning. Is that right?

Mr. GRIJALVA. Make a comment.

Dr. HOLT. I would yield to the Ranking Member—

Mr. GRIJALVA. Thank you so much, Mr.—

Dr. HOLT [continuing]. For the time he needs.

Mr. GRIJALVA. The comments about the consent decree and the judge that approved this consent decree, Mr. Carter, isn't it correct that he was appointed—nominated, appointed—to the Federal court, he was nominated by President Reagan? And then for the court of appeals, renominated again by President Bush, and then again by the other President Bush. Because I wanted to find out about that because one of the points being that this judge had an unreasonable consent decree that people had to sign.

It seems to me that, given the lineage of the appointments and who nominated them, in terms of Presidents, that he would be seeing this kind of very reasonable to economic impact and business effects of any decision he made. I don't want to—given judicial temperament and all that, I think it was a judge that probably, in this instance, couldn't be called somebody that was entirely on the side of any environmental concern that might have come up at the time.

It was just a comment, and I will leave it at that, and yield back to my friend. And thank you.

Dr. HOLT. I thank the gentleman.

Mr. Carter, I have arrived here and missed some of the hearing, but this is an important question for me. I have heard from many people over recent years about the restriction of vehicles on Cape Hatteras Beach. I have heard from people who feel that it would be harmful to property values and harmful to tourism. And I realize that we have a responsibility here to do more than just look after local economies.

But since that was raised so much in the phone calls that I received, and the letters that I received, and because I promised my constituents and others who contacted me that I would give this all due consideration, let me ask you to summarize what I believe you have already said. What has been the effect on the economy, and what can you say is the effect on property values of the vehicle restrictions?

Mr. CARTER. Well, I can't speak to property values, so I will take that off.

In terms of looking at the economy of the area as reflected in standardized reports that reflect economic activity, which is primarily based on tourism—this is a tourist area, it is a national seashore, it is a beach, that is why people visit—one thing that is im-

portant to understand is a very small number of people who come to this seashore come to drive on the beaches. I am one of them. And it is estimated to be about 4 to 5 percent of the visitors have any interest in driving on the beach. The rest come to enjoy the beach.

If you look at the economic data reported by Dare County from its tourism tax and Department of Commerce figures, since these restrictions have gone in place under the court-ordered ORV restrictions, and through the first year of the management plan last year, tourism revenues have remained steady or increased, and actual visitation at the Park—you may have missed this piece of the testimony—visitation at the Park last year, under the first year of the plan, was the highest it has been since the year 2003.

Dr. HOLT. OK. And we don't have time enough—window of time to talk about property values yet, I suppose. Is that right?

Mr. CARTER. That is correct.

Dr. HOLT. OK.

Mr. CARTER. And, of course, that would be compelling, in—

Dr. HOLT. Now—of course a principal reason for these regulations was to look after the natural life, the wildlife, and biological, ecological health of the seashore. The numbers there, as I understand it, are unmistakable, that with the restrictions, wildlife is prospering. Am I correct in that?

Mr. CARTER. That is correct. The Park Service required us to provide annual reports of surveys of all of the key species on the seashore. We have compiled that, looking back to before the restrictions were put in place, up until the restrictions were put in place, and afterwards.

And the trends are unmistakable. Essentially, every species on the seashore has benefited. The numbers are going up. And it is all because we have done something to prevent disturbance at the key period of the year, when they are trying to occupy an area, reproduce, nest—

Dr. HOLT. Thank you.

Mr. CARTER [continuing]. On the seashore.

Dr. HOLT. Thank you, Mr. Chairman.

Mr. BISHOP. Thank you. I have a couple of questions. I appreciate Mr. Grijalva pointing out that even Republicans can appoint judges. That is very kind of you.

[Laughter.]

Mr. BISHOP. So Mr. Judge, let me get the priority, or at least the chronology right. You were working on a solution. Then came the lawsuits, then came the consent decree. That was the order in which things occurred. Am I correct in that chronology?

Mr. JUDGE. It began in 2005 with a public hearing process. It led to an interim plan in 2007. On the eve of the beginning of negotiated rulemaking, Southern Environmental Law Center filed suit on behalf of its clients, which resulted in a consent decree in April the following year. And then we went through the hoax of negotiated rulemaking for 2 years, and have what we have today.

Mr. BISHOP. All right. Mr. Judge, look. According to the testimony that we have had today, or have been given, 39 percent of the beaches are closed to ORVs, and the rest is completely open to

pedestrians. How come that is not sufficient? Does this accurately portray the visitor access?

Mr. JUDGE. Well, no, sir. There are sections of beach that, while they record them as open to vehicular access, they are unaccessible to vehicular access, because there is a buffer on the north and the south boundaries. So they log it as open, they record it as open, but it is unaccessible, because of buffers from other locations on both the north and the south side.

The most popular areas of the beach for the vehicles are Oregon Inlet Spit, which is basically not allowed to us ever again, Cape Point, and then Hatteras Inlet Spit. And we are not talking—everybody likes to talk about driving on the beach, driving on the beach. It is access.

This Cape Hatteras National Seashore Recreational Area was designed to be accessed by a car. There are 11 accesses, there are 805 parking spaces. You have a daily population of 50,000 people. Unless you are affluent enough to rent one of the few ocean-front houses, you have got to either walk miles or you drive your car to the beach, you drive it across 1 of the 11 access points, you park, you get out, and you enjoy the day. It is not this highway thoroughfare that it was originally designed for by the Park, as to how you got up and down, because you didn't have a road.

So, statistics can make any argument for any side. But where the people want to go, they cannot get there.

Mr. BISHOP. I appreciate that. I think staff have been down to this place, and loved it. No one was there. Perfect situation. Never stood in line for anything.

So, I am assuming that your answer to my last question would answer the other particular question. If I listen to the Park Service testimony, everything is fine, business is booming, little creatures are stirring and mating and multiplying. Everything is going upward. But that is, you are telling me, is picking bits and pieces of the picture, and does not attribute to the complete overall view of what is taking place?

Mr. JUDGE. Absolutely. July 31, 2012, look at all those empty—I mean there is only a dozen campers in there at Cape Point at Buxton at that most crucial and the biggest visitation part of Hatteras Island. Nobody talks about the cyclical nature of reproduction of the sea turtles and of the birds. Nobody talks about the fact that we are at the southernmost mating area and the northernmost wintering area for the piping plover. You are not going to have but so many piping plover to be there.

Their County Board of Commissioners stands and supports preservation of all species, from bird to man, and vegetables and plants. But we also want to share the beach. That is all we are asking for, sir, is to share the beach.

Mr. BISHOP. Thank you. Mr. Frost, once again, this bill should not have been here this year or last year. And it is another effort where the Park Service needs to deal with the local community in a much more rational way than we are doing right now. This is another failure of the Park Service.

The Park Service quotes a Michigan State study that says how they are pumping hundreds of millions of dollars into local communities by their presence being there. That is picking and choosing

the criteria one more time. And like the last bill, this one should not be before Congress. It should have been solved at a different level by different people with different results, and dealing with the local communities.

Are there any other questions? Mr. Jones, do you have more questions for this panel?

Mr. JONES. I will be very brief, Mr. Chairman and Ranking Member, Mr. Holt included. This area of Dare County is at the end of the county. I will say south. It is made up of villages. You don't have a Wal-Mart. Yes, you have some drugstores and some grocery stores. And the majority of people that live in that area of Dare County are your hardworking people, many of them are fishermen. They don't have a lot of money. Yes, the people that visit bring money, which helps the economy, I realize that. But this again comes right down to a simple situation of where is the balance between the Federal Government and the people? There is no balance.

If the Southern Law Center had not filed suit, this thing would have been worked out. I mean in fairness to the Park Service, they were being sued. They had to reach a decision.

But this, again, is another example of the over-reach by the Federal Government. And for the sake of the people of Dare County, I hope—and it will probably have to go back through the court system, and America is financially broke, I am sure that the Park Service right now is worried about sequestration and furloughing people and changing—but this whole thing needs to be worked out. It needs to be worked out. And all this bill would do, obviously, is give the people a chance to have a voice to defend their right, as taxpayers. So thank you for holding this hearing.

Mr. BISHOP. Thank you. Mr. Grijalva, do you have any other questions? Mr. Holt, do you have any other questions?

Dr. HOLT. No. I thank the Chair and I am pleased to have this hearing under the gaze and the name of Walter Jones. Thank you.

Mr. BISHOP. I don't even know how to respond to that one. OK.

Gentlemen, I appreciate your effort of coming up this way to give us testimony. Thank you, Mr. Frost, for sticking around for all three bills. I appreciate that. Commissioner Judge, thank you for coming up here. Mr. Carter, at the same time, we appreciate your time and your effort. Appreciate all the Members who have asked questions and presented them. It has been a very informative hearing.

With that, unless there are other questions, other issues, once again I would ask all the people who have testified, even those who aren't here, that we may have further questions. We may send them to you in writing. If you would respond to that, we would be appreciative.

With that, this hearing is adjourned.

[Whereupon, at 11:55 a.m., the Subcommittee was adjourned.]

[Additional Materials Submitted for the Record]

LETTER SUBMITTED FOR THE RECORD BY ERIC J. HOLMES

CITY OF VANCOUVER,
VANCOUVER, WA, FEBRUARY 13, 2013.

The Honorable JAIME HERRERA BEUTLER,
United States House of Representatives,
1130 Longworth House Office Building,
Washington, DC 20515.

DEAR REPRESENTATIVE HERRERA BEUTLER:

Thank you for your strong interest and support of Pearson Air Museum. Ensuring public access to this unique asset is a high priority for the City of Vancouver and your efforts in Congress are truly appreciated.

I have reviewed your proposed legislation that would transfer the building and 7 acres surrounding Pearson Air Museum to the City of Vancouver for long term stewardship and operation.

This approach would satisfy the city's interest in ensuring that the Pearson Air Museum Complex continues to be managed in a way that serves the original intent of providing the widest and best possible use for citizens and visitors alike. The City supports this approach and the legislation you have drafted. Please know that I would be happy to serve as a witness in support of the bill should the need arise.

Again, I appreciate your hard work on an issue that is so important to our community.

Sincerely,

ERIC J. HOLMES,
City Manager.

LETTER SUBMITTED FOR THE RECORD BY REPRESENTATIVE PAUL TINE, 6TH DISTRICT

NORTH CAROLINA GENERAL ASSEMBLY,
HOUSE OF REPRESENTATIVES,
RALEIGH, NC, MARCH 7, 2013.

The Honorable WARREN JUDGE, CHAIRMAN,
Dare County Board of Commissioners
P.O. Box 1000,
Manteo, North Carolina 27954.

DEAR MR. JUDGE:

Your letter of March 6, 2013, soliciting my support of H.R. 819 recently introduced in the United States House of Representatives is well received. H.R. 819 would restore balance and common sense to management of Cape Hatteras National Seashore Recreational Area (CHNSRA) by overturning the National Park Service's Final Rule and Consent Decree that have excessively restricted human access to CHNSRA.

Residents and visitors deserve access to our most precious natural resources, and I wholeheartedly support H.R. 819. Its passage is important to restore the promise made to the people enacted by Congress in 1937.

I am proud to have you represent Dare County on this important issue and offer any assistance that you or the Board may need.

Sincerely,

PAUL TINE.

LETTER SUBMITTED FOR THE RECORD BY SENATOR BILL COOK

NORTH CAROLINA GENERAL ASSEMBLY,
SENATE CHAMBER, STATE LEGISLATIVE BUILDING,
RALEIGH, NC, MARCH 11, 2013.

United States House of Representatives,
Subcommittee on Public Lands and Environmental Regulation,
1017 Longworth House Office Building,
Washington, DC 20515.

DEAR COMMITTEE MEMBERS:

I write to you in support of House Resolution 819, introduced by Congressman Walter Jones. This act is needed to preserve access to Cape Hatteras National Seashore Recreational Area, and to ensure that people are not unreasonably restricted in their access of the seashore.

Furthermore, this resolution has the support of the people of the area, and it would continue to encourage tourists to visit our beautiful seashore. I encourage you to support this resolution and allow folks continued access to the beautiful beach and ocean with which God has blessed us.

Thank you for your consideration.

Sincerely,

SENATOR BILL COOK,
North Carolina Senate District 1.

STATEMENT SUBMITTED FOR THE RECORD BY THE COUNTY OF CURRITUCK

RESOLUTION SUPPORTING H.R. 819 PRESERVING ACCESS TO THE CAPE HATTERAS
NATIONAL SEASHORE RECREATIONAL AREA ACT

WHEREAS, H.R. 819 introduced by Congressman Walter Jones (NC-3) to preserve access to the Cape Hatteras National Seashore Recreational Area, reintroduces a previous bill that passed the House of Representatives in the last Congress but failed it make it out of Senate committee; and

WHEREAS, H.R. 819 would restore balance and common sense to Park Service management by overturning a final rule implemented by the National Park Service in mid-February 2012, as well as the 2008 U.S. District court approved Consent Decree, both of which excessively restrict human access to the Recreational Area; and

WHEREAS, H.R. 819 would assure taxpayers the right to access the recreational areas they own by reinstating the Park Service's 2007 Interim Management Strategy, which was backed up by a 113 page Biological Opinion issued by the U.S. Fish and Wildlife Service finding that species of concern, including piping plover and sea turtles, would not be jeopardized; and

WHEREAS, the Cape Hatteras National Seashore Recreational Area (CHNSRA) was created by Congress in 1937 as America's first National Seashore with the promise that people would always have access for recreation; and

WHEREAS, a tourism based economy has been developed on Bodie Island, Hatteras Island and Ocracoke Island, where access to the beaches of this area has always been the defining element of the visitor's complete seashore experience and the foundation of the area's economic base upon which thousands of families depend for their livelihood; and

NOW THEREFORE BE IT RESOLVED that the Currituck County Board of Commissioners supports open public access to the Cape Hatteras National Seashore Recreational Area consistent with the promises made in the enabling legislation and supports H.R. 819 as effective legislation that would balance resource management with recreational access for Currituck County and Dare County's residents and visitors.

ADOPTED this the 4th day of March 2013.

S. PAUL O'NEAL,
CHAIRMAN.

STATEMENT SUBMITTED FOR THE RECORD FROM THE TOWN OF MANTEO

RESOLUTION 2013-02 SUPPORTING H.R. 819 PRESERVING ACCESS TO THE CAPE HATTERAS
NATIONAL SEASHORE RECREATIONAL AREA ACT

WHEREAS, H.R. 819 introduced by Congressman Walter Jones (NC-3) to preserve access to the Cape Hatteras National Seashore Recreational Area, reintroduces a previous bill that passed the House of Representatives in the last Congress but failed it make it out of Senate committee; and

WHEREAS, H.R. 819 would restore balance and common sense to Park Service management by overturning a final rule implemented by the National Park Service in mid-February 2012, as well as the 2008 U.S. District court approved Consent Decree, both of which excessively restrict human access to the Recreational Area; and

WHEREAS, H.R. 819 would assure taxpayers the right to access the recreational areas they own by reinstating the Park Service's 2007 Interim Management Strategy, which was backed up by a 113-page Biological Opinion issued by the U.S. Fish and Wildlife Service finding that species of concern, including piping plover and sea turtles, would not be jeopardized; and

WHEREAS, the Cape Hatteras National Seashore Recreational Area (CHNSRA) was created by Congress in 1937 as America's first National Seashore with the promise that people would always have access for recreation; and

WHEREAS, a tourism based economy has been developed on Bodie Island, Hatteras Island and Ocracoke Island, where access to the beaches of this area has always been the defining element of the visitor's complete seashore experience and the foundation of the area's economic base upon which thousands of families depend for their livelihood; and

NOW THEREFORE BE IT RESOLVED that the Town of Manteo Board of Commissioners supports open public access to the Cape Hatteras National Seashore Recreational Area consistent with the promises made in the enabling legislation and supports H.R. 819 as effective legislation that would balance resource management with recreational access for Dare County's residents and visitors.

This 6th day of March 2013.

JAMIE DANIELS,
Mayor.

LETTER SUBMITTED FOR THE RECORD BY JEANETTE M. BADER

CITY OF VANCOUVER,
VANCOUVER, WA, MARCH 19, 2013.

The Honorable DOC HASTINGS,
Chairman, House Committee on Natural Resources,
1324 Longworth House Office Building,
Washington, DC 20515.

The Honorable EDWARD MARKEY,
Ranking Member, House Committee on Natural Resources,
1329 Longworth House Office Building,
Washington, DC 20515.

DEAR CHAIRMAN HASTINGS AND RANKING MEMBER MARKEY:

Thank you for your consideration of H.R. 716 concerning the ownership of Pearson Air Museum, which is part of the Vancouver National Historic Reserve. Although the City of Vancouver is profoundly disappointed that the National Park Service and the Fort Vancouver Trust were not able to come to a mutually acceptable agreement for the operation of Pearson Air Museum, we feel that it is in the community's best interest to resolve this issue in a way that allows the Museum to continue to operate much as it has for the last 11 years.

The City of Vancouver is willing to accept ownership of the Pearson Air Museum complex including the four buildings and surrounding seven acres should Congress deem this the best course of action. I understand concern has been raised about the City's willingness to protect the archeological and cultural resources of the site. There are federal regulations relating to protection of cultural resources that as a non-federal agency, the City is not required to follow including the National Historic Preservation Act and the Archeological Resources Protection Act. However, when the U.S. Army transferred ownership of the West Barracks to the City of Vancouver in 2007, these same types of concerns were raised about the City's ability to appropriately care for and respect the cultural and archeological resources of that property. Those concerns were successfully addressed through restrictions in the deed of ownership, restrictions that were agreed to by the National Park Service and the Tribes. The City would be willing to agree to similar restrictions in the deed of ownership for Pearson Air Museum.

The City of Vancouver, as befits one of the oldest non-native settlements in the Pacific Northwest, also has some of the state's most stringent archeology regulations and, notwithstanding the national register listing, our own archeology ordinance (VMC 20.710 Archaeological Resources Protection) would require that any work done on the Historic Reserve have an archaeological resource survey prepared which requires notification of interested tribes.

In addition, we have a Memorandum of Agreement (MOA) with the National Park Service to handle all archeology work on City-owned property within in the Vancouver National Historic Reserve. If the City were to become the owners of Pearson Air Museum, that MOA would also apply to the Air Museum property. The City also has an MOA with the National Park Service to handle any issues related to the Native American Graves Repatriation Act (NAGPRA) that affect City-owned property within the Vancouver National Historic Reserve. Both the archeology and NAGPRA agreements could be extended to cover Pearson Air Museum but would need to have agreement by the Park Service.

The City of Vancouver is extremely proud of our heritage and is actively engaged in work to preserve and protect the Vancouver National Historic Reserve—which includes Pearson Air Museum. The City was responsible for the construction of the Museum and played a lead role in raising over \$3 million for the project. Through our agreement with the National Park Service to build and operate the Museum, which was recently terminated, we have been responsible for the maintenance of the building and grounds since the Museum opened. We are proud of Pearson Air Museum and committed to continue its operation as a community and educational facility while preserving the historic character and integrity of the site.

I am happy to provide additional information or assurances as needed and can be reached at (360) 487-8606 or jan.bader@cityofvancouver.us

Sincerely,

JEANETTE M. BADER, M.P.A.,
Program & Policy Development Manager.

LETTER SUBMITTED FOR THE RECORD BY GENERAL GORDON R. SULLIVAN,
UNITED STATES ARMY (RET.)

ASSOCIATION OF THE UNITED STATES ARMY,
ARLINGTON, VIRGINIA, MARCH 13, 2013.

The Honorable DON YOUNG,
United States House of Representatives,
2314 Rayburn House Office Building,
Washington, DC 20515.

Dear Representative Young:

On behalf of the members of the Association of the United States Army, I write thank you for introducing H.R. 588, the Vietnam Veterans Donor Acknowledgement Act of 2013. This legislation would amend the Commemorative Work Act (CWA) to allow recognition of private donors who contribute to the visitor center at the Vietnam Veterans Memorial. Such acknowledgement will help provide needed funding to complete construction of the Vietnam Veterans Memorial Visitor Center.

AUSA strongly supports the enactment of this legislation, and we look forward to working with you to ensure that the story of the service and sacrifice of Vietnam veterans will be told in perpetuity through the efforts of those who create the visitor center.

Thank you for your leadership on this issue and your unwavering support of our Nation's veterans.

GORDON R. SULLIVAN,
General. USA Retired.

STATEMENT SUBMITTED FOR THE RECORD BY THE YAKAMA NATION

H.R. 716—LEGISLATION TO TRANSFER FEDERAL LAND WITHIN THE FT. VANCOUVER NATIONAL HISTORIC SITE AND THE VANCOUVER NATIONAL HISTORIC RESERVE TO THE CITY OF VANCOUVER

Chairman Bishop, Ranking Member Grijalva and distinguished members of the Subcommittee on Public Lands and Environmental Regulation,

Thank you for accepting this testimony of the Yakama Nation for the hearing record on H.R. 716 and for considering our views.

We are hesitant to oppose legislation introduced by a member of the Washington State Congressional Delegation as we have always prided ourselves in reaching out and working with members of our State's delegation and indeed with all Members of Congress whenever we can. We view Indian matters as being a totally non-partisan issue as the Treaty of 1855 that our ancestors signed with the United States was not with Democrats or Republicans but with the Federal Government as a whole and it was ratified on a bi-partisan basis by the United States Senate and signed by the President of the United States. The provisions in that Treaty guide us in much of our interactions with the local, State and Federal governments to this day.

We must stand with our ancestors who are, to this day, buried at Ft. Vancouver and where many significant Yakama artifacts are still uncovered on a regular basis. We therefore oppose H.R. 716 and ask the honorable members of this Subcommittee to not report it out or allow further action, at least not without some important changes.

The area now known as Fort Vancouver was used extensively by the Yakama people for thousands of years prior to the establishment of the Fort. It is an area of great historical importance to our people where we fished, hunted, gathered food and medicines and did extensive trading. The fact that the Klickitat Trail exists to this day, connecting Fort Simcoe on the Yakama Reservation to Ft. Vancouver is testimonial to our long connection. The fact that our people are buried there makes this area sacred to us and a place that must be revered. I am sure you feel the same way about cemeteries that house your ancestors, the difference being our connections go back not a few hundred years but to time immemorial. Indian artifacts found at Ft. Vancouver go back many thousands of years. Fort Vancouver as we now know it was established in 1825 and was the Hudson Bay Company's administrative center and principal supply depot. It is difficult to imagine any place in the Pacific Northwest of more historical importance to a multitude of cultures than Ft. Vancouver. It is hard to imagine that a multi-cultural village thrived at that time with inhabitants of over 35 different ethnic and tribal groups including the Yakama people. It is a testimonial to the power of the Hudson Bay Company and its trading prowess that Ft. Vancouver's village housed native people as from as far away as Hawaii to the west and the Iroquois to the east. Between 1824 and 1860 Ft. Vancouver was perhaps the preeminent trading post in the Pacific Northwest and was visited regularly by our Yakama ancestors. From 1860 to 1948 during periods of occupation of Ft. Vancouver by the U.S. Army, members of my Tribe and others were kept as prisoners in the Barracks. Some died and were buried there and the Barracks exist until this day, preserved and protected by the National Park Service.

In just the past decade alone, there have been three repatriations of remains of Indian people who were unintentionally dug up during construction projects at Ft. Vancouver and who were then properly buried in the cemetery following the traditions our people have practiced for thousands and thousands of years. Having been properly interred the spirits of those unearthened can now rest.

It is only because Ft. Vancouver is Federal land that we are consulted when remains are inadvertently unearthened. Because Ft. Vancouver is federal there are essential Federal laws that the Congress enacted that are applicable. These include:

- The National Historic Preservation Act of 1966 (16 U.S.C. 470)
- The American Indian Religious Freedom Act. of 1978 (42 U.S.C. 1996)
- The Archeological Resources Protection Act of 1979 (16 U.S.C. 470aa-mm)
- The Native American Graves Protection and Repatriation Act of 1990 (25 U.S.C. 3001)

Additionally, the Obama Administration, as had every administration, Republican and Democrat, including and since Richard Nixon's, has agreed to deal with Indian tribes on a Government-to-Government basis. The present Administration issued an Executive Memorandum on November 5, 2009, concurring with Executive Order 13175 issued on November 6, 2000, directing that Federal agencies treat Indian tribes on a governmental basis and to undertake consultation with tribes affected by agency actions.

We are pleased that the staff at Ft. Vancouver understand the importance of these Federal laws and that they regularly reach out to officials and archeologists of the Yakama Nation when artifacts are uncovered as happens quite often. Unless the transfer legislation were to somehow require the City of Vancouver to comply with these Federal statutes (which normally would not apply on private land), our interests, and those of many others, at Ft. Vancouver will not be protected by H.R. 716. We should point out that any transfer of Federal land is considered a Federal undertaking and under section 106 of the National Historic Preservation Act, the Yakama Nation and other Tribes must be consulted.

The acres proposed to be transferred have not been archeologically investigated but based on previous findings throughout Ft. Vancouver they are likely to contain artifacts of importance to our people. Additionally, within the proposed transfer, the area north of the Headquarters Building; a U.S. Army component; and deposits connected to a World War I kiln in the Spruce Mill, near the hangar, have known archeological resources that should continue to be protected by some of the above referenced Federal laws.

We have tried to follow the back and forth between the National Park Service and the Fort Vancouver National Trust ("Trust") and find it difficult to believe that this dispute cannot be resolved short of ripping key acreage from the heart of Ft. Vancouver and transferring it to the city. While the work of the Trust should be appreciated by all who enjoy Ft. Vancouver, the leaders of the Trust seem to have an attitude that because they contributed funds, sweat equity, staffing and objects to the Pearson Air Museum that they, in some de facto sense, own it or that they should be allowed to operate it in any manner they deem appropriate regardless of whether

such actions are fundamentally contrary to long standing regulations that guide the operation of all National Parks. Many National Parks have components that have been paid for via donations or operated cooperatively without the private partner suggesting that they don't want to follow Federal law or policy which the Trust has publicly stated. The NPS on the other hand, should endeavor to be as flexible as it can be in accommodating the interests of its neighbors and partners. If activities that were once allowed are now going to be prohibited or greatly curtailed, the onus is on the Park to demonstrate by clear and convincing evidence that such activities will be injurious to the Park, to visitors or to other overriding Federal interests.

Perhaps Congresswoman Herrera Beutler and the bi-partisan leadership of this committee could solicit the help of the successful mediators now working at the Interior Department's Office of Collaborative Action and Dispute Resolution (CADR) and the U.S. Institute for Environmental Conflict Resolution, a program of the Udall Foundation. We are aware of examples wherein these two groups were able to mediate disputes more acrimonious than this one.

Until all aspects of professional mediation have been tried, this legislation is premature and creates precedent that we find alarming. Will the Congress simply remove acres within National Parks every time a contractor on that acreage and the host Park Superintendent disagree on procedures? We urge the committee to reject this legislation and seek the help of these good mediators.

Thank you.

LETTER SUBMITTED FOR THE RECORD BY THE VETERANS OF FOREIGN WARS OF THE
UNITED STATES

MARCH 12, 2013.

The Honorable DON YOUNG,
2314 Rayburn House Office Building,
Washington, D.C. 20515.

DEAR CONGRESSMAN YOUNG:

On behalf of the 2 million members of the Veterans of Foreign Wars of the United States (VFW) and our Auxiliaries we are pleased to offer our strong support for H.R. 588, the "Vietnam Veterans Donor Acknowledgement Act of 2013."

Each year millions of visitors stand before the Vietnam Memorial Wall to pay homage to a friend or loved one, or to see and feel the ultimate sacrifice and cost of war. The Wall is both a classroom to learn and a sacred place to grieve and heal. There are 58,272 names engraved on the Wall, each with a story that is not being told.

H.R. 588 will allow donors to the Vietnam Veterans Memorial Visitor Center to be acknowledged for their contributions to the Center, allowing for needed funding to complete its construction to provide a place for these stories to be told. The VFW strongly supports the enactment this legislation and we look forward to working with you to ensure the Wall that heals can tell of the lives that were lost during the Vietnam War.

Thank you again for your leadership on this issue and your unwavering support of our Nation's veterans.

Sincerely,

ROBERT E. WALLACE,
Executive Director, VFW Washington Office.

