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H.R. 701, THE CONSERVATION AND REINVESTMENT ACT; AND H.R. 1592, THE CONSTITUTIONAL LAND ACQUISITION ACT

LEGISLATIVE HEARING

BEFORE THE

COMMITTEE ON RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED SEVENTH CONGRESS

FIRST SESSION

June 20, 2001

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H.R. 701, THE CONSERVATION AND REINVESTMENT ACT; AND H.R. 1592, THE CONSTITUTIONAL LAND ACQUISITION ACT

Wednesday, June 20, 2001
U.S. House of Representatives
Committee on Resources
Washington, DC

The Committee met, pursuant to call, at 10 a.m., in Room 1324, Longworth House Office Building, Hon. James V. Hansen (Chairman of the Committee) presiding.

The CHAIRMAN. The Committee will come to order.

We are grateful to have you all here today. This is a very important hearing, and we will get started.

We have some very important guests and witnesses here. We are grateful that you could be here.

We recognize the presence of Chairman Billy Tauzin of the Commerce Committee, in whom we stand in awe.

Today's hearing is on H.R. 701, the Conservation and Reinvestment Act, CARA, and H.R. 1592, the Constitutional Land Acquisition Act.

STATEMENT OF THE HON. JAMES V. HANSEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF UTAH

The CHAIRMAN. CARA passed the House of Representatives in the 106th Congress by a bipartisan vote of 315-102. Although the bill passed the Senate Committee on Energy and Natural Resources by a vote of 13-7, it was not enacted into law.

We worry about our friends over on the other side and their dilatory manner of getting things done.

And that is something I wish people would quote me on.

[Laughter.]

The CHAIRMAN. The Committee heard testimony from 88 witnesses at four hearings on CARA during the 106th Congress, one in each of the following locations: Washington, DC; Anchorage, Alaska; New Orleans, Louisiana; and Salt Lake City, Utah. We compiled over 1,000 pages of written testimony.

CARA was reintroduced in the 107th Congress on February 14, 2001, by Congressmen Don Young, Dingell, Tauzin, George Miller, John, Rahall, Kildee, Cooksey, Saxton, myself, and, as of today, has 218 cosponsors.

H.R. 1592 was introduced by Congressman Mac Thornberry on April 25, 2001. This is the Committee's first hearing on that bill.

CARA takes revenue from Federal offshore oil and gas production and utilizes those funds for production impact assistance and coastal conservation while funding conservation and recreation programs in all 50 States and territories.

For example, not only does CARA provide a comprehensive approach to wildlife conservation funding by broadening funding support to a permanent, definite appropriation from a general revenue source, but it also helps provide inner-city children with places to play basketball or to study after school.

CARA also funds the Payment In-Lieu of Taxes program. As most of you know, I would not have cosponsored CARA had it not been for the bill's full funding of PILT.

As originally drafted, CARA undertook to fund PILT and the refuge revenue sharing programs by a complicated method of allocating interest proceeds from the CARA fund based upon appropriation levels of a given year.

Unlike the CARA of the 106th Congress, the 107th CARA fully funds PILT and RRS at their authorized levels by simply providing all of the funding for the two programs directly from the CARA fund. And that, to me, is a very important change.

CARA also fully funds the Land and Water Conservation Fund (LWCF) and provides several property rights protections and land management guidelines.

For decades, the LWCF has made $900 million available for Federal and State land acquisition. However, State acquisition funding is often overshadowed by that provided to the Federal Government, which may currently spend up to $900 million on land acquisitions with virtually no restrictions.

CARA requires the Federal Government to share half of the Land and Water Conservation Fund's money—or $450 million—with the States to be spent on locally selected projects.

CARA provides several other protections from Federal land acquisition.

First, the bill mandates that Congress approve the expenditure of LWCF money for land acquisition.

Second, the Federal portion of the CARA fund may not be used for Federal acquisition unless the owner of the property concurs or Congress specifically approves the acquisition.

Third, each year the Administration must transmit a list to Congress requesting specific approval for each tract of land to be acquired. In preparing the list, the Administration must attempt to consolidate checkerboard Federal landholdings and use exchanges and conservation easements as an alternative to acquisition.

Finally, the Federal portion of the LWCF may not be used to acquire any interest in land unless the Administration notifies the parties affected by the proposed acquisition.

Despite its property rights protections, CARA has not been without its critics. Property rights advocates have denounced the bill for its alleged failure to adequately protect private property rights. H.R. 1592 attempts to address that criticism by adding several property rights protections to those created by CARA.

To be sure, we would all agree that no legislation is perfect, but I feel that CARA is a sound conservation package that not only provides valuable protection for landowners, but would create a lasting heritage for American conservation.

The Committee looks forward to hearing from our witnesses today. Due to the number of witnesses with us, I will restrict opening remarks to Mr. Rahall, Mr. Miller, Mr. Tauzin, and Mr. Thornberry, which is about everybody here anyway.

Lastly, we expected that Secretary Norton would have had a deputy or assistant secretary confirmed in time to testify before the Committee today. Unfortunately, this has not taken place, and Secretary Norton is traveling in Alaska.

Therefore, the Department of the Interior will submit written testimony for the record. We will make that testimony available to all members of the Committee when we receive it.

[The prepared statement of Mr. Hansen follows:]

Statement of The Honorable James V. Hansen, Chairman, Committee on Resources

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CARA passed the House of Representatives in the 106th Congress by a bipartisan vote of 315 - 102. Although the Bill passed the Senate Committee on Energy and Natural Resources by a vote of 13–7, it was not enacted into law.

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CARA also fully funds the Land and Water Conservation Fund (LWCF) and provides several property rights protections and land management guidelines. For decades, the Land and Water Conservation Fund has made $900 million available for Federal and State land acquisition. However, State acquisition funding is often overshadowed by that provided to the Federal government, which may currently spend up to $900 million on land acquisitions with virtually no restrictions. CARA requires the Federal government to share half of the LWCF money, i.e., $450 million, with the States to be spent on locally selected projects.

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To be sure, we all would agree that no legislation is perfect, but I feel that CARA is a sound conservation package that not only provides valuable protection for landowners, but would create a lasting heritage for American conservation. The Committee looks forward to hearing from our witnesses today. Due to the number of witnesses with us, I would restrict opening remarks to myself, Mr. Rahall, and Mr. Miller, as well as the original sponsors of the bills, Chairman Young and Mr. Thornberry.

Lastly, we expected that Secretary Norton would have had a Deputy or Assistant Secretary confirmed in time to testify before the Committee today. Unfortunately, that has not taken place, and Secretary Norton is traveling in Alaska. Therefore, the Department of the Interior will submit written testimony for the record. We will make that testimony available to the Members of the Committee when we receive it.

The CHAIRMAN. Mr. Rahall?

STATEMENT OF THE HON. NICK J. RAHALL II, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WEST VIRGINIA

Mr. RAHALL. Thank you, Mr. Chairman.

Mr. Chairman, the effort to gain enactment of the Conservation and Reinvestment Act is truly a historic one. And the making of history is normally something that does not occur at first blush.

In many ways, the effort behind CARA reminds me of one that I was intimately involved with during the 105th Congress. That was the struggle to restore the word "trust" in the highway trust fund, which resulted in TEA-21.

This legislation erected firewalls around highway spending, providing a guaranteed stream of revenue to finance our surface transportation needs, just as we are trying to do with CARA for important fish, wildlife, land conservation, and historic preservation programs.

I well recall on several occasions, when faced with the united opposition of the appropriators and the budgeteers, we patted then-Chairman Bud Shuster on the back and said, "Nice try. Good going, Bud. Give it the old college effort, but we're probably not going to win this fight."

To his credit, Bud never backed down. He did not flag nor fail in his dedication. And against overwhelming odds, he gained enactment of this landmark legislation.

It is true that he was not the first architect of that effort. It dated back many years to other chairmen, who all fell short by a few votes. But he was the final architect.

So I would note that the first architects of CARA—Don Young, George Miller, and others—truly deserve the credit for this effort.

But as Melville put it in the novel "Moby Dick," and I quote, "But I now leave" my system of classifying whales "standing thus unfinished, even as the great Cathedral of Cologne was left, with the crane still standing upon the top of the uncompleted tower. For

small erections may be finished by their first architects; grand ones, true ones, ever leave the copestone to posterity."

I am here today to say that if we build upon the success of this measure in the House of Representatives last year, we are dedicated on a bipartisan basis to laying the copestone of CARA this Congress by gaining its enactment into law.

We are dedicated to keeping faith with the unfulfilled promise made to the American people in such laws as the Land and Water Conservation Fund of 1965, that the investment in their land, in their resources, in our heritage, is as important to our society as any other public endeavor.

Thank you, Mr. Chairman.

The CHAIRMAN. I thank the gentleman.

The gentleman from Louisiana, Mr. Tauzin, and one of the architects of this legislation.

[The prepared statement of Mr. Rahall follows:]

Statement of The Honorable Nick Rahall, Ranking Democrat, Committee on Resources

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STATEMENT OF THE HON. W.J. (BILLY) TAUZIN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF LOUISIANA

Mr. TAUZIN. Mr. Chairman, thank you for that.

Let me first recognize the cosponsorship and extraordinary help and assistance of my good friend Chris John. The reason you didn't recognize his name, Mr. Chairman, is that Chris comes from a family that was so poor that they couldn't afford a real last name.

[Laughter.]

Mr. TAUZIN. His dad was named John John, by the way, and served on the Natural Resources Committee with me in the Louisiana legislature.

Two weekends ago, Louisiana experienced 38 inches of water in my home town—38 inches of water in the rain gauges in Thibodaux, Louisiana.

You know, I used to joke about Louisiana being half underwater, half under indictment. It was almost true a couple of weekends ago. [Laughter.]

The governor, 3 weeks ago, facing a drought in my state, went on television and asked Louisianians to pray for rain. The next weekend, we got 38 inches, which is a message, George. When Cajuns start praying, we better get out of the way, partner. [Laughter.]

The bottom line is that the old song by Randy Newman, "Louisiana," "They're tryin' to wash us away; They're tryin' to wash us away," almost came true again a couple weekends ago.

I tell you that because I want to remind you of the genesis of this extraordinary action of this Committee and the Congress last year. The genesis was a Marine Minerals Management report that indicated that the money derived from the great offshore activities of our country that are permitted ought to be in some way shared with the coastal states to deal with problems that coastal states have with ravages of nature.

In my state, in my district almost, we lose 35 square miles a year to erosion. You know, that is just one little sentence, but think about it, how profound that is.

If you were losing 35 square miles of your district, any one of you, you know, you get a sense of what we go through year after year after year in Louisiana. We lost the size of the State of the Rhode Island since the 1950's in my district alone.

George, they tease me, and say I'll be representing fish pretty soon. [Laughter.]

We're trying to teach them how to vote, by the way.

[Laughter.]

But we are literally losing some of the most valuable and most sensitive and most productive estuaries of the country in coastal Louisiana. And with the loss of all that immeasurably valuable coastal wetlands comes the threat of hurricanes and floods like we experienced this weekend, this last weekend, and devastation and damage, because all of that coastal wetlands served as a buffer at one time to the ravages of nature in the gulf.

So while we drain 40-some-odd states through the Mississippi and the Red River valley and down by Lafourche in my home town, we also face enormous rainfall and erosion on the coastline.

And so this started as an effort to try to do something about it. If Louisiana coastline were as close to Washington as the Chesapeake, we probably would have done something a long time ago. Or if it got as much attention as the Everglades, we probably would have done something a long time ago.

But this is the first effort to do something about it, to literally make a dedication, not just to Louisiana, but to all coastal states who are similarly threatened, a real dedication of funds on a per-

manent basis to do something about it, to try to protect and preserve those incredibly valuable lands.

And we came to this table and met with the environmentalists and the conservationists of this House and put together an enormously important and delicately balanced package that funds land and water conservation efforts and acquisition efforts across America, coastal preservation efforts, the PILT program, Federal lands, historic preservation, urban parks.

You look at this bill, it is an extraordinary contribution to a whole host of incredibly important aspects of American life that this bill literally funds and makes possible.

And we finally met with all the conservatives in this body, who were deeply concerned about property rights, and built in 17 specific property rights provisions that actually makes the law of America more protective of property rights than it would be without this bill.

That is an extraordinary balance. There is a lot of give and take.

And the meetings that we sat through last year were arduous and tough negotiating sessions. But we ended up with a package that three-quarters of the Members of this House could support.

That is a remarkable achievement in a partisan decade when we tend to throw bombs at each other rather than compliments. That is an extraordinary achievement for the good of our country.

We need to replicate that again this year, Mr. Chairman. And I know, under your leadership, we are going to do that. And we will present to the Senate one more chance to get it right. And hopefully this time, they will get it right, and we will get a bill signed by the President.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

The gentleman from California, Mr. Miller.

STATEMENT OF THE HON. GEORGE MILLER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. MILLER. Thank you, Mr. Chairman.

And I want to join you and Mr. Rahall and Mr. Tauzin and Mr. Thornberry and others on this matter and to say that I join in this effort.

CARA is in fact a package. It was not designed to be cherry-picked in one fashion or another by the Appropriations Committee. And I, like all of us, appreciate the pressure that they are under.

But this was about a commitment, about a commitment that we called that was really about redeeming the promise that was made to the people in this country about the use of those oil revenues and about the needs of the coastal states.

And we did part of the job last year, but we didn't do the entire job. And I think it is important that we come back and that we make every effort to fulfill the entire package, that we get a sustained program of spending on what are clearly national priorities that have overwhelming bipartisan support in rural areas, in suburban areas, in urban areas, in the heartland of this country, and along the coast of this country, and that we recognize that this is

a matter of national need and of purpose, and that we follow through on this.

Members of this Committee spent many, many hours meeting with people across the board. And one of the components was something that took a lot of work, and that was on the points that Mr. Tauzin raised about property rights and the provisions and the protections.

Well, if just do the appropriations, you don't get the other half of that package. And that was a major concern to many people who sponsored this legislation, that that in fact would happen.

And that is why we need the passage of this bill. I hope we will be able to do it early. It got to the Senate late, and we know the Senate needs a lot of time to move.

But hopefully, we can get this over to them early on and this will be a matter of priority there, too. I know I have talked to a number of Senators who now recognize what we are trying to do, and now they want to champion this bill where last year they were reluctant.

So I am very encouraged by those efforts. We have had a couple of meetings with the White House. And I think that people understand the importance of this legislation and the priority that it should have.

And I want to thank you for this hearing, Mr. Chairman, and to all of my colleagues for the reintroduction of this bill, and to everybody who worked so hard to get the 218, 219 cosponsors I think we are at today.

Finally, I just want to say to Mr. Tauzin, there was a wonderful program on the Mississippi and on New Orleans and on the pumps that my wife watched. And of course, when it started raining, she kept going to the Weather Channel to see how the pumps were doing in New Orleans.

But it is an amazing amount of rain that you absorbed in 2 days' time down there. It is just absolutely remarkable.

But I think it makes the case for the kind of work that has to be done if we are in fact going to protect those wetlands and the coastline of this state in that very tenuous position.

So I look forward to the hearing and thank you again, Mr. Chairman.

The CHAIRMAN. I thank the gentleman.

The gentleman from Texas, Mr. Mac Thornberry, the author of H.R. 1592.

STATEMENT OF THE HON. MAC THORNBERRY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. THORNBERRY. Thank you, Mr. Chairman.

And I would ask unanimous consent that my complete statement be made part of the record.

The CHAIRMAN. Without objection.

[The prepared statement of Mr. Thornberry follows:]

Statement of The Honorable Mac Thornberry, a Representative in Congress from the State of Texas

Thank you, Mr. Chairman.

I appreciate the opportunity to have this hearing today to discuss government land ownership and a bill that I have introduced to help safeguard one of the most precious rights a free people can have.

The Fifth Amendment to the Constitution clearly states that the federal government cannot lay claim to private property without compensating the owner or owners of the land.

Yet over the years, this right has been eroded away. New laws have been passed and regulations enforced that have pushed property rights far down the list of things about which Washington is concerned. The Land and Water Conservation Fund is a good example of that.

The Land and Water Conservation Fund is the main fund that the government uses to buy private lands. Over the past 35 years, around 4.5 million acres of land—an area around the size of New Jersey—have been acquired with tax dollars collected through this fund. Yet as it's currently written, the law includes no provision recognizing the rights of private property owners.

I introduced H.R. 1592, The Constitutional Land Acquisition Act, to recognize and protect those rights in the law. My bill basically says that if the government wants to buy a piece of land, it's got to take into consideration the rights of property owners before moving ahead with the sale.

Among other things, H.R. 1592 would:

- Require that a land seller concur with the purchase, and that the transaction be approved by an Act of Congress.
- Protect inholders so that federal standards on surrounding LWCF purchased lands cannot conflict with neither use nor enjoyment of the owners" lands.
- Require relevant agencies to certify that equal value land exchanges, conservation easements, and other factors have been considered before an acquisition can be made.
- Require affected areas to be notified of a purchase.
- Prohibit using LWCF money for condemnation actions as a means of acquisition.
- Make it easier for states to convert lands they purchased with LWCF funds to a new purpose.

One of the issues we'll likely discuss today is how the private property protections included in my bill compare with the private property protections included in the Conservation and Reinvestment Act. I would make the case that while CARA does take a step in the right direction toward strengthening private property rights, it does not go far enough. Perhaps most critically, it does not specifically prohibit federal or state governments from condemning private land.

Mr. Chairman, in his recent book, The Mystery of Capital, acclaimed author Hernando de Soto has this to say about the importance of private property to Western Civilization:

> "With legal property, the advanced nations of the West had the key to modern development; their citizens now had the means to discover...the most potentially productive qualities of their resources."

H.R. 1592 is not only about mechanics and fairness when a federal or state acquisition is made, it is also about preserving the basic foundation which enables Americans to continue our liberty and pursuit of happiness.

Mr. Chairman, I appreciate once again the opportunity to discuss my bill and this issue this morning.

Mr. THORNBERRY. Mr. Chairman, I appreciate the opportunity to have a chance to discuss today the proposal that I put forward.

It is certainly related to CARA, but I believe that we need some additional property protections whether or not CARA passes, because I believe one of the most precious things that a free people can have is the right to own property and to use that property.

There has been a fascinating book that has come out in the past year or so called "The Mystery of Capital" by a Peruvian author, Hernando De Soto, which tries to look at why the Third World has not developed the way other parts of the world have. And his conclusion is it comes down to property ownership and protections of those rights.

And if CARA passes, and we have the tremendously greater sums of money available for land acquisition, which you have all

talked about, I think we need to be more vigilant in the protections of property rights as well.

CARA certainly takes a step forward from existing law. There are no protections in the Land and Water Conservation Fund now. CARA is a step ahead. I think we can make another step ahead.

But, again, whether or not CARA passes, I believe we need to have additional protections.

Mr. Chairman, the power of the Federal Government is an awesome thing, particularly when it zeros in on a particular piece of land owned by a particular landowner or a family. I think we have to be very vigilant in thinking about what it looks like from that landowner's standpoint, and the importance of those property rights as we talk about tremendously greater sums of money which could be used for land acquisition by the Federal and state governments.

So I appreciate the chance to talk about those issues and the chance to have a hearing on this proposal.

The CHAIRMAN. I thank the gentleman from Texas.

We are grateful for our first panel, and we have some very great people on all three of our panels, if they would come forward.

I see Mayor Ashe is there. Mr. Randy Johnson, Commissioner from Emery County, if he would come forward. Mr. Jack C. Caldwell, Secretary, Louisiana Department of Natural Resources. And Mrs. Renee Daniels-Mantle.

Now, we have them from different States here, and I would appreciate it if the respective ladies and gentlemen on the Committee would introduce the distinguished members of this panel.

I will start with Mayor Ashe and turn to our friend from Tennessee.

Mr. DUNCAN. Thank you, Mr. Chairman.

I simply want to welcome to the Committee a longtime friend of mine, Mayor Victor Ashe, who is Knoxville's longest serving mayor. He is now in his fourth 4-year term.

Mayor Ashe has made a tremendous record as mayor of Knoxville, and that has been recognized nationally. He was honored as being named the national Chairman of the U.S. Conference of Mayors a few years ago.

Mayor Ashe has been a very popular mayor. He has been reelected by large margins.

And we have worked together over the years on many different projects. And I can tell the Committee that he has been a really outstanding mayor for the city of Knoxville.

I am proud to call him my friend and proud to welcome here to the Committee this morning. He was the executive director of the President's Commission on Americans Outdoors a few years ago. And he has great, great interest in the work that this Committee does, and particularly in this legislation on which he will testify this morning.

So thank you very much for allowing me to introduce and welcome Mayor Victor Ashe.

The CHAIRMAN. I thank the gentleman for those comments.

Our next witness is Mr. Randy Johnson, a Commissioner from Emery County. I personally know Mr. Johnson, and I don't know

if I have ever known a Commissioner that works as hard or is as dedicated in my many years in this business.

But I will turn to Mr. Cannon, who represents that area, to introduce Mr. Johnson.

Mr. CANNON. Thank you, Mr. Chairman.

It is my pleasure to introduce Randy Johnson, who has been a commissioner at least as long as I have been here, longer, and done a great job.

We work closely together. Mr. Johnson represents that area of Utah which Butch Cassidy and the Sundance Kid occupied and which is where the movie was made, by the way.

[Laughter.]

So if you enjoyed some of the stark scenery in that movie, you will understand that that is the San Rafael Swell that has been subject to a significant amount of legislative work on this Committee.

So we would like to welcome you.

And also point out that I think Mrs. Daniels-Mantle also runs cattle in Utah, don't you?

Mrs. DANIELS-MANTLE. Partly.

Mr. CANNON. Partly. The part that you do is in my district, so we appreciate your being here and welcome you here today, also.

Thank you.

The CHAIRMAN. I thank the gentleman from Utah.

The gentleman from Louisiana.

Mr. TAUZIN. I will be brief, Mr. Chairman.

That movie, "Butch Cassidy and the Sundance Kid," was remarkable for that great line. Every time Butch Cassidy and the Sundance Kid would look behind them, they would say, "Who are those guys?" Remember? They kept following them; they couldn't lose them.

[Laughter.]

Well, among the guys and the gal of who are presenting today is a very special person from Louisiana. Governor Foster named Jack Caldwell the secretary of our natural resources department because of his extraordinary depth of knowledge, not only about our natural resource base and its environment, but about the oil and gas industry and the important interplay between the two. And Jack Caldwell has been an extraordinary force in the last Congress's efforts to put together the CARA bill.

Recently, he was an adviser to the Vice President and sent the Vice President extraordinarily good advice on the energy package that the Vice President delivered to Congress just recently.

Jack, I want to thank you for that. You served our state extraordinarily well, I think, in the great advice you gave him as a consumer state and the messages you gave him about conservation and the need for us to balance our program out properly. And I want thank you for that, Jack.

Jack is an extraordinary public servant. And if I were governor of Louisiana, I would have picked him as secretary of natural resources as well.

Thank you for being here, Jack.

The CHAIRMAN. I thank the gentleman.

Our next witness claims many areas, I understand, but it says Wyoming, so I will turn to the gentlelady from Wyoming.

Mrs. CUBIN. Thank you, Mr. Chairman.

And I would like to welcome Renee Daniels-Mantle, who resides in Pavillion, Wyoming, I understand. But the ranch that you run is in Representative McInnis's district for the most part, so he wanted to introduce you as well.

But he is busy so—

[Laughter.]

Yes, I am done.

Welcome. Glad to have you here.

Mr. MCINNIS. Well, I welcome the witness as well.

I think that the Mantle Ranch is a clear demonstration of overreaching by the Federal Government. It is clear at the Mantle Ranch there is a Federal agency that wants the land and is bound and determined, despite the property owner's rights and privileges, is bound and determined to take that ranch by whatever acquisition method is necessary or justified, including regulatory overburden, including threats of condemnation, including lack of cooperation.

I mean, I am glad that we have an owner of the ranch, a representative of the ranch, here today to testify, but, I'll tell you, if any of my colleagues want an example of grievous overreaching by the government to push private property owners off the property and put it into the Federal bag of landholdings, this is the example.

So I appreciate the witness making the trip and coming out here.

Thank you, Mr. Chairman.

The CHAIRMAN. I thank the gentlelady from Wyoming and the gentleman from Colorado.

With that said, let me point out to you folks that when you were asked to testify, you were told that we would appreciate it if you could keep it within 5 minutes. We know how important this legislation is, both to Congress and to America.

And you will see there in front of you a little thing that looks like this, and it is just like a traffic light. When you see the yellow, don't try and run it—but you know some people in America do.

And if you feel there is just something that you just can't stand, that has to be said, well, I probably won't gavel you down for at least 30 or 40 seconds.

So with that in mind, Mayor Ashe, we are very grateful to have you here. And the floor is yours, sir.

STATEMENT OF THE HON. VICTOR ASHE, MAYOR OF THE CITY OF KNOXVILLE, TENNESSEE

Mr. ASHE. Thank you very much, Mr. Chairman. It is certainly a privilege to be here representing the U.S. Conference of Mayors.

And I thank my Congressman, Jim Duncan, for that very generous introduction. He didn't tell you, for those of you who might not know, that his father served as mayor of the city of Knoxville and also, up until my time, had the record of being elected the most times as mayor of the city of Knoxville, and was very instrumental in bringing minor league baseball to our city during his tenure back in the 1960's.

Let me express appreciation to both Democrats and Republicans on this Committee for your bipartisan sponsorship in the last Congress of CARA and the fact that it achieved a bipartisan majority in both parties in the enactment of this legislation.

And I speak to this today from the standpoint of local government. I am not qualified to speak for what has or has not occurred at the Federal level in terms of land acquisition or non-acquisition.

And I realize that from Yosemite to the Everglades, the national parks serve as a shining star in terms of the scenic beauty of our nation, and they make for memorable once-in-a-lifetime opportunity for visits.

But I can tell you, as mayor of the city of Knoxville, that the most important park in American is the one down the street, where your children play ball or soccer or whatever the sports activity may be.

In fact, this sunburn that is peeling off my face here today is the result being there from 12:15 Saturday until 5:30, watching my 11-year-old play ball at a park in our city.

It is the park where you spend recreational time, where you may be there, walking with a friend to develop a healthier lifestyle. It may be where you had your first picnic with that other person who became the most important person in your life. It may be where you developed athletic ability.

But the fact is, I can tell you that developing new local parks and maintaining existing local parks is increasingly more difficult. They are not making any new land, and the pressure to develop greenfields for new industrial and commercial uses often makes park use sometimes a secondary consideration.

I am proud to say that in Knoxville, we have just acquired and are developing a new 100-acre park, which will be probably be the last park of that size within the current corporate limits of our city, simply because we don't have any other undeveloped land available. And the expense of converting developed property into park land is oftentimes far beyond the reach and the financial ability of local government to do.

And while it is difficult to develop new facilities, I think the citizens not only of Knoxville but cities and counties across our nation want improved and expanded recreational opportunities.

Two years ago, I testified before the comparable Committee but on the other side of this Hill in the Senate. And I sat in the shadow of NFL star Denver Broncos running back Terrell Davis, who certainly took the limelight that day, and appropriately so.

But it was to urge the Senators and the Congress to keep the promise to support local parks, because when the Land and Water Conservation Fund was enacted some 36 years ago, it pledged to use the funds collected from offshore oil and gas drilling to support the development not only of national and state parks but also local parks.

And that is the point I want to make, that this should not be lost in terms of the debate at the national level, realizing the local level is a major, major component. And in terms of the actual use that will occur in this country, there will be more use occurring at the ballpark down the street from where you live than will be at Yo-

semite or Yellowstone or the Everglades, as great as those parks are. None of my comments are in diminution of that.

But the fact is, we have already used to a great degree this funding over the last 36 years, whether it is Morningside Park, which has the largest statue of an African-American in our nation in Knoxville for Alex Haley, who has Knoxville as his adopted home town, or whether it is other parks, Westview or Harriet Tubman.

The fact is, they are providing good opportunities for people to develop healthier lifestyles.

And I would point out I think it helps provide for a safer community because, particularly if kids and teenagers have things to do, it makes sure that they are not getting into trouble or doing things they shouldn't be doing.

It enhances property values, parks do, in those immediate neighborhoods.

And when you improve recreational opportunities for children or for young people, I think there is a clear correlation that crime goes down. I can tell you as mayor that when anyone has ever suggested that the park budget or recreation budget be reduced, I respond that police department budget ought to be increased because you will need that much additional help to offset the problems that will be created by reduced recreational opportunities.

Park improvements are an investment in our future, they are an investment in our youth. And I hope that this Committee and the Congress is able to enact this with the same type of bipartisan support that you have in the past.

Thank you very much, Mr. Chairman.

[The prepared statement of Mr. Ashe follows:]

Statement of The Honorable Victor Ashe, Mayor, Knoxville, Tennessee

Americans are justifiably proud of their national park system. From Yosemite to the Everglades, the national parks serve an important purpose in preserving our natural history for future generations and make for memorable once-in-a-lifetime visits.

However, as mayor of Knoxville, Tennessee, I have learned that the most important park to most Americans is the park down the street from where they live. The park down the street from your house is the place you take your children to play baseball, football or soccer. It is the park where you walk with a friend to develop healthier lifestyles. It is probably the park where you had your first picnic with that most important other person in your life.

Developing new local parks is becoming increasingly more difficult. The pressure to develop greenfields for new industrial or commercial uses often makes park use a secondary consideration. In Knoxville, we have just begun to develop a major new park of about 100 acres, which I think will be the last of its size in our city. It will be the last because the city doesn't have the undeveloped land to build another park of this grandeur. And the expense of converting developed property into parkland is many times beyond the reach of local governments.

While is it difficult to develop new facilities, the citizens of Knoxville and most every other American city for that matter, want improved and expanded recreational opportunities.

Two years ago, I joined with NFL star Denver Broncos running back Terrell Davis in addressing your colleagues in the Senate.

Mr. Davis and I urged the senators to keep their promise to support local parks.

When the Congress created the Land and Water Conservation Fund in 1965, it pledged to use the funds collected from off-shore oil and gas drilling to support the development of national, state and local parks.

However, since the 1980s, Congress has used most of this money for budget deficit reduction leaving very little funding for state and local parks programs.

I urge this committee to approve H.R. 701, the Conservation and Reinvestment Act.

The Land and Water Conservation Fund and the Urban Park and Recreation Recovery Program have helped to develop some of the most popular parks in Knoxville, both in the inner city and in other sections of the city.

An example of the success of the federal funding is our Morningside Park, which is the home of the outstanding Alex Haley Statute, the largest statue of an African American in the nation.

Other parks so developed include the Harriet Tubman Park and Westview Park.

And we have an Urban Park and Recreation Recovery Program grant application to develop Caswell Park, which will be a multi-use facility located in the city's HUD designated Empowerment Zone area.

Using these models, Knoxville has been very successful in developing new parks and greenways.

While many people like park development is nice and good for the quality of life, there are many other important factors to consider in park funding.

These park improvements strengthen the fabric of our community by providing young people with a safe place to gather and play.

Across the nation and right here in Knoxville, communities have learned that when you improve recreational opportunities for children, the crime rate goes down.

Many mayors have found that if you reduce your Parks budget, you need to increase the Police budget by a like amount to handle the problems of teenagers on the streets with no where to go.

Park improvements are an investment in our future". They are an investment in our youth.

Thank you for this opportunity to address the members of this committee.

The CHAIRMAN. I thank you, Mayor. I appreciate you being here. Commissioner Johnson?

STATEMENT OF RANDY G. JOHNSON, COMMISSIONER, EMERY COUNTY, UTAH

Mr. JOHNSON. I was hoping Mr. Tauzin would be here because I was going to ask him if he would have the people of Louisiana pray for rain in Utah. [Laughter.]

But at any rate, Mr. Chairman, I am pleased to be here today and am grateful for the opportunity to testify about the Payment In-Lieu of Taxes provisions of Title VIII of this bill.

Section 802 of this legislation earmarks up to $320 million for annual PILT payments to counties, essentially fulfilling the long-time promise to public lands counties that the Federal Government would help pay for the services it imposes upon counties in the form of mandates.

A full PILT payment is, in essence, Congress keeping its word, providing a portion of the funds necessary to comply with that mandate. I will discuss this in more detail in a moment.

May I say that there is some irony to the fact that I am here to testify in regard to fully funding PILT payments in connection with legislation which may well create an increase in the loss of tax revenues to counties from private lands, and a corresponding increase in cost to those counties for infrastructure requirements on Federal lands.

In fact, in order for rural counties to support H.R. 701 in any significant way, they must believe that the Federal Government recognizes the fiscal impacts to counties as a result of Federal lands, and that it recognizes its responsibility to make the counties as whole as possible for the burden they carry.

Truly full and ongoing funding of PILT becomes integral to the success of H.R. 701.

To go back, Congress did enact the Payment In-Lieu of Taxes in 1976 and began funding it at about 35 percent of its authorized level in 1977.

Counties have worked hard to increase that level over the past 7 years after Congress increased the PILT authorization in 1994. Despite its miserly 1977 to 1995 funding of the PILT Act, Congress made a solemn commitment to counties that the Federal Government would begin to pay—if only a fraction—for services it demanded from county governments, including basic health and safety actions such as police, search and rescue, fire control, road maintenance, jail operation, and garbage collection and so forth.

I chair the Rural Public Lands County Council and am also on the executive board of the Utah Association of Counties. These two organizations from the State of Utah have been by far the two most active voices in working to get PILT fully funded. Often, we were the only two voices being heard.

We were often coolly received even by some who would normally be our allies. Their reasoning was usually that we should be happy with what we were already receiving, and that we should not forget that PILT is really a form of government welfare.

I would like to speak to that by giving you an example from my own county, which illustrates what counties face in dealing with large areas of public lands.

In Emery County, we have approximately 3 million acres, roughly the size of the State of Connecticut, with just under 11,000 residents. Over 80 percent of our lands are owned by the Federal Government. Another 10 percent is state-owned. Obviously, very little land is privately owned.

We receive approximately $370,000 in annual PILT payments based on the formula and at the current funding level. As you know, the formula is based on many factors but in no way does the formula account for impacts to the county as a result of Federal land use.

For instance, I-70 bisects Emery County from east to west across the San Rafael Swell. Hundreds of thousands of people cross our public lands yearly and have free access to those lands without passing through our towns. We only know visitors are there if we arrest them, rescue them, retrieve them, or find their trash.

Yearly, we average between 50 and 100 rescues on the San Rafael alone, most lasting at least 1 day and some as long as 7 to 10 days. In 1997, we had 180 rescues in the San Rafael area.

For example, in 2000, we had two drownings in the Black Box. This is a very high and narrow canyon with the San Rafael River at the bottom. These people attempted to tube the river through this winding canyon based on advice in a travel book.

The first body took us 3 days to locate and retrieve, and it all took place inside a Wilderness Study Area. Total cost to the county was over $50,000, and this is just one of many examples.

Furthermore, these search and rescue operations are not seasonal, nor are they limited to the San Rafael Swell. We have hikers, fishermen, hunters, snowmobilers, public-land users of every kind, all through the year on all areas of our public lands.

In a recent survey done of use of national forest lands in a 3- to 4-mile section of the Huntington Canyon, 28,000 people visited that

3-mile stretch of road and 47 percent of the visitors came from Utah's Wasatch front, 41 percent from other from out-of-state areas, and only 12 percent were from Emery County.

So the point is that we are severely impacted by the use of these lands. And, ironically, people in these urban areas are the ones who support programs that tend to limit our availability to these public lands and yet they are the first to leave their urban areas and scurry out to these rural areas to have some fun and refresh and recreate.

Summarily, sir, I would just like to say there are 2.2 million acres of Federal land in Emery County, for which we receive $370,000. If that were in greenbelt status, the lowest tax rate that the county has in private ownership, the amount that we would receive is around $900,000.

So, truly, the Federal Government is not paying its own way in terms of the impacts that we face in Emery County. And we fully support fully funding PILT as part of this legislation.

[The prepared statement of Mr. Johnson follows:]

Statement of Randy Johnson, Commissioner, Emery County, Utah, on behalf of Rural Public Lands County Council and Utah Association of Counties

Mr. Chairman, I am pleased to be here today and am grateful for the opportunity to testify about the Payments in Lieu of Taxes (PILT) provisions of Title VIII of this bill. Section 802 of this legislation earmarks up to $320,000,000 for annual PILT payments to counties, essentially fulfilling the longtime promise to public lands counties that the federal government would help pay for the services it imposes upon counties in the form of mandates. A full PILT payment is in essence Congress keeping its word, providing a portion of the funds necessary to comply with that mandate. I'll discuss this in more detail in a moment.

May I say that there is some irony to the fact that I am here to testify in regards to fully funding PILT payments in connection with legislation which may well create an increase in the loss of tax revenues to counties from private lands, and a corresponding increase in cost to those counties for infrastructure requirements on federal lands. In fact, in order for counties to support H.R. 701 in any significant way they must believe that the Federal Government recognizes the fiscal impacts to counties as a result of Federal Lands, and that it recognizes it's responsibility to make the counties as whole as possible for the burden they carry. Truly, full and ongoing funding of PILT becomes integral to the success of H.R. 701.

To begin, let me put this issue of Payments in Lieu of Taxes in perspective. Since the late 1940s, most public lands counties concluded that they would prefer that the lands owned by the federal government within their borders be returned to them as the legal subdivision of their respective states. In other words, counties would prefer that they be removed from federal ownership. There are legitimate arguments to be made about maintaining federal ownership of National Parks and Monuments and perhaps some areas within our National Forests and Wildlife Preserves. Congress can debate this and decide. But, those lands which were not included in these designations, the remaining Bureau of Land Management (BLM) lands should by all rights be placed on the local tax roles and removed from federal ownership and control. This is not radical thinking, but rather common sense in the 21st Century. Until now, Congress has ignored this concept even though it solves numerous problems for the people who are left to eke out a subsistence in the public lands states and the people of the United States as a whole. Just imagine what the American taxpayers could do with the $1.8 billion earmarked for BLM in the fiscal year 2002 budget. The fact that PILT payments to counties are only $320 million as proposed in this bill (and $200 million in the fiscal year 2002 Interior Appropriations bill) illustrates why counties believe they are shortchanged even with full PILT funding.

As a stopgap measure, Congress did enact the Payment in Lieu of Taxes (PILT) Act in 1976 and began funding it at about 35% of its authorized level in 1977. Counties have worked hard to increase that level over the past seven years after Congress increased the PILT authorization in 1994. Despite its miserly 1977–1995 funding of the PILT Act, Congress made a solemn commitment to counties that the fed-

eral government would begin to pay-if only a fraction-for services it demanded from county governments. These services include basic health and safety actions such as police, search & rescue, fire control, road maintenance, jail operation, and garbage collection and disposal.

I chair the Rural Public Lands County Council (RPLCC), and am also on the Executive Board of the Utah Association of Counties (UAC). These two organizations from the state of Utah have been by far the two most active voices in working to get PILT fully funded. Often, we were the only two voices being heard. We were often coolly received even by some who would normally be our allies. Their reasoning was usually that we should be happy with what we were already receiving, and that we should not forget that PILT is really a form of Government welfare. I would like to speak to that, by giving you an example from my own county which illustrates what counties face in dealing with large areas of public lands.

In Emery County, we have approximately 3,000,000 acres, roughly the size of the state of Connecticut, with just under 11,000 residents. Over 80% of our lands are owned by the Federal Government. Another 10% is state owned. Obviously, very little land is privately owned.

We receive approximately $370,000.00 in annual PILT payments based on the formula and at the current funding level. As you know, the formula is based on population, land mass, and other factors, but in no way does the formula account for impacts to the county as a result of federal land use.

For instance, Interstate–70 bisects Emery County from east to west across the San Rafael. Hundreds of thousands of people cross our public lands yearly and have free access to those lands without passing through our towns. We only know visitors are there if we arrest them, rescue them, retrieve them, or find their trash. Yearly, we average between 50 and 100 rescues on the San Rafael alone, most lasting at least one day, and some as long as 7- 10 days. For example, in 2000, we had two drownings in the Black Box. This is a very high and narrow canyon with the San Rafael River at the bottom. These people attempted to tube the river through this winding canyon based on advice in a travel book. The first body took us 3 days to locate and retrieve, and it all took place inside a Wilderness Study Area (WSA). Total cost to the county was over $50,000, and this is just one of many examples. Furthermore, these search and rescue operations are not seasonal, nor are they limited to the San Rafael Swell. We have hikers, fishermen, hunters, snowmobilers-public land users of every kind—- all through the year on all areas of our public lands.

As an example, in 1998, the Forest Service did an impact study on a 3–4 mile stretch of road in the Manti LaSalle National Forest. During the 3 month summer high-use period, over 28,000 people visited this small area of our county. 47% of the visitors came from Utah's Wasatch front, where over 80% of the population of the state reside, and another 41 % came from other Utah areas or from out of state. Only 12% of the visitors to this area were from Emery county. Ironically, many of the residents of the urban areas support programs which threaten the economic heath of our rural communities, but when they get tired of the city life, they are the first to seek our little towns and rural areas to refresh and recreate.

As another example, in 2000 we wrote off more than $380,000.00 in uncollectible ambulance bills—- most of which originated with people who were enjoying our public lands most from out of state and some from out of the country.

Often, there are more people visiting our public lands than actually reside in the county. On Easter weekend, our population triples as over 30,000 people make their way to the San Rafael Swell to go "Easterin." But regardless of how many people visit, the responsibility for their welfare remains entirely on the shoulders of the county. This includes search and rescue, medical emergencies, public access, and so forth. And, we have not even spoken of costs of road maintenance & law enforcement, which are substantial. Some would speak of PILT as government welfare, but all other landowners in our county pay their own way. Only the Federal Government does not. With all due respect, who is the true welfare recipient here?

Summarily, there are approximately 2,299,825 acres of Federal land in Emery County, for which we receive $369,000 If those same lands were in private ownership under greenbelt status, the lowest tax rate in the county, the revenue to the County would be approximately $897,069.

So, Mr. Chairman, if we had our way, most representatives of public lands counties believe we could better manage the lands ourselves, much in the same way that over 2500 counties currently do in the United States. Most public lands are in the western states. However there are large pockets of public lands in Wisconsin, Michigan, New Hampshire, Vermont, North Carolina, Tennessee, and Florida. Forty-nine states have some federally owned land inside their borders. Yet, until Congress places these 1739 public lands counties on the same level as the rest of the country,

PILT is the only way many of us can financially afford to continue providing these crucial services on behalf of all Americans who use our public lands. The reality is that absent full PILT funding going forward, many counties will simply have to stop providing these services because they lack the means to do so.

Moreover, we believe the record is clear that local governments, with few exceptions are far more efficient users of tax dollars than are federal agencies. We accomplish more for less because our constituents demand that we protect their lands in a frugal, efficient way, not in a gold-plated way. As local elected public officials, we have to stand before the voters and are accountable, whereas unelected federal bureaucrats are not—they come and they go while we are left to live in their wake. And all too often, their management practices are insensitive to the local residents and the challenges they face.

Rural communities face many difficult problems in maintaining economic viability. A big part of the problem, if I may say so, is the all-or-nothing approach to public land management issues used by many in the debate. This has become very harmful. All-or-nothing philosophies are intolerant. They refuse compromise. They are prejudicial and contentious, and it is the way we have been forced to do business on our public lands for the last 20 years. It is deeply concerning that in our zeal to protect land and wildlife, we are not only ignoring one of our most important national treasures, we are actually working to eliminate it. I refer, of course, to the small communities of the rural west. I hope that in the final language of H.R. 701, as well as in your decisions regarding PILT payments now and in the future, you will work to assure that this important part of our American culture is not only protected and preserved, but is given the opportunity to thrive.

Mr. Chairman, I applaud your efforts to move toward full PILT funding and will leave it to you and your colleagues to determine the best way to accomplish that objective. I would point out that the PILT Act is authorized in a way which ties it to the CPI for annual inflationary adjustments. For fiscal year 2002, the PILT authorization is $327 million dollars. That level will increase over time. As a recommendation to keep counties whole, I suggest you consider amending your bill so that rather than having a fixed amount of $320 million (already behind the authorized level), you attach it to the indexing provisions of the PILT Act to always ensure that full funding goes forward.

Thank you again for this opportunity to place PILT in perspective and to focus on the huge financial demands which public lands counties must endure. I also want to personally thank you, Mr. Hansen, Congressman Cannon, and the Committee for what you are doing in behalf of the rural counties of Utah and across the country. The fact that you have addressed the PILT issue demonstrates that Congress intends to find ways to keep its commitments to us. For your assistance on this and many, many other issues, I thank you.

The CHAIRMAN. I thank the gentleman.

Mr. Caldwell?

STATEMENT OF JACK C. CALDWELL, SECRETARY, LOUISIANA DEPARTMENT OF NATURAL RESOURCES, BATON ROUGE, LOUISIANA

Mr. CALDWELL. Mr. Chairman, honorable members of the Committee, last year I had the pleasure of testifying before this Committee in support of H.R. 701, the Conservation and Reinvestment Act, which passed this House by a three-fourths vote but unfortunately failed to reach the floor in the Senate.

This morning, my focus is going to be on Title I of the act, pertaining to coastal states. Today, half of the country's population lives within 100 miles of the coast. And the coast is subject to increasing stresses of all kinds, from pollution, overdevelopment, coastal erosion, and other stresses that are severely impacting this fragile ecology.

In addition to that, the oil and gas producing states bear a disproportionate burden of the additional adverse environmental impacts from offshore oil and gas operations.

I can speak particularly about Louisiana, where we have 20,000 miles of pipeline in the offshore area and crossing the Louisiana coastline and 12,000 producing oil and gas wells in the offshore area.

Today, 25 percent of all of America's oil and gas crosses the Louisiana coast either by pipeline, barge, or tanker.

Now, this vast infrastructure is protected by the Louisiana coastal marshes. America's wetlands, 3 million acres disappearing at the rate of 35 square miles a year.

Two weeks ago, tropical storm Allison hit the Texas-Louisiana coast and the price of crude oil jumped $1 a barrel. Just imagine what would happen if a Category 3 hurricane hits this coast and the coastal marshes have all eroded away.

Now, we believe that CARA can be the answer, not only for Louisiana, but for the entire country. The principle of CARA that a portion of the revenues should be shared with the host states has already been recognized with reference to onshore Federal properties, where half of the revenues go to the host state.

But at the present time, the coastal producing states get no assistance at all from the Federal Government to offset these adverse impacts.

Now, Louisiana has a plan to save its coast. And we are implementing that plan with encouraging success. But the funding is woefully inadequate, and the timing is urgent.

So we need CARA and we need it now.

Now, CARA is overwhelmingly popular. The polls show that 80 percent of the American people support CARA. All of the major newspapers have editorialized in favor of CARA. Almost all of the governors support the CARA bill. Over 7,000 organizations have endorsed CARA.

The reason for this popularity is apparent. The American public firmly believes in the basic principle of reinvesting a portion of the revenues from nonrenewable resources, such as oil and gas, into renewable and sustainable conservation assets. And that is the basic principle for CARA across the board.

So on behalf of the State of Louisiana, we urge favorable consideration of H.R. 701.

[The prepared statement of Mr. Caldwell follows:]

Statement of Jack C. Caldwell, Secretary, Louisiana Department of Natural Resources

Louisiana is in a dynamic position. We find ourselves at the center of the nation's energy debate as a key player in the future of the country's oil and gas supplies. Eighty percent of the nation's Outer Continental Shelf (OCS) oil and gas is extracted off Louisiana's coast or comes across our shores through pipelines to supply the rest of the nation.

At the same time, we are the focus of what many scientists consider to be the largest on-going environmental crisis in America today. Each year, Louisiana is losing almost 35 square miles of our nation's most productive coastal wetland. This three-million acre wetland supports a third of the total volume of U.S. fisheries and provides wildlife habitat for two-thirds of the Mississippi Flyway waterfowl and many endangered and threatened species.

Louisiana's coastal wetland provides protection from storms and hurricanes, not just for the two-million people who live in the coastal zone, but for the number one port system in America and for the nation's offshore oil and gas industry, an industry that puts $2 billion to $3 billion a year into the Federal Treasury.

Louisiana is the nation's coastal wetland basket, providing invaluable benefits to the rest of the country, while sustaining tremendous environmental impacts. Al-

though the situation along our coast is clearly a Federal responsibility, the Federal government is not paying its way to do business off our shore. States like Louisiana that provide so much to the nation but that do not have a large population base or economic base, can no longer bear the cost of ecological and infrastructure damage occurring from an activity that benefits every man, woman and child in our country.

Louisiana gets little direct benefit from Federal offshore OCS oil and gas activity in the Gulf. Jobs that were once almost exclusively held by Louisianians have dwindled through the years. The onshore infrastructure that supports Federal offshore activities is deteriorating and in immediate need of attention. For example, the single thread of highway that connects Louisiana's shore to the nation's offshore oil and gas supply is close to being washed into the Gulf. Still, more than 1,000 tanker trucks a day traverse it as they carry oil and gas to the rest of the nation.

About a fourth of the nation's entire oil and gas supply comes to rest on Louisiana's shores by pipeline, tanker or barge. In light of today's energy crisis, this is a staggering thought. A more disturbing thought, however, is that the coastal wetlands that protect that industry's infrastructure are disappearing. Without their protection, the ecological consequences of a Category Four hurricane making a direct hit on more than 20,000 miles of oil and gas pipelines coming on shore is unthinkable.

Ten years ago, the Coastal Wetlands Planning, Protection, and Restoration Act (CWPPRA) provided a unique partnership as five Federal agencies and the State of Louisiana began the daunting task of restoring Louisiana's coast. We have made great strides in learning what does and does not work as we try to save this fragile ecosystem, and although CWPPRA provides $50 million a year for the effort, it is only a fraction of what is needed to do the job.

During the past 50 years, Louisiana has lost more than 1,000 square miles of its coast. Even with current efforts, we expect to lose another 1,000 square miles over the next 50 years. This loss represents 80 % of all coastal wetland loss in the entire continental U.S.

To address this loss, CWPPRA has developed Coast 2050, a technically sound strategic plan to sustain Louisiana's coastal resources and to provide an integrated multiple-use approach to ecosystem management. The main strategies of the plan are watershed structural repair, such as restoration of ridges and barrier islands, and watershed management, such as river diversions and improved drainage.

In developing Coast 2050, the number of coastal wetland acres saved was not the only priority. The plan also considered other resources, such as roads, levees, fish and wildlife, and public safety and navigation. We know that a comprehensive restoration program, using Coast 2050 as a guide, could restore and maintain more than 90% of our coastal land loss. At the present rate of funding, we can only hope to save about 20% at best.

The price tag to do the job is estimated at $16 billion to $20 billion, but the cost of doing nothing is far greater. The cost to the nation of lost infrastructure alone would be close to $150 billion.

CARA would go a long way toward providing the funds to restore this invaluable part of the nation's coast by sharing Federal OCS revenues with the states, just as Federal land-based revenues are shared through the Minerals Lands Leasing Act.

For example, in 1997, the state of Wyoming hosted development of Federal mineral resources that generated more than $569 million in revenues. Wyoming received $239 million for its share of revenues produced on Federal lands. In the same year, Louisiana hosted development of Federal mineral resources offshore that generated more than $3.8 BILLION, and received only $18.2 million for its share of the revenues produced in Federal offshore waters.

According to a 1993 report, Moving Beyond Conflict to Consensus, the OCS Policy Committee of MMS recommends "a portion of the revenues from OCS program activities should be shared with coastal states, Great Lakes states and U.S. territories." The report goes on to say that "although coastal states that host Federal OCS oil and gas exploration and development suffer the environmental and infrastructure impacts caused by that development, just as Wyoming and other states that host extensive land-based Federal oil and gas development suffer impacts, these coastal states are not compensated in the same way and cannot mitigate the consequences of those impacts in the same measure."

The report emphasizes two fundamental justifications for a revenue sharing or impact assistance program: to mitigate the impacts of OCS activities and to support sustainable development of nonrenewable resources.

The report states that "addressing these needs would strengthen Federal–State–Local partnerships that must underlie a reasoned approach to national energy and coastal resource issues, and the breakdown in this partnership is evident in the fact

that new OCS development is now occurring only off the coasts of Alabama, Alaska, Louisiana, Mississippi and Texas."

The report further states that " a modest portion of the revenues derived from development of nonrenewable resources, such as oil and natural gas, should be used to conserve, restore, enhance and protect renewable natural resources, such as fisheries, wetland and water resources. This concept also underlies the Land and Water Conservation Fund which uses OCS revenues to acquire and develop park and recreational lands nationwide."

In 1997, the OCS Policy Committee reiterated its support. The committee's Coastal Impact Assistance Working Group was formed to look at alternatives and to make recommendations to the Secretary of the Interior on how to implement such a program. Their recommendations include the basis for the formula used in CARA to distribute the revenues to the coastal states.

Louisiana has been very aggressive in the fight for CARA. Our state, along with the rest of the nation, has much at stake as our coastal wetlands continue to disappear. Last year, led by this committee, the U.S. House of Representatives championed CARA. Ultimately, CARA did not prevail. Instead, certain aspects of the bill were authorized or appropriated. Many called this CARA Lite.

Those of us who fought hard for CARA know that what happened in the end was not CARA at all. The true essence of CARA is a steady, predictable stream of funding that would come directly to the states. This steady stream of funding makes it possible for states like Louisiana, with major environmental needs, to plan for and implement restoration efforts costing hundreds of millions of dollars.

Some good things did come of last year's CARA efforts. The one-time appropriation of funds for the Coastal Impact Assistance Program (CIAP) was the first time Congress has ever acknowledged the need for such funding and the contribution being made by the oil and gas producing states. The one-time amount of $150 million shared by the seven producing states is a start, but pales in comparison to the enormous need for future funding.

Louisiana has put its CIAP plan together and will put its share of the money ($26.4 million) to good use. To demonstrate Louisiana's need for the funds, in only three months, we identified 100 projects worth more than $64 million. It is evident that the one-time CIAP funds would barely scratch the surface of our state's enormous coastal impact needs.

However, Louisiana is not standing still. With the Coast 2050 plan in hand, we have joined as full partners with the Corps of Engineers. For the first time in history, the Corps has taken a state agency into a 50–50 partnership. Together, we are engaged in a feasibility study to implement the Coast 2050 plan.

Even without a source of funding to build projects on a scale that will truly save our coastal wetlands, Louisiana is moving forward. We must be ready if and when the money comes. We have no choice.

I urge you to consider passage of CARA this year with the same vigor and enthusiasm you did last year. Only legislation like CARA will give Louisiana the fighting chance it needs to save a coastline that is, indeed, in the national interest.

Attachments:

Additional Facts on Louisiana's Coastal Land Loss and Contributions to the Nation's Offshore Energy Supply

"MMS Gulf of Mexico Pipeline Data." Image Data: 1993 LanSat TM Imagery.

"Principal Interstate Natural Gas Flow Summary, 1999." Energy Information Administration/Natural Gas Annual 1999.

"Coastal Louisiana Existing and Predicted Land Loss Trends 1956–2050." Map produced by the Louisiana Department of Natural Resources, Coastal Restoration Division, and the USGS National Wetlands Research Center, Coastal Restoration Field Station. Data Sources: USGS National Wetlands Research Center: 1956–1990 land loss data. Base map derived from 1993 GAP land cover data; 1993–2050 with action predicted loss compiled for Coast 2050 by Louisiana State University, Natural Systems Engineering Lab, and the US Army Corps of Engineers, New Orleans District. Map-id 2000–4–317. Map Date: 4/28/2000.

JUNE 20, 2001

Additional Facts on Louisiana's Coastal Land Loss and Contributions to the Nation's Offshore Energy Supply

Louisiana's coastal wetlands represent 40% of all the salt marshes in the contiguous United States. During the past 50 years, more than one thousand square miles have disappeared. During this decade, our coastal wetlands are being lost at the rate of 25 to 35 square miles a year, or the equivalent of a football field every 15 minutes. Even with current restoration efforts, we expect to lose almost one thou-

sand more square miles by the year 2050. This dramatic loss represents 80% of all coastal wetland loss in the entire continental United States.

The effects of natural processes like subsidence and storms, combined with human actions, including impacts from offshore oil and gas exploration and development, have led to an ecosystem on the verge of collapse.

America is losing much more than acreage. Louisiana's coastal wetlands contribute 28% to the total volume of U.S. fisheries, provide winter habitat for one-half to two-thirds of the Mississippi Flyway waterfowl population and for many threatened and endangered species, the nursery ground for fish and shellfish for much of the nation's seafood consumption, and 40% of the nation's fur harvest. They provide for 400 million tons each year of waterborne commerce, and support and protect the multi-billion dollar a year oil and gas industry. Our coastal wetlands are home to more than two million people and serve as their buffer from hurricanes and storms.

Louisiana Offshore Oil and Gas Activity

Eighteen percent of U.S. oil production originates in, is transported through, or is processed in Louisiana coastal wetlands, with a value of $6.3 billion a year. Almost 24% of U.S. natural gas production originates in or is processed in Louisiana's coastal wetlands, with a value of $10.3 billion a year.

Louisiana's OCS (outer continental shelf) territory is the most extensively developed and matured OCS territory in the United States. It has produced 88.8% of the crude oil and condensate and 83.2% of the natural gas extracted from all federal OCS territories from the beginning of oil and gas exploration and development in the U.S. through the end of 1996.

As of December, 1998, Louisiana offshore leases totaled 5,363, with more than 27 million acres under lease, 130 active drilling rigs, 4,489 producing oil wells and 3,813 producing gas wells.

Our latest annual production data for 1997 shows that 353,846,995 barrels of oil and 3,881,352,353 MCF (thousand cubic feet) of natural gas was produced. Between January and July, 1998, oil production was at 227,282,332 barrels, with gas at 2,281,832,468 MCF.

As of October, 1998, there were 3,439 platforms in the Gulf off Louisiana's coast.

In 1997, oil and gas production was valued at a combined total of $18.6 billion, with federal royalties totaling $2.9 billion.

Louisiana projection estimates for offshore oil and gas production and federal royalties:

	1999	2000	2001	2002	2003	2004
OIL Production (in Millions of Barrels)	413.0	493.9	524.8	541.2	556.7	572.2
Oil Royalties (in millions of $$)	1,177.5	1,392.0	1,471.4	1,523.9	1,537.2	1,450.4
GAS Production (in Million MCF)	3,700.8	3,527.3	3,308.5	3,318.3	3,373.4	3,428.4
Gas Royalties (in millions of $$)	1,360.9	1,292.2	1,175.5	1,082.2	993.5	911.6

The oil and gas industry has rebounded from a downturn in the 1980s. The main reasons are the discovery of oil and gas in deepwater fields of the central Gulf of Mexico, deepwater royalty tax relief, and new and improved technology used to extract oil from the deepwater Gulf.

Industry leaders are expressing a new optimism and the frantic pace of drilling is breaking old records. The deepwater Gulf of Mexico has emerged as the country's most significant oil and gas province and some estimates say within the next four to five years, as much as 30% of the country's total domestic output will originate from the Gulf of Mexico.

Market analysts predict this intense level of exploration could last 10 years. The success of Louisiana's oil and gas industry contributes billions to the state and national economies every year. Offshore companies paid about $2.4 billion to vendors and contractors in 165 Louisiana communities in 1992 alone. Nearly 4,000 vendors serve offshore operations and employ 55,000 people and more than 30,000 are employed offshore.

Port Fourchon is the geographic and economic center of offshore drilling efforts along the Louisiana Gulf Coast. More than $700 million in public and private investments have been made in the complex and the port will provide support to 75% of the deep water drilling prospects in the Gulf. Its tonnage has increased 275% in the last five years and it is anticipated to double again within two years. It handled more than 30 million tons of cargo in 1996.

More than 6,000 people currently depend on the port as an avenue to and from offshore facilities and more than 13,000 people depend on it for jobs, supplies, facilities and as a hurricane evacuation hub to safer locations north of the coast. Most of the major and independent oil and gas companies operating in the Gulf have a presence at Port Fourchon. On any given day, more than 1,000 trucks are unloaded and loaded there and pipe yards, shipyards, platform construction facilities, service bases and barge terminals within the immediate service area of the port are working at or near capacity.

Less than 20 miles southeast of Port Fourchon is the Louisiana Offshore Oil Port (LOOP), built by a group of major oil and pipeline companies. It serves as the central unloading and distribution port for all incoming supertankers to the Gulf region. The supertankers offload crude oil into LOOP's offshore pipeline continuously. The oil is then piped north to Lafourche Parish where it is stored and piped to markets all over the country.

The Oil and Gas Industry - Impacts Come Full Circle

The United States depends on the oil and gas shipped through and produced in Louisiana's coastal zone. Wetlands and barrier islands protect the billions of dollars worth of infrastructure that supports the industry from wave and storm damage and are an integral part of the nation's energy system. The industrial uses associated with offshore exploration and production, pipelines, and canal developments have directly and indirectly contributed to marsh destruction, putting the industry, itself, at risk.

Navigation channels and canals dredged for oil and gas extraction have dramatically altered the hydrology of the coastal area. North-south channels and canals have brought salt water into fresh marshes, killing vegetation and habitat. East-west canals have impeded sheetflow, ponding the water on the marsh and leading to stress and eventual loss. Canals have also increased tidal processes that impact the marsh by increasing erosion. Channel deepening has caused saltwater intrusion, endangering the potable water supply of much of the coastal region.

As of 1997, there were more than 20,000 miles of pipelines in federal offshore lands and thousands more inland. They all make landfall on Louisiana's barrier islands and wetland shorelines. The barriers are the first line of defense against combined wind and water forces of a hurricane and they serve as anchor points for pipelines originating offshore. These islands protect the wetland habitants from an offshore oil spill and are critical in protecting the state's wetland-oriented oil and gas facilities and thousands of jobs directly and indirectly tied to the industry.

If the barrier islands erode entirely, as expected in the next 50 years, platforms, pipelines and wells will be damaged in increasing numbers. More than 58% of the region's wells are located in coastal parishes. Most of them are more than 50 years old and were not designed to withstand the conditions of open water they could face in the next 50 years. More than 30,000 wells are at risk within the 20-parish coastal area. Wells that were on land only a few years ago are now surrounded by water, a situation hazardous to boat traffic and an environmental liability to habitat and fisheries.

Workers, equipment, supplies, and transportation facilities that accompany the rapid growth of the offshore oil and gas industry depend on land based facilities. Roads, housing, water, acreage for new business locations and expansions of existing businesses, waste disposal facilities and other infrastructure facilities will be needed in localized areas along the Louisiana coast. Existing land based infrastructure is already heavily overburdened and needs expansion and improvement, requiring extensive financial infusions from state and local governments. For example, Louisiana's only highway leading to Port Fourchon is on the verge of crumbling under the strain of the thousands of trucks that travel it each week. It will cost about $266 million to make the highway safe and fully useable.

LOOP also depends on onshore infrastructure protected by wetlands. Without this protection, America will lose an essential trade and navigation center that would affect commerce throughout the world.

Other Impacts From Coastal Wetland Loss

Louisiana ranks first in the nation in total shipping tonnage, handling more than 450 million tons of cargo a year through its deep-draft ports of New Orleans, Baton

Rouge, Lake Charles, South Louisiana, Plaquemines Parish and St. Bernard. The ports between Baton Rouge and New Orleans are the largest by tonnage carried in the world and serve the entire eastern part of the country.

The state's wetlands and barrier islands protect this internationally important port system, as well as navigation channels, waterways and anchorages from winds and waves. At present land loss rates, more than 155 miles of waterways will be exposed to open water in 50 years, leaving this key port system at risk and businesses throughout the nation losing preferred links to European and Pacific Rim markets.

Because of our coastal marshes and barrier islands, Louisiana's commercial and recreational fisheries are among the most abundant in America, providing 25% to 35% of the nation's total catch. Louisiana is first in the annual harvest of oysters and crabs and menhaden, and is a top producer of shrimp. Some of the best recreational salt water fishing in North America exists off Louisiana's coast. The reason for this abundance is that our coastal marshes provide the nursery for young fish and shellfish.

The long-term impacts of wetland loss relates to many species of fish and shellfish that depend on these habitats, translating into economic losses that affect the entire region and the nation. Nearly all Louisiana commercial species use the marsh at some stage of their life cycle, and fisheries loss will be proportional to marsh loss. By the year 2050, the annual loss of commercial fisheries will be nearly $550 million. For recreational fisheries, the total loss will be close to $200 million a year.

Louisiana's coastal wetlands provide a diverse habitat for many wildlife communities. The wetlands provide life cycle needs for resident species and wintering habitat for migratory waterfowl and other birds. Land loss and habitat change by the year 2050 will affect the nation's wildlife population. Sea birds, wading birds and shore birds are expected to decrease, along with raptors and woodland birds. Alligators and furbearers will decrease in certain areas of the coast, as will the abundance of ducks and geese.

Louisiana's cities and coastal communities are at great risk as the wetlands and barrier islands disappear, leaving people with no buffer from storm surges and the force of high winds. Miles of hurricane protection levees will be exposed to open water conditions, forcing widespread relocation and abandonment of coastal communities.

Wetlands create friction and reduce high winds when hurricanes hit. They also absorb hurricane storm surges. Scientists estimate that every 2.7 miles of wetlands absorb one foot of storm surge. The 3.5 million acres of wetlands that line Louisiana's coast today have storm protection values of $728 million to $3.1 billion.

The recent strike of Hurricane Georges, just a few miles east, brought home just how devastating a direct hit to New Orleans would be. The potential loss of life and property is incomprehensible and the threat of disaster was not lost on the city's residents. Bumper-to-bumper traffic snaked out of the city north and west for hours as more than one million people evacuated the crescent city. Hotel space was scarce as far north as Memphis.

With the loss of barrier islands and wetlands over the next 50 years, New Orleans will be a Gulf coast city and will lose its wetland buffer that now protects it from many effects of flooding. Hurricanes will pose the greatest threat, since New Orleans sits on a sloping continental shelf, which makes it extremely vulnerable to storm surges.

More than two million people in inland south Louisiana will be subject to more severe and frequent flooding than ever before. Coastal communities will become shorefront towns and the economic and cultural costs of relocation is estimated in the billions of dollars.

We expect an increase in homeowner and commercial insurance rates by 20% in some cases. Insurance coverage for wind damage may be discontinued, deductibles will increase by 20% by next year, and large insurance companies will stop issuing new policies in the coastal zone.

South Louisiana's unique culture is a national treasure and the very fabric of its distinct way of life is being eroded with the coast at great intangible cost to the nation and the world.

Coast 2050: A Vision of the Future

Louisiana began work in earnest to restore its coast in 1989 with the passage of Act 6 and continued its work in 1990 with passage of the Breaux Act or CWPPRA (Coastal Wetlands Planning, Protection, and Restoration Act). Since then, more than 80 restoration projects are presently underway or already completed. We have gained the technical know-how, and, by working with our federal partners, we are cementing long-term partnerships as we build projects together.

During the past 18 months, the Coast 2050 Plan was developed in partnership with the public. It is a technically sound strategic plan to sustain Louisiana's coastal resources and to provide an integrated multiple-use approach to ecosystem management.

Coast 2050 has received unanimous approval from all 20 Louisiana coastal parishes, the federal Breaux Act Task Force, the State Wetlands Authority, and various environmental organizations, including the Coalition to Save Coastal Louisiana. This approval is unprecedented.

The main strategies of the plan are watershed structural repair, such as restoration of ridges and barrier islands, and watershed management, such as river diversions and improved drainage. In making recommendations, the process did not view the number of coastal wetlands acres saved as the only priority, but considered other resources as well, such as roads, levees, fish and wildlife resources, and public safety and navigation, in making recommendations.

The Breaux Act (CWPPRA) Task Force, the State Wetlands Authority and the Department of Natural Resources Coastal Zone Management Authority will establish it as a unifying strategic plan of action. It will become the CWPPRA restoration plan and Louisiana's overall strategic coastal plan. Proposed projects will be measured against the strategies in the Coast 2050 Plan before being approved.

In one way or another, everyone in the nation will feel the enormous loss of land along Louisiana's coast and current restoration efforts will only prevent 22% of the land loss projected to occur within the next 50 years. However, we know that a comprehensive restoration program using the Coast 2050 Plan as a guide, could restore and maintain more than 90% of our coastal land existing today.

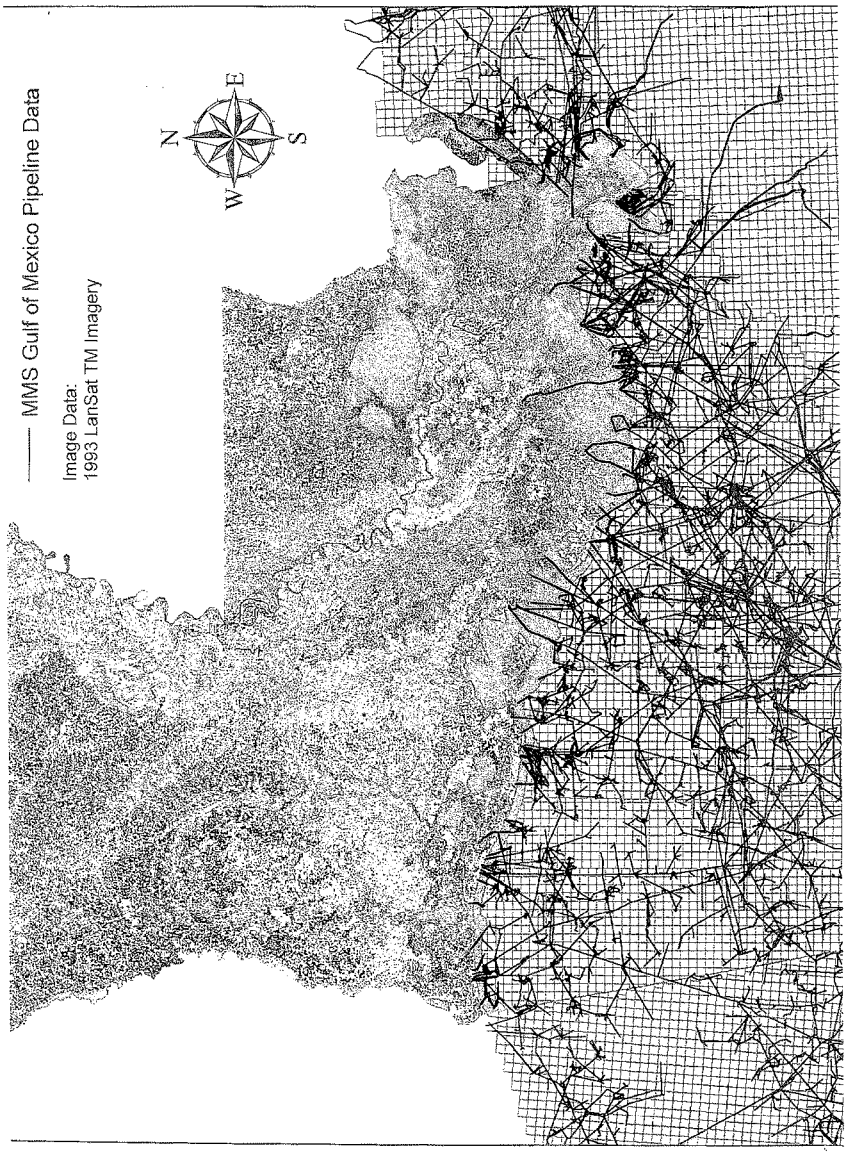
The price tag is between $16 billion and $20 billion to construct more than 500 projects that would be needed, but the price of infrastructure alone that would be lost is more than $150 billion.

For more than 50 years, Louisiana has shouldered the environmental and infrastructure impacts of supporting the OCS oil and gas industry. In 1997, royalties paid to the federal government from OCS revenues off the coast of Louisiana totaled $2.9 billion. Louisiana realized only a fraction in direct financial benefit, while losing another 35 square miles of its coast. If Louisiana receives its fair share of OCS revenues, we will be well on the way to restoring our coastline, justifying the $14 billion investment.

CARA makes good sense. Investing income from a non-renewable capital asset into renewable resources that will provide economic stability and health to an entire region and the nation for decades to come, is good business. Louisiana and America cannot afford to wait.

Some of the information in this testimony was taken from: the preliminary final draft of Coast 2050: Toward A Sustainable Coastal Louisiana, the final draft of No Time to Lose, a report by the Coalition to Restore Coastal Louisiana, and reports written by Dr. Donald W. Davis, Administrator, Louisiana Applied Oil Spill Research and Development Program.

[Attachments to Mr. Caldwell's statement follow:]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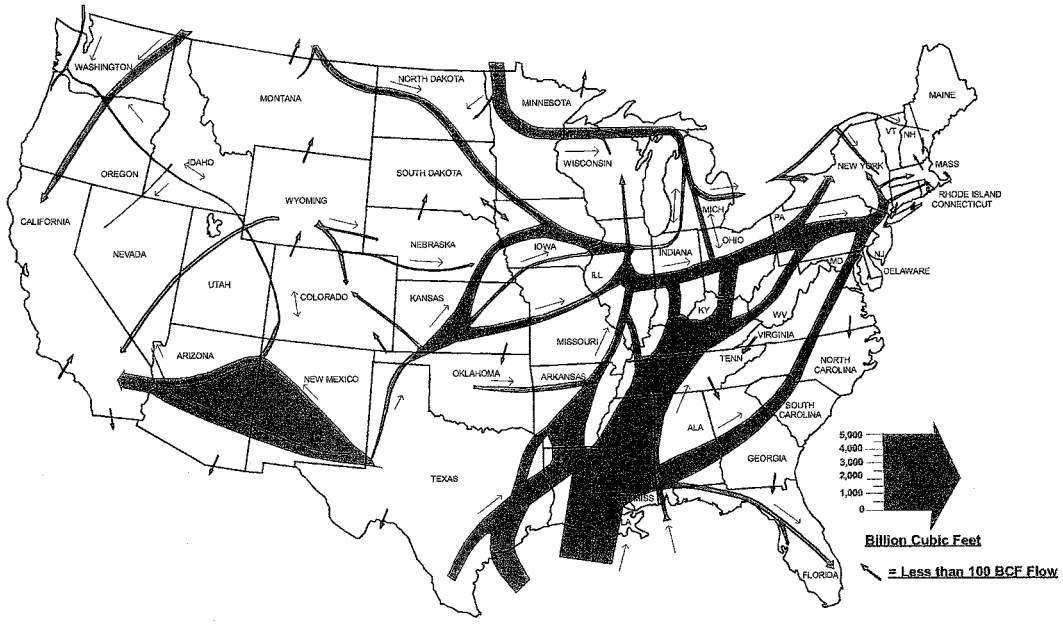
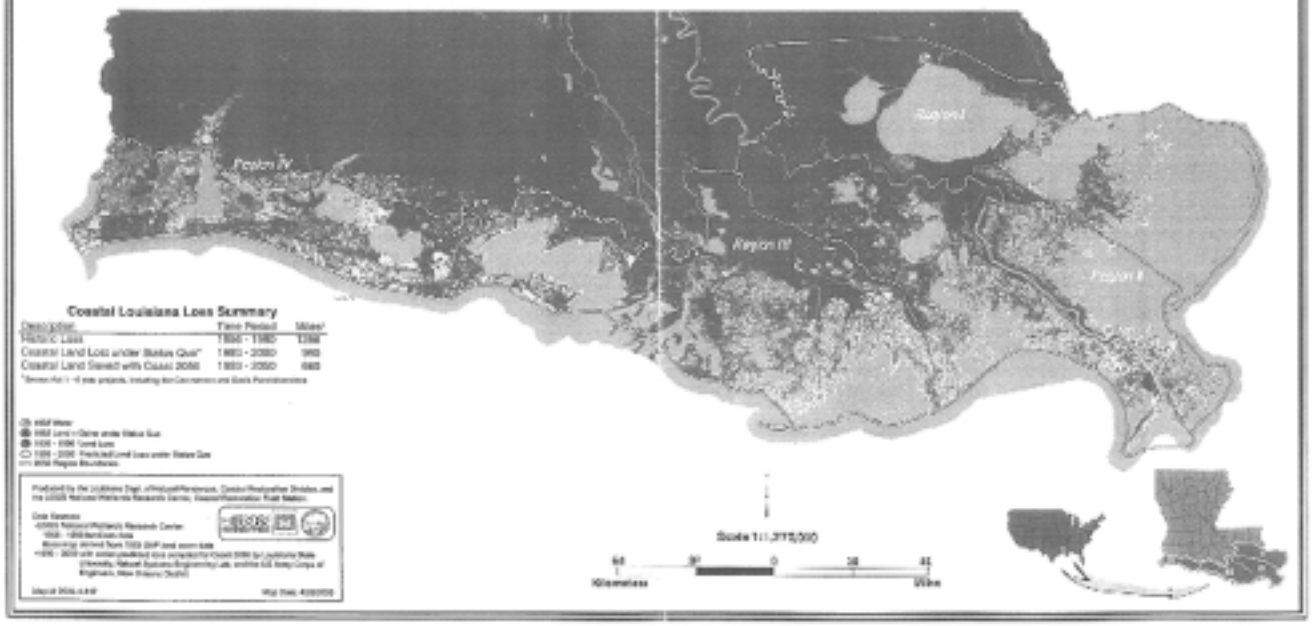


Energy Information Administration / Natural Gas Annual 1999

Coastal Louisiana
Existing and Predicted Land Loss Trends
1956 - 2050



The CHAIRMAN. Thank you very much for your testimony.

Mrs. Renee Daniels-Mantle is our next witness.

STATEMENT OF RENEE DANIELS-MANTLE, THE MANTLE RANCH, PAVILLION, WYOMING

Mrs. DANIELS-MANTLE. Thank you, Chairman Hansen, for the opportunity to testify.

My name is Renee Daniels-Mantle. I am not a policy expert on the different land acquisition proposals today, but I can tell you the implications that they have for my family and others like us based on the dealings we have had with the Federal Government and the land acquisition in our area.

My family has raised cattle for over a century. In 1919, my husband's grandfather, Charley Mantle, homesteaded the Mantle Ranch in Hell's Canyon, along the Yampa River in northwestern Colorado. The Mantles are as much a part of the cultural identity of the area as the humans who have lived there for over 8,000 years.

Miles away, Dinosaur National Monument was declared by President Wilson near the town of Jensen, Utah. The original monument was only 80 acres.

In 1938, President Roosevelt expanded Dinosaur by over 200,000 acres, and it encompassed the Mantle homestead. Twenty-two years later, it was expanded again, a small expansion, to include the rest of the Mantle Ranch. The red dots on that map are private property.

Today, the Mantle Ranch is the only occupied private ranch remaining inside the monument. It consists of about 1,800 acres in four parcels, two of which are completely surrounded by Federal property and two of which border it.

In addition to these base lands, we also maintain a large grazing allotment in and around the monument. The ranch is located in one of the most remote areas of the country. There is still no electricity, no running water, no phone, and no mail.

I want to stress that the Mantle Ranch is still a working cattle operation within the borders of a national monument. And though the natural challenges of this county and the ranching industry in general are difficult, they are minor in comparison to those coming from the Park Service.

The land acquisition objective for Dinosaur National Monument is to acquire private and state in-holdings. First priority for purchase will be those lands where incompatible uses are taking place. Incompatible uses are described as grazing, development of roads and structures, et cetera.

Based in part on these guidelines, there has been an aggressive and relentless effort by the Park Service over the years to make the Mantle property available for acquisition. The Park Service has attempted this in two ways. The first was once described by a Federal Judge as regulatory whittling. And the second, a far worse fate, is condemnation.

Evidence of this is overwhelming, beginning with the 1964 letter in which we first see that the Park Service intended to use our property for major road and construction projects with recommendations to acquire the property by condemnation.

I also wish to note the phrase in recommendation two of this document, which says, when land acquisition funds become available. It is my understanding that in land acquisition, it is the availability of Federal dollars for a condemnation proceeding that determines how deliberately a Federal agency acts.

I have provided several more examples of condemnation threats in Park Service policy toward grazing, but the park's current management plan sums it best by stating: If any nonfederal property is subjected to incompatible use, necessary actions would be taken to protect park resources. This could include the use of condemnation. Incompatible uses still include grazing, irrigation of a meadow or pasture, building stock ponds, barns, and storage buildings.

Remember, we are a ranch and these regulations apply to our private property.

As recently as this February, we received a letter outlining our options to sell the ranch, should we ever want to, including condemnation.

This says nothing of the blatant harassment by the Park Service, all to acquire our land by creating a situation that prohibits grazing and renders our property worthless to us.

In a nutshell, ranching or any use as far as I can tell is not a compatible use, and as soon as the park is able or has the funds, they will use their regulations to put us out of business or condemn our property.

Congress is currently considering many proposals that deal with land acquisition. It is my understanding that the House Appropriations Subcommittee has allocated $390 million dollars toward Federal land purchases out of the Land and Water Conservation Fund, or LWCF, for 2002.

Last year, the LWCF was funded at a record $544 million. Without adequate private property protections on the LWCF, my family and others like us across the country fear it will become the instrument by which the government forcibly removes us from our homes.

Two proposals in Congress attempt to add property rights. The Conservation and Reinvestment Act makes a good start at addressing the potential abuses that can occur. However, CARA does not prohibit condemnation. And because it transforms the LWCF into a mandatory trust fund, what little protections it does have are just decorative.

By contrast, Congressman Thornberry's proposal, H.R. 1592, would add meaningful private property protections to the LWCF. His bill requires the consideration of land exchanges, easements, and other options before acquisition is made. His bill reasserts the provision in CARA that requires an area be notified when an acquisition is under consideration. His bill takes an aggressive step in blocking the application of Federal regulations to private property if that property is inside or adjoining land purchased with money from the LWCF. The right of the landowner to use and enjoy his or her property would not be diminished.

I guarantee, had this provision been placed upon the funds that created Dinosaur, the problems the Mantles have encountered would have never existed.

Most importantly, however, H.R. 1592 prohibits acquisition by condemnation. It offers the protection that families like mine need. It would take away the incentive for harassment by the Park Service seeking to make us willing sellers, and it would finally eliminate the threat of condemnation that has hung over our ranch for 40 years.

Thank you, Mr. Chairman.

[The prepared statement of Mrs. Daniels-Mantle follows:]

Statement of Renee Daniels–Mantle, Rancher, Dinosaur, Colorado

Thank you, Chairman Hansen, Ranking Member Rahall, distinguished members of the House Resource Committee, for the opportunity to tell you a little bit about what life is like today in rural Western America and to provide testimony on some land acquisition proposals currently being considered by Congress.

My name is Renee Daniels–Mantle. My family has raised cattle for over a century. In 1919, my husband's grandfather, Charley Mantle, homesteaded the Mantle Ranch in Hell's Canyon, along the Yampa River in northwestern Colorado.

Miles away, and four years earlier, Dinosaur National Monument was declared by President Wilson near the town of Jensen, Utah. The original monument was only 80 acres. In 1938, President Roosevelt expanded Dinosaur by over 200,000 acres, encompassing the Mantle homestead. Twenty-two years later, legislation authorized another small expansion and gave it its present-day borders, including the rest of the Mantle Ranch. (Attachment 1)

Today, the Mantle Ranch is the only occupied private ranch remaining inside the monument. It consists of 1800 acres in four parcels, two of which are completely surrounded by federal property and two of which border it (Exhibit). In addition to these base lands, the law of 1960 grand fathered a large grazing allotment that the Mantle family had already maintained when the land was under the control of the BLM. This allotment is committed to the Mantles in perpetuity, and it is transferable with the private base property.

The ranch is located in one of the most remote areas of the country. Today, it is still a perfectly preserved pristine snapshot of the early pioneer days. There is still no electricity, no running water, no phone, and no mail.

I want to stress that the Mantle Ranch is still a working cattle operation within the borders of Dinosaur National Monument. Four generations have raised cattle on this ranch. The men and women of this ranch were born on it and buried on it. In addition to our cattle operation, we have recently obtained an Incidental Business Permit to begin showcasing it to guests. We conduct weeklong horseback excursions through the ranch, working cattle and riding some of the roughest terrain in Colorado.

Not only does the ranch possess incredible beauty, it boasts one of the largest collects of privately owned petroglyphs in the United States. Some of these are at least 4,000 years old. The Mantles have fiercely protected these artifacts, yet we enthusiastically display them to our guests. We are fond of saying in our family that if we do not share our ranch with people, then we probably don't deserve our ranch.

Though the natural challenges of this country and the ranching industry are difficult, they are minor in comparison to those coming from the Park Service.

As stated in their Land Acquisition Plan, the acquisition objective for Dinosaur National Monument is to "acquire private and state inholdings as they become available. First priority for purchase will be those lands where incompatible uses are taking place." Incompatible uses are described as "...grazing, development of roads and structures, etc."

Based in part on these guidelines, there has been an aggressive and relentless effort by the Park Service over the years to make the Mantle property available for acquisition. The Park Service has attempted this in two ways; the first was once described by a federal Judge as "regulatory whittling" (Attachment 2). The second, a far worse fate, is condemnation.

Evidence of this is overwhelming, but I will provide only a few examples.

First, a letter dated November 25, 1964 hung the cloud of condemnation over the Mantle Ranch (Attachment 3). In this document, we see that the Park Service intended to use the property for "major road and construction projects" with recommendations to "acquire [the property] by condemnation." I also wish to note the phrase in recommendation two of this document: "when land acquisition funds become available." It is my understanding that in land acquisition, it is the avail-

ability of federal dollars for a condemnation proceeding that determines how deliberately a federal agency acts.

In 1979, the Mantle Ranch's fully lawful grazing allotment is next targeted in the same Land Acquisition Plan mentioned earlier (Attachment 4). Although considerable text is spent describing how condemnation will only be used as a "last resort" in the event there is an incompatible use, a sentence near the end of the document says this is about easement acquisition, "scenic easement acquisition is not practical for this area because it will not eliminate grazing use, which is one of Dinosaur National Monuments objectives." A letter fifteen years later from the Park Service (Attachment 5) clarifies their position on grazing by stating "In general, grazing is regarded as an incompatible use of National Park System areas."

The current Management Plan (Attachment 6) states—if any nonfederal property is subjected to incompatible use, necessary actions would be taken to protect park resources. This could include the use of condemnation." Incompatible uses include; "new agricultural uses, including grazing or the cultivation or irrigation of a meadow or pasture, new major agricultural support structures...including stock ponds, barns, and storage buildings." Remember...we are a ranch and this applies to our private property.

Finally, the current Superintendent, Dennis Ditmanson, wrote the most recent threat in a 40-year series, on February 5, 2001. I might mention that Mr. Ditmanson has actually been a remarkable Superintendent. Mr. Ditmanson wrote an objective, sensible letter outlining the options for sale of our ranch, should the day ever come when the Mantles sell their land.

Yet, as this letter shows, Option 1 for a Mantle land purchase by the agency is a condemnation proceeding. Although this letter is not nearly as alarming as the one from 1964, my family is alarmed that condemnation proceedings are described here as presenting an "advantage" to the family on the point of agreeing to a price. Furthermore, the letter clearly informs us that "If the NPS elects to condemn the property, either with or without [our] concurrence, the Mantle family does not have the option of withdrawing" (Attachment 7).

It seems to me that if the Mantles are willing sellers, a fair price will be arrived at. The federal government does not need the power to acquire land for conservation purposes until the owner is ready.

I have many more examples that display intentions to acquire the property by making us "willing sellers". This says nothing of the blatant harassment, constant surveillance, private property destruction, and trespassing on the part of the NPS. All to acquire our land by creating a situation that prohibits our grazing and renders our property worthless to us. In a nutshell, ranching is not a compatible use and as soon as the Park is able or has the funds, they will use their regulations to put us out of business or condemn our property.

Congress is currently considering many proposals that deal with land acquisition. It is my understanding that the House Appropriations Subcommittee has allocated $390 million dollars toward federal land purchases out of the Land and Water Conservation Fund, or LWCF, for 2002. Last year, this entire account was funded at a record $544 million. Without adequate private property protections on the LWCF, my family and others like us across the country, fear it will become the instrument by which the government forcibly removes us from our homes.

Two proposals in Congress attempt to add property rights protections to the LWCF. The Conservation and Reinvestment Act, or CARA, does make a good start at addressing the potential abuses that can occur when federal land acquisitions are made. However, CARA does not prohibit condemnation, and because it transforms the LWCF into a mandatory trust fund, what little protections it does have are just decorative.

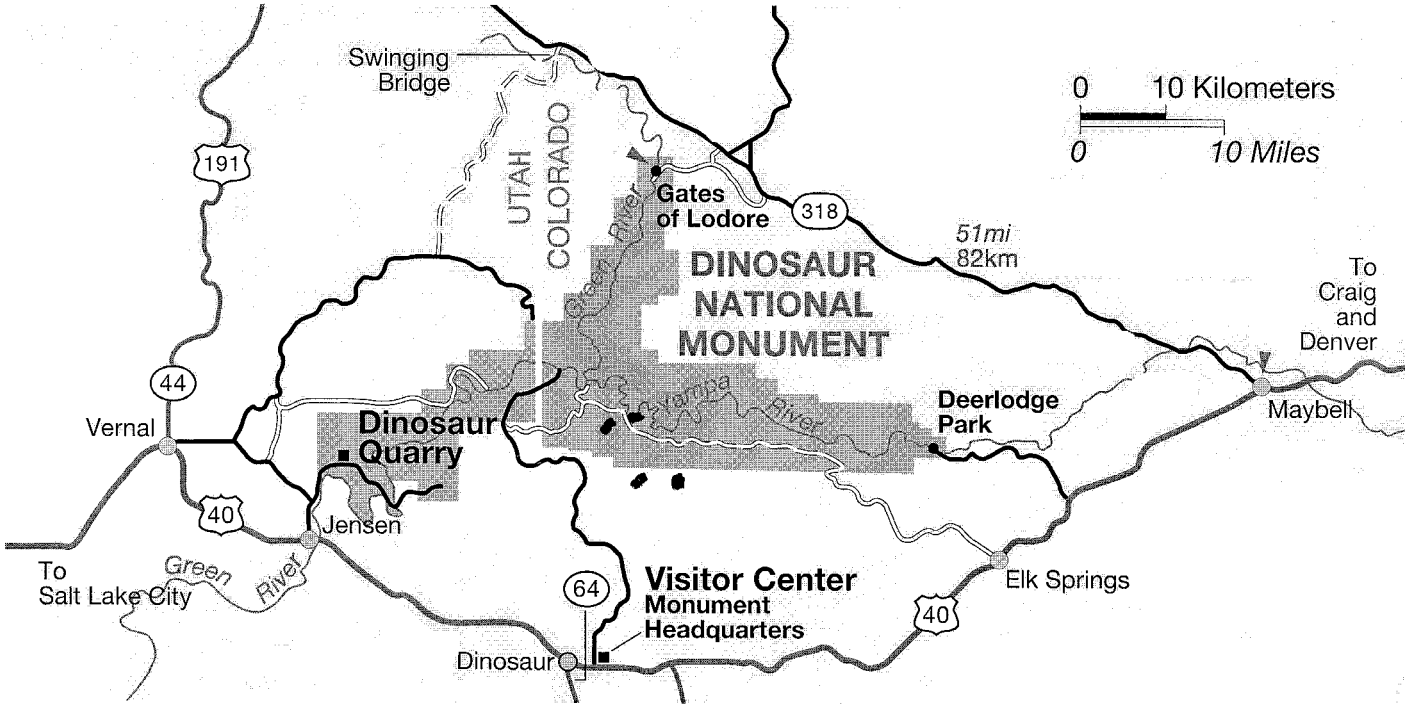
By contrast, Congressman Thornberry's proposal, H.R. 1592, would add much more meaningful private property protections to the LWCF. His bill requires the consideration of land exchanges, easements and other options before acquisition is made. His bill reasserts the provision in CARA that requires an area be notified when an acquisition is under consideration. His bill takes an aggressive step in blocking the application of federal regulations to private property if that property is inside or adjoining land purchased with money from the LWCF—the right of the landowner to use and enjoy his or her property would not be diminished. I guarantee, had this provision been placed upon the funds that created Dinosaur, the problems the Mantles have encountered would have never existed. Most importantly, however, H.R. 1592 prohibits acquisition by condemnation. The federal government and its employees would be kept honest in dealing with a willing seller, and even a state would not be able to use federal money for a condemnation proceeding.

H.R. 1592 offers the protection that families like mine need. It would help us in many ways. It would take away the incentive for harassment by the Park Service seeking to make us willing sellers. It would finally eliminate the cloud of condemnation that has hung over our ranch for 40 years.

Thank you again Mr. Chairman, for allowing me to testify. I would be happy to answer any questions you or any other members of the committee may have.

[An attachment to the statement of Ms. Daniels-Mantle follows:]

Mantle Exhibit



The CHAIRMAN. I thank you for that testimony.

We are pleased to be joined by Chairman Don Young, past Chairman of this Committee and Chairman of the Transportation Committee and also the chief sponsor of this interesting piece of legislation.

I turn to Mr. Young for any statement he may have at this point.

Mr. YOUNG. I apologize to the Chairman and of course to the panel itself.

Mr. Chairman, I thank you for holding this hearing. We have had 88 witnesses before. We have had numerous hearings all across the country. I have said all along that this is good legislation.

We have 218 cosponsors today. I'll have 300 before it gets to the floor.

I will tell you what concerns me the most, Mr. Chairman, and I would like to revise and extend my remarks, is a lot of people were caught into the CARA Lite.

And for those that oppose my legislation, there was more money spent last year in the purchasing of land without any safeguards. Under my legislation, there are safeguards, to the persons, the private property owners.

And if you do not read the legislation, again, to those on this Committee that oppose it, I suggest you read the legislation, tell me where it is worse and, in fact, if it is not better than existing law.

And as you know, the appropriators last year did appropriate a considerable amount of money, and we had what we call CARA Lite.

This bill goes into setting the legacy and allowing the states and allowing individuals to have some say in the purchasing of land. It also and in fact fully funds the Payment In-Lieu of Taxes. It takes care of the historic preservation. It does fund the Land and Water Conservation fully. And as I mentioned last year, Mr. Chairman, it passed 315-102.

As it got into the Senate, there was a great deal, again, of effort to take and try to demonize this legislation. And I worked with everybody, I believe, on both sides of the aisle, trying to arrive at a position that keeps, I believe, private property protected, but more than that, recognizes the importance of open spaces for people to have hunting and fishing, wildlife rehabilitation, which is crucially important.

If somebody can come up with a better concept, then I am willing to listen to that. But until they do, I am going to be pushing this legislation, H.R. 701, as hard as I possibly can.

I do thank you, Mr. Chairman, for doing this. It is extremely important to me that this legislation comes to the floor of the House. I believe it will come to the floor of the House. And I believe when it does, we will have as many votes as we did last year and maybe more.

And so, again, thank you, Mr. Chairman, for your stalwart work on this. And, again, I thank you because I am the primary sponsor of this legislation. And I yield back the balance of my time.

The CHAIRMAN. I thank the gentleman.

I think the Chairman just hit it on the head. People have to say, is this legislation better than what we currently have? And I think you will come down on the side that this is better legislation.

I was going to turn to Mr. Duncan, but he just walked out.

But I would just like to ask a question, very briefly, of our last witness.

It concerns me, your comment regarding the possibility that your ranch may be taken by eminent domain. This legislation basically requires willing sellers or an Act of Congress.

The latter would seem very improbable to me. And I would seriously doubt if that would happen.

But you may want to review this legislation and check that out yourself, because I really think you are pretty well covered under this legislation. But if you have any problems, would you get with us and tell us what you are upset about, because I think this answers that question?

Mr. Cannon?

I will recognize my colleagues for 5 minutes.

Mr. CANNON. Thank you, Mr. Chairman.

I would just like to ask a couple of questions of Mr. Johnson, and then that is all I will have.

First of all, you mentioned in your testimony that rural communities face many difficult problems in maintaining economic viability. Can you tell us some the specific problems you have had in Emery County? And also, elaborate perhaps a little bit on the recreational opportunities on the Federal lands within your county.

The CHAIRMAN. Grab the mike, would you, Mr. Johnson? Thank you.

Mr. JOHNSON. I keep forgetting I need a microphone here.

In terms of economic viability, there are many public land policies that impact rural counties. And I will go into some of those.

But I think that, largely, there are many out there who believe that small communities, such as those in Emery County—we have no large towns but eight small communities. And small communities are essentially expendable for the sake of the environment. And I believe that that is improper thinking.

I believe one of the greatest treasures of this nation are the small communities of the rural West. And it is a heritage that we ought to actually be working very hard to preserve.

And in fact, some of the policies on environment of past administrations and some of the interest groups that work on the environment and their ever-expanding efforts to have wilderness, for example, wherever they can get it, to not have any extraction of minerals on any public lands, and those kinds of policies make it very difficult for some of the rural communities to make a living.

Emery County is an energy-producing county. We have power plants in Emery County that produce almost all of the electricity for the State of Utah and allow other producers in the State of Utah to sell power outside on that grid.

We produce most of our own coal in Emery County.

And so, as you can see, current proposals for half of the county to be put into wilderness would make it very difficult for us to continue to do business as we have done historically.

And this is even more true of some of the other smaller counties, such as Kane and Garfield, who are impacted by the monument that was created that closed off the Kaiparowits Plateau to any kind of future coal mining, where 6 billion tons of very clean-burning coal was simply locked away.

So there are many, many ways that we are impacted economically. And ironically, in a recent poll, 75 percent of the people of Utah said that they did not believe that we needed to sacrifice the economy for the environment or the environment for the economy, but that we could achieve balance.

And I believe that that is the approach that we ought to be taking on these issues and that we should shy away from all-or-nothing approaches to public lands management.

And I forgot the second half of your question, sir.

Mr. CANNON. Recreational opportunities.

Mr. JOHNSON. Just about anything you can name, in Emery County. We currently have legislation that we are hoping to push this year for the San Rafael Swell national conservation area western legacy district that sets aside a million acres of the San Rafael Swell in special protection.

But as part of that plan would be a travel plan that designates where people can use roads with mechanized, such as bicycles, where they can use off-road vehicles, where can they hike, where they walk, where they can ride horses.

Emery County has everything from fishing to boating to Alpine meadows to hunting to red rock opportunities. Whatever there is on public lands, we have that kind of recreation in Emery County.

Mr. CANNON. Thank you very much, Mr. Chairman. I yield back.

The CHAIRMAN. Thank you.

Did I hear you correctly, Commissioner, you said that 80 percent of your county is owned by the Federal Government?

Mr. JOHNSON. Yes, sir. A little over 80 percent. I believe it is 81 percent.

The CHAIRMAN. And how much is owned by the State?

Mr. JOHNSON. Somewhere around 10 percent.

The CHAIRMAN. Don't have a much of a tax base, do you?

Mr. JOHNSON. We do not.

And we have another interesting problem, if I may just say so, and that is that 75 percent of our tax base is from centrally assessed properties, such as PacificCorp, Scottish Power that owns the power plants. And over the last 5 or 6 years, they have appealed their tax base and have been having their tax base go down an average of 5 to 7 percent a year, which means that with them as a 75 percent taxpayer, and their tax base going down significantly every year, our local homeowners our increasingly having to bear the burden of taxes in Emery County.

The CHAIRMAN. You alluded to the San Rafael Swell bill. Are you going to push that this year?

Mr. JOHNSON. Yes, sir.

The CHAIRMAN. Well, I won't get into the strategic maneuvers here—

[Laughter.]

—but I would kind of be curious to hear from you.

The gentlelady from Wyoming.

Mrs. CUBIN. Thank you, Mr. Chairman.

I just want to make a brief statement. I have worked with Chairman Young and Chairman Hansen ever since I have been in Congress and agree with them about 99 percent of the time.

There are a few little—there are few things in the CARA bill that I don't disagree with—or, actually, there are a lot of things I don't disagree with, but there are a few that I do.

And I think one reason the CARA bill is so popular by so many groups is that it does a little bit of something for everybody. It protects property rights, which is better than the status quo; not as good as Thornberry's bill, but better than the status quo.

It takes care of the problems that Alaska and Louisiana have with their coasts. That should absolutely be done.

Somebody needs to remind me why states that don't allow drilling off the coast, like California, would get hundreds of millions of dollars from this. I don't exactly understand that, when Louisiana and Alaska have specific things that they could put the money to, that could be funded.

And we wouldn't be talking about spending a billion dollars a year. It isn't new money.

So in Wyoming, we get about $10 million a year out of this. We will be getting that.

So since it is not new money, I need to write to my governor and I need to say, "Okay, Governor, where do you want me to cut $11 million out of Federal funds?" And that is not going to be a pleasant thing.

And I think that is one aspect that people both in Congress and out in the public haven't come to realize, that it isn't free. There is a cost. Now where do you want me to cut?

I have worked every year since I have been here to get PILT fully funded. And then I fight with the appropriators to get as much as possible. Fortunately, every year since I have been here and Mr. Young was the Chairman, we have been able to get more for PILT, which we all know the counties need desperately.

And the last point I want to make is what it says in the bill. And, you know, I see the light on the train coming down the track; this is going to happen. And I have never, ever seen a bill where the sponsors worked harder to address the concerns of everyone and where a bill was brought together with all the best motives in the world to try to get the best bill we could. I still stand by the other criticisms I have.

But willing seller, willing buyer, that is in the bill and that is great, because it is better than what we have.

But I know in my district sometimes how the Federal Government makes the seller willing, and that is, they don't let them use one square inch beyond their own private property rights for grazing. They make it impossible for them to use their own private property because it is surrounded by Federal lands. Through different regulation requirements, they make it financially impossible.

And that is how people become willing sellers, because their land is valueless when they aren't allowed to use the surrounding land as well.

But I do appreciate the Chairman's good intentions and hope that we will be able to get more of the Thornberry bill in this.

Thank you.

The CHAIRMAN. I thank the gentlelady.

The gentleman from Texas, Mr. Thornberry.

Mr. THORNBERRY. Thank you, Mr. Chairman.

And I appreciate the testimony of all the witnesses. I think we are continuing to get a feel for the allure that having billions of new dollars to spend for many worthwhile purposes has for folks at all different levels of government. I just think that we have to be very careful not to let our passionate enthusiasm for spending all this money overwhelm fundamental property rights, which are so important.

Ms. Mantle, from your testimony and the documents you provided, the Park Service, it sounds like, has held the threat of condemnation over your family since at least 1964. And you have this letter from just a few months ago, from 2001, where the Park Service again reiterates the possibility that they could condemn the property with or without your approval.

One of the answers to the Chairman's question is that CARA, as is currently written, does not prohibit that kind of what they call friendly condemnation.

But getting back to the point that Mrs. Cubin was making, how does that become friendly? How do you have a willing seller? I think that is something that we have to be concerned about. And I think it would be helpful if you would describe for the Committee some of the things that have happened in the relationship between you and the Park Service, where they have done something to affect the value of the land, for example, with the springs, and the kinds of tactics they have used with your family to try to encourage you to become a willing seller or to participate in friendly condemnation.

Mrs. DANIELS-MANTLE. I think the focus of the Park Service is to find an incompatible use that they can paste for us. So there have been many instance, I think, in their search for incompatible uses where they have used tactics that wouldn't necessarily be good.

For instance, in the mid-1980's, they brought in, after grazing season, after our cattle were pulled off, they brought in a couple horse trailers full of antelope and put them out on the range where they watered on Mantle property. And then they did their range study.

They, in essence, weighted our grazing land with wildlife and then did a research study to show that our property was overgrazed, including our private property, to show over-grazing as an incompatible use.

We are also subjected constantly to surveillance by helicopters, by foot traffic, by vehicles. In fact, I have another document called the Mantle log; they actually keep a Mantle log, where they chronicle what we do on a daily basis, trying to find an incompatible use.

One of the quotes is, as they are looking out over—they have the round-top observatory up on top of the mountain—and as they are looking out over our private property, the note says: No new bulldozers. No new gas stations. No new brothels on Mantle property. We will see tomorrow.

Things like that, which show that they are constantly looking for an incompatible use. And grazing is not a compatible use for them; I don't think any part of ranching is.

Mr. THORNBERRY. Well, let me ask this, and I guess this is kind of a common-sense question, but do these tactics that have been used against your family play a role in whether your family decides to continue to operate the ranch? Aren't you tempted to throw up your hands and say, "Let them have it. Let's go do something else."

Mrs. DANIELS-MANTLE. Yes, sir. Well, I don't know that we know how to do anything else, but when it becomes financially burdensome to us just to maintain—ranching doesn't make a lot of money anyway. We know that. But when it becomes financially burdensome just to maintain those regulations that are inflicted upon us by the Park Service, it makes ranching even less economically stable.

So, it is hard to run cattle in that kind of country anyway. But when you are coming up against those regulations that go beyond what you would come up against in normal private property situations, it is certainly—it is not a money-making proposition for a rancher.

Mr. THORNBERRY. Thank you.

Mr. Chairman, I would just add one final point, and that is, my understanding under CARA as is drafted currently that the willing seller provision does not apply to those funds which the Federal Government supplies to the states; therefore, there are not those kinds of protections against condemnation with those funds.

Something else, I think there are some improvements we can make here, and hopefully we can do so.

Thank you.

Mr. YOUNG. Mr. Chairman?

The CHAIRMAN. The gentleman from Alaska.

Mr. YOUNG. I would just like to ask Mr. Caldwell if he would like to comment on the property rights provision, because I want the gentleman from Texas to understand what he is dealing with right now. What the young lady has been saying is under present law. And it is the action of the Park Service, which I happen to agree with you 100 percent.

If anybody should be chastised in the last 8 years, and even before then, the conduct which they—launched a campaign against getting land is—you are absolutely correct.

What I try to do in this bill is to make sure that does not happen.

And I will tell you, on the Federal level, it cannot happen. And it is a whole, long—and that is, by the way, many of the environmental groups did not support this legislation because it does make them be responsible.

And I have great sympathy of what they have done to the young lady down here. And it has happened all around this country. And it is the government attitude.

But, Mr. Caldwell, I started to ask you, can you comment on that, please?

Mr. CALDWELL. Yes, sir, Mr. Young. I would be delighted to.

You and Mr. Tauzin are known throughout the United States as being some of the strongest property rights advocates in the Con-

gress, without any question. And we know that you and Mr. Tauzin particularly negotiated at length with the other members of this Committee to get a balanced property right that they could vote for but that provided strong protections that are not in the present law and could probably never get into present law in any other way except being combined in the CARA bill. That is the meat of the coconut.

We can all sit here and blow in the wind about what we would like to do, but you have been in the trenches on this issue as a property rights advocate, a very effective one, an expert on the subject matter.

And it is my understanding—I am not an expert on property rights. But from reading the act, it would be my assessment that as a practical matter, it is going to be extremely difficult for the Federal Government to acquire land in a state over that state's objections.

There are enough roadblocks thrown up to acquisitions that it will tremendously reduce the amount of Federal lands acquired in states that don't want it.

See, some states are fine with having acquisitions under the Federal part of Land and Water. But when you combine that with the PILT provision, which is part of this property rights tradeoff, is the PILT provisions, I think that particularly the westerners who oppose Federal land acquisitions should find the CARA bill a tremendous advance and far beyond what they can get through any other legislation than the CARA bill, which has a lot of people under the tent, as Mr. Thornberry pointed out. Everybody gets not just a little bit, but quite a bit of what they want.

Mr. YOUNG. Thank you.

The CHAIRMAN. The gentleman from Nevada, Mr. Gibbons.

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

And as I have read this bill and looked through it, there indeed are some provisions in here which are far better than existing rights and preservation of rights in the current existing law.

My concern is that we may be just a day late and a dollar late with some of these things. And we go back to what my good friend and colleague from Wyoming said, and as well my friend from Texas, about willing sellers.

The concept of a willing seller of course assumes that the current value of the property is one which the historic and current economic uses are taken into consideration.

Over the last several years, I would say that Ms. Mantle has had the economic uses of her ranch restricted. And, therefore, the current appraised value, which would be included in the assessment of what she would be a willing seller for and the government's valuation of that property would be much less than historic value of that ranch with its grazing rights on public land, which happens around the West.

And this has happened in Nevada, it happens continually, where willing sellers are extorted into selling their land.

I come from the State of Nevada, which we don't talk about public land in terms of millions of acres. We talk about public lands in the tens of thousands of square miles. The state I represent has 89 percent public land.

PILT, which if I may address that issue, Mr. Chairman, was a promise by this government to fully fund the difference between what the property taxes would be if they were in private hands versus what they would be if they were paid for at the lowest base, as we heard Mr. Johnson talk about, the lowest appraised value.

Well, that promise, that law, has never been complied with by our Federal Government. What makes us all believe that saying fully funding PILT today will be the answer to those woes?

The State of Nevada, if you take 90 percent of 112,000 square miles as public land receives a fraction of a percentage point for the valuation of that land in terms of taxes. It is an easy state to walk into and say, "We want to acquire the remaining private property in that state and turn it over to the public," because it is surrounded by other public lands. It is an in-holding.

The State of Nevada is literally an in-holding on all private lands.

My idea here is that if there is a willing seller concept, then historic and normal uses, and historic economic uses, have to be considered, not current, existing valuations based on removal of the grazing rights, removal of the access rights, removal of personal uses of private property, as is the current concept today. There ought to be some provision by which the Federal Government is held accountable for extortionary practices in driving property owners into the maze of saying that their land has to be sold if they are going to survive.

It is vastly different to graze cattle in the West than it is in the South or as it is in the East. In the East, you could probably graze 17 to 20 cows on one acre of ground, based on the rainfall and the grass conditions. In the West, it probably takes 25 to 30 acres to graze one cow, which is vastly different. And that is the reason why we have grazing rights on large areas.

Secondly, let me address the idea that grazing is incompatible. Today we are burning 20,000 acres of forest outside of Reno, Nevada. Over 3 days, it has gone over 20,000 acres, because it has not been allowed to manage that forest either through reduction of the fuel loads, which has been normal, with grazing or mechanical means, to reduce the fuel load underneath the forest on the floor. And that, again, is a compatible—or, now, an incompatible use of our forest and now we are just seeing it burn up.

I am frustrated like the rest of us with this issue. Yes, indeed, this bill has some wonderful protections. But I think there are some historical issues that need to be addressed as well.

I have one final issue here in the remaining time, it is the water law. Seventeen western states have prior appropriation. Any time you give the Federal Government the ability to acquire water rights, they have the ability to have Federal law supersede state law. That would destroy many of our states' prior appropriation water law.

And even though this says it shall not interfere with state laws, I am concerned, Mr. Chairman, that our prior appropriation water law will be destroyed if we allow the Federal Government to own such laws in our states. And, therefore, I still have several reservations and concerns about this law.

I thank you, Mr. Chairman, and sorry I didn't ask a question but got on my soapbox. Thank you.

The CHAIRMAN. I thank the gentleman from Nevada.

The gentleman from Idaho, Mr. Otter.

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

I would like to begin by associating myself with the remarks from my colleague from Nevada. Being from Idaho where 65 percent of the land mass of the state, roughly 21.5 million acres of U.S. Forests and 14.5 million acres BLM, we are also surrounded, inundated.

And between the Endangered Species Act, the roadless area, various and sundry national monuments now, we have counties in the north of Idaho that even the courthouse is off-limits because it is infringing upon the territory for the grizzly bear, the caribou, the sturgeon, the bull trout, the salmon. The list goes on and on.

And yet, I know how well-intended H.R. 701 is. And I applaud the efforts, and especially the safeguards that at least are sensitive to the private property issue. In fact, I am so sensitive to that that I am cosponsor of the gentleman from Texas's Constitutional Land Acquisition Act.

But I, along with many westerners, are extremely suspicious of any time you give the government or an agency of the government—now, everyone one of us sitting in this body would not go onto private property and would not infiltrate the life and the style and the value system of you, Ms. Mantle, or any of your family.

Yet, when you have an unelected bureaucrat that is answerable to nobody, they are suddenly the vigilante that speaks for everybody. I have seen it as lieutenant governor the State of Idaho.

And I apologize to my colleagues on this Committee because they have heard this speech so many times.

But for 14 years I have watched as some Federal agent, who is answerable to nobody, march into the state with all manner of intent on harassing and, quite frankly, eating out the substance of Idahoans. And anything I can do to safeguard that, I am going to.

I am extremely suspicious even of the most well-intended effort. If we truly want to protect private property, we don't need to improve on the Fifth Amendment to the Constitution. It is very, very simple: Nobody is to be denied without just compensation.

And taking all those other things into consideration, I say again, I appreciate my colleagues for their well-intended effort here, but I cannot support it.

If indeed we have enough money to do all these wonderful things and acquire yet more land—I have sat in this very Committee room, Mr. Chairman, members of this Committee, for 2 days this week and listened to over $9 billion of backlog on national parks, on noxious and invasive weed programs that we are not taking care of on public lands we have today.

I am sorry, but as businessman, as a landowner in Idaho that has been denied the use his land, because I wanted to take a couple of old car bodies out of a swamp at my house and was descended on by the EPA and the Army Corps of Engineers and I can't remember all the rest of the agencies that showed up. I was fined $137,500 for less than a half acre of swamp.

I went, spent many years in court, spent well over $100,000 trying to defend my rights under the Fifth Amendment. Never once saw a court. I saw the EPA hearing officer. I saw the EPA judges. Everybody that I talked to was bought and paid for by the EPA.

Ladies and gentlemen, that is not the system that I believe the Founding Fathers intended. And it is not the system that is going to work and make the well-intended ideas that we have here work.

And so, along with my colleague from Nevada, I apologize for not asking questions, but, unfortunately, I have heard those stories so many times. And my heart goes out to you because it doesn't make any different what it is worth. It is your value system, Ms. Mantle.

And your value system, everybody in this Congress is prepared to jump up any time a value system is threatened. We talk about all manor of constituencies in the United States and say, "Look what we have done to this group of people, and look what we have done to that group of people."

And whether it is the Native Americans, God bless them, or whether it is some other group in this nation, what generation is going to come back and repay the private property owner for the damage that we are doing to them today? And what is it going to cost them? And what is the reparation going to be?

If we can't learn from our mistakes, then I think we are in more trouble than we think we are.

I say again, thank you very much, Mr. Chairman, and thank you, members of the Committee, for enduring my tirade. Thank you.

The CHAIRMAN. Thank you. I found it very enjoyable.

The gentleman from Washington, Mr. Inslee.

Mr. INSLEE. Thank you, Mr. Chairman.

I have a question and I may be the only person in the room who doesn't know the answer already, but I will ask anyway.

I was looking at Mr. Thornberry's bill, and as I read it, essentially the intent is to require a no-net increase in Federal lands or public lands. That is sort of my reading of the bill in general.

Could anyone here help me with that? Is that a basic accurate reading of the intention of the bill?

The CHAIRMAN. Mr. Thornberry?

Mr. THORNBERRY. Will the gentleman yield?

Mr. INSLEE. You bet.

Mr. THORNBERRY. That is not the case. There are those who want to have no net increase of Federal lands. What we do is prohibit condemnation. We require some certifications that you have checked out land exchange and other things. But it does not put a limit on the total amount of land that Federal Government can own.

Mr. INSLEE. Let me ask about that. I am just looking at a paragraph on the second page that says: There will be no property acquisition unless the secretary of the department that administers the acquisition certifies that any acquisition of the interest through an equal value exchange of property interest is not feasible and suitable.

Now, I would understand that to mean that before you could have a purchase, you would have to show that you couldn't acquire the land by giving away some Federal land in an acquisition. And to me, that would be heading toward a no-net increase. You essen-

tially would require the Federal Government to divest itself of some land to acquire some land.

If my reading is inaccurate—if you could tell me your thoughts on that.

Mr. THORNBERRY. Sure. If the gentleman will yield, basically, the existing CARA bill says that you have to have considered a land exchange. What I try to do is take that one step beyond, and that is, have a certification that you actually considered a land exchange.

It just needs to be one of the options that you explore before the Federal Government goes to acquire the land without some sort of land in exchange.

But there is no requirement in the bill that says: For every acre that you acquire, you have to divest yourself of another acre.

Mr. INSLEE. Thank you, Mr. Thornberry. I appreciate that.

I would just say that I have some considerable concerns about the intent of this, and we will leave it to a later date to express those.

Thank you, Mr. Chairman.

The CHAIRMAN. I thank the gentleman.

The gentleman from North Carolina, Mr. Jones.

Mr. JONES. Mr. Chairman, thank you very much. And I want to thank the panel for being here also.

I guess I really don't have a question of the panel, but I do want to make a couple statements.

I support Mr. Thornberry in his effort. I am from the South. I am very proud to say I am from North Carolina. And quite frankly, I do support the CARA bill.

However, the property rights section is so critical, in my opinion, to guaranteeing the constitutional rights of the American people that I hope that Mr. Young, who I have great respect for, will work with Mr. Thornberry and others from around this nation to ensure that there is not any—any—lapse so that the Federal Government can continue to extend its heavy hand.

I had the opportunity of going to California a couple of weeks ago to Mr. Herger's district. And I can honestly tell you that I felt for those people.

And I understand, Ms. Mantle and Mr. Johnson, I can understand your frustration, because I saw the northern part of California where towns at one time had 3,000 people now have 500, 600 people left, people who have lost their jobs.

There was an issue up in Oregon, I think the Klamath water issue, dealing with farmers, where 500 who were promised land by the Federal Government after their family members returned from World War I, that they could farm that land. Now they cannot get water, half of them because of the suckerfish.

And I looked at the forest. And we spent about 9 hours. It was well-organized. It was a real education for me, being from the eastern part of North Carolina, to go to the northern part of California.

But to see that between 1991 and 1997, we have had over 331,000 acres of forest destroyed by fire, and yet we can do nothing to protect those forests because of the Endangered Species Act.

And I realize that CARA doesn't speak to the Endangered Species Act, but I will say to you, Mr. Chairman, and to my friends

on the other side of the aisle, if something is not done to bring some sanity to the Endangered Species Act, I don't know what is going to happen, not only to our national forests, but when I had the opportunity to see the experts and I warned these people about a concern—which I am concerned about the species also.

But how concerned are they when the forest fire kills them? Is there not some concern about the forest fires, because they kill animals, they kill birds, they kill insects also?

So I hope, Mr. Chairman, with your leadership and other members', that when we move this CARA bill forward, that we have done everything that we can do to protect the constitutional rights of the private citizen, because I feel for my friends from the West. I sincerely do.

It was God's will that I should take that trip, quite frankly, because I have a new perspective for the people in the western part of this United States.

And, Mr. Chairman, I remember something you said a year ago in a hearing, that too many times we in the Federal Government, whether we be elected officials or bureaucrats, we forget the first three words of Constitution: It is we the people are the government. And we the people too many times do not have a say.

So I just want to do my part as a foot soldier up here in this Congress to work with my colleagues as this CARA bill goes forward to make sure that property rights of the American people are protected, and there is no question about it.

Thank you, sir.

The CHAIRMAN. Thank you. I couldn't agree more.

The gentleman from Indiana, Mr. Souder.

Mr. SOUDER. I thank the Chairman.

I am actually an enthusiastic supporter of the bill and have been. And it is interesting to listen to the westerners debate because, for example, in my district, which is approximately 100 miles north and south, and probably 40 miles east and west, the only Federal land we have is the Veterans hospital and the courthouse. You would have to go 100 miles west, 150 miles south, and probably about 400 miles east to find Federal land.

The bulk of the support of the CARA bill has been from people who aren't in the situations like Utah where you have 80 percent public land or in Idaho where it is 65 percent. When we hear about the backlog in the national parks possibly being $9 billion, we look at this as another cash transfer from the Midwest and the East to make the West more attractive so our young people move west.

We don't have the same recreational opportunities to access BLM forest land, park land that I see in every magazine, every ad that comes from the western states to try to recruit people because we don't have those open spaces.

First, thank you, Louisiana. We wouldn't have our trucks, pickups, SUVs, and cars if you weren't willing to drill. And part of this is to say, look, if we are going to in fact, in places like Louisiana and Alaska, drill, there should be some compensation in developing the wetlands and preserving the heritage.

And it is a balance. I don't fully understand the California question, but I know we have pressures on California as well.

So I don't view it as a disadvantage that we are putting dollars into Alaska and Louisiana because we are directly benefiting from that.

But the only way those of us in the Midwest and the East, who do not have this kind of open land access, are going to see when the money comes down to the parks in Knoxville, is when it goes into historic preservation, and things like that.

I discussed at one point, earlier on, with both Chairman Hansen and Chairman Young, of saying, okay, let's agree that three-quarters of the money is going to go east of the Mississippi, and we will exclude Congressman Jones's district because he already has a huge national park in his district.

Another way to do it would be to say that if you have 50 percent Federal land in your district that you don't get any of the CARA funds. In other words, put some caps on this so that the dollars flow to the areas that actually need public space.

I am sorry I missed the testimony, but I have read through, in addition to listening to everybody complain, your testimony.

And in Mayor Ashe's case—and I actually have a question—you said that in the city of Knoxville, basically you are not going to have, after this one park, additional green space to add a park. You have a national park—

Mr. ASHE. The Smoky Mountains.

Mr. SOUDER. —just east of Knoxville. But in Knoxville, as in other areas of the country, and you have been a mayor and a leader in the national mayors' association, we are seeing a suburban sprawl where there was not planning for city parks, like you have in Knoxville or like we have in Fort Wayne.

Could you further expand, having listened to a lot of this discussion, on what this means for cities and also the suburban areas as we try to address the problems in other parts of the country?

Mr. ASHE. Well, thanks very much, Congressman.

First of all, it is a education to me as a southerner and I guess easterner, being east of the Mississippi, to listen to the horror stories in the West and to learn what is going on.

But it seems to me, and if we can separate the two, those seem to be Federal issues, stories and situations that involve the Federal Government. At the local level, let's not forget a major portion of CARA is money for cities and counties across America.

Again, even though the Great Smoky Mountains National Park, which is 20 miles from Knoxville, is the most visited park in America, the fact is, more people in Knoxville go to the ballpark down the street than go 20 miles away to the Smokies, as much as I love them.

We are 100 square miles within the corporate limit, the city of Knoxville. We have 10-acre tracts left. But in terms of a 100-acre tract, which is what you would need, if you want eight ball fields, three soccer fields, a greenway, you know, those sort of large activities, we don't have them anymore, short of annexation, which is another issue that I don't think you want to get into.

We can't expand. I mean, we are what we are. So if you are going to have space available—and the area which I describe is the most rapidly growing area of our city, that is the one part of town—which is predominantly middle to lower income, predominantly

Caucasian—that does not have a large recreational facility. They are going to now.

But I think that is important in terms of urban sprawl as well, in terms of dealing with it. And it seems to me CARA represents a balance, a compromise. Not everyone gets everything they want.

But surely, I hope the local portion doesn't go down the tubes because of situations either in the West or wherever, where the Park Service may have done something that they should not have done. I can't comment on all of that.

But clearly a situation in Nevada or Idaho, where a majority of the land is owned by the Federal Government, is a very different situation than Indiana or Tennessee. I mean, it is just totally different.

I would say, in terms of land acquisition at the local level, not saying we don't have the power of eminent domain, but if the city of Knoxville wants to condemn, first of all, I can't do it. No bureaucrat can to it in the city. The city council must vote on it, on each piece. So everybody in Knoxville can show up and say whatever it is they want to say about it.

Secondly, if the landowner doesn't like the acquisition, he or she has a right to jury trial under Tennessee law. Now, we do have the right to acquire but it must be done, one, by public vote of the legislative body.

Remember, we are at Kroger's, Food City, Walgreens. I mean, I have a listed phone number. There is no shortage of citizens to come tell me what a great job or what a lousy job I'm doing.

Secondly, a jury trial is there, and it may very well come back with an amount that far exceeds what the appraised value was, because, I mean, juries have a way of acting on their own.

Mr. SOUDER. Thank you.

The CHAIRMAN. The gentlelady from California.

Ms. SOLIS. Thank you, Mr. Chairman, and members. I apologize for coming in late, but I also want to associate my support for H.R. 701, which I am a cosponsor of.

I am particularly pleased to see that there may be an opportunity to help provide funding for inner-city and urban, suburban America, particularly in my district, where you have very scarce resource or open space available to an increasing, changing demography in southern California.

In my short term in the state senate, I worked to provide funding and create a conservancy along the San Gabriel and foothills in Los Angeles County.

We are in need now of Federal support. And this is an avenue for many of the cities along that corridor that stretches almost 30 miles possibly that could apply for this particular fund.

We have it so bad in some of district where we actually have to overuse our high school properties, in terms of their football fields, to use as multiple recreational facilities. Soccer is played there, softball. You don't have parks in some of the areas that are adjacent to highly industrial commercial areas.

Our students, our kids, need some relief. They need to have a place to go.

And certainly, I could see this, CARA, as an avenue to help provide that much needed support in a district like mine, where you

see the largest percentage of people that are living there are under 15 years of age. We want to keep them out of crime. We want to keep them in activities that are sports-like and that will provide them educational enhancement and opportunities to grow and understand better open space and the environment and how meaningful that can be.

So I just want to add my words of support.

The CHAIRMAN. I thank the gentlelady.

The gentleman from Michigan, Mr. Kildee.

Mr. KILDEE. Again, I apologize for being late. I had another hearing, Mr. Chairman.

But, as you know, I am cosponsor of CARA. And we passed this last year by a very good margin. I appreciate the testimony of all of you here, and my staff has read that. I hope we can do likewise this year.

I notice that H.R. 1592 contains many of the additional, redundant property rights that were attempted to be added to CARA last year, which were opposed, turned down, by this House.

But I certainly appreciate the witnesses and their testimony.

The CHAIRMAN. I thank the gentleman.

And I thank the panel. It has been extremely interesting, and some very heartfelt discussion has gone between the members and the panel. It has been very enlightening for a lot of us.

Let me just say that we will continue to move this bill. I take very seriously the comments made by everyone concerning the property rights of America. That is sacrosanct to all of us.

But I agree with Mr. Young. What we have here is much better than what we have now. We will go from that point.

I thank the witnesses. You have been an excellent panel.

And we will excuse you and turn to the second panel: Mr. Tom Mullen, Supervisor, Riverside County, California; Dr. Philip K. McKnelly, Director, North Carolina Division of Parks; and Mr. Bobby Whitefeather, Chairman of the Red Lake Band of Chippewa Indians, Red Lake, Minnesota.

I thank this panel for being here.

The gentlelady from Minnesota, Ms. McCollum, wanted to introduce Mr. Whitefeather. She isn't here, but I would like to mention that. We appreciate her interest.

And you folks know the rules. Members will be in and out all day.

But I would like to briefly turn to the gentleman from Michigan, Mr. Kildee.

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

I, too, would like to welcome Mr. Bobby Whitefeather, the Chairman of the Red Lake Band of Chippewa Indians in Minnesota.

Ms. McCollum right now, Chairman Whitefeather, is over on the House floor defending an Indian resolution over there, and doing a very good job of it. I just spoke on that myself.

But I have visited your sovereign nation. And you have some of your citizens actually living as far east as Michigan, and they are very good citizens of that area, too.

But I appreciate your being here.

Mr. THORNBERRY. [Presiding.] I thank the gentleman.

And now we would turn to Mr. Mullen.

STATEMENT OF TOM MULLEN, SUPERVISOR, RIVERSIDE COUNTY, CALIFORNIA

Mr. MULLEN. Thank you, Mr. Chairman and members of the Committee.

My name is Tom Mullen. I am a county supervisor in the Riverside, California, which is located in the southern portion of the state.

Let me tell you just a little bit about Riverside County and how we are attempting to make the ESA work. And I certainly need not remind the Committee that the ESA is a Federal mandate and an onerous one on local government.

You have my prepared remarks, and to expand on those, I would let the Committee know that Riverside County would be equal to the 13th largest state in the union. We are slightly smaller in population and area than the State of Massachusetts and New Jersey. We stretch 200 miles from the Los Angeles basin, bounded by the county of Los Angeles, Orange to the west, San Bernadino to the north, and San Diego to the south.

In the basin area, in the western quarter of this county, we have about 1.2 million people. The county itself is 1.6 million. In the next 15 years, we will add another million people to the western quarter of that county.

During the late 1980's, with the advent of more stringent enforcement action by U.S. Fish and Wildlife Service, and the listing of several species, including the Stephen's Kangaroo Rat in Riverside County, we acquired over about 40,000 acres at a price of about $42 million. And we have not closed out that habitat conservation plan.

Recognizing the infrastructure stresses that we in the basin and the L.A. area, the greater metropolitan area, have in providing for this dynamic growth, which I should say will, over the next 20 years, exceed the population growth of Washington, North Carolina, and Arizona just in Riverside County, that we found that dealing with one species at a time just doesn't work. And when you attempt to put in major pieces of infrastructure, such as highways, we have found in southern California, particularly, that it is not a question of years, but it is a question of decades.

And for the Committee, I would point out three examples.

The 710 freeway, which runs from the Port of Los Angeles in Long Beach to Pasadena. The first public hearing was in 1949, and that freeway is not completed yet.

Interstate 15 through Riverside County, western Riverside County, was held up near the Santa Anna River at an increased cost of $1 billion in 10 years and nothing changed.

Highway 30 from the area of Redlands, Mr. Lewis's district, over to the 210 above Azusa, the first public hearing was in 1946, and they just started construction of the last 20 miles of that last year.

Because of the rapid increase in population in western Riverside County, the need for this type of infrastructure is critical. It seemed to us that one of things that was really missing was treating the environment as you would any other piece of infrastructure.

And with that, we then put together a stakeholders' driven group. And that encompasses, presently, over 100 individuals, organizations. It includes the Farm Bureau, environmental groups, as

well as both the Federal and state regulatory agencies. And we meet weekly.

It is a $32 million project with a 36-month time line. We are in the 25th month of that. And we are on schedule, with the exception of the EPA.

We intend to put in, over the next 20 years, approximately $13 billion in infrastructure. And without CARA, that will be impossible.

We have approximately somewhere between and $800 and $1.5 billion worth a land acquisition that in fact must take place in order to meet the needs of the Endangered Species Act and to prepare, if you will, for the influx of people in the future.

With that, I would be pleased to answer any questions.

[The prepared statement of Mr. Mullen follows:]

Statement of Tom Mullen, Supervisor, 5th District, County of Riverside, California

INTRODUCTION

Thank you, Mr. Chairman. My name is Tom Mullen. I am a County Supervisor in the County of Riverside, located in Southern California.

I appreciate the opportunity to appear before your committee today to urge your support for H.R. 701. This bill is unquestionably the most significant legislative initiative for conservation in the last several decades.

As you know, President Theodore Roosevelt is credited with shifting public attention to the importance of conservation. In his efforts to instill a conservation ethic into the American consciousness, it was Roosevelt who noted, "The nation behaves well if it treats the natural resources as assets which it must turn over to the next generation increased, and not impaired, in value."

Beginning with Roosevelt and the establishment of the National Forest Service at the turn of the century and continuing through the enactment of the National Environmental Policy Act and the Endangered Species Act, the federal government has played an important role in conservation efforts. As a result, Americans today share a proud conservation legacy.

You have a unique opportunity to continue that legacy by supporting the Conservation and Reinvestment Act (CARA).

Whether you hunt, fish, hike, or just enjoy the peace and tranquility of being outdoors, CARA will ensure that future generations can enjoy our nation's precious natural resources for many years to come.

TITLE VII FUNDING

Mr. Chairman, I have been asked to testify on Title VII of CARA. The provisions under this Title offer the kind of innovation and flexibility that would be embraced by Riverside County. We believe:

- Title VII gives private landowners the ability to work in a non-regulatory, incentive-based manner to achieve land management objectives that are mutually beneficial.
- Title VII builds on our citizens" strong sense of stewardship about their land by involving them in problem solving and the implementation of solutions.

That being said, Mr. Chairman, we offer recommendations that we believe are essential to ensure greater flexibility in the application of Title VII funding, especially as it applies to our county. We strongly believe Title VIII should be expanded to include provisions which direct the Secretary to provide funding to local jurisdictions:

- Either directly or through the states to implement actions, including land acquisitions, to benefit recovery species or actions to prevent a species from becoming listed.
- To develop conservation plans and recovery agreements consistent with the ESA.

With the inclusion of these recommendations, Mr. Chairman, we believe Title VII would be complete, improving the overall utility of CARA for communities like ours.

We not only support CARA for its conservation benefits, we believe it has the potential to dramatically improve quality of life for millions of Americans in numerous other ways.

A GROWTH MANAGEMENT SOLUTION

This legislation will make much-needed federal funding available to help state and local governments address critical infrastructure needs so they can effectively manage numerous challenges in the face of extensive population growth.

Allow me to explain by providing background on our experiences in Riverside County.

For several years, Riverside County has been pursuing locally-initiated conservation efforts to protect endangered species. But until just recently, our efforts were centered on single-species preservation. This proved to be a costly and highly inefficient approach.

The most significant and controversial Habitat Conservation Plan effort undertaken in Riverside County occurred 1988 when the federal government listed the Stephen's Kangaroo Rat (SKR) as an endangered species.

During the late 1980's, residential and commercial development accounted for a significant portion of the total activity in the western part of the county. Since that area also provided a majority of remaining habitat for the SKR, the listing precipitated an economic crisis as the Endangered Species Act—specifically Section 9 take prohibitions—effectively stopped public and private development in the region. The situation was exacerbated by the fact that at the time of the listing very little was known about the SKR, its geographic distribution, or its habitat needs.

Following the listing of the SKR, the Riverside County Habitat Conservation Agency (RCHCA) was formed to develop and implement a Habitat Conservation Plan for the SKR. The RCHCA is a public agency comprised of 9 members, 8 cities and the County of Riverside.

In August of 1990, the RCHCA received approval from the Unites States Fish & Wildlife Service (USFWS) and the California Department of Fish and Game (CDFG) for a short-term Habitat Conservation Plan (HCP) that covered 565,000 acres. Nine "study areas" encompassing approximately 78,000 acres were designated throughout Riverside County and development was restricted to ensure that land-use activities would not preclude future preserve establishment. Over 47 percent of the land contained in the study areas were privately owned. There were a number of key elements included in the short-term plan; one of which involved the establishment of an SKR mitigation fee of $1,950 per acre that was assessed in conjunction with the issuance of building, grading, surface mining, and other land disturbance permits in the HCP area. The habitat mitigation fee has generated over $34 million to date. The RCHCA expended over $30 million in local funds to implement the short-term plan. Approximately 85 percent of this sum was devoted to the acquisition of nearly 9,000 acres that were permanently dedicated to SKR conservation.

It is fair to say that the short-term plan was among the most controversial and widely monitored HCP's ever implemented. That plan has been the subject of extensive media coverage, ranging from the Wall Street Journal to National Geographic to television news programs like 20/20 and Eye to Eye. Additionally, the plan was a frequent subject of litigation; the RCHCA has expended over $400,000 to defend seven lawsuits and has budgeted another $500,000 in litigation defense costs for the remaining three lawsuits during the 2001/2002 fiscal year.

Three factors are primarily responsible for the extensive controversy surrounding this HCP: 1) regulations imposed on thousands of property owners located in the study areas; 2) lack of federal funding for HCP implementation and; 3) difficulties experienced in achieving consensus with the USFWS concerning an appropriate amount of conservation in the absence of a Recovery Plan for the SKR.

As a result of the incidental take prohibitions and other conditions included in the short-term HCP Implementation Agreement, over 3,000 privately held property owners in the study areas suffered significant hardships as a result of this conservation effort. Many property owners claimed that the marketability of their parcels was adversely affected because the regulations in the study areas adversely restricted the use of their land. The study area property owners became highly vocal opponents of the short-term HCP.

Both the total cost and sources of financing for the short-term HCP were highly problematical as well. The implementation budget was built upon the assumption that state and federal funds would cover approximately 50% of its cost. Unfortunately, that assumption proved to be erroneous. Of all expenditures related to the short-term HCP to date, approximately $2 million has been provided by the State of California and $30 million has been paid by local residents through collection of the SKR mitigation fee. Despite active funding solicitation efforts by the RCHCA, the federal government has provided no financial assistance to the short-term HCP.

The burden placed upon the residents of Riverside County to finance the SKR short-term HCP produced extreme frustration among the populace. This was based upon the belief that if federal law deems protection of the SKR to be in the national

interest, then the federal government has an obligation to share in the cost of its conservation.

Amid these sentiments, the RCHCA developed a long-term HCP to replace the short-term HCP. This was approved in March of 1996. The preserve system consists of 7 core preserves encompassing over 41,000 acres including over 12,500 acres of occupied SKR habitat. Implementation of the long-term HCP is expected to cost approximately $15.3 million, including $11.7 million from the RCHCA and $3.6 million from federal sources. Combined with the $30 million already expended on the short-term HCP, more than $46 million will be spent on the SKR conservation effort. Of that amount, approximately $42.7 million—or 91 percent - comes from the local level.

In areas such as Riverside County, single species HCP's only address a fraction of the total habitat conservation issue. The development and implementation of large scale single species HCP's is extremely expensive and time consuming as well as controversial.

After nine long years, and millions of dollars, we learned our lesson: with multiple species listed on the threatened and endangered rolls, we finally realized that habitat conservation must take place on a broad-scale and it must take place within the context of an infrastructure plan that addresses long-range transportation and land-use needs.

A comprehensive approach provides the highest level of certainty to property owners, builders, farmers, environmentalists, and local governments concerning their future obligations and benefits under the ESA.

Riverside County is one of the largest counties in the nation. It covers 7,300 square miles. By way off comparison, the states of New Jersey and Massachusetts cover approximately 7,400 square miles and 8,200 square miles, respectively.

Riverside County is also one of the fastest growing large counties in California and the United States. Its population will double from 1.5 million to 3 million in the next 15 to 20 years.

According to Southern California economist John Husing, more people will move to Riverside County over the next 20 years than to seven other states, including Arizona, Washington and North Carolina.

Inevitably, the impact of such a population boom and the challenge of balancing the related housing, transportation and economic needs with our limited natural resources becomes critical to our very survival.

The challenge of planning for growth is not unique to Riverside County. But we have devised an innovative model to address this pressing concern.

In 1999, we launched the Riverside County Integrated Project (RCIP). The RCIP is a stakeholder driven process that unites builders, property owners, farmers and government behind a long-range planning effort that incorporates three distinctive elements—conservation, transportation and land-use.

What makes the RCIP approach unique is the premise that the environment must be addressed the same as any other piece of critical infrastructure. Just as you must have utilities, roads and schools to support a growing population, you must address environmental constraints or you cannot grow.

The normal approach to development in California has been to plan the project first then attempt to mitigate. The RCIP begins with the development of a multi-species habitat conservation plan (MSHCP) and, we hope, a watershed special area management plan (SAMP), and then integrates land use and transportation elements that minimize the environmental impacts while still addressing housing demands, job creation, and congestion relief. The RCIP includes:

- A Multi–Species Habitat Conservation Plan (MSHCP) which forms the nucleus of an open space plan for the western part of the County. The goal of the plan is to address up to 164 species. County staff, a consultant team, resource agencies, and stakeholders are working closely together to create a conservation and implementation strategy which allows the maximum coverage of species while respecting individual property rights.
- An updated General Plan for the unincorporated portion of the County, which includes land use, circulation, housing, open space, conservation and other mandatory elements of the general plan in conformance with state statute. Close coordination between public and private sector stakeholders, including all the cities in the County, is viewed as essential for the development of a plan that can be successfully implemented.
- The Community and Environmental Transportation Acceptability Process (CETAP), which identifies future transportation corridors in the western part of the county and provides the appropriate environmental documentation to allow early reservation of the necessary rights to develop the corridors. These corridors will be designed to meet future needs not only for the mobility of

autos, buses, and trucks but also to provide the ability to move goods, information and products, as well as to provide room for implementation of transit well into the next century. The CETAP forms an essential component of the County's circulation element and its arterial highway plan, associated with the General Plan. The goal of the program is to improve mobility both within Riverside County and the Southern California region.

- A Special Area Management Plan (SAMP) to address watershed management and obtain clearance 404 and 1600 requirements is the desired fourth element of the plan. We are currently seeking funding that will allow the Army Corp of Engineers to work with the County to develop the SAMP.

The essence of RCIP is in the integration of land use, transportation and conservation planning, and implementation, to develop a consensus for the future development of Riverside County. As a first-of-its-kind endeavor, the RCIP is intended to be model for making the ESA work while providing for the long-term development and economic growth of the County. Recognizing the need for this new and different approach, the project is guided by five overarching principles.

- The process must be a bottom-up process. The public, along with stakeholder groups, must drive it. Development of the RCIP requires close guidance from stakeholders and citizens throughout the County. In order to facilitate this guidance, three Advisory Committees were established; one for each of the plan elements. Membership in these committees is comprised of citizen appointees and representatives of a variety of stakeholders and public agencies. The advisory committees number over 100 individuals that represent diverse interests. Cities within the County participate both through the Advisory Committees and through the two sub-regional Councils of Government (COGs), the Western Riverside Council of Governments (WRCOG) and the Coachella Valley Association of Governments (CVAG). Advisory committees meet monthly to review progress of the RCIP elements and provide input on data presented. Various subcommittees to the three advisory committees are often meeting weekly to address specific issues and report their recommendations back to the full advisory committees. In addition to the advisory groups, a management committee that includes senior officials from all the participating state and federal regulatory agencies confer on a weekly conference call.
- The recognition of the interdependence between the region's future transportation, habitat, open space, recreation, land use, and housing needs is essential.

Without solving the conservation issues, as mandated by the Endangered Species Act, the successful identification and implementation of new transportation corridors and continued expansion of our job bases simply is not possible.

- Everyone, from the private landowners and development interests to our state and federal partners, has a financial responsibility to ensure the completion of the plan and its implementation.

The equity of the funding plan is at the heart of RCIP. The funding plan must recognize the obligation of the local land owners and developers to mitigate the impacts of their projects. However, this must be in the context of the state and national policy decision that conservation of endangered species is a state and national priority and should be supported with state and federal funding. Further, there is long-term value to the County and the Southern California region as a whole to address housing and transportation needs in the region. The recognition of joint responsibility and agreement on fair and equitable sharing of the implementation costs is essential.

- Make use of the best available scientific information.

Working with the University of California at Riverside (UCR), the USFWS and the CDFG, we have attempted to collect all available data on species occurrences and habitat and consolidate it in our Geographic Information System (GIS). The consultant team has augmented this with an extensive review of the literature available on each of the species anticipated to be covered under the MSHCP. More than 10 thousand data points collected from museum records; local, state and federal data bases; literature sources; and field notes were compiled. The resulting data base of information, managed by UCR, will continue to be updated as additional information becomes available.

UCR also coordinates a Scientific Review Panel (SRP), which provides formal academic review at key points in the MSHCP planning process. To our knowledge, the incorporation of an SRP is a unique element of the RCIP. The SRP will help ensure independent critical review of the data used to support policy decisions. Furthermore, the SRP review will address concerns expressed by critics both in the scientific and environmental communities and in the general public who contend the conservation has generally lacked scientific credibility (Sullivan and Scott, March/April 2000).

• Use incentives and market based approaches where feasible.

To avoid many of the criticisms of earlier plans, one of the goals of the RCIP has been to look for opportunities to create incentives for property owners to participate in the MSHCP. The MSHCP Advisory Committee is currently meeting with the General Plan Advisory Committee to develop incentives and policies that will help implement the MSHCP and concurrently support programs in the General Plan. Incentives include density credits or transfers, conservation credits that reflect conservation values and can be sold in an open market, or conservation easements that might be mutually beneficial to the property owner and to the implementation of the MSHCP.

The RCIP offers an innovative model for a comprehensive regional approach to addressing the ESA as part of an integrated program. The RCIP is a superior alternative to the traditional project-by-project approach. While not without significant challenges and risks, it offers advantages to local, state, and federal agencies in implementing their land use, infrastructure, development and regulatory responsibilities. Moreover, it offers the advantages of a regional approach to local property owners and developers while addressing many of the objections they have had to previous habitat conservation plans. Through the RCIP, a broad array of stakeholders and individual citizens are afforded opportunities to participate and communicate what is most important to them in order to improve their quality of life now and into the future.

ADDITIONAL NEED

Although the ESA is a federal mandate, the cost of compliance falls on a limited few. It is only reasonable that implementation of national policies should be accompanied by an equitable amount of federal funding.

Funding for conservation incentives for small landowners as proposed under Title VII will be helpful to RCIP. Riverside County has many areas that are characterized by parcel sizes of 2.5 to 10 acres. The ability to offer incentives to conserve a portion of these properties is the only feasible method of achieving conservation in some instances.

However, these parcels only represent a small percentage of the total privately owned land (153,000 acres) that must be conserved under our project. Therefore, we wish to register our support for Title II and Title III. Full funding under these Titles would be of paramount importance in helping us reach this enormous conservation goal.

In addition, we support a modification of Title III to clearly acknowledge that one of its primary objectives is to enable state wildlife agencies to secure lands, in pursuit of helping cities and counties as they implement habitat conservation plans. This would greatly help local jurisdictions meet the unfunded mandates associated with the ESA.

Incentives for small property owners is an essential element but must be coupled with sufficient funding to purchase lands when necessary. This is especially true in areas of western Riverside County where land development pressure is high and land is held for its future development value. Property owners here most often want to develop their land or sell their land. Conservation incentives will not be a sufficient enticement for these property owners.

We believe that by providing both conservation incentives and direct funding for land acquisition, the ESA can be made to work in areas such as Riverside County.

CONCLUSION

You have a unique and profoundly important opportunity to help give folks in Riverside County, and other growing cities and towns, the promise of a future filled with hope—access to affordable housing for families, good schools for their children, new roads and freeways for safe passage, progressive and dynamic economic development and the protection of priceless natural resources.

These are the sweeping benefits this landmark legislation can help provide.

Without this legislation, our county will become a textbook example of fragmented urbanization marked by extreme social and economic disruption.

We will have inflated housing prices that few families can afford, prohibitive traffic congestion that restricts the flow of commerce and people, and uncoordinated natural resource protection. Moreover, without comprehensive habitat conservation, all future development projects will likely wind up in court, at enormous cost to taxpayers.

This is why your support for CARA is critical for the future of Riverside County and for thousands of other communities across the nation.

Thank you.

Mr. THORNBERRY. I thank you, sir.

Dr. McKnelly?

STATEMENT OF PHILIP K. MCKNELLY, DIRECTOR, NORTH CAROLINA DIVISION OF PARKS AND RECREATION, RALEIGH, NORTH CAROLINA, ON BEHALF OF THE NATIONAL ASSOCIATION OF STATE OUTDOOR RECREATION LIAISON OFFICERS AND THE NATIONAL ASSOCIATION OF STATE PARKS DIRECTORS

Mr. MCKNELLY. Mr. Chairman, members of the Committee, my name is Phil McKnelly, and I am the director of the North Carolina Division of Parks and Recreation.

I am here today representing the National Association of State Outdoor Recreation Liaison Officers, which is a long term to say that we represent the states, with the National Park Service, in dealing with Land and Water Conservation Fund and other park-related issues.

I am also representing the National Association of State Parks Directors.

We appreciate you holding these hearings on H.R. 701, and want to thank the sponsors for their strong and persistent leadership on this issue.

While the state liaison officers and the state park directors are deeply committed to CARA, I am going to focus my comments today on the state side of the Land and Water Conservation Fund in Title II.

And, I am going to use North Carolina examples because those are the examples that I am the most familiar with. But I have talked to colleagues across the country, and I am aware that there are similar issues in every state in the union.

Issues for state and local governments, the issues they are facing, in many cases are caused in part by the shifting population. Particularly in the Southwest and the Southeast, we are seeing tremendous growth patterns, and we are also seeing a shift from rural to urban and suburban areas.

When I moved to North Carolina in 1973, 54 percent of the state population was rural. In 2000, 65 percent of the population lived in 15 percent of the counties. We are seeing a tremendous shift and this shift is creating growing conflicts for the limited resources.

The playgrounds and the athletic fields in our local communities are crowded and worn out. The competition between motorized and nonmotorized vehicles, both on trails and on waterways, is stiff; the conflict is real. And we are losing open space to sprawl.

As you can see in my written testimony, in North Carolina we are losing 156,000 acres a year of open space. We are losing it to urban sprawl. And that is a 67 percent increase in a 10-year period, in the previous decade.

We are losing 34 percent of our wetlands. They have been altered to a point that they no longer function as buffers to our streams and watercourses. And we, along with those wetlands, are losing opportunities to preserve some threatened habitats and species that have been discussed earlier.

But while the needs are great, the opportunities are also great.

In revitalizing urban cores, there is an opportunity to reacquire or reestablish some greenways, some open spaces, that have been lost previously.

In the rural areas, particularly, at least in North Carolina, Champion Paper, International Paper, and Duke Energy are all selling off large tracts of land on an unprecedented scale. Once these large tracts are broken up, they will be gone. It will be difficult if not impossible to ever have a chance to acquire and preserve those again.

While the states are looking for help and need help badly through CARA, we are also trying to help ourselves. In 1993 in North Carolina, for example, the state passed its first ever bond referendum. It was for $35 million, which is small compared to the scale of bond referendums passed in Indiana, California, and other states. But it was the first time in 80 years the General Assembly had seen that need.

But based on the support for that bond referendum, in 1994, the state created a Park and Recreation Trust Fund, which is a dedicated stream of revenue for state and local governments. It is a program patterned after the Land and Water Conservation Fund.

At least 17 other states have similar programs to our Park and Recreation Trust Fund. Their revenue is generated by the transfer tax; in some cases, by the lottery; in other cases, by personalized license tags sold by the department of motor vehicles.

Like the state programs, it is terribly important for CARA to be consistent to be effective. That is the only way states can effectively plan for long-range issues. It is the only way we can deal with the large tracts of land that the industries are selling right now.

North Carolina is looking at an $18 million tract of waterfront property. We are going to have to do that over a 3- to 5-year period. And without consistent sources of funds, there is no way we can do that. There would be no way we could count on the Federal Government.

While some folks don't like this commitment, I would suggest that that is actually an investment. The states will at least match that. In many cases, they overmatch that sometimes twice by the state and the local governments.

It also is effective in attracting business and industry. I have given some examples in the written testimony. There are others where folks have moved into North Carolina because of the quality of life, the open space and the recreational opportunities for those communities.

The broad support has been pointed out before, both by Mayor Ashe and the National Governors Association. The National Association of Counties has also supported this bill.

The organizations, (I liked Mr. Caldwell's number; he mentioned 7,000. The number I had was a little bit older, but it was also a little bit smaller, so I will go with his number on the organizations and the communities that have supported this) range from the Chamber of Commerce to the Nature Conservancy, a couple of groups that do not always see eye-to-eye.

I would urge you to move forward with a favorable recommendation. It is a highest priority in this Congress for the two organizations that I am representing. And we are ready and willing to help

in any way we can to start this step to create a truly national system of parks.

I do appreciate the opportunity to appear here today. Thank you very much.

[The prepared statement of Mr. McKnelly follows:]

Statement of Dr. Philip K. McKnelly, Director, North Carolina Division of Parks and Recreation

Mr. Chairman, members of the committee, thank you for this opportunity to testify on this very important piece of legislation. My name is Phil McKnelly and I am here on behalf of the National Association of State Outdoor Recreation Liaison Officers (NASORLO) and the National Association of State Parks Directors (NASPD) and I want to tell you that both of these organizations are deeply committed to the passage of H.R. 701, The Conservation and Reinvestment Act. I would like to thank the sponsors of CARA for their strong and persistent leadership in trying to make this dream of millions of Americans a reality.

While my state and the organizations I represent here today heartily endorse CARA, I will focus my testimony on Title II, the Land and Water Conservation Fund (LWCF). Almost thirty-five years ago I started my professional career with the Arkansas Planning Commission trying to get a fledgling program off of the ground. That program, the original LWCF, was the result of a national study called the Outdoor Recreation Resources Review Commission. That study took several years to complete and was hailed as the most significant piece of conservation legislation to be passed in the history of our country. While the LWCF program has accomplished a great deal, it has never quite lived up to the to the hopes and dreams it generated when it was created. I have seen the program grow and flourish during the late 1960's and 1970's, and I saw it fade during the1980's and then die in the early 1990's. Finally, in the late 1990's our country saw an ember of hope among the ashes of LWCF and now, with strong leadership from the House and a renewed hope in the cities and states across America, we have a chance to turn a history of unfulfilled hope into a true legacy of stewardship and opportunity for the generations that follow us.

But my purpose here today is not to dwell on what might have been or to place blame for what went wrong with the dreams of 1965. My purpose is to endorse the legislation before you and convince you of the promise it holds. I will focus on North Carolina because it has been my adopted state for more than 20 years and I am most familiar with the problems and opportunities that exist there. I have visited with other State Liaison Officers and State Parks directors from other states and I am convinced that, while our issues may be different in the east than they are in the west, while the specific concerns in Texas may be different than those in Minnesota, there is a real need for CARA and LWCF in every state. I am absolutely convinced - and want to convince you - of the need for a national program to encourage and assist states and local governments to preserve their significant natural resources, to provide open spaces that will act as buffers that protect the water quality of our rivers and streams, to minimize the damage caused by natural disasters such as the floods and hurricanes my state has experienced during the past few years, and to provide opportunities for our children to grow and learn in a safe, healthy environment.

In North Carolina the average conversion rate of forests, farms, and rural lands between 1992 and 1997 was 156,300 acres per year - a sixty-seven percent increase over the previous ten years. The Charlotte/Mecklenburg County area will lose forty-one acres of open space a day for the next twenty years if the current development practices are allowed to continue. In the Research Triangle (Raleigh, Durham, and Chapel Hill), urban land area has grown more then three and a half times faster than the population between 1959 and 1990. Thirty-four percent of North Carolina's coastal wetlands have been altered to the point they no longer fulfill their function of protecting water quality in our streams, rivers, and sounds. These trends are taking place at a time when the North Carolina State Parks System has documented over $120 million dollars worth of land acquisition needed to complete existing master plans and almost $300 million dollars worth of capital improvements necessary to complete and repair existing parks. The backlog of needs for parks and recreation land acquisition and development by local governments in North Carolina is approaching one billion dollars.

While the needs are great, the opportunities to preserve significant open space are also great. Large corporations such as Champion Paper, International Paper, and Duke Energy are divesting themselves of large tracts of undeveloped lands at an

unprecedented rate. Lands that could be used, for parks, greenways, or public open spaces. With improved funding state and local governments could take advantage of these once in a lifetime opportunities and take a significant step toward making sure that future generations have forests, waterfalls, and clean, free flowing streams to appreciate and enjoy.

Because of the concentrated population growth in urban areas, pressure is growing on the public lands in close proximity to population centers and conflicts are growing among the recreation user groups because of crowded conditions on limited resources. Prime examples of these conflicts include the competition for open water on Corps of Engineers reservoirs swimmers and sailors face from personalized water craft, water skiers, and other power boaters. Another example of a growing conflict is the competition between mountain bikers, horseback riders, and hikers. The explosion of mountain biking has had a tremendous impact on the demand for additional miles of trail and the need to separate conflicting uses such as horses and mountain bikes. Also, the demand for off-highway vehicle trails and areas is growing at a tremendous rate - and North Carolina does not even have the population of snowmobile riders many other states experience.

While the states and local governments are looking to the federal government for assistance, it is important to note that they are also taking steps on their own to relieve the situation. In 1993 the North Carolina General Assembly authorized, and the citizens passed, a thirty-five million dollar bond issue for state parks improvements - the first bond referendum in the eighty-seven year history of the State Parks System. In 1994, based largely on the public support for the 1993 bond referendum, the General Assembly passed the Parks and Recreation Trust Fund. A dedicated revenue source committed to land acquisition and capital improvements for state and local parks and recreation. In recent years the General assembly has also created the Natural Heritage Trust Fund (a dedicated stream for revenue committed to preserving lands with outstanding natural heritage values) and the Clean Water Management Trust Fund (a program directed towards the acquisition of properties that provide significant protection to rivers, streams, lakes, sounds, and the ocean and other preventive measures and solutions to water pollution.) Combined, these programs provide approximately fifty million dollars per year for parks, recreation, and open space projects. While this is a significant step forward, in the State Parks System alone, with over four hundred million dollars in identified needs and approximately fifteen to twenty million dollars per year from the dedicated funds, it will still take over twenty years to complete current master plans - and that scenario does not provide for the acquisition and development of any new parks. The needs in our local communities are equally great. In Fiscal Year 2001, North Carolina received two million four thousand dollars in LWCF assistance and has received applications from thirty-eight local governments requesting over ten million dollars in assistance.

There are other proposals to rekindle LWCF in addition to CARA, but they often omit a very important factor. To be effective, funding designed to address acquisition and development needs must be consistent. For example, opportunities mentioned earlier in this testimony such as the potential acquisition of land from major corporations involve large sums of money. North Carolina is currently exploring the possibility of acquiring a tract containing over two thousand acres of lake front property valued at approximately eighteen million dollars. To complete such an acquisition, the State will need to spread the transaction over three to five years and will need a stable source of funding for the duration on the project. If the recent history of LWCF funding continues, North Carolina would simply not be able to enter into a contract that relied on matching funds from the federal government.

I have used specific examples from North Carolina because I am the most familiar with that situation, but other states around the country, such as Arizona, Arkansas, Colorado, and Missouri are taking similar steps to help themselves and their local governments. My point is that states and local governments are committed to being good stewards of the environment, but they need some help to accomplish what has become a formidable task. The passage of CARA and Title III would make a significant impact on the backlog of state and local government parks and recreation needs, and it would also be a solid investment for the federal government. Every dollar the federal government provides to the states requires a local match of at least equal value. In many cases the grants are over-matched and the environment and our citizens benefit even more.

Another economic benefit our citizens would receive from this investment is the proven attraction parks and open space have for business and industry. As Will Rogers, Jr. has pointed out, "Too many community leaders feel they must choose between economic growth and open space protection. But such a choice is not necessary." This statement has been reinforced in North Carolina by the fact that two

companies recently relocated to our state because of the quality of life available to their employees. Reichold Chemical Company recently brought five hundred jobs to the Raleigh–Durham area and Catepillar, Inc. moved to Morganton after a twenty city search. In both cases greenways, open space, and the quality of life were cited as decisive factors in the relocation decisions. LWCF and CARA are good investments from at least two different perspectives.

The last point I would share with you is that this issue has a broad range of support. Nationwide, approximately thirty-five hundred communities and organizations have endorsed the legislation. The National Governors" Association, National Association of Counties, and U.S. Conference of Mayors are among the leaders of those supporters and organizations as diverse as The Nature Conservancy and the United States Chamber of Commerce have joined forces to get this bill passed. Also, major newspapers from New York to Los Angeles and Seattle to Miami have endorsed CARA, and just last year the U.S. Congress passed a very similar bill with 315 votes in the affirmative.

In summary, H.R. 701 is the highest priority in this Session of Congress for NASORLO and NASPD and we are ready to do what ever is necessary to help you complete the effort initiated and passed in the House last year. Last Session eleven of our twelve North Carolina Congressmen co-sponsored the bill and we intend to do at least that well again this year. The one member who did not co-sponsor CARA last year did vote for the measure every time he had the opportunity. I urge you to give this important piece of legislation a favorable recommendation and move it forward in the process as soon as possible. On behalf of NASORLO, NASPD, and North Carolina I appreciate this opportunity to testify before the House Resources Committee and look forward to working with you to make this tremendous opportunity a reality.

Mr. THORNBERRY. Thank you.

Before yielding to Chairman Whitefeather, I will yield to Ms. McCollum for any comments that she would like to make.

Ms. MCCOLLUM. Thank you, Mr. Chairman.

I am deeply honored to be able to introduce Bobby Whitefeather, Chairman of the Red Lake Band of Chippewa.

Chairman Whitefeather was raised in a small, tradition Indian community on the Red Lake Reservation in northern Minnesota. After serving the United States honorably in the Vietnam war, Chairman Whitefeather has worked on behalf of his people on the reservation for the past 15 years.

First elected to treasurer, Chairman Whitefeather has served as secretary before becoming Chairman of the Red Lake Band of Chippewa.

While economic development is a priority for Chairman Whitefeather, conservation has also played an important role in his professional career. He has testified before Congress in the past on matters such as improving tribal conservation enforcement capability, strengthening educational opportunities in fish and wildlife management for tribal members, and has worked for equitable access for Federal aid that helps to restore fish and other wildlife.

Closer to home, Chairman Whitefeather initiated a series of meetings between state and Federal Government in 1997 after walleye stocks in Red Lake in northern Minnesota had been devastated by overfishing.

The partnership has led to one of the largest freshwater fish recovery programs in America today, and one of the most successful so early in the process.

Two years ago, Chairman Whitefeather was honored by the Great Lakes region of Native American Fish and Wildlife Society with a special honor for his long-standing commitment to conservation.

Chairman Whitefeather has been active in the area of Indian issues throughout his career. He is a past officer of the National Congress of American Indians, and he currently is president of the Midwest Alliance of Sovereign Tribes and serves on a number of Bureau of Indian Affairs self-governance Committees at the regional and national level.

Obijwe is the Chairman's first language. And while Obijwe is a language unknown to many, the Chairman has become an effective voice for the Chippewa, for the Minnesota people, native people, and for many of us here in the United States.

It is my honor today, Mr. Chairman, and I thank you for yielding to me, to introduce Chairman Bobby Whitefeather.

Mr. THORNBERRY. Mr. Whitefeather, a double introduction. You may proceed.

STATEMENT OF BOBBY WHITEFEATHER, CHAIRMAN, RED LAKE BAND OF CHIPPEWA INDIANS, RED LAKE, MINNESOTA

Mr. WHITEFEATHER. [Speaking in Obijwe.]

Mr. Chairman, members of the Committee—

Mr. KILDEE. May I respond with: [Speaking in Obijwe.]

[Laughter.]

Mr. WHITEFEATHER. Members of the Committee, my name is Bobby Whitefeather. I am the tribal Chairman of the Red Lake Band of Chippewa Indians. And as is my custom and tradition in my culture, I introduce myself in our language.

And it is my pleasure to testify before you here this morning and express our support for the measure called CARA.

And as a brief introduction to my homeland, we reside in northern Minnesota, comprising approximately 850,000 acres of land and water. And I must say, 80 percent is comprised of wetlands, wildlife, and water, so we are very aware of the responsibilities that we have for the protection of natural resources.

And as well, certainly tribal nations across this country being the original stewards of the land now called America, we are grateful that CARA is going to include tribal participation, which is critical because of the land base that tribes currently hold, presently, which amounts to about 2.25 percent of the entire land base of the United States.

Last session, CARA Lite was introduced, and we were certainly grateful for the inclusion of tribal nations within CARA Lite during the last session. However, we were greatly disappointed that even though we were included as being eligible for funding under certain provisions of CARA Lite, tribes weren't allocated to any funding that was available. So that was a great disappointment.

This morning, my testimony will focus on Titles II, III, and VI of CARA, as being proposed. And, again, while we are tankful for tribal inclusion, we, again, find it very disturbing if not unusual that there is a prohibition for tribes to participate in the land acquisition section of Title II.

We as tribes are cognizant of our responsibilities as stewards of natural resources, and to disqualify us from this particular section we feel is not right and not just.

Also, I would like to address the funding formula under Title II. And in order for us as tribes to demonstrate fairness and equity to

tribes amongst us, we ask that the allocation formula and the maximum amount of availability to a single tribe be adjusted from 10 percent to 5 percent.

That adjustment will allow that more tribes will have access to the funding. As you know, there are approximately 560-plus tribes across this country.

Under Title III, as I said before, 2.25 percent of the allocation for tribes is being appropriated, and we thank the Committee for recognizing what we see as a past oversight or inequity in not making the funds available to the tribes.

This new funding opportunity will certainly allow us to greatly enhance our efforts at protecting our natural resources, and land and water conservation efforts.

Under Title III, however, we do suggest that statutory language be included so that the 2.25% distribution methodology reflects the formula of two-thirds land and one-third population. This will enable tribes that are eligible, to properly allocate their resources based on that methodology.

We also ask that tribes that are eligible to access the funding have existing conservation programs, or a plan or strategy in place so that there would be adequate funding to begin their programs.

Finally, under Title III, statutory language needs to be added so that any undistributed funds be redirected back to funded tribes on a proportional basis.

Under Title VI, we strongly urge the Committee to keep Title VI intact because we as tribes have very limited funding to protect our natural resources due to budget reductions that we experienced over the last few years, amounting to in excess of 20 percent, and thereby greatly straining our existing resources and putting additional burden on our limited staff of biologists, technicians, and so forth.

In conclusion, Mr. Chairman and members of the Committee, we as the first Americans realize that protection of Mother Earth is of the greatest importance. And CARA, as a national conservation measure, represents the greatest opportunity for all of us to leave a lasting legacy.

We hope and pray that the Committee will find the necessary way to include tribes in CARA so that we also, as stewards of our homeland, can offer its protection in order for us to remain connected to our culture and a way of life that has been handed down to us through generations.

I thank the Committee for your time and the opportunity to testify. And as always, before I go home, I must invite you. And grandma requires that I invite you to come visit our homeland any time I meet new friends and make new acquaintances.

So with that, Mr. Chairman and members of the Committee, I would be pleased to answer any questions. And again, thank you for the opportunity to testify.

[The prepared statement of Mr. Whitefeather follows:]

Statement of The Honorable Bobby Whitefeather, Chairman, Red Lake Band of Chippewa Indians Tribal Council

Mr. Chairman, I thank you and the other distinguished members of the Committee for this opportunity to provide testimony on behalf of the Red Lake Band of Chippewa Indians, concerning H.R. 701, the Conservation and Reinvestment Act

(CARA) legislation. The Red Lake Band is a Native American Indian tribal government recognized by the United States government.

Red Lake and, I believe it is safe to say, most of the 561 federally-recognized Indian tribes across the country, strongly support CARA and the lasting benefits it will provide for conservation and future generations of Americans. I thank this Committee and the Congress for recent improvements made to CARA with respect to tribal government participation, most notably the 2.25 % proportional funding share provision included within Title III. I also thank the House Appropriations Committee for retaining $5 million of President Bush's proposed $10 million fiscal year 2002 tribal allocation under the Land and Water Conservation Fund (LWCF) state grant program. These actions signal a recognition by the Administration and the Congress of the great need tribes have for conservation funding, and I am very pleased to see these improvements.

The enactment of CARA, and the direct participation by tribes in CARA-supported programs, is absolutely critical to Indian tribes. Like states, tribes have governmental responsibilities for the conservation of fish, wildlife, and other resources on their lands. Like states, tribes regulate hunting and fishing and gathering on their lands. Like states, tribes would receive critically needed conservation funding under CARA. But unfortunately, when CARA died late last year and CARA "Lite" was enacted, tribes were completely shut out from the CARA Lite conservation funding, unlike states and local governments.

CARA Lite, as you know, was enacted as a new Title VIII, Land Conservation, Preservation and Infrastructure Improvement to the Fiscal Year 2001 Interior Appropriations Bill, H.R. 4578. To our dismay, virtually none of the tribal allocations from either the House or Senate versions of CARA last year were included in CARA Lite, leaving tribes with nothing for their conservation responsibilities. After an additional $50 million was added for wildlife conservation to Sections 901 and 902 of Title IX, Wildlife, Ocean and Coastal Conservation in the Fiscal Year 2001 Commerce, Justice, State, and Judiciary Appropriations (CJS) bill, tribes were further shocked to discover that, at the last minute during the final House–Senate conference, the tribal allocation percentage was dropped, leaving tribes as technically eligible to receive funds but with no allocation. These actions represented significant blows to tribal conservation efforts after years of cooperative effort in support of the campaign for CARA.

My testimony today will focus on CARA Titles II, III, and VI, as they contain provisions of critical concern to tribes. I will suggest minor modifications which would make major improvements to these titles. But first I want to provide some background information about the Red Lake Nation and our Reservation, information which I believe will assist you in judging the merits of our requests.

Red Lake People and Resources

Red Lake is a relatively large Tribe with 9,300 members. Our 841,000 acre Reservation, located in northwestern Minnesota, is held in trust for the Tribe by the United States. While it has been diminished in overall size, our Reservation has never been broken apart or allotted to individuals. Nor has our Reservation ever been subjected to the criminal or civil jurisdiction of the State of Minnesota. Consequently, we have a relatively large land and water area over which the Tribe exercises exclusive governmental authority and control in conjunction with the United States.

Red Lake Band members" lives center around a seasonal cycle of reliance on natural resources. Fishing, hunting, and gathering activities are as vital to our survival today as they were 200 years ago. Time has certainly changed some aspects of this cycle. The desires of Band members to purchase modern-day products and goods has led to a resource-based cash economy of fishing and logging that began early in the 20th century and continues today. However, concerns about resource depletion in recent years have led us to seek out economic diversification.

Due in part to our Reservation's location far from centers of population and commerce, we have few jobs available in the private sector economy. While unemployment rates throughout America have dropped to historically low levels, our unemployment rate remains at an outrageously high level of 60%. The lack of good roads, communications, and other necessary infrastructure continues to hold back economic development and job opportunities. We have had limited success with gaming, but our remote location prevents the type of often-cited, large-scale gaming operations run by a small handful of tribes throughout America. The limited gaming revenues we do receive are devoted to human-services programs like meals for the elderly, our nursing home, and community-based activities devoted to meeting the pressing needs of people who live on the edge of survival on our impoverished Reservation.

Relatively speaking, our resources are vast and important to many people who are our neighbors beyond our Reservation borders. The resources for which the Red Lake Band, not the State of Minnesota, is responsible, include 350,000 acres of forests, 471,000 acres of wetlands (including forested wetlands), 237,000 acres of lakes, and 55 miles of rivers and streams. Title to all of these resources is held in trust status for the benefit of the Red Lake Band by the United States. Many of our resources are truly unique.

Our Reservation includes much of northern Minnesota's patterned peatlands, which have received worldwide scientific recognition because ours is the largest peatland resource outside of Alaska and because many rare and endangered species reside in these areas.

Our Tribe's natural namesake, the Red Lake, is the sixth largest natural, freshwater lake in the United States. While it has never been included as a sixth Great Lake, Red Lake is "greater" in size than Lake Champlain which, with some controversy, was temporarily bestowed that status several funding cycles ago.

Until just recently, Red Lake was home to the largest and longest continuously operated freshwater commercial fishery in America and provided important employment for some 500 reservation families. Unfortunately, similar to the fate of commercial fisheries the world over, stocks of walleye, which were the principal commercial Red Lake species, collapsed in the mid–1990s forcing the Tribe to close our fishery for the first time since the beginning of World War I. The Tribe has since implemented an aggressive recovery plan in conjunction with the federal government and the State of Minnesota. Ours is the largest freshwater fish species recovery program in America today.

I have provided the above information to help you understand that we have been blessed with abundant natural resources, and the conservation and perpetuation of these resources is extremely important to my people and their direct survival needs.

Resource Management Funding Inequities

Our tribal resources are managed by a small but dedicated group of biologists, technicians, and wardens. Our relatively meager natural resources funding comes primarily from Bureau of Indian Affairs (BIA) programs. Unfortunately, recent federal budget cuts in BIA natural resource funding have diminished our resource management capacity by 20% in just the last five years. We have attempted to make up the difference by seeking outside grant funds, but the opportunities are very limited, especially for fish and wildlife conservation. Still, we do the best we can with the limited funds we have.

For the most part, tribes have been left out of authorizing language for federal conservation programs, even though these programs were enacted to conserve all of America's resources, and even though tribes are responsible for managing more than 2.25% of the land resource base within the United States. For example, tribes cannot access substantial funding sources like the Federal Aid in Fish and Wildlife Restoration Acts of 1950 and 1937. These acts levy excise taxes on hunting and fishing equipment, and allocate the proceeds (about $450 million annually) to the fifty states, territories, and the District of Columbia for fish and wildlife programs. Tribal members who hunt and fish pay these excise taxes just like all Americans, but none of these revenues come back to tribes to fund programs which benefit fish and wildlife on that portion of America under tribal jurisdiction.

Tribal Request to Remove Prohibition on Land Acquisition in CARA Title II

I thank the Committee for including tribes as an eligible entity to receive funds under the Land and Water Conservation Fund (LWCF), which has, as its major focus, the purchase of land for conservation. But a prohibition in Title II of H.R. 701 that applies only to Indian tribes would prevent tribes from acquiring land for conservation purposes. This prohibition makes no sense, because any land acquired with LWCF funds must be used only for public outdoor recreation uses. I ask that the prohibition on tribal land acquisition be removed, and that tribes be subject to the same benefits and responsibilities as the states and the territories.

I also request that language be included requiring the Secretary of Interior to consult with tribes in the development of the competitive grant program for allocation of funds to tribes under this title, consistent with the government-to-government relationship.

Finally, I ask that the maximum amount available to a single tribe in any year be limited to 5% rather than the 10% currently used in the bill, in order to ensure that more of these funds reach more tribal programs. In Attachment A, we have provided proposed amendment language for Title II which addresses the concerns I have raised.

Tribal Access to CARA Title III

I thank the Committee for including the 2.25% allocation in Title III of H.R. 701. Tribes have long proposed that on the basis of fairness and equity, we should receive 2.25% of new conservation funding, including the new subaccount to be created by Title III in the federal aid to wildlife restoration fund. This 2.25 percentage is based on the ratio of Indian trust land to the rest of the land area of the United States. No Federal Aid funds now go towards fish and wildlife conservation efforts on these lands for which tribes are responsible. I am grateful that this Committee has recognized the inequities and included a 2.25% allocation in Title III.

I appreciate the Committee's effort to find statutory language by which the 2.25% share can be fairly allocated among the various tribes. We believe statutory distribution language is necessary to ensure a reliable base of core funding that Indian tribes can count upon from year to year. The present language would divide the funds among tribal conservation programs on the basis of 1/3 land and 2/3 population. As the Committee further deliberates on the CARA provisions, we ask that you give some consideration to amending this provision so as to allocate funds on the basis of 2/3 land and 1/3 population. Obviously, wildlife conservation funding needs rise incrementally in relation to the amount of trust land acreage a tribe is responsible for managing. Therefore it makes sense to have greater weight apply to the trust land acreage of a tribe, while still including a factor to reflect that tribe's population of users. We also ask that language be added to clarify that funds allocated under this section, upon application by a tribe, shall be used by a tribe only to support an established wildlife conservation and restoration program or to develop a wildlife conservation plan or strategy. Finally, since some tribes may not apply or develop conservation programs, I ask that language be added which specifies that any of the 2.25% allocation which remains undistributed to tribes near the end of the fiscal year should be redistributed on a proportional basis to those tribes who received distributions that year. In Attachment B, we have provided proposed amendment language for Title III to address these issues.

Keep CARA Title VI Intact

Title VI of H.R. 701, Federal and Indian Lands Restoration, provides up to $200 million annually for a coordinated program on federal and Indian lands to restore degraded lands, protect resources that are threatened with degradation, and protect public health and safety. Of this amount, 60% would be allocated for Department of Interior lands, 30% would be allocated for Department of Agriculture lands, and 10% would be allocated for Indian lands. This allocation formula is based on acreage.

Like the federal government and the states, tribes have an immense wealth of natural resources under their management and care. However, tribes lag far behind the federal government and the states in our capacity to protect these resources. The development of this capacity takes time and dedicated financial resources, and tribes have long been disadvantaged in this area.

The $20 million allocated to tribes under this title is modest when you consider that it must be spread among more than 550 tribal governments and 56 million acres of Indian trust land. However, it does represent a critically important source of funds, and I strongly urge you to ensure that Title VI is kept intact in the final CARA legislation.

We do ask that the maximum amount available to a single tribe in any year be limited to 5% rather than the 10% cap used in the current version of CARA. We also ask that language be included in Title VI requiring the Secretary of Interior to consult with tribes in the development of the competitive grant program for allocation of funds to tribes, again, to reflect the government-to-government relationship. In Attachment C, we have provided a proposed amendment that would do this.

Conclusions

The protection of America's natural resources is of immense importance. CARA represents perhaps the greatest opportunity ever to provide a lasting legacy of resource preservation for future generations of Americans. CARA is consistent with the First Americans" view of protecting Mother Earth.

Because tribes were left out of Title VIII, Land Conservation, Preservation and Infrastructure Improvement to the Fiscal Year 2001 Interior Appropriations Bill, H.R. 4578, our hope lies in the enactment of CARA this year. If tribes are to preserve our resources and our way of life, we need access to funds in a manner similar to other agencies charged with the protection of America's land and water. I sincerely hope that you, and this Committee's colleagues in the Congress, will take my words to heart, and do the right thing on behalf of America's Indian tribes.

I have attached to this testimony proposed amendment language for CARA Titles II, III and VI, which addresses the issues I have raised today. Also attached is further background information which justifies our request. I would be pleased to provide any additional information you need. I thank you for the opportunity to present testimony today on behalf of the Red Lake Band of Chippewa Indians.Attachment A

ATTACHMENT A

Tribal Amendments Proposed to CARA Title II—H.R. 701

H.R. 701 (As introduced in the House of Representatives on February 14, 2001) (GPO's PDF version)

On page 36, line 7, just after "...rule." insert:

"The Secretary shall develop the competitive grant program in consultation with Indian tribes and with the active participation of a joint, federal and tribal workgroup, composed of a BIA and a tribal representative from each BIA region."

On page 36, line 12, strike "10" and replace with "5"

On page 36, line 14, strike "Funds"

On page 36, strike lines 15 through 18

ATTACHMENT B

Tribal Amendments Proposed to CARA Title III—H.R. 701

H.R. 701 (As introduced in the House of Representatives on February 14, 2001) (GPO's PDF version)

On page 45, line 12, strike "not more"

On page 45, line 13, strike "than"

On page 45, line 14, strike "1/3" and replace with "2/3"

On page 45, line 18, strike "2/3" and replace with "1/3"

On page 45, Insert at the end of line 24, the following two new sentences:

"Such amounts may be used by a tribe only to support or develop a wildlife conservation or restoration program or plan, and, upon application, shall be distributed to tribes before July 1st of each fiscal year. Should any of the 2 1/4 percent apportionment remain undistributed on July 1st of each fiscal year, such remainder shall be distributed on a proportional basis to those tribes previously receiving distributions that year under this subsection."

ATTACHMENT C

Tribal Amendments Proposed to CARA Title VI—H.R. 701

H.R. 701 (As introduced in the House of Representatives on February 14, 2001) (GPO's PDF version)

On page 59, at the end of line 2, insert:

"The Secretary shall develop the competitive grant program in consultation with Indian tribes and with the active participation of a joint, federal and tribal workgroup, composed of a BIA and a tribal representative from each BIA region."

On page 59, line 5, strike "10" and replace with "5"

Mr. THORNBERRY. Thank you, sir. I appreciate your testimony.

I would inform the other members that the House in recess until about 1:30, at which time we will have further votes.

Mr. Kildee?

Mr. KILDEE. I thank you. I want to thank the entire panel for their testimony. This bill is very near and dear to me. I am one of the original cosponsors.

And, Chairman Whitefeather, I certainly recognize the fact that you and I need to work together with Ms. McCollum to try to recog-

nize that, as a sovereign government, you should be treated like the other sovereign governments in the United States.

So hopefully, during the process of enacting this bill, we can recognize that our own Constitution states that the Congress shall have the power to regulate commerce with foreign nations and among the several states and with the Indian tribes. And that does narrate, gives a list, of the three sovereignties that the Constitution recognizes, doesn't grant. Your sovereignty is a retained sovereignty under the decisions of the U.S. Supreme Court.

So I would like to work with you to see how we can be more sensitive to the needs of your sovereign nation.

Thank you very much for your testimony.

Mr. WHITEFEATHER. [Speaking in Obijwe.]

Mr. THORNBERRY. Thank you.

Ms. McCollum, do you have any questions?

Ms. MCCOLLUM. No, Mr. Chairman.

Mr. THORNBERRY. Let me thank the panel for your testimony. I appreciate you being here and hearing your perspectives.

And we will go ahead and call up the third panel at this time: Mr. David Waller, director, Georgia Division of Wildlife, Department of Natural Resources, Social Circle, Georgia; Mr. Edward F. Sanderson, president, National Conference of State Historic Preservation Officers, Washington, DC; Ms. F. Patricia Callahan, president, American Association of Small Property Owners, Washington, DC.

Let me welcome each of you to the hearing today, and I appreciate your willingness to testify.

Mr. Waller, we will begin with you.

STATEMENT OF DAVID WALLER, DIRECTOR, GEORGIA DIVISION OF WILDLIFE, DEPARTMENT OF NATURAL RESOURCES, SOCIAL CIRCLE, GEORGIA

Mr. WALLER. Thank you, Mr. Chairman. My name is David Waller, and I am director of the Georgia Wildlife Resources Division and a past president of the International Association of Fish and Wildlife Agencies.

As you are aware, all 50 states are members of the association and strongly support H.R. 701. The wildlife agencies and the international have been working on this for several years. We worked in building a coalition across the country, and it has been mentioned many times about how broad that coalition is. But it represents a truly grassroots support, including business and industry, conservation organizations, elected officials, governors, mayors, city council members, support this. The recreational community supports it, soccer moms.

So it has tremendous support across America.

This bill is a bipartisan, consensus-built, common-sense approach to conservation that makes good economic sense, good common sense, and good political sense.

I would like to thank you for your efforts last year in basically passing the same bill out of the House of Representatives. We came so close last year, and that created the momentum that brings us back here today to consider a bill that is currently cosponsored by

over half the House. And what we want to do is finish the job this year.

The support of the American people for CARA, which dedicates assured funding for conservation, sends a clear message that certainty for conservation program funding has finally achieved the standing in the national budget that it truly deserves.

As you know and appreciate, natural resource, conservation, recreation programs contribute significantly to our quality of life, our socioeconomic stability, and our nation's health and well-being. Stewardship of our fish and wildlife, land, coastal, and cultural resources is important to every one of our citizens. It is particularly important to future generations who will benefit from our care for these resources.

Good stewardship cannot be imposed from Washington, DC, or defined by regulation. It needs to be supported at the state and the community level where we live.

It is clear that our nation's long-term resource conservation challenges can't be solved by one-time fixes or cookie-cutter answers or simply passing more regulations. The history of fluctuations and constantly shifting priorities of year-to-year appropriations has proven that annual funding simply is not adequate to meet current needs or address future problems.

There needs to be a comprehensive and sustained Federal, state, and local stewardship commitment. For these reasons, assured funding and state-based decisionmaking are the most important provisions of CARA.

As you know, Mr. Chairman, conserving fish and wildlife species is not a quick fix. Restoring declining species to a sustainable level is a complex, multiyear endeavor that requires a certainty of available funding for success.

We have learned this from our experience with game and sport fish species where assured funding was made available for these efforts. And that is why our wildlife populations across the country are in such good shape.

But there is no such funding currently available with any certainty to address the many imperiled nongame species. With assured and dedicated funding, we can implement proactive conservation programs to address the early warning signs of declining species. And it is a "pay a little now," or "pay a lot more later" situation after species are added to the endangered species list.

And that has been brought up many times, about the problems with endangered species. And this is a preventative maintenance program that will keeps species off that list.

Assured long-term funding is also necessary to create incentives, providing technical and financial assistance for private landowners, which include such things as cooperative agreements with resource agencies to accomplish conservation objectives.

These efforts would be designed to reduce the need to list endangered species by funding preventative conservation programs that restore declining species before they reach a point where listing is necessary. This helps the landowner become part of the solution.

Also, as you know, Mr. Chairman, outdoor recreation is the fastest growing industry in this country. And CARA will position the state fish and wildlife agencies to help local communities identify

and take advantage of wildlife-related tourism opportunities. Programs to capture these opportunities can significantly enhance the economy of these rural communities.

And last but not least, there is a huge need for conservation and education programs in these counties. I go into schools every year across Georgia, and you can do the same thing in your state, and you will be shocked at the lack of information children have. Most of them don't even know that milk comes from a cow or a cow bites the dust when they get a hamburger at McDonald's.

So there is a huge need for that. And CARA provides funding for conservation education.

And I see my time has run out, but I would encourage you to please move forward with this bill and move it through the House as soon as you can to get it over to the Senate where we will have more time to work on it for next year.

Mr. Chairman, I have one more request that some of our coalition asked, and I don't know the protocol, but they asked if you could keep the record open for another week or two so they could get in some—they would like to write in and make comments on it, too.

[The prepared statement of Mr. Waller follows:]

Statement of David Waller, past President, International Association of Fish and Wildlife Agencies

Thank you, Mr. Chairman. My name is David Waller, Director of the Georgia Wildlife Resources Division, and a past President of the International Association of Fish and Wildlife Agencies. As you are aware, all 50 states are members of the Association.

The Association sincerely appreciates the opportunity to appear before your Committee today to share with you the collective and continued strong support of the 50 State Fish and Wildlife Agencies for H.R. 701, the Conservation and Reinvestment Act, a bill that will ensure a conservation legacy for all Americans. This bill is unquestionably the most significant legislative initiative for fish and wildlife (and other natural resources) conservation in the last several decades. Whether you hunt, fish, bird watch, hike, play soccer or just enjoy the peace and tranquility of being outdoors appreciating the vast natural bounty of our Nation, this bill will ensure that our children and future generations will enjoy this bountiful natural wealth.

The International Association of Fish and Wildlife Agencies was founded in 1902 as a quasi-governmental organization of public agencies charged with the protection and management of North America's fish and wildlife resources. The Association's governmental members include the fish and wildlife agencies of the states, provinces, and federal governments of the U.S., Canada, and Mexico. The Association has been a key organization in promoting sound resource management and strengthening federal, state, and private cooperation in protecting and managing fish and wildlife and their habitats in the public interest.

Let me also thank you, Chairman Hansen, and Chairman Young, Congressman Dingell, Congressman Miller, Congressman Tauzin, Congressman John and many others for your efforts in passing essentially this same bill out of the House in the last Congress. Although the bill was never acted on by the full Senate in the last Congress, your efforts to dedicate assured funding to state-based conservation and recreation programs captured the overwhelming support of the American public and your House colleagues as well as support from most Senators. It has created the momentum that brings us back here today to consider a bill that is currently cosponsored by over one-half of the House. Mr. Chairman, we remain as committed to working with you this Congress as in the last, and in this Congress, we fully expect to join you in the Rose Garden for the ceremony signing CARA into law.

The overwhelmingly bipartisan House vote in the last Congress, and robust sponsorship in this Congress for H.R. 701 clearly shows that conservation programs are an extremely high priority for the American people. The support for CARA, which dedicates assured funding for conservation, sends an unmistakable message that certainty for conservation program funding has finally achieved the standing in the national budget that it truly deserves. As you know and appreciate, Mr. Chairman,

natural resource conservation and recreation programs contribute significantly to our quality of life, our socio-economic stability, and our Nation's health and well-being. Just as Social Security is a financial safety net, conservation of our natural resources is resource safety net for both this and future generations. Unless Congress makes a multi-year commitment to conservation, history indicates that we postpone conservation efforts which then cost more and result in substantial impact on private and public land because species become threatened and endangered.

Stewardship of our fish and wildlife, land, coastal, and cultural resources is important to every one of our citizens. It is particularly important to future generations who will benefit from our prudent care for these resources or be burdened by our failure to do so. Good stewardship cannot be imposed from Washington, DC, or defined by regulation; it needs to be nurtured and supported at the state and community level where we live. It is clear that our nation's long-term resource conservation challenges cannot be solved by one-time fixes, cookie-cutter answers, or simply passing more regulations. The history of fluctuations and constantly shifting priorities of year-to-year appropriations underscores the fact that annual funding simply is not adequate to meet current needs or address future problems. There needs to be a comprehensive and sustained federal, state and local stewardship commitment. For these reasons, assured funding and state-based decision making are the most important fundamental provisions of CARA.

As you know, Mr. Chairman, conserving fish and wildlife species is not a one-time fix. Restoring declining species to a sustainable level is a complex, multi-year endeavor that requires the certainty of available funding for success. As an example, restoring the nation's symbol—the bald eagle—to its current status has taken four decades. It took a lot more than banning the use of certain pesticides to achieve this goal. In this case, funds were available under the Endangered Species Act, but no such funding is currently available with any certainty to address the many imperiled nongame species from which ranks will come the next listed species. With assured and dedicated funding, we can implement proactive conservation to address the early warning signs of decline. It is less expensive to restore species, and our opportunities to use voluntary incentive based, non-regulatory programs are much greater than when a species comes under the authority of the ESA. Also history indicates it is not only expensive to restore an endangered species but it may be too late.

Our experience with game and sportfish species also demonstrates the success of wildlife conservation efforts when dedicated and assured funding is available. As you know, Mr. Chairman, at the beginning of the last century, America's fish and wildlife populations were in dire circumstances from several factors. Through the dedicated efforts of the sportsmen and sportswomen of this country, working with the hunting and fishing equipment industry and state and federal fish and wildlife agencies, Congress statutorily established the Federal Aid in Wildlife Restoration Act (Pittman–Robertson) in 1937 and Federal Aid in Sportfish Restoration Act (Dingell–Johnson/Wallop–Breaux) in 1950 to provide dedicated and assured funding to the State fish and wildlife agencies for game and sportfish species. Those funds, along with license fees paid by hunters and anglers, have provided the foundation for America's successful fish and wildlife conservation programs over many years in bringing back species like the white-tailed deer, pronghorn antelope, wood duck, wild turkey and striped bass. Now is the time to duplicate that success with funding provided under CARA that include those fish and wildlife species (nongame species) that are neither game nor sportfish, but constitute the majority of fish and wildlife in this country. We have the expertise, we have the will, and with assured funding from CARA, we will have the resources to duplicate our successes which make our system of fish and wildlife conservation the model which other countries seek to emulate.

Also, as you are aware, assured, long-term funding is necessary to create incentives for private landowners to provide technical and financial assistance which include such things as cooperative agreements with resource agencies to accomplish conservation objectives. These efforts would be designed to reduce the need to list endangered species by funding preventative conservation programs that restore declining species before they reach a point where listing is necessary. This helps landowners to become part of the solution through non-regulatory, incentive-based programs that can integrate their land management intentions with fish and wildlife conservation efforts.

We look forward to working with you to expeditiously report H.R. 701 out of your Committee, and pass it out of the House before the August recess. Let's take advantage of the tremendous opportunity afforded us in this bill to do something for all Americans!

The Association has testified several times before this Committee (and others) in the last Congress on H.R. 701 and other proposals that would dedicate Outer Continental Shelf (OCS) revenues to State-based enhanced programs for fish and wildlife conservation, conservation education, and wildlife associated recreation; land and water conservation; outdoor recreation; and coastal conservation and impact assistance. The Association strongly supports the Conservation and Reinvestment Act because it is a bipartisan, consensus-built, and common sense approach to conservation that makes good economic sense, good common sense, and good political sense.

We also sincerely appreciate the work of you and the other CARA champions, on and off this Committee, in amending the Wildlife Conservation and Restoration Program (Title III) authorizing language into the Pittman–Robertson statute last year through the enactment of the fiscal year 2001 Commerce, Justice, State, the Judiciary and Related Agencies Appropriations act. That law, again through your and many other members" supportive efforts, also made available to the State fish and wildlife agencies a one-time appropriation of $50 million to be apportioned to and expended by the States under the terms and conditions of the Wildlife Conservation and Restoration Program. I wanted to share with you that, through a truly cooperative effort between the US Fish and Wildlife Service and the State Fish and Wildlife agencies, all states and territories have been expeditiously qualified for their apportionment and are currently submitting their projects for expenditure approval so that they can do good things on the ground for fish and wildlife and our citizens. This was a good start, but as you know, more funding with greater assurances is necessary to meet the needs.

The coalition of over 4500 organizations that has come together in support of CARA, and worked so tirelessly for House passage in the last Congress and is doing so again now, truly represents both broad and diverse grass-root support of the business community, conservation organizations, elected officials at all levels of governments, industry, the recreation community and other interests. Citizens from "soccer moms" to hunters and wildlife photographers strongly support CARA. Our common goal is to bring dedicated, consistent funding to state-based fish and wildlife conservation programs; land and water conservation; coastal conservation and environmental programs; state and local outdoor recreation; historic preservation; and incentives for our landowners to continue good stewardship of their land in open space uses as farmland, ranchland and forest land. CARA places decisions on identifying needs and spending priorities at the State and local level which we believe can best reflect the interest of our citizens, and, it does that while giving greater protection than exists in current law to private property owners with respect to federal land acquisition. This coalition truly represents America's interest in our natural and cultural heritage, and our need to conserve that heritage for future generations.

As we have testified many times before, the most significant benefit of CARA to fish and wildlife conservation is that the State fish and wildlife agencies will finally be in a position to take preventative conservation measures to address the life needs and habitat requirements of declining species before they reach a status where they must be listed as endangered or threatened species. This will save money and prevent the social and economic disruption associated with species being threatened or endangered. By acting proactively when more conservation options are available to us, the State fish and wildlife agencies can work cooperatively with private landowners through voluntary, non-regulatory means such as incentives, technical assistance, easements, and other such measures. Prevention makes good biological sense, good economic sense, and good common sense. Preventative conservation now is an investment that will continue to pay dividends far into the future. It simply costs much less to conserve fish and wildlife species by responding to early warning signs of decline, than it does to recover these species once they have to be listed.

Also, as you know, Mr. Chairman, outdoor recreation is the fastest growing industry in this country, and CARA will position the State fish and wildlife agencies to help local communities identify and take advantage of wildlife related tourism opportunities. Programs to capture these opportunities can significantly enhance the economy of these rural communities.

Let me briefly share with you today two perfecting amendments the Association would urge be made to the Wildlife Title (Title III) of the Conservation and Reinvestment Act. The Association staff will continue to work closely with your Committee staff on the details of some other technical or clarifying language suggestions.

First, we would ask for your serious consideration of eliminating the 10% spending cap restriction on wildlife related recreation expenses. In 1996, over 62 million Americans participated in wildlife viewing with an economic impact of nearly $30 billion. Wildlife related recreation is critical in the fostering of the public's commitment to wildlife conservation—in short, responsible nature-based tourism develop-

ment, the promotion of nature and birding festivals, active wildlife-watching skill-building, and other creative activities build and sustain a growing wildlife conservation constituency. Although we recognize the concern that infrastructure needs might divert needed funding away from on the ground conservation, states need to be able to provide quality, safe opportunities for wildlife viewing and photography which are not only highly popular but provide significant economic benefits to communities. Such wildlife recreation opportunities would be provided consistent with other needs for wildlife management. Also, one-time capital investments to provide wildlife related recreation facilities while maintaining ongoing programs could require more funding than the 10% annual cap would allow. State fish and wildlife agencies are in the best position to decide what mix of Title III funds should be applied to conservation, wildlife associated recreation, and conservation education, and we encourage your support for eliminating the 10% cap on expenditures for wildlife associated recreation.

Second, we strongly encourage you to allow, at the discretion of the State fish and wildlife agency, the expenditure of up to 10% of the Title III funds for conservation law enforcement activities. As you know, state fish and wildlife conservation officers have many opportunities to work with landowners and the public to implement voluntary, proactive fish and wildlife protection and public education and outreach programs. They also prevent poaching, or over-utilization of fish and wildlife resources, thereby reducing the likelihood that a species may become threatened or endangered in the future. Further, they provide for public safety, security, search and rescue functions, and resolution of outdoor user conflicts. In short, conservation law enforcement is an integral component of a comprehensive state fish and wildlife program and should, at the discretion of the State Director, be eligible for up to 10% funding under CARA.

Mr. Chairman, in closing, the Association stands ready to assist you in whatever way we can to make programs which would be funded under CARA a reality for all of our citizens. Let's work together to pass this landmark legislation now, and provide a future for our citizens that we can all be proud of passing on.

We would be pleased to answer any questions the Committee may have.

Thank you for the opportunity to share the Association's perspectives with you.

The CHAIRMAN. [Presiding.] I appreciate that, and we will honor that request.

Mr. Sanderson?

STATEMENT OF EDWARD F. SANDERSON, PRESIDENT, NATIONAL CONFERENCE OF STATE HISTORIC PRESERVATION OFFICERS, WASHINGTON, DC

Mr. SANDERSON. Mr. Chairman, thank you for the opportunity to speak to the Committee. My name is Ted Sanderson. I am the director of Rhode Island's Historical Preservation and Heritage Commission, and I am here today representing the National Conference of State Historic Preservation Officers as their president.

We strongly support the concept of H.R. 701 to provide predictable, automatic withdrawals from the Historic Preservation Fund to states and tribes. And we thank the Committee for including the Historic Preservation Fund as Title V at its authorized level of $150 million per year.

The National Conference of State Historic Preservation Officers is the association of state officials appointed by their governor to carry out the national Historic Preservation Act on behalf of the secretaries of interior and the Advisory Council on Historic Preservation.

Today we are part of a broad coalition that strongly supports H.R. 701, and includes other state-based organizations, like the National Governors Association and the National Conference of State Legislators.

When Congress created the Historic Preservation Fund in 1976, it made a promise to preserve America's heritage. Part of the proceeds from the sale of nonrenewable oil and gas resources would be used to fund the long-term conservation of historic places. But appropriations have fallen short of that promise and the nation's heritage is at risk.

Only a third of the total authorized revenue in the Historic Preservation Fund has ever been appropriated. For fiscal year 2002, funding for states and tribes would be cut by 20 percent. And the total appropriation for historic preservation would only be about half the authorized level.

The consequence of this underfunding is a mounting backlog of unmet needs, historic buildings lost, and communities with few resources, struggling to save their heritage. Ironically, unappropriated revenue continues to accumulate in the Historic Preservation Fund.

The funding provided by H.R. 701 is essential to fulfill Congress's promise to preserve America's heritage. Instead of creating a large bureaucracy, the Historic Preservation Fund enables each state to carry out historic preservation activities on behalf of the Federal Government.

Our program is an excellent example of federalism. The Secretary of the Interior sets standards while state historic preservation officers do the actual work, and governors oversee the effective operation of the program in their state.

The Historic Preservation Fund pays only half the cost of this national program, and states match the Federal dollars. This is cost-effective government that is responsive to local citizens.

The National Historic Preservation Act created a rational approach to historic preservation. States identify the historic places within their boundaries, and with the involvement of the public, produce a historic preservation plan to set priorities.

The Historic Preservation Fund matches nonfederal funds to carry out the program, and H.R. 701 will guarantee an adequate and predictable funding level.

Congress understood that states are in the best position to have knowledge about the full range of historic properties and to make decisions in accordance with local needs and local conditions. For this reason, the act limited direct grants by the Secretary of Interior to 10 percent of the annual appropriation.

But over the last few years, special category grants awarded from Washington have exceeded 40 percent of the annual appropriation. Coupled with low appropriations, this situation has choked the flow of funding originally envisioned by the Historic Preservation Fund.

As a result, all across America, critical preservation projects are locked out from a large share of what funding is available. Language in Title V directing Historic Preservation Fund allocations to states and tribes will correct this situation.

My written testimony recommends several specific changes to the bill. In the interest of time I won't discuss the details of those changes but ask that they be considered by the Committee. And I would be happy to answer any questions that you might have about it.

In conclusion, our nation's heritage rests in the historic buildings, sites, and neighborhoods of towns and rural areas in each of the states. Historic places close to home are part of the heritage of the nation as a whole, and preserving them is the promise the Congress made in the National Historic Preservation Act and in the Historic Preservation Fund.

States are fulfilling their part of the promise, working with citizens and local government. Now we ask that Congress fulfill its part of the promise by enacting H.R. 701 to guarantee full funding of $150 million per year.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Sanderson follows:]

Statement of Edward F. Sanderson, President, National Conference of State Historic Preservation Officers, Executive Director, Rhode Island Historical Preservation and Heritage Commission

I. INTRODUCTION: EXPRESSION OF THANKS

Thank you, Mr. Chairman, for the opportunity to speak to the committee. My name is Ted Sanderson. I'm the director of Rhode Island's Historical Preservation & Heritage Commission and President of the National Conference of State Historic Preservation Officers.

The National Conference of State Historic Preservation Officers extends its thanks to House Resources Committee Chairman James Hanson for including the Historic Preservation Fund as Title V of H. R. 701, the Conservation and Reinvestment Act at its historically authorized level of $150,000,000. The National Conference further thanks Chairman Hansen, Ranking Member Rahall, and the Resources Committee for an invitation to testify on behalf of H. R. 701, particularly Title V.

The National Conference of State Historic Preservation Officers strongly endorses the concept of H. R. 701 to provide predictable, automatic withdrawals from the Historic Preservation Fund to States and tribes.'

II. CONSERVATION AND REINVESTMENT ACT: A PROMISE KEPT FOR AMERICA'S HERITAGE

When Congress created the Historic Preservation Fund in 1976 it made a promise to America's heritage. A part of the proceeds from sale of non-renewable oil and gas

'The National Conference, while fully supporting tribal historic preservation officers as a major part of the national historic preservation program, does not presume to represent or speak for Tribal Historic Preservation Offices or tribal interests. resources would be used to fund the long-term conservation of historic places. Less than a year ago, thanks to the leadership of the Honorable Joel Hefley, Representative from Colorado, Congress again renewed its promise of an annual deposit of $150,000,000 into the Historic Preservation Fund (P. L. 106–208). But appropriations from the Historic Preservation Fund have fallen short of the promise, and the nation's heritage is at risk. Over the past 25 years, only a third of the total authorized revenue in the Historic Preservation Fund has ever been appropriated. For Fiscal Year 2002, funding for states and tribes would be cut by twenty percent, and the total appropriation for historic preservation would be only about half the authorized amount. The consequence of this under funding is a mounting backlog of unmet needs, historic buildings lost, and communities with few resources struggling to save their heritage. Ironically, unappropriated revenue continues to accumulate in the Historic Preservation Fund.

The funding provided by H.R.701 is essential to fulfill Congress' promise to preserve America's heritage. The National Historic Preservation Act (16 U.S.C. 470) created a partnership between the Department of the Interior and all of the states. Instead of creating a large federal bureaucracy in historic preservation, the Historic Preservation Fund enables each state to carry out historic preservation activities on behalf of the federal government.

The historic preservation program is an excellent example of federalism. Our national heritage rests in the historic buildings, sites, and neighborhoods of cities, towns, and rural areas located in each of the states. States work with the federal government and with local government to preserve historic resources. The Historic Preservation Fund pays only half the cost of the national historic preservation program. States match the federal dollars, and State Historic Preservation Offices do

the actual work. The Secretary of the Interior sets standards, while governors oversee the effective operation of the program in their state. This is cost-effective government responsive to local citizens.

III. NATIONAL HISTORIC PRESERVATION ACT AND THE HISTORIC PRESERVATION FUND: A RATIONAL APPROACH TO HISTORIC PRESERVATION

The National Historic Preservation Act created a rational approach to historic preservation based on historic values and public input. States identify the historic places within their boundaries, and with the involvement of the public, produce a historic preservation plan to set priorities. Adequate, dependable, predictable funding as provided in H. R. 701 will allow State Historic Preservation Offices to raise matching funds and meet historic preservation needs in cooperation with local governments, nonprofit organizations, and property owners. Congress understood that states are in the best position to have knowledge about the full range of historic properties and to make decisions in accordance with local needs and conditions. For this reason, the Act limits direct grants by the Secretary of the Interior to ten percent of the annual appropriation.

The National Historic Preservation Act specifies recipients of Historic Preservation Fund grants. Section 101(e) specifies the recipients: States, National Trust for Historic Preservation, Indian tribes and Native Hawaiian organizations, and Micronesian States. Subparagraph 101(e)(3) authorizes the Secretary of the Interior to make direct grants with the following conditions: a) the amount of Secretarial grants may not exceed 10% of the annual appropriation from the Historic Preservation Fund, b) the Secretary must consult with the appropriate State Historic Preservation Officer, and c) projects may be for National Historic Landmarks, World Heritage sites, demonstration projects, training and development of skilled labor trades, and to assist small businesses in National Register Historic Districts.

In recent years, special category grants awarded from Washington have exceeded forty percent of the annual appropriation. Coupled with low appropriations, this situation has choked the flow of funding originally envisioned by the Historic Preservation Fund. As a result, all across America in town centers and rural areas critical preservation projects are "locked out" from more than a third of the available funding. Language in Title V of the Conservation and Reinvestment Act directing Historic Preservation Fund allocations to States and tribes will correct this situation.

IV. CHANGES NEEDED IN H.R. 701

The National Conference of State Historic Preservation Officers makes the following suggestions for changes to the text of H. R. 701.

A. Section 6. Limitation on Use of Available Amounts for Administration

The National Conference agrees that the purpose of H. R. 701 is to conserve resources benefitting the Nation's heritage. Making available the full $150,000,000 annually to States and tribes will allow sufficient funding to administer federal funds following OMB and Department of the Interior and National Park Service requirements. Administrative costs as a percentage of the total funds available declines as the size of the grant increases.

At the lesser amounts States have received historically through the budget and appropriations process, the actual cost of administration to meet federal requirements is 10%. Should allocations to States be less than the authorized amount this section would create an unfunded mandate on State government.

B. Section 7. Record Keeping Requirements

The National Conference of State Historic Preservation Officers questions the Committee's inclusion of additional Record Keeping requirements on State governments. At least in the case of Historic Preservation Fund expenditures, substantial record-keeping and reporting requirements are already in place in accordance with regulations previously issued by the Secretary of the Interior and the Office of Management and Budget. Recognizing the desire of Congress to minimize the use of CARA funds for administration, additional or duplicative Record Keeping should be avoided.

C. Section 8. Maintenance of Effort and Matching Funding

The National Conference of State Historic Preservation Officers believes the 30-year record of the States in supporting the Historic Preservation Fund makes this section unnecessary. Further, under the National Historic Preservation Act, the State Historic Preservation Officers are carrying out a federal government program for identification, evaluation and protection of historic properties. The Historic Preservation Fund reimburses States for roughly half the cost of making subgrants for

heritage enhancement as well as for half the cost of running this federal program. Existing law and regulations require that all federal funds must be matched by non-federal funds. Therefore a reduction of state or local resources may automatically reduce federal assistance as the result of matching fund requirements already in place.

D. Section 501. Treatment of Amounts Transferred from the Conservation and Reinvestment Act Fund

1. Section 501 (3), new Section 108(b) of the National Historic Preservation Act–The National Conference of State Historic Preservation Officers recommends the addition of the word "and" after the word "States" on line 18 and the insertion of a period after the word "tribes" on that same line. Note: grants to the States, by law, include funding for local governments-not less than 10% of the States' allocation up to $60,000,000 and, in amounts above $60,000,00, half of the excess.

2. Section 501(3), new Section108(c) of the National Historic Preservation Act–The National Conference of State Historic Preservation Officers has testified for thirty years about the need to increase the Historic Preservation Fund appropriations to allow for subgrants for restoration projects, and we continue to support that position. However, the Conference requests that this section be stricken as it limits State flexibility to respond to State needs for the following reasons.

a. Because the Historic Preservation Fund supports a program for identification, evaluation, and protection of historic properties generally as well as enhancement and restoration of particular properties, a substantial share of HPF funding will continue to be allocated to program-wide needs.

b. In some States such as Florida and Colorado that have major annual State funding for restoration projects, the State may need to use its Historic Preservation Fund allocation to assist in redevelopment projects, to help local governments undertake historic site survey or National Register work.

c. Title V includes specific authorization for States to use Historic Preservation Fund allocations to assist heritage areas. Heritage areas may need redevelopment assistance, or help with survey and education activities. Section 501(3) will hamper the State Historic Preservation Officer's ability to address the genuine needs of heritage areas.

d. Outside of heritage areas important unmet needs also exist for historic preservation -related redevelopment assistance and implementation of survey and education programs to increase public recognition and understanding for historic resources.

e. The needs of the historic resources and sound management practices may require a short-term major investment that is not project related. A significant example is the need to make up for the past 30 years of under funding of historic site survey work to identify and record significant historic properties. In many states the current backlog in historic site survey pushes the financial burden for identification of historic places on to other federal agencies and sometimes on to private sector applicants for federal assistance.

f. Sound preservation planning may dictate a major capital investment in digitizing information on historic properties through computer-based geographic information systems to modernize the accessibility of information and expedite project reviews.

One response to these concerns would be to define "projects" broadly enough to include the types of activities described above.

E. Section 503. Funding for Maritime Heritage Programs

The National Conference of State Historic Preservation Officers fully supports funding for maritime heritage. This sector of the historic preservation community has been active for decades working with Congress to secure dedicated funding.

The National Conference of State Historic Preservation Officers has consistently advocated for the Historic Preservation Fund to support a historic preservation program that is truly national in scope and inclusive of all types of significant historic properties. With limited funding through the appropriations process, the National Conference of State Historic Preservation Officers has warned about the danger of "Balkanization" of the historic preservation program. When individual properties or groups of properties, no matter how worthy, obtain special, dedicated funding for their own narrow resource type, a disproportionate benefit is created that excludes the majority of resource types and fails to address truly national needs. Special category grants, awarded from Washington, have helped many threatened resources.

However, sending the same amount of money through the States leads to more equal access, better pre-project evaluation, funding for more projects, assurances of matching-fund capability, and quality control over the final product.

The Conservation and Reinvestment Act will allow all Americans access to funding for historic preservation. The dependability of funding from CARA also will encourage applicants that if their project is not funded in the current year, funding will be available in the next application cycle.

V. EXPLANATION OF NATIONAL CONFERENCE OF STATE HISTORIC PRESERVATION OFFICERS

The National Conference of State Historic Preservation Officers is the association of state officials-appointed by their governors-who carry out the National Historic Preservation Act for the Secretary of the Interior and the Advisory Council on Historic Preservation pursuant to the National Historic Preservation Act (16 U.S.C. 470). For over thirty years State Historic Preservation Officers have actively supported historic preservation authorization legislation and advocated for adequate appropriations to achieve the Congressional mandate for preserving America's heritage "as a living part of our community life." Today we are part of a broad coalition that strongly supports H.R. 701, and includes other state-based organizations such as the National Governors Association, the Southern Governors Association, the Coastal States Organization, and the National Conference of State Legislators.

VI. CONCLUSION

Everywhere in the United States historic buildings and sites are valued for various reasons: saving key historic landmarks, preserving the character of a special neighborhood or small town, helping to teach rising generations about their nation's past, economic development on traditional Main Streets, rehabilitation of housing, and revitalizing older communities. In every state, citizens recognize that the historic places close to home are also part of the heritage of the nation as a whole. That is the promise Congress originally offered in the National Historic Preservation Act and the Historic Preservation Fund. State Historic Preservation Offices in each state are fulfilling their part of the promise by carrying out the national historic preservation program and by working with citizens and local government to raise the money to match federal funding. We ask that the Congress fulfill its part of the promise by enacting H.R. 701 to guarantee states and tribes the full authorized funding of the Historic Preservation Fund: $150,000,000.

The CHAIRMAN. I thank you, Mr. Sanderson.

Ms. Callahan, I appreciate seeing you again, appreciate you being here.

STATEMENT OF F. PATRICIA CALLAHAN, PRESIDENT, AMERICAN ASSOCIATION OF SMALL PROPERTY OWNERS, WASHINGTON, D.C.

Ms. CALLAHAN. Thank you so much.

Mr. Chairman and members of the Committee, thank you for your invitation to appear today and express the perspective of small property owners. I am Pat Callahan, president and founder of the American Association of Small Property Owners, the voice of small landlords and real estate investors.

Since 1993, AASPO has been working for the right of small property owners to prosper freely and fairly, to make possible the American dream of building wealth through real estate.

There are 10 million small owners of investment properties nationwide, accounting for $40 billion per year in direct economic activity. We are served by 2,000 state and local associations. Our print newsletter, The Small Property Owner, was voted the best independent real estate newsletter for 1996 by the National Association of Real Estate Editors. And we work very closely with the National Association of Real Estate Editors.

AASPO believes that entrepreneurship flourishes in a free-market economy. This means that taxes and regulations should be kept to a minimum, and that government must clearly define its role to provide for the general welfare of all its citizens. Government programs should encourage small property owners, not stifle them, and certainly not compete with them.

Too often we see that policies and programs which started with good intentions have the opposite effect.

We oppose CARA as the next step in an already flawed Federal land policy. About 100 years ago, the Federal Government stopped privatizing its massive landholdings and started to act as the perpetual owner, instead of temporary steward, of its lands.

As a consequence, the Federal Government became the nation's number one landowner, in several states owning more than half of the land. The landholdings eventually came to be organized into various tracts, from wilderness areas to national parks to national forests.

Yet even in the latter tracts, where multiple use prevails, the possibility of ownership in fee simple was taken off the table. Thus, a hallmark of our constitutional order, the ancient privilege and immunity of free people to own land in fee simple, no longer motivates public policy.

CARA moves this land policy in the wrong direction, by authorizing the acquisition of some $45 billion in land over 15 years.

To be sure, our Constitution allows the acquisition of private property for public purposes provided there is just compensation, and there can be no objection to select acquisition of land by the Federal Government when there is a proper and necessary relationship to the enumerated powers of the Federal Government.

But select acquisition of private property is altogether different from the concerted effort embodied in CARA.

Private ownership of real property is a fundamental principle on which our country was founded. Ownership of land is connected with freedom itself and has been at the core of our governmental process. If you take the resources and ownership out of land use, then you destroy the fundamental meaning of private property ownership.

Private property ownership underlies the opening of the West. Responsible stewardship is best exercised not by government but by private owners.

Private landowners are natural conservationists, inclined to multiple use, preserving what is most valuable to be preserved, and developing what is most valuable to be developed.

The highest and best use, which is a concept in real estate, of one's property is best determined by the owner, not by the Federal Government.

Property ownership is a local issue and is best dealt with by local governments. This is another founding principle of federalism, that the power of decisionmaking rests with state and local consensus.

In the absence of a compelling need and a compelling Federal interest, the Federal Government should not intrude into land use decisions and certainly not become the owner of private property.

Nowhere in the Constitution is there granted the right of the Federal Government to enter into the real estate business.

Private property ownership is not a Western issue. It is an urban issue, a women's issue, a minority issue, and an immigrant issue. The ownership of real estate is what draws newcomers to our shores.

Urban landlords are sensitive to the present debate because of our experiences with encroachment on the management of our properties, as you would find, for example, with rent control in New York City and California.

Sixty years ago, in response to a national wartime emergency, rent control was imposed in many communities. But New York City has never ended its housing emergency. The result has been a shortage in housing options, lost tax revenues, and missed opportunities for women, minorities, and immigrants to become successful landlords in New York.

Unfortunately, the situation has not been allowed to be self-correcting. The shortfall in local property tax revenues, for example, is conveniently made up for by an infusion of Federal funds through various grant programs, thus removing an important element for municipal fiscal discipline.

Land use, to be sure, involves many tough issues fought out at the local level. The exercise of democracy can at times become very contentious. The intervention of the Federal Government in land use matters, whether directly or through a funding mechanism, will allow idealogues to exercise undue influence in the process, and thereby disenfranchise local private property owners.

Finally, there is the economic impact of CARA. We question the effects on transportation and the flow of energy resources to our cities and suburbs.

For example, how would a pipeline reach our cities if parts of the route were to be placed off-limits by designating land as wilderness?

I think a current example of the calamity in Klamath basin is precisely the sort of situation the environmentalists and the government land acquisition agents create and will create to destroy the use and market value of private lands so that contented second and third generation families will have no other choice but to become willing sellers. And the feds, states, and the environmentalists will be there with their billions of dollars of CARA money to buy up these private lands and transfer it into government hands. This is an outrage.

The Klamath basin catastrophe is the absolute perfect textbook example of exactly what CARA is all about.

And why people who are working tirelessly to pass it and spending millions of dollars hiring expensive lobbyists—the Trust for Public Lands, the American Farm Trust. You know, you name it, you know who the players are.

The extreme environmentalists and the government create a calamity using the ESA to halt private property, private use on private lands. When the land can't be used, the landowner sees the market value of their land plummet and the collateral value of their land drop to zero. They can't get loans, they can't buy, they can't sell, they can't really do anything of economic worth with the land.

In desperation, families that had been the backbone of the rural community are suddenly facing total disaster and have no choice but to become willing sellers. Then the government and the Nature Conservancy and others such as they come into save the day and rescue all of these willing sellers, picking up their land and homes and dreams for $.05 on the dollar, if they are lucky, and further eroding American freedom by transferring still more private land into the hands of the government.

In sum, we feel that the Federal Government should be a minimal interventionist. If citizens want a particular benefit, they should discuss it, debate it, vote on it, and pay for it directly. The closer the taxpayer is to the collection point, the wiser the decision is likely to be.

A recent article in USA Today illustrates this point, and what it says—and I have examples in my testimony—is that local people are not voting bonds and taxes on themselves in order to create additional green space.

In conclusion, we hope that the policies and programs that compel consideration of constitutional protections for private property, as found in H.R. 1592, would be changed so that this bill will be unnecessary. But absent such a move, we support the enactment this legislation. Thank you.

[The prepared statement of Ms. Callahan follows:]

Statement of F. Patricia Callahan, President and Founder, American Association of Small Property Owners

Mr. Chairman and Members of the Committee:

Thank you for your invitation to appear today and express the perspective of small property owners on H.R. 701, the Conservation and Reinvestment Act, or CARA, and H.R. 1592, the Constitutional Land Acquisition Act. I am Pat Callahan, president and founder of the American Association of Small Property Owners, the voice of small landlords and real estate investors.

Since 1993, AASPO has been working for the right of small property owners to prosper freely and fairly—to make possible the American dream of building wealth through real estate. Based in Washington, DC, and with experts and advisors strategically located throughout the nation from California to New England, AASPO is the only national organization for small landlords, property owners and real estate investors to share information and strategies on important issues of the day.

There are 10 million small owners of residential and commercial investment properties, accounting for more than $40 billion per year in direct economic activity. We are served by 2,000 state and local associations around the country. AASPO's print newsletter, The Small Property Owner, was voted the "Best Independent Real Estate Newsletter for 1996" by the National Association of Real Estate Editors. Our web site is at www.aaspo.org. We use the internet as the main communications vehicle for our growing constituency.

AASPO believes that entrepreneurship flourishes in a free-market economy. This means that taxes and regulations should be kept to a minimum, and that government must clearly define its role to provide for the general welfare of all its citizens. Government programs should encourage small property owners, not stifle them, and certainly not compete with them. Too often we see that policies and programs which started with good intentions have the opposite effect.

We oppose CARA as it is the next step in an already flawed federal land policy.

About one hundred years ago, the federal government stopped privatizing its massive land holdings, and started to act as the perpetual owner, instead of temporary steward, of its lands. As a consequence, the federal government became the nation's 1 land owner, in several states owning more than half of the land.

The land holdings eventually came to be organized into various tracts, from wilderness areas to national parks to national forests. Yet, even in the latter tracts, where "multiple use" prevails, the possibility of ownership in fee simple was taken off the table. Thus, a hallmark of our Constitutional order, the ancient "privilege

and immunity" of free people to own land in fee simple no longer motivated public policy.

CARA moves this land policy in the wrong direction, by authorizing the acquisition of some $45 billion in land over fifteen years.

To be sure, our Constitution allows the acquisition of private property for public purposes provided there is just compensation, and there can be no objection to select acquisition of land by the federal government when this has a "proper and necessary" relationship to the enumerated powers of the federal government. But select acquisition of private property is altogether different from the concerted effort embodied in CARA.

Private ownership of real property is a fundamental principle on which our country was founded. Ownership of land is connected with freedom itself. The history of our political parties shows that private property ownership has been at the core of our governmental process. If you take the resources and ownership out of land use, then you destroy the fundamental meaning of private property ownership. As Thomas Jefferson observed in 1816: "The true foundation of republican government is the equal right of every citizen in his person and property and in their management."

Private property ownership underlies the opening of the West to settlement in the last century. Responsible stewardship is best exercised not by government but by private owners. Private landowners are natural conservationists, inclined to "multiple use," preserving what is most valuable to be preserved, and developing what is most valuable to be developed. The highest and best use of one's property is best determined by the owner, not the federal government.

Property ownership is a local issue and is best dealt with by local government. This is another founding principle of federalism, that the power of decision-making rests with state/local consensus. In the absence of a compelling need and a compelling federal interest, the federal government should not intrude into land use decisions and certainly not become an owner of private property. No where in the Constitutional is there granted the right of the federal government to enter into the real estate business.

Private property ownership is not a "Western" issue. It is an urban issue, a woman's issue, a minority issue, and an immigrant issue. Our Massachusetts chapter president is an immigrant from Switzerland and regularly reminds me that America is the only country were ordinary people can hope to own real estate. It is a magnet that draws newcomers to our shores.

Urban landlords are sensitive to the present debate because of our experiences with encroachment on the management of our properties, as you would find with rent control in New York City and California. Sixty years ago, in response to a national wartime emergency, rent control was imposed in many communities. But New York City has never ended its housing "emergency." The result has been a shortage in housing options, lost tax revenue and missed opportunities for women, minorities and immigrants to become successful landlords in New York. Unfortunately, the situation has not been allowed to be self-correcting. The shortfall in local property tax revenues, for example, is conveniently made up for by an infusion of federal funds through various grant programs, thus removing an important element for municipal fiscal discipline.

Land use involves tough issues, fought out on the local level. It is an exercise in democracy which can at times become very contentious. The intervention of the federal government in land use matters, whether directly or through a funding mechanism, will allow ideologues to exercise undue influence in the process, and thereby disenfranchise local private property owners.

Finally, there is the economic impact of CARA. We question the effects on transportation and the flow of energy resources to our cities and suburbs. For example, how would a pipeline reach our cities if parts of the route were to be placed off-limits by designating land as wilderness?

In sum, we feel that the federal government should be a minimal interventionist. If citizens want a particular benefit, they should discuss, debate, vote on and pay directly for it. The closer the taxpayer is to the collection point, the wiser the decision is likely to be.

A recent article in USA Today illustrates this point, and reports that voters in states and municipalities around the nation are approving new taxes to purchase open spaces. Last year, California approved $5 billion in acquisition funds. Open-space advocates say approving tax hikes for recreational and environmental purposes is an easier sell at the county and municipal level—because voters are more willing to pay to keep land green when it is in their own neighborhood. The movement is swiftly building momentum. In November 2000, voters approved 172 local measures, raising $2.4 billion for land acquisition—a considerable jump from the

$540 million raised in voting two years earlier. Residents of Boise, ID voted last month to hike property taxes for two years and devote the $10 million to purchases of land outside the city. In April, voters in McHenry County, IL, and in DeKalb County, in the Atlanta area, passed bond referendums to buy open space. Since March 31, Massachusetts towns have voted to raise property taxes as much as 3 percent to finance open-space acquisitions and other land issues. Source: Martha J. Moore, "Cities Tax to Keep Land Green," USA Today, May 31, 2001.

In conclusion, we would hope that the policies and programs that compel consideration of constitutional protections for private property, as found in H.R. 1592, would be changed so that this bill would be unnecessary. But absent such a move, we support the enactment of H.R. 1592.

Thank you.

The CHAIRMAN. I thank the lady, thank you, Ms. Callahan.

The gentleman from Louisiana, questions for our panel?

Mr. TAUZIN. Thank you, Mr. Chairman.

First of all, Ms. Callahan, are you aware of the average Federal appropriations for land acquisition since 1998 in this country?

Ms. CALLAHAN. Well, I didn't want to get into the specifics and start talking about dollars and cents on—

Mr. TAUZIN. I am just asking you a question. Could you answer it for me? Are you aware of the dollars we spend each year to acquire private lands in America?

Ms. CALLAHAN. Well, in what regard? I am trying to address your question. What exactly—

Mr. TAUZIN. I am asking you if you know the average expenditure each year by the Federal Government to acquire private lands in America right now, without CARA.

Ms. CALLAHAN. Oh, without CARA.

Mr. TAUZIN. Yes.

Ms. CALLAHAN. I don't believe I have the figures in—

Mr. TAUZIN. That average is $544 million a year.

In fact, the last President and this current President are each recommending at least $450 million a year in Federal land acquisition. But we are averaging $544.

If CARA had been in place in 1992, we would have only bought $373 million of property. In 1995, for example, we would have only bought $387.

CARA puts a ceiling of $450 million when we are spending an average of $544 million a year right now without CARA.

Are you aware of that?

Ms. CALLAHAN. Well, you are buying. You are not divesting. The whole essence of my testimony is that the Federal Government should not be in the real estate business.

Mr. TAUZIN. But what I am saying is—

Ms. CALLAHAN. And the—

Mr. TAUZIN. —that without CARA, Ms. Callahan, government is now acquiring more property, spending more dollars to acquire private property, than CARA would permit. It limits it to $450 a year.

Are you aware of that?

Ms. CALLAHAN. Well, it isn't a matter of being aware. It is a matter of whether I support the trend that I feel is very disturbing.

We should be—

Mr. TAUZIN. Well, what I am suggesting—

Ms. CALLAHAN. —encouraging private property ownership, not ownership by institution—

Mr. TAUZIN. Well, then let's talk about the way the government acquires property today and the way CARA would allow or prohibit the government from acting.

Are you aware of any law today that requires the Federal Government to consolidate the Federal landholdings in states that have checkerboard patterns of landholdings?

Ms. CALLAHAN. Well, what I am looking at is the practical results of what has been happening by case examples, and I think the trend is very disturbing. We should be encouraging—

Mr. TAUZIN. I understand—listen.

Ms. CALLAHAN. —private property ownership.

Mr. TAUZIN. I listened to your testimony very carefully, and I am asking you now to respond to my questions, not to give your testimony again.

I simply want to know, are you aware of any law that requires the Federal Government today to consolidate the checkerboard pattern of Federal landholdings out west?

Ms. CALLAHAN. Well, the effects are occurring, as we heard from the witness earlier—

Mr. TAUZIN. No, you don't want answer my question.

The answer is no, there is no such Federal law. CARA creates such a requirement.

Are you aware of any Federal law that requires the Federal Government to consider exchanging land rather than acquiring new land when it needs new property?

Ms. CALLAHAN. Well, again, you—

Mr. TAUZIN. There is no such law. The answer is no; CARA provides such a law.

Are you aware of any law that requires the Federal Government to consider permanent easements rather than full acquisition in place of land acquisition? Are you aware of any such law today?

Ms. CALLAHAN. Well, that trend, again, toward easements and that is really preventing, I think, the full use of one's private property. So usually what you will end up doing is owning, having the title to the land, and the privilege of paying the taxes.

I think it is very—

Mr. TAUZIN. Well, today there is no such law that—

Ms. CALLAHAN. Conservation easements are very disturbing.

Mr. TAUZIN. —would favor land acquisition in the form of easements instead of full title. CARA would permit that, in fact, encourage that, as opposed to full landownership by the Federal Government.

Are you aware of any law that requires that the Federal Government today prepare a list of surplus land eligible for sale to private landowners again?

The answer is no, there is no such law. CARA creates such a provision.

Are you aware of any law that requires the Federal Government to state the statutory authority and the reason why land is be acquired when it acquires it?

The answer is no. CARA now requires that, in its language.

Here is the most important part: Are you aware of any law that requires Congress to approve a land acquisition rather than allowing an agency to do it on its own, from an unwilling seller?

Ms. CALLAHAN. Well, you know, the theories that you are showing, whether we accept them or not, as a practical matter, Congress, when they were not able to, with the regulatory reform issue, oversee simple regulations before they went into effect, how are they going to be able to review every piece of land acquisition?

Mr. TAUZIN. Well, CARA requires them to. CARA says something brand new in the law that I think property rights advocates have missed and ought to pay attention to.

And as a lead sponsor of the first private property rights bill in this Congress, I can tell you, I pay a lot of attention to it, because we help craft these provisions.

Today, when the President has asked for $544 million to buy land and the appropriators give it to him, the agencies make the decision about what land they are going to buy, and they do it under forced acquisition. They have that power and they go about doing it.

And Congress never approves the specific act. They don't even have to advertise it in the local papers and tell us, send Members of Congress a list of what they are going to acquire. They can just go ahead with the money that has been appropriated to them under the appropriation authority, and they can go ahead and condemn property and take it.

CARA says no to that. CARA says, from now on, before you take any property, you have to say what you want, you have to send letters to the Members of Congress and publish it in the local newspapers. And if it is an unwilling seller, you can't take it unless Congress specifically passes a new act saying you can take that property from an unwilling seller. They have to pass a whole new act.

Otherwise, the only way you can acquire that property is if the person wants to sell it to you. Now, that is a huge improvement over current law that I think private property advocates ought to take account of.

This CARA bill protects private property in ways that the current law does not, and everybody, unfortunately, is missing that.

If we let the current law stand, and we let the Presidents and the appropriators continue to ask for and spend a half billion dollars a year in acquiring property, current law allows the agencies to take what they want, when they want, from whom they want, without Congress ever specifically saying, "Yes, we want it so badly we're going to let you expropriate," or we're going to let you take it in a way that doesn't require willing seller.

This law says, you have to have a willing seller or else you have to come back to Congress, specifically identify the site after notice to all the parties, and then make a decision here in Congress to buy it.

That is a huge improvement over current law. That is a huge improvement.

And I know you come here to protect private property rights, and I applaud you for that. I am standing with you. What I am saying is that current law is so much weaker in these areas than is CARA. And that makes a great deal of difference to me.

And one final point, because I know we have time limits, Mr. Chairman, but in Louisiana—I know Jack Caldwell knows this. In

Louisiana, we have something called the civil law. It is a little different from common law. But when you study them both, you see that they end up arriving at the same place, in time, when it comes to private property.

In Louisiana, we divide property ownership in three parts: the use of the property, which is the rentals on the property; the fruits of the property, that is, the crops you might grow or whatever you might take from the property; and the naked ownership, the right to sell it and to make profit from it in a sale.

The right to sell it is an integral right to the property owner.

Now, what I don't understand from some of my friends in the private property protection community is that I think sometimes we fail to respect that right.

If I want to sell my property, and I want to sell it to a conservation organization or to the Federal Government for a park or a refuge, if I want to sell it to them to build an airport, if I want to sell to them because they are the best buyer and they can make the most profit for me, you ought to be fighting and I ought to be fighting for the right of that private property owner to sell it whomever he wants, including the public purpose, if that is what he wants.

CARA protects that. It says we will protect the right of willing sellers to sell. And if you are not a willing seller, unless Congress says specifically the government can take your property, it can't take it.

And it restates the incredibly important provision you cite in the Constitution, which I have cited a thousand times at this Committee, that the government does not have a right to take your property through regulations or through any other means without fully compensating you under the Fifth Amendment of the Constitution.

I guess what I am trying to say, Ms. Callahan, is CARA is so much of an improvement over current law, and CARA recognizes the reality of the fact that government is going to buying property. It is buying a ton of it every year.

And if we are going to be buying a ton of it every year, maybe we ought to put a cap on the acquisitions and maybe we ought to encourage the government to swap property instead and dispose of property it doesn't need instead.

And maybe we ought to tell the government, you can't go around taking property from people without paying them. And you ought to always work with willing sellers whenever you can. And if you can't, you better doggone well come back to Congress and make a good case for it.

That is a heck of nice improvement over current law.

And, Mr. Chairman, I know I have gone on long, but I just wish all of our friends in the property rights movement would at least recognize what CARA improves in private property rights over the current state of the law.

Thank you, Mr. Chairman.

The CHAIRMAN. I thank the gentleman.

The gentleman from Texas, Mr. Thornberry.

Mr. THORNBERRY. Thank you, Mr. Chairman.

And I certainly recognize that the private property rights provisions in CARA are an improvement over current law. I don't see how anybody can look at the black letter of the law and question that they are better than what we have now.

Now, there are other parts of CARA that give people some concerns. But if you just compare what we have versus what is in CARA, they are certainly an improvement.

I am concerned, however, that they don't improve enough and that there may be a little bit less there than meets the eye. And I am sorry, I know the Chairman from Louisiana has a lot of other commitments. We had a discussion earlier with some of the witnesses about what a willing seller really means, and whether it is possible to have friendly condemnation when you have an agency which continues to harass you. And the Chairman knows the kinds of things I am talking about.

That is why I think there are improvements that can be made and should be made to CARA. But, Mr. Chairman, it is why I also think that with or without CARA, we have to put something into the law under the Land and Water Conservation Fund to put some private property rights there.

Again, with or without CARA—

Mr. TAUZIN. Would my friend yield a second?

Mr. THORNBERRY. Of course.

Mr. TAUZIN. And I will be glad to ask additional time. I don't want to take his time.

Let me concur with that. And let me assure my friend that in our negotiations on CARA, we tried to get in even better protections.

One of the things we did get in there that I think is very important for the point the gentleman was making is that we have in here a provision that says the Federal Government gains no regulatory authority over property that has been identified for acquisition within the boundaries of an existing proposed land management unit.

That was one of the areas that Mr. Pombo and I know you and others, particularly members out West, were so interested in, because the Federal Government has used the maps of proposed acquisitions to go in and regulate the dickens out of property until you want to become a willing seller by force. That is hardly a willing seller.

So let me concur with the gentleman. I think his crusade to stop the Federal Government from harassing people into becoming willing sellers is a good crusade. And I will join him in it.

I just want to point out that we did include in here at least one good feature that stops the Federal Government from imposing regulatory authority that it doesn't have over areas just because they drew a map of proposed acquisitions. And that was an incredibly important provision in here.

Thank you, sir.

Mr. THORNBERRY. I appreciate the gentleman's comments. And I agree with them, except they will not solve all of the harassment that goes on. And we heard some of that earlier in the testimony today.

And so my bottom line is that with or without CARA we have to find some way to get these protections.

I certainly appreciate the testimony and perspective of all the witnesses today.

Certainly, we have heard, Mr. Chairman, there are a number of good ways to spread this royalty money around all over the country.

I do have to note, following up on a comment from my colleague from Wyoming earlier today, we have had testimony in the last two panels from state and local officials from California, North Carolina, and Georgia, none of which help produce these moneys that they are eager to spend.

But nonetheless, there are a lot of good purposes out there. I just think we have to be very careful about having—and I appreciate the negotiating ability of the gentleman from Louisiana, the gentleman from Alaska, and others. But I do believe that there is still a shortfall that could be made up to put the protections in there that will help prevent some of the harassment and some of the kinds of things we have heard earlier today, where a landowner is pushed toward becoming a willing seller perhaps against his will.

So I appreciate the time today, Mr. Chairman, and your patience.

The CHAIRMAN. I thank the gentleman from Texas and the gentleman from Louisiana for their excellent remarks.

You know, the frustration of this Committee, if I may say so, is what you do with public ground. We have held 11 hearings in my 20-some years here on how you handle public ground.

If you want to see a fudge factory, see the BLM, the Forest Service, and the Park Service. Try to figure out, to sell, swap, buy, trade. It is almost impossible.

I have used the following illustration: When I was city councilman 40 years ago, we tried to swap some ground in the little town of Farmington. We worked on it for 12 years. We couldn't get it done.

I then went to the State legislature, where I was speaker of the House. I had the Forest Service come in, and we couldn't get it done.

We finally had to come to Congress and pass an omnibus bill for 12 different states on little things for little communities who couldn't get it done with either the BLM, the Park Service or the Forest Service.

The most frustrating experience you can go through is what we are talking about.

Both of these gentlemen have brought up some very interesting ideas. I hope that this is a step forward in getting things done. And in no way, shape or form do we want to hurt—I don't think there is a person on the Committee who wants to in any way, shape or form have the heavy hand of government, the Federal Government, take away their rights and think—

Mr. TAUZIN. Would the gentleman yield a second?

The CHAIRMAN. I would be happy to yield.

Mr. TAUZIN. I think it is important to make a point here. The gentleman makes some extraordinarily good points. I mean, I am ready to stand shoulder to shoulder with him and tackle Federal regulators who do this to people, because they do it in my state and

they do it to my people as well, and I get as angry as you do about. And I know it occurs probably more often out West than it does in some of our states.

But remember, I live in a wet state. I have to deal wetland laws and all sorts of things, where people twist and bend the regulatory of the Federal Government in ways that are shocking to me sometimes.

I had a priest trying to build a boys' club, a boys' home, to help wayward young men in our state. And I had all kinds of surveys and engineers view that property, and they approved it for the building of that facility—and all people who were approved of by the Corps of Engineers for that purpose.

And yet the corps followed right behind them and condemned it all as wetland property and denied the building.

And you see those kinds of things happening. This is high and dry property. Even in 38 inches of rainfall, it didn't flood. It is high and dry property.

So I know what the gentleman talks about. And so that person is left—if you can't sell it someone who can use it, what does he do with it. The government literally is taking the value of that property away when it could have been put to an extraordinarily useful purpose.

And it is not serving any wetlands purposes in my state, I promise you. We have a lot of real wetlands in the state; not that one.

So let me first say my sympathies are with the gentleman. But my concern is that when we can come to agreements that advance the cause of property rights, owners, in America as significantly as this list I sort of read off, and we say, "Well, it doesn't go all the way so we are not going to do it. We can't accomplish everything, so we won't accomplish what we can accomplish," I also get frustrated.

My concern is that, in this legislative process, we are often at that juncture where we say, well, we can't get everything so we will settle for nothing. I am at the point where, after many years of fighting property rights battles, when I can win significant improvements over current law, I try to win them.

And that is my only point to the gentleman. I hope we don't miss the opportunity with CARA, because there is an awful lot people who want other things in CARA, who are willing to give us these improvements in property rights in exchange.

We may never have this opportunity again. When it is strictly a fight between us and them on private property rights, we lose. Now we have them with us because they want some other things in CARA that are equally good, parks and, you know, all the other, preservation, conservation efforts.

This is the kind of thing where I just think we ought not miss the opportunity to win what we can when we are making significant improvements. And that is my only point.

The CHAIRMAN. I thank the gentleman for his comments.

And I couldn't agree more. What a problem.

I look at Section 404 of the Clean Water Act. Holy cow, have you ever seen a problem as big as that? It just is one of the things that just blows my mind.

And the thing the lady from the Dinosaur area up in Utah and Colorado talked about, extortion by the Federal Government, really bothers me. And I have seen that, and the pressure, it is kind of subtle in some ways, sometimes heavy handed. A terrible thing for people to do.

But it runs the other way sometimes. I had gentleman call me because I was Chairman of the Parks Subcommittee for a number of years and he had an in-holding in one of our parks.

I said, "How much you got?"

And he said, "I've got 3 acres."

And I said, "Well, we're interested in getting those. Are you willing to sell?"

And he said, "Absolutely."

And here it is, stuck in a huge park. And I said, "How much do you want for it?"

And he says, "$6 million."

I mean, it is totally ridiculous. I said, "Would you go to binding arbitration?" I said, "Maybe we can arrange that."

He said, "No, I don't want to do that. I want $6 million."

I said, "How old are you?"

He said, "I'm 89."

I said, "Well, just wait a little while."

[Laughter.]

Anyway, with that in mind, let me thank all of you for a very interesting hearing. I appreciate everybody who is here. All of your points were well-taken, and we will look forward to things that you have written. And we also hope that you will respond to questions if they come up.

The CHAIRMAN. And with that, we stand adjourned.

[Whereupon, at 12:43 p.m., the Committee was adjourned.]

[A letter submitted for the record by Secretary Gale Norton follows:]

THE SECRETARY OF THE INTERIOR

WASHINGTON

JUN 18 2001

Honorable James V. Hansen
Chairman, Committee on Resources
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I understand that the Committee on Resources has scheduled a hearing on H.R. 701, the Conservation and Reinvestment Act (CARA), for Wednesday, June 20. I very much appreciate the Committee requesting the views of the Administration on H.R. 701. I am unable to attend the Wednesday hearing. I therefore have committed to providing the Committee with written views on this bill within ten working days of the hearing.

Thank you again for accommodating the Department in this regard. I look forward to working with you and the other members of the Committee on this and other Interior matters before the Committee.

Sincerely,

Gale A. Norton

[The prepared statement of Mr. Young follows:]

Statement of The Honorable Don Young, a Representative in Congress from the State of Alaska

Thank you, Chairman Hansen, for holding this hearing on H.R. 701, the Conservation and Reinvestment Act and Mr. Thornberry's H.R. 1592, the Constitutional Land Acquisition Act. I will focus my comments on the Conservation and Reinvestment Act, the bill known as CARA.

I would like to add my enthusiasm for the fact that CARA has surpassed 218 cosponsors today. This is an important milestone and I am impressed with how quickly our colleagues have returned to this comprehensive, bipartisan conservation legislation.

At the end of last Congress, many were left wondering if a single-year of high appropriations would remove the need for annual and dedicated funding for conservation and recreation. I think that we will hear today that CARA is still needed to provide federal dollars for state-based conservation and recreation.

The promise of substantial and annual appropriations for wildlife, the Land and Water Conservation Fund, Historic Preservation and Payment In–Lieu of Taxes has always been an empty promise. For the states to have the assurance of consistent funding, we must pass CARA this Congress.

Last year, CARA passed the House with a supermajority and bipartisan vote of 315 to 102. It was especially rewarding that a majority of both Republicans and Democrats joined together to pass this large conservation legislation. Unfortunately, the other body was only able to pass CARA out of Committee and did not have enough time to put a bill before the President. This year, we have a new opportunity to pass this historic legislation in the House early and allow the other body more time in its consideration.

Today's hearing is a great first step to that goal and one that allows all interested groups and individuals the opportunity to testify and submit testimony. Since this bill is so similar, I don't expect that we will receive many new comments or suggestions. Rather, I expect that we will build upon the five days of legislative hearings held during the last Congress.

I understand that the Resources Committee received testimony from nearly 90 individuals in the 106th Congress. This hearing provides a forum for individuals to comment on the few changes that were made to the bill and allows others another opportunity to share their opinions on the bill.

An ongoing issue for the Conservation and Reinvestment Act is the notion that property rights are not protected within the bill. As a champion of protecting the rights of landowners I have found this claim troubling—mainly because it is, quite frankly, false.

Current law does not provide protections for property owners, CARA provides substantial property rights protections. Current law does not prohibit the Administration from unilaterally taking someone's property into federal ownership—CARA does. Current law does not require notification when the government seeks to buy private lands—CARA does.

These are only two of the many property protections found within the Conservation and Reinvestment Act. In addition, CARA continues to provide Congressional oversight of new federal Land and Water Conservation Fund acquisitions through the Congressional appropriations process. In fact, we strengthen that process to further protect landowners.

By adding protections that do not exist today for federal land acquisition and providing stable funding for conservation and recreation, CARA is a win-win. It provides the funding necessary for comprehensive, state-based conservation and recreation programs, while providing property protections that would not be viable on their own.

It is time to report CARA from the Resources Committee and send it to the House floor for consideration. CARA is sound policy that holds the support of more than 5,000 organizations that are joined by our Nation's governors, county leaders and mayors. We must not hesitate in acting on the will of the House and work to pass CARA as early as possible.

Thank you Chairman Hansen for holding this hearing today. I look forward to listening to the witnesses assembled.

[The prepared statement of Mrs. Cubin follows:]

Statement of The Honorable Barbara Cubin, a Representative in Congress from the State of Wyoming, on H.R. 701 and H.R. 1592

Thank you, Mr. Chairman, for holding this important hearing on H.R. 701 and H.R. 1592.

In the 106th Congress I heard from group after group in Wyoming, and across the nation, who had extreme difficulties with CARA. The 107th Congress has been no different.

I will be the first to recognize that coastal states, such as Louisiana, are not receiving a fair amount of royalty revenues to address their conservation concerns and I am more than willing to work with these states to fix this problem.

Having said that, I continue to have several basic philosophical differences with provisions within CARA. First, my primary concern is that this legislation establishes a trust fund for the purpose of land acquisition. I maintain that the federal government cannot manage the lands it has now, including the addition of several million acres of new National Monuments. The last thing I will advocate for is more federal land in the West.

Second, I continue to be concerned with where the money will come from specifically. It obviously can't just fall from the heavens. I am convinced CARA will prosper at the expense of other yet unnamed programs that many in this room will later fight for in order to maintain that program's funding level. I fear that in the rush for short term fixes to many funding needs, we will pay far greater sacrifices from equally important long term initiatives.

Finally, I am still highly concerned about private property rights being infringed upon through new government land acquisitions. While CARA does create a good starting point, I look to Mr. Thornberry's H.R. 1592, the Constitutional Land Acquisition Act, to further protect private property owners and their lands from current law.

I look forward to the testimony today on these bills as we move forward to finding a solution more palatable to all parties involved.

[The prepared statement of Mr. Otter follows:]

Statement of The Honorable C.L. "Butch" Otter, a Representative in Congress from the State of Idaho

Mr. Chairman, I appreciate your holding this hearing this morning on H.R. 701—the Conservation and Reinvestment Act (CARA), and H.R. 1592—the Constitutional Land Acquisition Act.

While H.R. 701, is certainly well-intentioned, as are my colleagues who support it, I, like many of my western colleagues, must oppose it. Federal ownership of Idaho lands now equals nearly 64 percent—a total of 20 million acres. Apparently if H.R. 701 passes, that number would increase substantially, because the bill establishes an off-budget dedicated trust fund for substantially more federal and state acquisition and ownership of lands across the United States.

I am concerned that the bill would authorize Congress to deposit more than $42 billion of Outer Continental Shelf oil royalties into the trust fund over the next fifteen years to enable the federal and state governments, and other special interest groups to purchase land for "conservation." Mr. Chairman, that's an extraordinary amount of money that could be used for so many other important priorities.

H.R. 701 would require states to match federal monies provided to them for land acquisition. Requiring so much local and state matching acquisition funds could impact other important state and local priorities such as education, crime prevention, and other vital services. Inevitably, acquisition of new land would also require millions of dollars in increased funding for maintenance of lands on top of the substantial maintenance backlogs that the federal government has already amassed.

In addition, it could imperil private property rights by strengthening the hand of government and special interests at taxpayer expense. The Founding Fathers defended private property rights as a fundamental tenant of the United States Constitution. I cannot support legislation that could weaken that important principle.

While I do not support H.R. 701, I am an original co-sponsor of my friend and colleague, Representative Thornberry's bill—H.R. 1592—the Constitutional Land Acquisition Act. This measure will provide protection to real property owners whose property is within or adjacent to a federal unit. It provides stronger notice requirements for acquisitions. It prohibits the use of funds for acquisition by condemnation. And it restricts the the use of acquired property for other than public outdoor recreation purposes. Mr. Chairman, Idaho's citizens deserve the protection that H.R. 1592 would give them, and I urge its passage.

This hearing is important to the lives and prosperity of thousands of people who live far away from Washington, D.C. Unfortunately, most will not be afforded the time and cannot afford to be here today. That is why I and a number of other members of Congress are requesting today that the House Resources Committee do not mark-up H.R. 701 until the Committee holds additional field hearings. While many are for or against CARA, I believe we should all support additional hearings closer to the people most affected, so that they have a say in legislation of such magnitude.

Thank you, Mr. Chairman, for your leadership and commitment to the values and constitutional property rights of every citizen.

[The prepared statement of Mr. Tom Udall follows:]

Statement of The Honorable Tom Udall, a Representative in Congress from the State of New Mexico

Mr. Chairman and Ranking Member, of the two measures before the committee today, I would like to make a brief comment on H.R. 701, the Conservation and Reinvestment Act. I strongly support this bill because of the role it has in improving the quality of American life and conserving important natural resources. CARA addresses this national need because it provides lasting protection for our nation's special public lands and wildlife. Across our country there is tremendous pressure to develop farmland and open space yet at the same time, coastlines and marine resources are highly stressed and we need more wildlife habitat and recreation areas.

My father, former Secretary of the Interior Stewart Udall, has rightly called the Land and Water Conservation Fund Act landmark legislation that will be remembered for years to come. My father's words still ring true because CARA is as important today as when he served as Secretary of the Interior, over 30 years ago.

My father and others working on this bill in the 1960's were successful because these initiatives were the result of bipartisan input that looked ahead to generations of Americans yet unborn. In fact, the idea for creating a Land and Water Conservation Fund came from a bi-partisan commission sitting on Lawrence Rockefeller's Outdoor Recreation Resources Review Commission were: four Senators, 2 Democrats and 2 Republicans, four Representatives also split 2 and 2, and 7 presidential appointees including groups as diverse as the Wilderness Society and the American Cattlemen's Association. This bi-partisan commission translated its work into sound proposals, and Congress then passed the Land and Water Conservation Fund Act with virtually unanimous support.

H.R. 701 has had and should continue to have broad bi-partisan support in the House. The 107th Congress should take the example of the 88th Congress' success and demonstrate that we also can also work together to pass landmark legislation, such as H.R. 701.

By joining with each other in a meaningful, bi-partisan dialogue, individuals like my father and his colleagues were able to leave as their legacy the invaluable gift of protected wildlands and wildlife. It's now our turn as their heirs to do the same thing for our children.

The Land and Water Conservation Fund helps all of us in our respective states by protecting invaluable lands and resources. For example, my district in New Mexico has been awarded over $25 million in federal and $10 million in state funds for projects such as:

- The Chaco Culture National Historic Park;
- Bandelier National Monument;
- The Chama Playground;
- The Rodriguez Baseball Park in Las Vegas, New Mexico;
- A High School Recreation Park in Raton;
- A Recreation Park Development in Zuni; and
- A Red Rock Campground in Gallup, New Mexico.

As you can see, these are projects that support much needed state and local programs and speak to the fact that CARA supports not only federal projects but also local ones. As I conclude, I am reminded of John Chafee who loved to quote Teddy Roosevelt's observation that "of all the great questions which can come before this nation, short of the actual preservation of its existence in a great war, there is none which compares in importance with the central task of leaving this land even a better land for our descendants than it is for us."

Mr. Chairman and Mr. Ranking Member, I support CARA and urge all of my colleagues—regardless of the side of the aisle on which they sit—to support H.R. 701.

Thank you, Mr. Chairman, and I look forward to today's hearing.

[The prepared statement of Ms. McCollum follows:]

Statement of The Honorable Betty McCollum, a Representative in Congress from the State of Minnesota

Thank you Mr. Chair. I am deeply honored to be able to introduce Bobby Whitefeather, Chairman of the Red Lake Band of Chippewa.

Chairman Whitefeather was raised in a small, traditional Indian community on the Red Lake Reservation in Northern Minnesota. After serving the United States honorably in the Vietnam War, Chairman Whitefeather has worked on behalf of his people on the reservation for the past 15 years. First elected to Treasurer, Chairman Whitefeather served as Secretary before becoming Chairman of the Red Lake Band of Chippewa.

While economic development is a priority for Chairman Whitefeather, conservation has also played an important role in his professional career. He has testified before Congress in the past on matters such as improving tribal conservation enforcement capability, strengthening educational opportunities in fish and wildlife management for tribal members and has worked for equitable access to federal aid that helps restore fish and other wildlife.

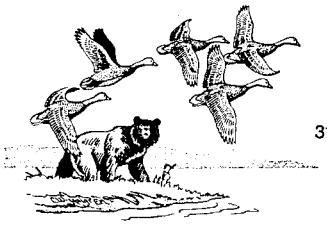
Closer to home, Chairman Whitefeather initiated a series of meetings between the state and federal government in 1997 after walleye stocks in the Red Lakes in Northern Minnesota had been devastated by over fishing. This partnership led to one of the largest freshwater fish recovery programs in America today, and one of the most successful so early in the process. Two years ago Chairman Whitefeather was honored by the Great Lakes Region of the Native American Fish and Wildlife Society with a special award honoring his longstanding commitment to conservation.

Chairman Whitefeather has been active in the area of Indian issues throughout his career. He is a past officer of the National Congress of American Indians. He is currently President of the Midwest Alliance of Sovereign Tribes and he serves on a number of Bureau of Indian Affairs and self-governance committees at the regional and national level.

Ojibwe is the Chairman's first language. And while ojibwe is a language unknown to many, the Chairman has become an effective voice for the Chippewa and all Native People. It is my honor today to introduce Chairman Bobby Whitefeather.

The following additional information was submitted for the record:

- Letter from G. Ray Arnett, Stockton, California
- Statement of Juan N. Babauta, Resident Representative, Commonwealth of the Northern Mariana Islands
- Letter from Nolan Colegrove, Sr., Forest Manager, Hoopa Valley Tribe, Hoopa, California
- Letter from Allen Garber, Commissioner, Minnesota Department of Natural Resources, St. Paul, Minnesota
- Statement of the National Governors Association
- Letter from Olney Patt, Jr., Chairman, Tribal Council of the Confederated Tribes of Warm Springs Reservation of Oregon
- Letter from Ronald J. Regan, Commissioner, Department of Fish and Wildlife, State of Vermont
- Letter from Sarah Taylor-Rogers, Ph.D., Secretary, Maryland Department of Natural Resources, Annapolis, Maryland
- Letters from Thomas P. Walters, Washington Representative, on behalf of the Counties of Riverside, San Diego, and Ventura, California



G. Ray Arnett
3139 Harper's Ferry Court · Stockton, California 95219-3728

June 18, 2001

The Honorable Richard Pombo
United States House of Representatives
2411 Rayburn Building
Washington, DC 20515

Dear Richard,

I am unavailable to testify at the June 20 Resources Committee hearing on HR 701, the Conservation and Reinvestment Act (CARA), and ask that this letter be made part of the record of that hearing.

Because of my lifetime of support for 1) the protection of private property rights, 2) the conservation and wise use of our nation's natural resources, and 3) the preservation of sport hunting, sport fishing and sport trapping, I must state my unequivocal opposition to CARA.

My credentials in the area of sportsmen's activities and natural resource conservation stretch back more than half a century. They include serving 18 years as a Member of the National Wildlife Federation board of directors and three years as NWF president, and serving on the National Rifle Association board of directors before being elected NRA Executive Vice President in 1985. I was Director, California Department of Fish and Game under Governor Reagan before coming to Washington in 1981 to serve President Reagan as Assistant Secretary for Fish, Wildlife and Parks, Department of the Interior.

Despite the best intentions of its authors, CARA fails on all counts. It spells disaster for property owners. Overzealous regulators, joined by environmental pressure groups and other extremists, will make folly of the "willing seller" clause by harassing property owners targeted for acquisition and distracting potential buyers other than government agencies. Few families and small businesses in particular have the financial and emotional ability to stave off, over an extended period, government agencies and foundation-funded, richly financed pressure groups. It is not possible to negotiate as a "willing seller" when government is the only buyer.

With the enormous riches of funds provided by CARA, agencies will have an unprecedented incentive to engage in the "willing seller" charade. Every owner of a ranch, farm, woodlot, or game preserve will be at risk of being targeted by

government agencies working in tandem with environmental, anti-hunting and animal rights pressure groups. Ironically, since they hold the most desirable properties, private landowners who have been the most diligent caretakers of their holdings will be on top of the land grab list for government takeover.

Although knowing that there are those who will disagree, I believe strongly that CARA is destined to be a disaster for one of its intended beneficiaries -- the sporting community of hunters and fishermen who are the true and most able conservationists in America. The unprecedented flood of money provided by CARA will enable the purchase and turning over to federal and state agencies, private lands historically and currently used for sport hunting, fishing, and trapping. This will subject the property's sporting use to the whim of public opinion, and bureaucracies that are increasingly hostile to sport hunting, fishing, trapping and firearms ownership.

Already, animal rights extremists are taking aim at Pittman-Robertson/Dingell-Johnson funds in an effort to deny access for hunting and fishing. The Animal Protection Institute (API) is an umbrella coalition of these anti-sportsmen groups. One of the objectionable goals within API's effort to abolish hunting is to "change the constituency of power within our wildlife management agencies and the funding sources that maintain these government agencies."

CARA fits perfectly into the disaster plans of API, since it will provide a revenue source outside of the sportsmen-paid excise taxes to fund Pittman-Robertson/Dingell-Johnson. There is no question that animal rights activists will target for acquisition the fish and game clubs, leases, and other private land where the taking of renewable wildlife resources is permitted. Once the land is purchased and under government control, these lavishly funded anti-sportsmen's groups will lobby Congress and government agencies for the elimination of any consumptive use of wildlife resources.

CARA's $45 billion, 15-year trust fund also will interfere with the Bush-Cheney administration's plans to reduce the multi-billion dollar maintenance backlog in the National Park Service and other federal agencies. Although CARA has a small component for maintenance, those dollars are swamped by the tidal wave of land acquisition funding included in nearly every title of the bill. Under CARA, it is certain that federal land management agencies will fall even farther behind in providing general maintenance and recreational access to the public.

Numerous attempts to protect private property rights were rejected by the bill's sponsors in the 106th Congress, and those rights are not included in the current version of HR 701 introduced in the 107th. In particular, an amendment to

prohibit use of CARA funds to condemn private property, and language to protect inholders is excluded in HR 701. Claims by the sponsors that CARA protects land owners are, in the words of Senator Don Nickles of Oklahoma during Senate committee consideration of CARA, "just a head fake."

Likewise, the inclusion of payment in lieu of taxes (PILT) funding as part of the trust fund provides the illusion of helping local governments with loss of property tax revenue due to public land ownership. However, supporting CARA for that reason is the fiscal equivalent of a thirsty man drinking salt water. Unless one knows better, at first blush it is inviting, but in the long run it is a disaster. The additional PILT money will not come close to replacing losses in tax revenue and economic activity resulting from the billions of dollars in land acquisition funding in the bill's other titles.

Field hearings on the issues CARA attempts to address are certainly in order. With each passing year, there is a greater realization of the failures of federal land management policies, regulations, and laws such as the Endangered Species Act. CARA will not solve any of these problems. It will do exactly the opposite. Like pouring gasoline into an inferno, CARA will pour a guaranteed annual fire hose of cash into a broken system.

CARA is bad legislation with serious flaws that can not be made acceptable with minor amendments here and there. At best, this rearranging of the Titanic's deck chairs, so to speak, may result in outwardly making a rotten apple appear to be palatable, but the apple is still rotten.

I urge the Resources Committee to reject HR 701. No trust fund, period.

Thank you for your attention to my concerns and for providing me this opportunity to express them.

Sincerely,

G. Ray Arnett

Commonwealth of the Northern Mariana Islands
Office of the Resident Representative to the United States
2121 R Street, NW, Washington, D.C. 20008 • Phone: (202) 673-5869 • FAX: (202) 673-5873

Juan N. Babauta
Resident Representative

Testimony
to the
House Resources Committee
regarding

H.R. 701

June 20, 2001

Mr. Chairman and Members of the Committee:

The people of the Northern Mariana Islands fully support conservation of the natural environment, both for its intrinsic value and for the benefits it supplies to humanity. Therefore, we support the intent of H.R. 701 to provide an assured source of revenue for outdoor conservation and recreation needs.

I would like to commend Chairman Young for his authorship, Mr. Miller for his sponsorship, and Chairman Hansen for holding this hearing.

I want to call the Committee's attention, however, to two concerns, which in the bill as drafted disadvantage the Northern Marianas and thwart the overall intent of the H.R. 701.

The first is the apportionment formula for the Land and Water Conservation Fund Act. Under existing law the Northern Marianas is eligible for an annual LWCF grant: $50,000 in fiscal year 2001. H.R. 701, however, leaves the Northern Marianas out of the formula for these grants contained in Section 206(5)(A)(ii). We, therefore, request the Northern Marianas be included, as are Puerto Rico, the Virgin Islands, Guam, and American Samoa, in this subparagraph.

This requested change has implications beyond the Land and Water Conservation Fund, as well, because subparagraph (B) directs that "each of the areas referred to in subparagraph (A) shall be treated as a State for other purposes of this Act." Therefore, by including the Northern Marianas here we can assure that the islands participate in the benefits of the Act throughout.

A second concern with the bill is the provision in Section 205 for notification of public officials, when the federal government intends to acquire an interest in lands or water in the area those officials represent. The House bill provides for an area's elected representatives in Washington to be among those notified. Except, it does not include the Northern Marianas Resident Representative, who is the elected official representing the Northern Marianas at the federal level. Federal acquisition of land in the Northern Marianas would be a serious matter requiring full public scrutiny and awareness. This would be best accomplished if the Washington representative of the Northern Marianas is among those informed of intended acquisitions; and H.R. 701 should be amended accordingly.

In addition to these two specific concerns, I would ask that as a general principle in any amendment or addition to federal law the Committee recommends during its mark-up of H.R. 701 the Northern Marianas be treated no less favorably than any other part of the United States.

Thank you for the opportunity to submit this testimony.

Hoopa Valley Tribal Council

Natural Resources Department
Forestry Division

P.O. Box 368 Hoopa, CA 95546 Ph. (530) 625-4284, Fax (530) 625-4230

July 3, 2001

Honorable James Hansen, Chairman
Committee on Resources
1324 Longworth House Office Building
House of Representatives
Washington, D.C. 20515

Dear Congressman Hansen:

I am writing to support the full and complete passage of HR 701 the Conservation and Reinvestment Act. Although not able to testify in person, I am requesting that you consider our comments and include such in the hearing record on the bill.

We strongly support inclusion of Tribes in Titles II, Land and Water Conservation Fund, Title III, Wildlife Conservation and Restoration, Title V, Historic Preservation Fund, and Title VI, Federal and Indian Lands Restoration.

With regard to Title II, the Hoopa Valley Tribe has an approved Forest Management Plan that identifies recreation opportunities within the general forest zone (such as trail walking, camping, etc.), however without funds, the Tribe has not been able to develop ANY of these identified opportunities. Although sites exist for two small campgrounds, and the areas have been used for many years there are not even the most rudimentary sanitary facilities, trash containers, fire pits, etc. For the trails, some of which predate white settlement here, brush regrowth has reclaimed many miles including portions of the historic Arcata to Hoopa historic trail as well as others. We strongly support including tribes in this title to enable Tribes across the US to develop recreation opportunities for their membership, and where appropriate for economic development purposes.

We strongly support inclusion of tribes in Title III and request that Tribes be allowed to compete for funds within the state in which the Tribe is located in order to increase the availability of overall funding to tribes. We request that the funds be distributed in a fair and equitable manner rather than be explicitly stated in the Title. By explicitly stating the distribution method in Title III, it will take another act of Congress to change the distribution system if some other method proves more equitable. We suggest awarding these funds based on competitive grants.

In Title V we request that a specific dollar amount be specified for Historic Preservation. These would be welcome funds to help tribes implement the National Historic Preservation Act which currently is an unfunded federate mandate Tribes are required to comply with in order to consult with the State Historic Preservation Offices on development projects where listable properties might occur.

We strongly support implementation of Title VI, the Indian Lands Restoration program to help tribes restore degraded Reservation and Indian lands, or to help with health and safety. At Hoopa we would put these funds to good use in restoring watershed health and stream habitat by decommissioning roads. In addition, the Tribe has several places where the health and safety of the membership has been compromised by poorly executed development of roads, homesites, cattle ranching, timber management etc. We could easily use funds from Title VI to help with restoring public health and safety.

We urge the Resources committee to pass HR 701 without major amendment or changes. Given the wide bipartisan support shown last year. HR 701 as introduced this year is very similar and we believe ought to be passed without major amendments. As noted above, most of the amendments we suggest are minor in scope.

Thank you in advance for your support and leadership in urging the committee and Congress to pass HR 701 with the minor amendments noted above.

Sincerely yours:

Nolan Colegrove, Sr., Forest Manager
Hoopa Valley Tribe.

Minnesota Department of Natural Resources
OFFICE OF THE COMMISSIONER
500 Lafayette Road
St. Paul, Minnesota 55155-4037

June 25, 2001

Testimony of Allen Garber, Commissioner
Minnesota Department of Natural Resources
Testimony for the House Resources Committee Meeting on June 20, 2001, Regarding the Conservation and Reinvestment Act, H.R. 701

Dear Committee Members,

Thank you for the opportunity to submit written testimony regarding my support of the Conservation and Reinvestment Act, H.R. 701. Please include my testimony as part of the formal record.

As many of you are aware, the Conservation and Reinvestment Act (CARA) passed out of the House of Representatives last year with tremendous support. Unfortunately, the bill did not make it to the Senate floor, despite strong bipartisan leadership in both chambers of Congress. Now CARA is back in front of you, and I am requesting your support to pass it into law this year.

CARA would provide Minnesota and the nation with a stable source of dedicated funding to protect and enhance priority natural resources and it includes numerous provisions that would directly benefit the citizens of Minnesota. By fully funding the Land and Water Conservation Program, you would insure that Minnesota's communities will have the resources they need to provide high quality, locally important outdoor recreation experiences. By fully funding the wildlife portion of CARA, you would provide Minnesota with the resources needed to help reverse disturbing trends of declining wildlife populations. By fully funding the Great Lakes Coastal portion of CARA, you enable Minnesota to better manage our heavily-used North Shore of Lake Superior. And by fully funding the Federal Payment in Lieu of Taxes, you fully compensate our state for lost property tax revenue from having federally-owned land within our boundaries.

Last year there were two, one year substitute appropriations that did pass in place of CARA. They are Title VIII of the Interior Appropriations Act and Title IX of the Commerce-Justice-State Appropriations Act. While they fall short of what CARA envisions, they do provide some temporary relief and significant benefits to Minnesota's conservation efforts. The first example of these benefits is the partially funded Land and Water Conservation Fund program. It provides direct assistance to Minnesota communities for park land development, open space protection, and outdoor recreation enhancement. A second program that benefitted from last year's one time appropriation is the Wildlife Conservation and Restoration Program, which targets Minnesota's wildlife with the greatest conservation need. A final example of a program that passed last year is the Great Lakes Restoration Program, which provides competitive matching grants to the state and local governments along the North Shore of Lake Superior to protect and restore coastal water quality.

While these programs are encouraging, serious gaps remain in Minnesota's state and local conservation efforts. The new CARA bill, if passed in its current form, presents a hopeful future to Minnesota and our nation. Please support H.R. 701 and actively push for its passage. Thank you for the opportunity to present this testimony.

Sincerely,

Allen Garber
Commissioner

The National Governors Association (NGA) is pleased that the House Resources Committee is holding a hearing on H.R. 701, the Conservation and Reinvestment Act (CARA). On behalf of the nation's 55 Governors, NGA wants to thank Representatives Hansen and Rahall for their support of this bill and commitment to work together in a bipartisan fashion. With your assistance as well as the help of Representatives Young, Miller and others, we are confident that the House of Representatives will be able to pass this historic legislation this year.

H.R. 701 is predicated on two very important premises: first, the oil and gas resources lying under the sea on the Outer Continental Shelf belong to all Americans; and second, as the nation depletes these nonrenewable resources, it ought to invest the revenues it derives in assets of permanent value to all Americans. These assets include better air and water quality in coastal areas, park and recreation lands and facilities in all states, and fish and wildlife resources everywhere. As the oil and gas resources belonging to all Americans are produced and used, there should remain in their stead a lasting legacy of protected lands; a restored environment; a strong infrastructure of park, recreation, and cultural resources; and healthy communities of fish and wildlife. The Governors have long supported this principle of reinvesting revenues from the development of nonrenewable resources.

Equally important is the principle that a significant share of these investments should be made by state governments rather than by the federal government. Under the current system, these OCS revenues are simply deposited in the general treasury and are diverted to other programs. The pending legislation will ensure that a significant share of OCS mineral leasing revenues is invested in assets important to our people. Officials who live near the resources and the people who utilize them will be responsible for making decisions on how best to reinvest the funds and will be directly accountable for their decisions. Decisions made at the state and local level, with appropriate citizen involvement, often result in better environmental protections and long-term stewardship of the resources.

For reasons of accountability, the Governors also believe it is important that funds under the bills come directly to the Governor for investment in the natural resource priorities of the state. It is the Governor who has the best view of the state's needs and who is ultimately accountable for addressing those needs. This is equally true for impact assistance under Title I, investment in park and recreation facilities under Title II, and for fish and wildlife priorities under Title III.

H.R. 701 entrusts state officials to make investment decisions with accountability, directs the funding to the states, and affords the Governors the flexibility to target the state's investments to its unique natural resource priorities with appropriate involvement of citizens and local elected officials. For these reasons, the Governors strongly support H.R. 701.

We note that under H.R. 701 funds will be made available in future years without the need for further appropriation. Making funds available in the future without the need for further appropriation provides much needed stability and certainty in funding. However, it is absolutely essential that important budget problems associated with this approach be resolved. In particular, it is critical that the funds provided to states under this legislation not come at the expense of any other federally supported state programs. The Governors urge you to work with your colleagues on the Budget Committee to avoid all budget offsets that would be required under the Budget Act for such automatic appropriations.

Title I - Impact Assistance and Coastal Conservation

Title I highlights the needs of the coastal areas, which have been severely burdened by development impacts, infrastructure needs, and environmental pressures associated with resource development on the Outer Continental Shelf. H.R. 701 would help those areas remain whole in the wake of the enormous needs stemming from mineral production activities off their coasts. With these coastal funds, states such as Louisiana can move ahead with projects, like protecting the shoreline of Lake Salvador, where erosion is threatening interior wetlands. In Alaska, stream bank erosion is a critical issue in many areas. Not only does this affect the viability of important fish habitat, it can threaten critical local infrastructure. Several local communities hope to utilize Alaska's coastal funds to restore their stream banks.

Even coastal areas with no offshore mineral production face enormous needs for coastal protection and restoration. Coastal states contain most of the nation's largest cities, over 200 seaports, and serves as the foundational resource for many sectors of the economy. The coastal zone also provides essential habitat for thousands of species of plants and animals. The sound management of our coastal areas is important to accommodate population growth, the economic vitality of coastal communities, and the economy of the nation as a whole. The Governors applaud H.R. 701 for including over $1 billion in funding for both non-producing states and producing states to aid them in addressing the most critical needs that face their coastal assets.

Title II - Land and Water Conservation Fund

With respect to Title II of the bill, the magnitude of our needs for investment also is enormous. Since enactment of the Outer Continental Shelf Lands Act in 1954, federal offshore lands have produced more than $122 billion in government revenue. However, for years the Congress has failed to provide states with their authorized share of monies under the Land and Water Conservation Fund (LWCF); the backlog of pent-up demand for park, recreation, and cultural resources is overwhelming. The National Recreation and Parks Association estimates that between 2000 and 2004, state and local governments will need over $50 billion to catch up on their backlog of land acquisition, park development and rehabilitation needs. The LWCF funds in H.R. 701 will go a long way towards stemming a growing backlog, and help states get ahead of the curve.

An example of the kind of projects that have been supported by the LWCF is Bellevue State Park in Delaware. Land & Water Conservation Fund assistance was used in 1973 to acquire the park. Since the acquisition, the Division of Parks & Recreation has used LWCF assistance to develop a bikeway, ball fields, fishing access, picnic areas and restrooms accessible to the disabled. The outdoor recreation facilities at Bellevue make it a great park. It is popular among local residents and is a major asset in attracting visitors along the Delaware eastern seaboard.

The Governors recognize that special sensitivity is needed with respect to the federal side of the LWCF, and that the rights of private property owners must be respected in the implementation of conservation and recreation plans.

Title III - Wildlife Conservation and Restoration

When it comes to wildlife, the reinvestment of OCS revenues will give states the opportunity to be proactive in ensuring that we bequeath to our children and grandchildren healthy populations of unique and beautiful species. While states have a statutory responsibility for managing most wildlife, these populations can and do cross boundaries and are a part of the nation's commonly held assets. All citizens have an interest in the well-being of wildlife populations.

H.R. 701 proposes to fund the Wildlife Conservation and Restoration program at $350 million annually. The Wildlife Conservation and Restoration program was authorized in the 106th

Congress on the Commerce, Justice, and State Appropriations bill for fiscal 2001. The program allows states to determine the wildlife species of greatest conservation need and permits states to invest in conserving the species in three ways – through conservation projects, education efforts, and developing wildlife-associated recreation, such as interpretative signs on trails or pullover locations off of the highway to view wildlife. The Governors support this program and the $350 million appropriation that this bill proposes to dedicate to wildlife.

Examples of projects that could be implemented with these funds are projects undertaken by the State of Montana, which will provide *Wild Outdoor World* magazine for its state's fourth- and fifth-graders to use as an education tool and another project to improve irrigation water intakes that may be drawing native fish out of rivers like the Yellowstone. In Wyoming, the state has chosen to fill information data gaps for several species in order to provide the state wildlife managers with the information they need to conserve the species. One research proposal hopes to track trumpeter swans from the Greater Yellowstone area to map important habitat and potential conflicts to their recovery. Another would initiate a monitoring program for reptile and amphibian species, many of which are exhibiting serious declines. In implementing these projects, the Wyoming Game and Fish Department has noted that the long-term funding mechanism in CARA is an asset to their programs because population trends for species require several years of data to be truly useful. Without guaranteed funding, the viability and the statistical validity of these programs are at question.

Lastly, this steady funding stream will allow states to take a proactive approach to conservation of potential threatened species. Rather than addressing these species once they have been listed as endangered, the states can invest funds as soon as downward trends are detected. Working with private landowners and other stakeholders on a voluntary non-regulatory basis to preclude the need to list the species produces better compliance and conservation results than having the Endangered Species Act regulate such actions. Besides being biologically advantageous, stemming species population declines early is economically prudent since it is less costly than taking action to recover species once they are listed.

Title IV - Urban Park and Recreation Recovery Program

The Urban Park and Recreation Recovery (UPARR) program delivers significant benefits to local communities and neighborhoods. Parks and open space in urban areas are critical to the vitality

of cities and its citizens. Urban growth is increasing the demand for recreation and the backlog of necessary maintenance and repairs continue to grow. H.R. 701 proposes to expand the UPARR program by amending the definition regarding who is eligible for the grant funds and provides $125 million to continue to implement urban projects. The Governors support this title of H.R. 701.

Title V - Historic Preservation Fund

In 1976, Congress established the Historic Preservation Fund to provide a dedicated source of revenue for the conservation of historic places under the National Historic Preservation Act. The Historic Preservation Fund follows the model of the Land and Water Conservation Fund, using a portion of the proceeds from offshore oil lease revenues to fund the enhancement of non-renewable historic resources.

H.R. 701 rightly includes funding for the Historic Preservation Fund. Any complete conservation program must include the human species along with the natural environment. Historic preservation plays an essential role by making existing neighborhoods attractive places to live. The "Main Street" approach to revitalizing the existing retail cores of small towns uses historic preservation as a part of a comprehensive strategy to stimulate economic development and small businesses.

While Congress has authorized the Historic Preservation Fund at $150 million for the past decade, the states have never been appropriated more than $50 million. The Governors fully support Title V of H.R. 701 and support the funds being distributed to the states rather than held back in Washington D.C.

H.R 701 provides vital predictability to the State Historic Preservation programs. Without the ability to rely on long-term funding, it is difficult for states to launch multi-year capital investment projects, such as converting inventories of historic sites to a geographic information system. Additionally, H.R. 701 allows the states the necessary flexibility to set local priorities and to address small problems before they become big crises. For example, it makes more sense and is less expensive to repair a hole in the slate roof of a historic building today than to delay the investment until a future date. Delaying maintenance and minor repairs due to lack of funding requires the states to later invest far more funds to replace the entire roof or to suffer the loss of the building due to preventable damage.

investment until a future date. Delaying maintenance and minor repairs due to lack of funding requires the states to later invest far more funds to replace the entire roof or to suffer the loss of the building due to preventable damage.

Summary

In summary, the conservation needs for wildlife management, as well as for coastal and land conservation programs and historic preservation are tremendous. The threats to these resources and the challenges that we as a nation face in caring for these assets in order to share them with future generations will continue unless a lasting and dedicated source of funds is secured. H.R. 701 proposes to make a sound investment by reinvesting OCS revenues into these resources.

We have attached a copy of NGA policy NR-24, entitled "Investing Outer Continental Shelf Revenues," and ask that it be made a part of this statement. The adoption of this policy at the NGA 2001 winter meeting reflects the importance the Governors place on these issues. The nation's Governors pledge to do all that we can to work with you and other members of Congress and the administration, to move legislation forward and see it signed into law.

Thank you.

NATIONAL GOVERNORS' ASSOCIATION

NGA Policy

NR-24. INVESTING OUTER CONTINENTAL SHELF REVENUES

24.1 **Preamble**

The Governors affirm that offshore nonrenewable resources belong to all Americans. As these resources are liquidated, proceeds related to their extraction should be immediately reinvested into other lasting assets for present and future generations. Given the diversity of states, Governors are best positioned to play a vital role in reinvesting these proceeds wisely. Any plan dedicating Outer Continental Shelf (OCS) revenues should provide states with a steady stream of revenue and the flexibility to ensure the conservation of the nation's coasts, wildlife resources, natural and historical resources, and recreational opportunities, and to mitigate the environmental impacts to producing states.

24.2 **Recommendations**

24.2.1 **OCS Revenues Reinvestment.** The Governors urge the U.S. Congress to pass legislation that dedicates and equitably distributes a meaningful portion of OCS mineral revenues with all states and territories. Such action should not provide incentives to states for additional exploration or production on the OCS, affect current moratoria on offshore oil or gas leasing, or provide any pretext or rationale for the royalty valuation methodology used to assign value to oil and gas produced on the OCS.

OCS mineral revenues provided to states must not place states in a situation in which state programs must compete with federal programs for funding and must allow flexibility for Governors to target investments to state natural resource priorities including but not limited to:

- coastal protection, restoration, stewardship, and impact assistance;
- historic preservation;
- park, recreation, and cultural resources;
- wildlife conservation and education; and
- farmland conservation.

24.3 **Conclusion**

NGA support for such action consistent with these principles ultimately depends on identifying appropriate funding for these investments. Governors would not support any initiative that is funded at the expense of other federally supported state programs.

Time limited (effective Winter Meeting 2001–Winter Meeting 2003).
Adopted Winter Meeting 1999; revised Winter Meeting 2001.

Warm Springs, Oregon 97761 / 503 553-1161

June 19, 2001

The Honorable James Hansen, Chairman
Committee on Resources
1324 Longworth House Office Building
U.S. House of Representatives
Washington, D.C. 20510

Re: Testimony on H.R. 701, the Conservation and Reinvestment Act

Dear Chairman Hansen:

On the behalf of the Tribal Council of the Confederated Tribes of Warm Springs Reservation of Oregon, I am writing to express our support for, and comments on, H.R. 701, the Conservation and Reinvestment Act. I also request that this statement be made a part of the Committee's formal record of your June 20, 2001 hearing on the bill.

The Warm Springs Indian Reservation covers 650,00 acres in north Central Oregon, running down the timbered eastern slope of the Cascade Mountains, across high, arid plateau, to the deep canyons of the Deschutes and Metolius Rivers. Established in our 1855 Treaty with the United States, this is our homeland, now and forever into the future. We call upon this land to provide spiritual, cultural, physical and material sustenance for our 4,080 Tribal members today, and all our generations yet unborn. To help assure the permanency of our Reservation, the United States holds its title in trust, and as trustee has affirmative obligations to protect its resources.

Yet despite the United State's unique fiduciary responsibilities to our land and resources, despite our Reservation's comparatively rural location, our Reservation is unfortunately feeling the pressures of modern times. Highways, timber harvest, recreation, increased population, hydroelectric dams, and general economic and social growth are all having their effect on our land and its resources. We have sought to address these modern realities, to bring comprehensive plans and active management to bear. But our resources are limited, and despite our treaties and the special federal obligations, we have too often watched in frustration as federal programs to address these issues have gone off to states, by-passing us. So, the Conservation and Reinvestment Act, with its dedication of close to $35 million a year to conservation programs for Indian Tribes, is very welcome, very necessary, and long overdue.

Below, I would like to briefly comment on each of H.R. 701's titles that address tribal issues.

Title II - Land and Water Conservation Fund

This title includes tribes and Alaska Native Corporations as a single state for participation in the LWCF. Funds would be distributed through competitive grants, with no one tribe receiving more than 10% of the year's total Native American funding. Funds could be used for planning and development of outdoor recreation lands. We are very supportive of this provision, but offer two suggestions:

First, we suggest that tribal consultation be included in the development of regulations guiding the Native American competitive grants, as was provided in the Senate's reported version of CARA last Congress. Consulting with grant recipients about how the grant program should be set-up is only sensible.

Second, we suggest that the bill be revised to allow use of the funding for a greater range of activities. Specifically, we suggest the same range of activities requested for tribes by the Interior Department in its FY 2002 Appropriations request for the LWCF within the Park Service budget. It is out understanding that requested language would have allowed tribal fund recipients to use their grant for all three LWCF recreational purposes: 1) planning, 2) land and water acquisition, and 3) development, plus wildlife and habitat management. Title II's Native American program has been estimated to receive about $7 million annually. Distributed nationally, even through competitive grants, those funds could be in pretty small amounts. Allowing more flexibility, and particularly enabling those grants to be teamed up with other wildlife and habitat management funds, could make the funds more effective for tribes.

Title III - Wildlife Conservation and Restoration

Title III establishes a subaccount in the Pittman-Robertson Wildlife Restoration Act for state and tribal wildlife management. The funding for tribes, including Alaska Native Corporations, is limited to 2.25% of the national total, which is based on the 2.25% of the U.S. land base owned by tribes. The tribal funds would then be distributed by a land base and population formula, with no one tribe receiving more than 5% of the national total.

We are very supportive of this title, particularly since it acknowledges tribes within the Pittman-Robertson Act. As you are probably aware, the Pittman-Robertson program currently collects funds through a federal surcharge on the purchase of hunting and fishing equipment and then distributes those funds to states, territories, and the District of Columbia for sport fish and game management. Tribal members, who rely on hunting and fishing for subsistence and cultural needs perhaps more than any other segment of the U.S. population, pay that federal surcharge. Yet tribal governments have never received Pittman-Robertson funding. At the same time, tribal trust lands largely remain in their natural state, providing islands of good habitat that support fish and wildlife on and around our reservations. Tribal governments have responsibility for managing fish and wildlife on our reservations, and often have added treaty-based responsibilities as co-managers outside of the reservation. Tribal governments try to do our best to meet these responsibilities, but are extremely constrained by very modest budgets. While the Bureau of Indian Affairs does provide some support pursuant to the Federal government's unique trust and treaty responsibilities to tribes, these funds are also limited, and must compete within the BIA budget against such basic needs as public safety and education.

The inclusion of tribes in CARA's Title III Pittman-Robertson subaccount is very needed, and will be very helpful. But while it finally does bring tribes within the ambit of Pittman-Robertson, it still leaves unaddressed the basic inequity of tribal members paying into, but tribes being excluded from, the basic Pittman-Robertson account.

We suggest one revision in the Native American provisions in Title III. As in our recommendations for Title II, here we also suggest full consultation with tribes in developing regulations to guide the program.

Title V - Historic Preservation Fund

Tribes are included at an unspecified level in this $160 million addition to the Historic Preservation Fund. We are delighted to be able to participate. We ask that the Committee consider allowing tribes the greatest flexibility possible in using any Historic Preservation funds they receive under this title. We ask this because properties of historic significance to tribes may not be the buildings and structures that are generally the focus of the Historic Preservation Act.

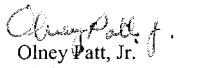
Title IV - Federal and Indian Lands Restoration

We wholeheartedly support the tribal and Alaska Native 10% inclusion in Title IV's $200 million fund for restoration of degraded lands, resource protection, maintenance activities associated with resource protection, or protection of public health and safety. The tribal funds are to be awarded through competitive grants. Because tribal needs for these funds could be somewhat different than those for federal lands (for instance, reservations have resident populations that may not be present on subject federal land), we suggest that development of the tribal program's regulations be done in consultation with the tribes, as was the case last Congress. Again, engaging the grant recipients in shaping the grant's regulations would help assure the most effective use of the funds.

In closing, we urge again that, if possible, flexibility be provided tribes in the use of CARA's funding. Spread among 225 tribes and a like number of Alaska Native corporations, funding awards are likely to be modest. Being able to align the use of these funds - say being able to use Title II, III and VI funds for a wildlife habitat improvement program - will enable tribal recipients to make the most of them.

We hope this statement has been helpful. If you have any questions, or if the Confederated Tribes of Warm Springs can otherwise be of assistance on this legislation, please let us know. We deeply appreciate the recognition extended Native Americans in CARA, and enthusiastically support its passage.

Sincerely,



Olney Patt, Jr.
Chairman

cc: The Honorable Nick Rayhall, Ranking Member
The Honorable Greg Walden
The Honorable Peter DeFazio

State of Vermont

AGENCY OF NATURAL RESOURCES

Department of Fish and Wildlife
Department of Forests, Parks and Recreation
Department of Environmental Conservation

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June 25, 2001

The Honorable James V. Hansen
Chairman
House Resources Committee
1324 Longworth House Office Building
Washington, D.C. 20515-6201

The Honorable Nick J. Rahall
Ranking Minority Member
House Committee on Resources
1329 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Hansen and Representative Rahall:

The Vermont Fish and Wildlife Department offers this letter as testimony for the House Resources Committee hearing held on June 20, and the Department respectfully requests that this letter be included in the hearing record.

The Vermont Fish and Wildlife Department fully supports your interests in increasing funding for a broad array of conservation programs as outlined in the Conservation and Reinvestment Act (H.R.701). This legislation provides the necessary funding to address many significant conservation needs, including state funding for wildlife conservation, conservation education, and wildlife-associated recreation.

The greatest need facing state fish and wildlife agencies is for a broad fish and wildlife program to serve our citizens and to avoid endangered species listings by taking measures early on to address the needs of declining species. A preventive approach is less costly and more effective than after-the-fact "emergency room" measures. Importantly, it enables states to work with citizens and private landowners in a non-regulatory, incentive-based manner. Funding from hunters and anglers' user fees have successfully carried us this far, but additional funding is essential to implement such prevention programs in the next century. This has been our number one funding priority for over ten years and we have worked very hard to achieve the support of the extensive and broad coalition of wildlife interests that support this measure.

We Vermonters pride ourselves on a long history of living with and caring for our fish and wildlife resources. Vermont is second only to Alaska in the percentage of residents that watch wildlife. The percentage of our population that hunts and fishes is an estimated 20% and 40%, respectively. Public surveys continually demonstrate broad public support for fish and wildlife habitat conservation.

However, Vermont fish and wildlife resources are in desperate need of additional funding as they are not immune to the significant pressures from a growing population and its associated land uses. Vermont's population continues to expand at a rate nearly equal to 1% per year, second highest in New England. Vermont is also within a 200-mile radius of 38 million people that may choose to visit or relocate to the state.

As a result of these pressures, Vermont's fish and wildlife species face significant challenges. Vermont currently consumes approximately 6500 acres per year of habitat to development. There are currently 153 species of plants and 42 species of animals on Vermont's state threatened and endangered species list. Another 653 species of plants and animals are considered rare in the state.

Slowing or reversing these declines in fish and wildlife populations requires a comprehensive approach to conservation as provided for in the Conservation and Reinvestment Act. The recent one-time appropriation provided for in the FY01 Commerce, Justice, and States Appropriations Act demonstrates the type of comprehensive program that can be developed with fuller, longer-term funding. The Vermont Fish and Wildlife Department has worked with a coalition of conservation, education, and recreation organizations in developing a comprehensive wildlife conservation and restoration plan. This plan focuses on engaging Vermonters in conservation by providing the information and tools needed for individuals and organizations to actively conserve fish and wildlife resources, and by exposing Vermonters to educational and recreational experiences that foster knowledge and interest in conserving natural resources.

The planning process initially identified over 200 worthwhile projects to achieve our conservation goals. Because of limited, one-time funding through the Commerce, Justice, and States Appropriations Act, only 15 projects were selected as those that could be realistically implemented. They include such activities as preparing endangered species recovery plans, hosting conservation planning workshops for Vermont community leaders, developing wildlife curricula for Vermont schools, and facilitating citizen-based wildlife inventories. The plan builds upon cooperative working relationships between the Vermont Fish and Wildlife Department and the numerous conservation-based organizations throughout the state.

These projects will help work toward our long-term conservation goals, but will not successfully achieve our goals unless fuller, dedicated funding becomes available. Programs such

as statewide fish and wildlife inventories, state and private land stewardship, conservation planning assistance to communities, greatly expanded conservation education initiatives, and facility development for wildlife-associated recreation will not be fully realized without such funds.

Vermont has a long historical relationship with its land and its fish and wildlife resources. Maintaining that relationship will require a commitment represented in Title III of the Conservation and Reinvestment Act. The Vermont Fish and Wildlife Department anxiously awaits the opportunity for us to facilitate a broad, citizen-based conservation program that will make fish and wildlife conservation a reality in Vermont.

Sincerely,

Ronald J. Regan
Commissioner

RJR/SRD/lh

CC: James Jeffords, U.S. Senate
Patrick Leahy, U.S. Senate
Bernard Sanders, U.S. House of Representatives
Scott Johnstone, Secretary, VT Agency of Natural Resources

Parris N. Glendening
Governor

Kathleen Kennedy Townsend
Lt. Governor

Maryland Department of Natural Resources

Tawes State Office Building
Annapolis, Maryland 21401

Sarah J. Taylor-Rogers, Ph.D.
Secretary

Stanley K. Arthur
Deputy Secretary

June 20, 2001

The Honorable James V. Hansen
Chairman
House Committee on Resources
1324 Longworth House Office Building
Washington, D.C. 20515-6201

The Honorable Nick J. Rahall
Ranking Minority Member
House Committee on Resources
2307 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Hansen and Representative Rahall:

This represents written testimony of the Maryland Department of Natural Resources for the public record of the June 20, 2001 hearing before the House Committee on Resources regarding the Conservation and Reinvestment Act (CARA), H.R. 701.

The Maryland Department of Natural Resources (DNR) applauds you for your commitment to increased and stabilized funding for state wildlife and fish conservation, land conservation/outdoor recreation and coastal conservation programs. The Conservation and Reinvestment Act (H.R. 701) is excellent legislation to ensure long-term, consistent funding for America's living resources. The need for such funding has never been greater.

Maryland is often called "America in Miniature" and contains within her borders some of the most highly prized and diverse habitats in the nation. These include the Chesapeake Bay, a unique and fragile ecosystem, which supplies about 75 million pounds of the nation's seafood each year. However, Maryland is a growing state, attracting new residents who require homes and other infrastructure. Balancing Maryland's economic and human population growth with the protection of her natural resources requires a long-term investment of financial and other resources. Maryland faces the following challenges in the new millenium:

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- Maryland's population is expected to top 6 million by the year 2020.
- Between 1970 and 1995, Baltimore suburbs grew by 67% and Washington suburbs by 72%.
- In 2005, the Maryland Office of Planning projects that an average of 2.5 people will live in each household.

Maryland has been a leader among states in protecting forests, wetlands, and our Chesapeake Bay, while sustaining economic growth and job opportunities. We have initiated and sustained some of the most innovative techniques in the nation, including:

- Smart Growth legislation, which allows the State to direct programs and funding to support locally-designated growth areas and protect rural areas.
- Rural Legacy Act, which helps owners of large farms to preserve the character of their homes and to pass the land on to their children. This program ensures that the state can preserve rural lands, without taking property from private land ownership or a property tax base.
- The Forest Conservation Act helps ensure that trees are replaced in natural plant associations whenever land development occurs in the state.
- Critical Area Law helps protect the shores of the tidal Chesapeake Bay from over development, which in turn helps protect the quality of the water in the Bay.
- Program Open Space, which provides funds through a real estate transfer tax to purchase land for conservation and recreation purposes.

These and other Maryland initiatives are our proven record of responsible use of funding for environmental programs. However, resources to support these protective measures are in short supply and environmental issues are dominated by trends, rather than one-time problems that can be solved quickly. Critical needs for fish and wildlife species conservation and for environmental education remain without adequate funding and solutions must be long-term, flexible, and responsive to changing land-use, new fish and wildlife data, and changing demands of our constituents.

As you know, environmental health issues in our state, including land and coastal conservation, and fish and wildlife needs, affect not only Maryland, but also effect the nation as a whole. Maryland's Chesapeake Bay provides some of the most abundant commercial and recreational fisheries in the nation and as you can see from our population trends, national and international industries move to the area because of its beauty and natural resources, bring with them more and more people. Fish and wildlife understand no jurisdictional boundaries and failure to address state-level conservation concerns can result in national listing of species in trouble. State and federal interests are completely intertwined. CARA represents a good model for effective partnerships among our agencies and among government and private interests at the local level.

Maryland could use CARA funds to help support these efforts in several ways:

USING CARA FUNDS TO CREATE A COASTAL CONSERVATION FUND

Protection of the coastal marine and estuarine environment and recreational opportunities requires a Land and Water Conservation Fund-type program devoted solely to coastal needs. Such a program would help Maryland:

- to ensure waters for shellfish harvesting are clean of bacterial pollution caused by failing septic systems;
- to attain the Governor's goal of 60,000 acres of restored wetlands, restore 57,000 acres of submerged aquatic vegetation (SAV) by 2005, which would restore the amount of SAV lost from 1971-1990;
- to achieve subsequent State goals for restoration of SAV to a depth of one to two meters in all suitable areas;
- to vastly increased public access to the Chesapeake Bay shore, thus fostering awareness of individual responsibility and stewardship of the Bay's resources;
- to technical assistance to counties to assist them in protecting sensitive areas that are important to protecting marine and estuarine environments from the secondary and cumulative impacts of pollution from development;
- to repair and maintain storm water best management practices in the Baltimore metropolitan area affecting the Patapsco/Back River watershed; and
- to develop a reliable system of shoreline stabilization and restoration, in cooperation with federal, state, and local government agencies.

USING CARA FUNDS FOR LAND PRESERVATION (LWCF)

Permanent, stateside funding for the Land and Water Conservation Fund (LWCF) and the Urban Parks and Recreation Recovery Act (UPARR) is important to Maryland. Lack of LWCF stateside funds has inhibited our ability to provide funds to local governments to help meet their intensifying need for public recreation areas. We can use these funds to:

- establish a consistent maintenance schedule and funding for facilities on public lands, including comfort stations, interpretive centers, trails, bridges, roads, and other facilities;
- provide accessible recreation facilities to all state lands in order to offer disabled visitors the opportunity to participate in most, if not all, of recreation programs;
- restore Olmsted park plans in Baltimore City;
- creation of nature interpretation facilities in Maryland suburban parks;
- completed Greenways, including Gwynns Falls Greenway, Patuxent Regional Greenway, the Pocomoke River Greenway, and the Lower Susquehanna Heritage Greenway; and
- purchase or otherwise set aside acres of land supporting unique and rare habitats in the state that support rare, threatened or endangered plants and animal species in Maryland.

USING CARA FUNDS FOR FISH AND WILDLIFE PROGRAMS

The final key element to CARA is the provision of funds to state fish and wildlife agencies. Over 900 different fish and wildlife species call Maryland home, about half of which we know almost nothing. Biologists are concerned that frogs, turtles and other reptiles and amphibians, as well as shrews and other small mammals, are declining. Once common songbirds, such as the Eastern Meadowlark, Red-Headed Woodpecker, and Baltimore Oriole, seem to be less common. As the landscape is urbanized, wildlife conservation becomes more challenging and places increasing pressure on many fish and wildlife species. CARA could fund Maryland's efforts for fish and wildlife in several ways, including:

- develop and implement conservation plans for species listed in the state as Endangered, Threatened, or In Need of Conservation;
- conduct and support research and conservation of habitat use of migratory bird species in coastal and urbanizing areas, where pressure for development of land is high;
- assist local communities and agencies in monitoring and managing white-tailed deer populations at levels that are compatible with human habitation and protection of habitat for other species;
- establish support for local communities affected by bear damage to crops and honey-making operations, provide effective education for local residents and visitors to areas with known black bear populations, and continue to monitor black bear populations to manage their numbers, and therefore their impacts on their habitat and on their human neighbors;
- mitigate effects of exotic plants and animals on Maryland's biodiversity, including wetland communities affected by mute swans, nutria, purple loosestrife, and phragmites;
- re-establish native brook trout populations in previously occupied streams;
- develop complete habitat maps of Maryland to determine areas in most need of protection for the sake of rare species and biodiversity conservation;
- expand the flexibility and range of private lands stewardship initiatives through existing stewardship programs, including wildlife habitat and biodiversity information in the Stewardship Portfolio, Information Source Book, and in individual plans;
- reach most of Maryland's grade school children through their schools, community centers, and families with outdoor skills and an appreciation and sense of responsibility for our environment; and
- develop viewing facilities, including blinds, scopes, board walk trails, and overlooks at state parks and wildlife management areas already identified as quality viewing areas. Help local recreation and parks agencies develop similar facilities in sites where visitors can experience wildlife in its own habitat.

PUBLIC PARTICIPATION AND COMMUNITY SUPPORT

The Maryland Department of Natural Resources is committed to serving the diverse array of constituent interests in our natural resources and to working with local, state and federal agencies to address important issues that cross jurisdictional lines. Our Teaming With Wildlife (TWW) Coalition, at 126 member organizations, is one of America's top

10 TWW Coalitions and has been one of the most active in its support for CARA and its partnership with DNR.

In fact, the Coalition is working with us now to develop a list of project to submit to the U.S. Fish and Wildlife Service to take advantage of new funds in a sub-account of the Pittman-Robertson Fund, made available through the FY01 Commerce-Justice-State appropriations. We are proud and excited to have such an engaged and committed group and look forward to the partnership we share with them and with you to ensure that we create a meaningful natural resource legacy that balances strong national support and leadership with effective resolution and management of local natural resource issues and interests.

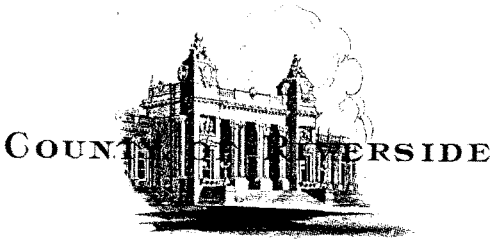
In addition, the Coastal and Watershed Resources Advisory Committee, which has advised the Maryland Coastal Zone Management Program for the last 20 years, has been active in support CARA. Focusing on the coastal component of the legislation, the committee, which represents local governments, businesses, environmental organizations and citizens, has held discussions on the legislation, and written responses to the Bill. The Department of Natural Resources will work closely with this group on a its comprehensive coastal plan.

CARA is a bipartisan, consensus-built, common-sense approach to conservation that makes good biological sense, good economic sense, good common sense and good political sense. Thank you, Mr. Chairman, for this opportunity to present testimony to the House Committee on Resources on the Conservation and Reinvestment Act.

Sincerely,

Sarah Taylor-Rogers, Ph.D.

CC: The Honorable Barbara A. Mikulski
The Honorable Paul S. Sarbanes
The Honorable Wayne T. Gilchrest
The Honorable Constance A. Morella
The Honorable Elijah E. Cummings
The Honorable Roscoe Bartlett
The Honorable Steny H. Hoyer
The Honorable Benjamin L. Cardin
The Honorable Albert R. Wynn
The Honorable Robert R. Ehrlich



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June 8, 2001

The Honorable James Hansen, Chairman
Committee on Resources
United State House of Representatives
1324 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing to reiterate the County of Riverside's strong support for the *Conservation and Reinvestment Act* (CARA).

Riverside County has a diverse environment that supports a wide variety of native habitats and animals, including the endangered Stephens kangaroo rat, the fringe-toed lizard, the Coastal gnatcatcher, the Quino checkerspot butterfly, and resident species of the coastal sage scrub. This has given the County extensive experience both in the development and implementation of habitat conservation planning (HCP), and the Board is now embarking on a planning effort that will integrate a Countywide multiple species HCP with comprehensive transportation planning needs and revision to the long-term County General Plan. The Board recently approved $24 million in critical habitat land acquisitions, and over $150 million in bond funding was approved last year by California voters for this purpose in Southern California. It is imperative to the success of this effort that there be a mechanism for the Federal government to also participate by contributing adequate resources for critical habitat acquisition.

Last year, the House overwhelmingly approved CARA, and Congressman Young has re-introduced the measure in the 107th Congress as H.R. 701. The bill would provide a stable source of revenue for a variety of programs intended to be funded under the LWCF, including local habitat and open space acquisition activities. Please expedite action on this legislation, and work with your colleagues on the committee to ensure that habitat acquisition and open space needs of local governments such as the County of Riverside are adequately addressed.

Sincerely yours,

Thomas P. Walters
Washington Representative

TPW:jaw

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WASHINGTON OFFICE

June 8, 2001

The Honorable James Hansen, Chairman
Committee on Resources
United State House of Representatives
1324 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing to reiterate the Board's strong support for the *Conservation and Reinvestment Act* (CARA).

San Diego County has a diverse environment that supports a wide variety of native habitats and animals. There currently are over 30 species listed as rare, threatened, or endangered by the State and Federal governments, and more than 120 species under consideration as candidates for listing. While the County is working to develop and implement multiple species habitat conservation plans (HCPs) to protect these species, it is critical to our success that the Federal government participate in the implementation of the HCPs by making resources available for the acquisition of critical habitat. Federal funding would match over $150 million in bond funding approved last year by California voters for this purpose, as well as several million dollars appropriated annually by the County.

Last year, the House overwhelmingly approved CARA, and Congressman Young has re-introduced the measure in the 107th Congress as H.R. 701. The measure would provide a stable source of revenue for a variety of programs, including local habitat and open space acquisition activities and Payment in Lieu of Taxes (PILT). Please work with your colleagues on the committee to expedite passage of CARA, and resist amendments that would weaken its ability to help address the critical habitat acquisition and open space need of local regions such as San Diego County.

Sincerely yours,

Thomas Walters

Thomas P. Walters
Washington Representative

TPW:jaw

county of ventura

CHIEF ADMINISTRATIVE OFFICE
Thomas P. Walters
Washington Representative

June 8, 2001

The Honorable James Hansen, Chairman
Committee on Resources
United State House of Representatives
1324 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing to reiterate the Ventura County Board's strong support for H.R. 701, the *Conservation and Reinvestment Act* (CARA).

The County supports full funding for the Land and Water Conservation Fund (LWCF), the Urban Park and Recreation Recovery (UPARR) Program, and the Historic Preservation Fund (HPF). The LWCF has been a success story in open space protection at the national, state, and local levels, including parks, playgrounds, wilderness, wetlands, and trails. Since its creation in 1965, its programs have been responsible for the development of more than 37,000 parks and recreations projects nationwide. The complimentary UPARR program, created in 1977, encouraged local governments to rehabilitate existing recreation facilities, demonstrate innovative programs, and plan for overall revitalization. Ventura County has been the recipient of over $12.8 million in LWCF funds for a variety of critical park, recreation, open space, and habitat acquisition projects. In addition, the County has received $500,000 from the Historic Preservation Fund for the restoration of Rancho Camulos, an important County landmark.

H.R. 701 would provide a stable source of revenue for a variety of programs intended to be funded under the LWCF. Please expedite action on H.R. 701, and work with your colleagues in the House to ensure that the park, recreation, and habitat acquisition needs of local governments such as the County of Ventura are adequately addressed.

Sincerely yours,

Thomas Walters

Thomas P. Walters
Washington Representative

TPW:jaw

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