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AMERICANS OUTDOORS ACT

HEARING

BEFORE THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE

ONE HUNDRED EIGHTH CONGRESS

SECOND SESSION

ON

S. 2590

TO PROVIDE A CONSERVATION ROYALTY FROM OUTER CONTINENTAL SHELF REVENUES TO ESTABLISH THE COASTAL IMPACT ASSISTANCE PROGRAM, PROVIDE ASSISTANCE TO STATES UNDER THE LAND AND WATER CONSERVATION FUND ACT OF 1965, TO ENSURE ADEQUATE FUNDING FOR CONSERVING AND RESTORING WILDLIFE, TO ASSIST LOCAL GOVERNMENTS IN IMPROVING LOCAL PARK AND RECREATION SYSTEMS, AND FOR OTHER PURPOSES

JULY 20, 2004

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AMERICANS OUTDOORS ACT

TUESDAY, JULY 20, 2004

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

The committee met, pursuant to notice, at 10:03 a.m., in room SD–366, Dirksen Senate Office Building, Hon. Pete V. Domenici, chairman, presiding.

OPENING STATEMENT OF HON. PETE V. DOMENICI, U.S. SENATOR FROM NEW MEXICO

The CHAIRMAN. Good morning. This hearing of the Energy and Natural Resources Committee on S. 2590, the Americans Outdoors Act, will come to order.

This legislation that is before us today dedicates for fiscal years 2005 through 2010 approximately $1.425 billion per year of the revenue gained from oil and gas development from Federal waters of the Outer Continental Shelf in order to directly fund the coastal impact assistance programs, the State Land and Water Conservation Fund, and the programs under the Pittman-Robertson Wildlife Restoration Act and the Urban Park and Recreation Recovery Act. Although the Federal Land and Water Conservation program is not addressed in S. 2590, as introduced, the bill's sponsors have stated their intent to offer an amendment to fully fund the program, as well as an additional $450 million.

This committee considered legislation similar to this in the 106th Congress. There was a wide variety of views on both the policy and the budget implications. The makeup of our committee, as well as the provisions of the bill that we examine today, is different than in the 106th.

So I look forward to today's discussion.

Testifying today—I am just going to state them and then yield to Senators—first is Lynn Scarlett, Assistant Secretary for Policy, Management and Budget; Scott A. Angelle, secretary of the Louisiana Department of Natural Resources; Charles Jordan, chairman of the Conservation Fund; John Baughman, executive vice president of the International Association of Fish and Wildlife Agencies; Henry Diamond, chairman of the Americans for Our Heritage and Recreation; Nancie Marzulla, president of Defenders of Property; and Daniel Clifton, Federal affairs manager for Americans for Tax Reform.

Once again, I welcome all the witnesses here today and I am very thankful that a number of Senators have arrived. This is a very important bill.

With that, I will yield to Senator Bingaman.

STATEMENT OF HON. JEFF BINGAMAN, U.S. SENATOR FROM NEW MEXICO

Senator BINGAMAN. Thank you, Mr. Chairman, for having the hearing.

This bill, S. 2590, would take a portion of the oil and gas revenues generated from the Outer Continental Shelf and dedicate those to various conservation programs.

This is not a new issue for the committee. As you indicated, 5 years ago we had several hearings on what was then entitled the CARA act, or the Conservation and Reinvestment Act, and created quite a legislative record in connection with consideration of that.

A central position, which I urged at that time and think is still valid, is that we need to remain true to the intent behind the establishment of the Land and Water Conservation Fund. The idea behind that was that at least some portion of the revenues from the Outer Continental Shelf oil and gas production, which was a non-renewable resource, should be used to protect other resources throughout the country. I thought that was a very useful concept and one that was worthy of maintaining.

I commend Senator Alexander and Senator Landrieu for continuing to pursue this issue with this new legislation.

I do strongly believe that we should include full funding for both the Federal and State components of the Land and Water Conservation Fund. If we enact legislation along these lines, as I understand it, the bill as introduced only funds the State portion of the fund. I am pleased that Senator Alexander and Senator Landrieu have both committed to addressing this at some point in the future.

I do think it is very important legislation, and again, thanks for having the hearing.

The CHAIRMAN. Thank you very much, Senator Bingaman.

Now I ask your advice. A number of Senators want to make statements. Normally we stop after the chairman and ranking member and wait until we start questioning, but I think I will change that back to the old way and let every Senator make a statement now. So with that, let us go now to Senator Alexander.

STATEMENT OF HON. LAMAR ALEXANDER, U.S. SENATOR FROM TENNESSEE

Senator ALEXANDER. Thank you, Mr. Chairman. I appreciate the courtesy of that.

Recognizing that there are several Senators here, I will try to be succinct in my remarks, but what I would like to do is to have a chance to make my point because I believe that what Senator Landrieu and I are suggesting here is a little different than some of what the committee has heard before, and I want to make sure that that distinction is made. We will have other opportunities to make those points before the witnesses, so I will make them very quickly.

As the chairman said, the Americans Outdoors Act would provide a reliable stream of funding by creating a conservation royalty from drilling of oil and gas on offshore Federal lands.

Now, Sharon, would you please put up the States and what they now get from onshore?

[Chart.]

Senator ALEXANDER. It is the idea of the conservation royalty that I hope the Senators will focus on. There are really two issues that created difficulty with the prior legislation. One was the budget issue, and we have the chairman of the Budget Committee here, and the other was private property rights. Senator Landrieu and I have tried very carefully to listen to our colleagues on those two issues and see if we could at least go a long way toward meeting those problems.

Now, first on the budget. What we propose doing offshore is what we are already doing onshore. Today under the Federal Lands Leasing Act, which was passed in 1920, we take 50 percent of the money that we get from onshore oil and gas drilling and that does not go to the Federal Treasury for appropriation. That is a royalty. You pay a royalty to the landowner when you drill. You pay a royalty to other people with ownership rights. In this case, a royalty is paid to Wyoming, to New Mexico, to Colorado, to Utah, to Montana, to Oklahoma, and that money does not come up here. That money stays there, and that is why it is outside the appropriations process.

We also do that, if I am not mistaken, with moneys from Dingell-Johnson and Pittman-Robertson, two provisions that take money we raise basically from sportsmen and gas taxes and we allocate them directly to help create other opportunities for sportsmen. Those are also outside the budget process.

Now, I am well aware that since those laws have passed, we now have a budget law. While I have tried to think of ways to avoid it, I have not been able to think of one.

[Laughter.]

Senator ALEXANDER. So the budget law will need to be taken into account if we take 25 percent approximately, as we propose, of the money from offshore oil and gas drilling and treat it as a State royalty in the same way we now treat 50 percent that we take from onshore drilling. I am aware of that issue, but I think philosophically it is the very same thing and it is appropriate to treat it differently as a State royalty. That is the first issue.

And the second issue is the concern for private property rights. Sharon, if you could please put up the map of the country that shows where Federal land is.

[Chart.]

Senator ALEXANDER. We will hear testimony today about whether the Government should own any more land. That is a map that shows where the Federal Government owns lands today. As an easterner, I am over there in the white area where most of the people live. I am very much aware that out West, except for California where most of the people do not live, the Government owns an incredible amount of land. I have always been aware that a single policy that might apply to the West might not necessarily apply to the East.

The fact is that in the Eastern part of the United States, there are plenty of places where we still think we need some help. Yesterday I helped release some eaglets down near Dandridge and

Douglas Lake in east Tennessee. Our proposal would provide a steady stream of royalty funding to create more wildlife conservation places for eagles to go.

As I have looked through the earmarked appropriations over the last few years, I have found there have been, even in the West, a number of desirable places where State governments and Federal land under the Land and Water Conservation Fund have used money in the Snake River and a whole variety of western States, which are already heavily owned by the Federal Government. There are still some appropriate places where things need to be done.

Two weeks ago, I took a bicycle ride on the Hiawatha Trail between Montana and Idaho, which most of the Senators on this committee take credit for creating. It is a rails and trails. It is a beautiful thing. It takes it from private property, railroad, to public land, using dedicated funds. It is the old track from Chicago to Tacoma, Washington with high trestles and long tunnels.

So those are the two issues. What Senator Landrieu and I are proposing is that we take about 25 percent of the revenues that we get from offshore drilling and devote it to a conservation royalty to fully fund the State side of the Land and Water Conservation Fund. The game and fish commissions of our country fully fund that, fully fund the city parks provision that is already in the Federal law, and create a new section that takes care of wetlands and other coastal mitigation issues.

We have deliberately left out of our legislation the provision for the Federal side of the Land and Water Conservation Fund because we have not been able to reach a consensus among members of the committee and other Senators on how to deal with that, and we are hopeful that today what we hear is some good suggestions about how to fashion that in a way that will not just get it out of committee but will past the U.S. Senate.

The CHAIRMAN. How much money is that?

Senator ALEXANDER. The Federal side is $450 million a year. That is what is authorized in law today. So if you added the $450 million a year, Senator Domenici, to the proposals we have, it would be $1.45 billion plus $450 million, $1.9 billion a year.

Now, to conclude, if I could show the chart of how much money now is available from offshore oil drilling, about the amount I believe that we get from Saudi Arabia every year, it is about $6 billion this year.

[Chart.]

Senator ALEXANDER. The Department of the Interior's estimates are it will be about that for the foreseeable future. If you take the amount of money that is now appropriated for these same kinds of programs for the Land and Water Conservation Fund, it is $4 million to $5 million a year. If you added what we are doing, that would take it up to $1.45 billion or $1.9 billion. So that is between 25 and 33 percent of the anticipated offshore revenues would go into this royalty.

Mr. Chairman, you have been generous with your time. I believe I have made my major points. I would simply say I believe there is a huge conservation majority in this country. I believe that there are legitimate budget issues and there are legitimate issues in

western States where the Federal Government owns a lot of land. What we hope to do is fashion legislation that will look ahead for a generation and help us find a steady stream of money to fund our game and fish commissions, our city parks, and the State, and once we get more of a consensus, the Federal side of the Land and Water Conservation Fund, as well as provide some funding for mitigation in those States that now produce the oil and gas offshore.

Those are the organizations to date that support what we are doing, and I hope we can reach a consensus on the committee.

Thank you very much for scheduling the hearing and thank you for being generous with the amount of time you have given me.

The CHAIRMAN. Thank you very much, Senator. My generosity on time stopped when you stopped. We will have 5 minutes per Senator from now on.

Senator Landrieu.

[Laughter.]

STATEMENT OF HON. MARY L. LANDRIEU, U.S. SENATOR FROM LOUISIANA

Senator LANDRIEU. Well, I am just happy he made all the right points. So I will just try to fill in.

First of all, Mr. Chairman, thank you for agreeing to hold this hearing and for your support of this general concept and your willingness to help us work through some of the challenges that still remain. I thank the Senator from Tennessee for his great leadership and partnership.

I want to, before I begin, thank the folks from Louisiana that are here. Not only do we have our Secretary of Natural Resources that will testify in a minute, Mr. Scott Angelle, who has been a tremendous and effective advocate as he stepped into this position just a year ago with our new Governor's help and support, but also we have 2 of our 19 parish presidents, one from Lafourche Parish and one from Saint Bernard Parish. Both of these parishes have been directly and dramatically, drastically impacted by the loss of land, thousands and thousands of miles of wetlands, which both Senator Bingaman and Senator Domenici have actually seen as they have flown over those parishes. So we thank them.

As Senator Alexander said, colleagues, there are really two charts that tell the whole story, and I would particularly like the Senator from Oklahoma to look at this chart of the status of OCS leasing.

[Chart.]

Senator LANDRIEU. It is fairly dramatic. Not only are the numbers dramatic. It has been $140 billion since 1955, $140 billion that the Outer Continental Shelf of this country has produced for the Federal Treasury. It has produced more money from this portion of Federal land than any portion of land in the entire United States of America by far. As Senator Alexander pointed out, it provides more energy and more resources to this Nation than any country in the world, including Saudi Arabia, in terms of energy production.

The Senator from Oklahoma will notice the red dots. That is the only part of the country where offshore oil and gas drilling is cur-

rently allowed. So not only is it the only part, but it is the only part because all the other parts are prohibited and off limits. So this platform of Texas, Louisiana, Mississippi, and Alabama basically produce off of our shores, with Alaska coming on line just slightly but open as the technology improves, for us to provide this amount of money for the Federal Treasury. Yet, year after year, these States or these programs that we are talking about receive basically no royalty whatsoever.

Last year, Conrad, the State of Louisiana off of our shore alone produced for the Federal Treasury close to $6 billion and got less than 1 percent of the money, after serving as a platform for this offshore oil and gas drilling.

We think it is a simple but profound idea to take what is a depleting resource, which will be gone one day and reinvest it in coastal programs, in wildlife programs, and in State and Federal land if we can come to some meeting of the minds about the Federal land.

So I think this chart shows it all. There is only one place in America that is drilling offshore. There is only one place that is contributing this amount of money, and it is time that some of those revenues be redirected, as they are into the interior States.

The other chart I would like Sharon to put back up, if she would, which is the chart that Senator Alexander showed, because I want to make one point before closing, Mr. Chairman—and you have been generous—about the private property issue. And it is this chart.

[Chart.]

Senator LANDRIEU. Clearly, in the West, there are acres and acres, thousands of acres that are owned and under the control of the Federal Government and State governments, but clearly, Senators, in the East there are still some great needs, through the Great Smoky Mountains, through Illinois, through New York. In our State, only 2.5 percent of the land is under Federal ownership. Clearly there is a need. And I could provide other evidence to suggest, not the least of which is the list of the billions of dollars of land that comes to us requesting from willing sellers and from Governors and from mayors all over the Eastern part of this country asking, please, help us with getting Federal property.

And the final point is this. This effort is not to take land out of private property and diminish it or not care for it. This is to balance the needs of private property owners which we believe built this country. No one is arguing that. We want to support that concept. But we want to provide a steady, reliable stream of revenue to all States, particularly those eastern States, which will create and enhance, not diminish economic prosperity for this Nation.

So we think this is a balanced bill. We look forward to working with the colleagues of this committee who have shown themselves to be far-sighted Senators in many ways and look forward to working with you particularly, Mr. Chairman, as we fashion a bill that is good for everyone. Thank you.

The CHAIRMAN. Thank you very much.

I was wondering, Senator, since you mentioned all of the money we have that comes from that one little offshore drilling area, if we

might not consider a trade. You get us another area for offshore drilling and we will give you that money for this.

Senator LANDRIEU. Mr. Chairman, I am a good Senator, but I am not sure I am that good. So we will just stick with our bill and move forward. But I hear what you are saying.

[Laughter.]

The CHAIRMAN. Senator Burns.

STATEMENT OF HON. CONRAD BURNS, U.S. SENATOR FROM MONTANA

Senator BURNS. Mr. Chairman, thank you very much. Thanks for the hearing.

I want to just make a point. If you all do not have enough Federal lands back East, if you want to figure on a little trade, we might wrangle that for you because there is some land out there we would like to turn into private lands, and if you want it back there, we will just make you a little trade and solve that problem.

Of course, I think the same arguments that were made for and opposed to CARA still apply in this piece of legislation. When we take a look, it does open a flood gate of $1.4 billion from the Secretary of the Treasury for programs, while ignoring the investment that is needed in other areas, other programs, and policy initiatives. So the notion that a select group of Interior bill programs should be allocated significantly increase fixed funding on multiyear bases assumes that these programs are currently effective without any oversight.

I think that is where we have a real problem because basically what we are setting up here is another entitlement, an entitlement that is written into law that prevents any oversight if it is abused or not being used in the way that maybe the law should allow.

We do have needs for that money. We need it in Indian health. We need it in Indian schools. All of these appropriated accounts out of appropriations that sometimes we have to be versatile enough to take some money away from some programs and put it into others to address a specific crisis or situation. This legislation does not allow us to do that with those funds that come into the Treasury and usually allocated under the appropriated method and budget.

I congratulate Senators Alexander and Landrieu because this does need to be addressed, but are we doing it the right way. That is where we sort of run afoul. So I look forward working with both Senators to pass the legislation that we think is probably good policy and good for our country. Thank you.

The CHAIRMAN. Thank you very much, Senator.

I am going on the order of arrival. As I have it up here, Senator Thomas arrived next.

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

Senator THOMAS. Thank you very much, Mr. Chairman.

This, of course, uses the OCS revenues to fund programs in the Land and Water Conservation Act. I expect that you will have additional amendments which would fund the Federal Land and Water Conservation program, very much like the CARA decision we went through before.

I am concerned about this idea of turning it into mandatory spending. I am concerned about the aspect of having additional lands. This is one that has an impact on property rights. Our State of Wyoming is half owned now by the Federal Government. I have had for a long time the notion that we ought not to have any additional. We ought not to have a net increase of Federal lands. If we are going to take some in, we ought to reduce it in some other places.

I certainly think there are opportunities for inholdings of Federal lands. I just returned from spending some time at Glacier Park, and of course, I work on the parks all the time. It is, I think, pretty clear that we have a lot of backlogs to fund before we acquire more properties. So I think we have to take a long look at this bill and make sure that we are fiscally responsible, that we are responsible in terms of the total needs and what really ought to be done by the Federal Government, as opposed to some other governments. Everything you want to do is not the responsibility of the Federal Government, and we have expanded ourselves beyond where we want to go in a lot ways, and I think we need to be careful that we do not do it in this one as well.

So I hope we focus on the fiscal responsibility, as well as the total land responsibility of private land, and I think we have to do a lot of work on this before it is acceptable to most of us.

The CHAIRMAN. Thank you very much.

My recording here has Senator Nickles, Senator Johnson, and then Senator Murkowski.

Senator Nickles.

STATEMENT OF HON. DON NICKLES, U.S. SENATOR FROM OKLAHOMA

Senator NICKLES. Mr. Chairman, thank you very much. I am pleased to join this hearing today, and I want to compliment Senators Alexander and Landrieu for their persistence, also compliment them on changing the title of the bill. I happen to like the Americans Outdoors Act a lot better than CARA. I opposed CARA. Maybe I should support this because it has a great title, but I will not.

[Laughter.]

Senator NICKLES. I saw the list of people who are sponsoring this, and I can see a lot of people saying, hey, we can get a chunk of this money. We want this because this is going to help us build parks or do projects that, frankly, they are not getting money for now. So sign me up. And I can see lots of organizations joining, just as they supported CARA.

But I think it is fatally flawed legislation. I think it would be a mistake for Congress to pass it for a couple of reasons.

I asked former Chairman Byrd on the appropriations process, what percentage of the budget today is discretionary, i.e., controlled by the appropriators that we actually really do control, and what part of it is mandatory. Since 1990 entitlement spending has increased from 45 percent to 54 percent. Entitlement spending has really been on an increase. I used to be chairman—and I think Senator Burns is chairman. Are you still chairman of Interior Appropriations now?

Senator BURNS. Yes.

Senator NICKLES. Interior Appropriations is a great committee. It has charge of most of those lands that are Federal lands. Frankly, we do not do a very good job. We do not do a good enough job in controlling our parks. This is saying that these projects that are funded here have a higher priority than Yellowstone or any of our national parks, some of which are not maintained as well as they should be maintained. But we are going to say that these items should have entitlement status.

Just to give you an example, the Urban Park Recreation Program would be declared mandatory funding. It would receive $125 million a year. That is more than it has received since 1985, but we are going to give them that much money every year and we are going to place that as a higher priority than taking care of our existing parks or existing wildlife refuges? We have one wildlife refuge in Oklahoma. We say it has more visitors than any other wildlife refuge in the country. But we are going to say, no, no, we are going to have new parks or new addition that have a higher priority than taking care of adequate maintenance and so on for existing facilities.

The State Land and Water Conservation Fund would receive a guaranteed $450 million a year, which is $350 million more than it received in 2004. I hate to tell anybody this, but we have about a $400 billion deficit. So if you take a program that received, what, $100 million or something last year and now we are going to make it $450 million and we are making it an entitlement, that is not very good. That is just not very responsible.

Somebody might say, well, wait a minute, we want to fully fund it because it is authorized. I will tell you if you fully funded everything that is authorized in the Federal Government, you would have a deficit that would be many multiples of what it is today. Thank goodness we do not fully fund everything that is authorized. We could not come close to affording it, whether you are talking about education, whether you are talking about other programs. It will not add up.

And then there is the idea of, well, okay, we also want to do the Federal portion of the Land and Water Conservation Fund, so there will be additional land acquisition when we are not, frankly, maintaining the existing lands that we have control over today in a way that we should be proud of.

So I just mention these concerns. I do not know how you can take some of these programs and turn them into an entitlement, make them a higher priority than existing programs. Those existing programs may be Park Service, they may be Fish and Wildlife Service, you name it. Those are all funded through the appropriations process, and I do not know that we should be saying these individual programs should be funded from an entitlement status, a higher status, you might say, than others, plus the fact they would add about $2 billion a year to the national deficit. So I have serious reservations about this.

I appreciate the concerns that were addressed. Senator Landrieu I think has some points, although I want to be educated or make sure I am correct, but I think coastal States have 100 percent of the royalty within 3 miles.

Senator LANDRIEU. Yes, that is correct.

Senator NICKLES. I believe that is correct, and I believe they have 27 percent of the royalties the next 3 miles. Correct me if I am wrong, our experts in Interior. It is legitimate. Should that be extended? I think that is a legitimate debate. Should the States that are bearing the "environmental risk" have a larger boundary for that 3 miles? I think that is a legitimate debate and maybe we should consider that. But I am concerned about taking this "pool" of money for a few projects that are listed and turning those into an entitlement status.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator.

Senator Johnson.

STATEMENT OF HON. TIM JOHNSON, U.S. SENATOR FROM SOUTH DAKOTA

Senator JOHNSON. Thank you, Mr. Chairman, for holding this hearing. I will submit a full statement, and I will be brief with a few observations here.

I have to say that as a member of both the Budget Committee and the Appropriations Committee, and as a Western State Senator, I am very supportive of the extraordinary work that Senator Landrieu and Senator Alexander have done and the leadership that they have provided. I am grateful for what they have been doing to put this legislation together.

I also have to smile a bit at some people who are always willing to extend massive tax cuts for America's wealthiest families, but when it comes time to provide resources for ordinary middle class to hunt, to fish, to enjoy the outdoors, then they become great fiscal conservatives. This is a legitimate philosophical debate about the role of government and what our priorities are. I understand that, but I do not think there is one side of this issue that is on the side of the fiscal prudence and one side that is not. It is a question of priority about where those next dollars should go.

In South Dakota, a Western State, we have an enormous demand for public and open areas for recreation that is outstripping the available capacity.

The Federal Government's efforts to enhance and protect wildlife habitat rests I believe on a three-legged stool. One is management and restoration of habitat for game species through the longstanding Pittman-Robertson Act. Second is dedicated Federal funding for sports fish restoration through the Sports Fish Restoration Act. And what is missing is the third leg of the stool, a dedicated funding source for State-based efforts to enhance non-game species.

Title IV of the Americans Outdoors Act establishes a dedicated funding source that States and tribes can leverage for the conservation and enhancement of both game and non-game species that are threatened with Federal protection. A permanent, stable funding source is extremely important to the efforts of States to better manage valuable resources to avoid the need for costly and burdensome Federal remedies. Cooperative and voluntary conservation agreements require long-term funding commitments, and title IV ensures that State and local partners will finally have all the tools

necessary to enhance the sustainability of many of our most threatened species.

I also believe that the rationale for preventing species from becoming endangered is practical, economical, and rooted in the common sense belief that an ounce of prevention is worth a pound of cure. The wildlife conservation provisions in this bill provide funds for a diverse array of fish and wildlife species with an emphasis on preventing species from becoming listed through the Endangered Species Act. Ensuring that fish and wildlife do not become endangered will go a long way to helping private property owners who otherwise will face severe limitations on the management of their own lands due to endangered species.

We in South Dakota right now are struggling with a management plan for the black-tailed prairie dog with a goal of creating the State solution instead of relying on the far more restrictive Federal remedies that would otherwise occur if in fact this species were listed as endangered. So a program like this is going to give State and local governments a greater level of resources which will permit them to keep species that are on the cusp of becoming endangered off the list and thereby not only preserving that species but also making certain that private landowners are not faced with severe Federal rules because of whether it be the black-tailed prairie dog or other species that otherwise may well become endangered.

Senator NICKLES. The black-tailed prairie dog?

Senator JOHNSON. We have millions of them. A lot of South Dakotans would raise an eyebrow at the thought that these critters are endangered, but the fact is that they are on the list of next to be listed if we do not do something. And our State is in the process in a multi-State plan right now to create sufficient habitat that we can assure our friends that indeed this species is not endangered, but we need some additional resources to make sure that that happens. Otherwise, we face very severe restrictions if in fact that animal were listed.

Senator NICKLES. I have been worried about it. Thank you.

Senator JOHNSON. An animal that hunters come to shoot from miles around and that ranchers curse daily—I appreciate that there are many who wonder about the endangered nature of that species, but the fact is if you look at the collapse of the nationwide population compared to what it was 100 years ago, the Endangered Species Act could, in fact, become operative in all of our States, and certainly in South Dakota if we do not have a proactive plan to prevent that from happening.

Thank you, Mr. Chairman.

[The prepared statement of Senator Johnson follows:]

PREPARED STATEMENT OF HON. TIM JOHNSON, U.S. SENATOR FROM SOUTH DAKOTA

Thank you Chairman Domenici and Ranking Member Bingaman for convening today's hearing on the Americans Outdoors Act. As a member of the committee who worked hard in previous years to enact similar legislation, and who was disappointed when we came up a little bit short in 2000, I am pleased that my colleagues from Louisiana and Tennessee have reintroduced this landmark conservation and recreation funding bill.

The public continues to demand clean and abundant areas to recreate, hunt, fish, or simply enjoy the outdoors. Approximately 40 million Americans hunt and fish,

generating $70 billion in annual expenditures for their sport. In South Dakota, the demand for public and open areas to recreate outstrips the available capacity; diminishing the experience for long-time sportsman, as well as the next generation of South Dakotans who derive such enjoyment from our open spaces. In a time of such great uncertainty abroad, Americans are looking to spend their vacations closer to home and states, counties, and cities are racing ahead to plan and develop local park and recreation facilities.

The Americans Outdoors Act also fulfills a decades-long effort to bridge the gap in fully-funding wildlife conservation programs, and it is this section of the bill that I am particularly interested in finally accomplishing.

The federal government's efforts to enhance and protect wildlife habitat rest on a three-legged stool: management and restoration of habitat for game species through the long-standing Pittman-Robertson Act and dedicated federal funding for sportsfish restoration through the Sportsfish Restoration Act have proved highly successful at restoring declining species and their habitats. These long-standing and highly successful efforts paid for in part by anglers and hunters have created a solid model for the restoration of key fish and wildlife species. *What is missing is the third leg of this stool: a dedicated funding source for state-based efforts to enhance non-game species.*

Title IV of the Americans Outdoors Act, establishes a dedicated funding source that states and tribes can leverage for the conservation and enhancement of both game and non-game species threatened with federal protection. A permanent stable funding source is extremely important to the efforts of the states to better manage valuable resources and to avoid the need for costly and burdensome federal remedies. Cooperative and voluntary conservation agreements require long-term funding commitments and title IV ensures that state and local partners will finally have all the tools necessary to enhance the sustainability of many of the most threatened species.

I also believe that the rational for preventing species from becoming endangered is practical, economical, and rooted in the common sense belief that an ounce of prevention is worth a pound of cure. The wildlife conservation provisions in this bill provide funds for a diverse array of fish and wildlife species, with an emphasis on preventing species from becoming listed through the Endangered Species Act. Ensuring that fish and wildlife do not become endangered will go a long way to help private property owners. For example, in South Dakota the state is working with several counties, as well as landowners and producers to develop a management plan for the black-tailed prairie dog with the goal of creating a state solution instead of relying on more restrictive federal remedies. Preventing fish and wildlife now from becoming endangered later is an investment that will save landowners valuable time and money that would occur after a species has been depleted.

The Americans Outdoors Act is an important investment in our states, cities, and local communities. Although we have few legislative days remaining in this Congress it is my hope that the committee will move forward on this bill in the same collaborative and bipartisan manner that greeted our previous efforts. Thank you and I look forward to hearing from our panel of witnesses.

The CHAIRMAN. Thank you very much.

Senator Murkowski.

STATEMENT OF HON. LISA MURKOWSKI, U.S. SENATOR FROM ALASKA

Senator MURKOWSKI. Thank you, Mr. Chairman. I appreciate the effort that you, Senator Landrieu and Senator Alexander, have made on this issue. I need to echo some of the concerns that have been expressed here this morning, the financial implications, as well as the impact on land ownership. In Alaska, about two-thirds of our State is owned by the Federal Government. We quite honestly do not think that they need to have any more of that, and we would like to change that equation a little bit. So, Senator Burns, I concur with you that we might be interested in figuring out a way that we can swap some of this around.

But I am eager to learn more about the proposal that we have before us, how it can benefit us in Alaska, how it can benefit us across the country. We have 6,000 miles of coastline in Alaska.

6,000 miles is a lot of coast. Right now we are not doing much in the offshore production area, as you have noted, Senator Landrieu. That red dot is not yet visible in Alaska, but we anticipate that that is going to change over the next period of years.

But again, I look forward to hearing the testimony this morning and to work with the two of you and the chairman on this issue. I think that there have been some comments raised this morning that whereas we might not agree on exactly what we have before us, there is certainly a need to be discussing the issues that are presented here today and this is a good format for it. So I appreciate you, Mr. Chairman, scheduling the hearing.

The CHAIRMAN. Thank you very much.

With that, Senators, we are going to proceed to the witnesses. Our first witness is Lynn Scarlett, Assistant Secretary for Policy, Management and Budget, U.S. Department of the Interior. We welcome you and we are sorry you had to sit there so long, but that is the way it is.

[Laughter.]

STATEMENT OF P. LYNN SCARLETT, ASSISTANT SECRETARY FOR POLICY, MANAGEMENT AND BUDGET, DEPARTMENT OF THE INTERIOR

Ms. SCARLETT. Mr. Chairman and members of the committee, thank you for inviting me here today to discuss the Americans Outdoors Act of 2004. The act, as the Senators have noted, presents an ambitious vision. It proposes a permanent stream of funding using Federal offshore oil and gas revenues for grants and assistance to States, tribes, and local communities for recreation, habitat restoration, and other related purposes.

The administration strongly supports the goals of these activities, but we cannot support moving funding for these programs off the discretionary spending ledger and converting funding into nondiscretionary, automatic spending.

The legislation highlights many goals the administration has pursued through a variety of cooperative conservation grants. One of the criticisms of previous legislation on related topics was the focus on Federal land acquisition and its implications for private land ownership. Our cooperative conservation approach offers an alternative to land acquisition as the central way to achieve conservation.

To implement our cooperative conservation vision, working with Congress, Interior has provided since 2002 over $1.3 billion in grants to States, tribes, local governments, and private landowners. Through these partnerships we have removed invasive weeds, replanted native grasses, improved riparian habitat along thousands of miles of streams, conserved limited water resources, and protected many threatened and endangered species. To continue these efforts, the President's 2005 budget for Interior proposes over $500 million for cooperative conservation programs.

I would like to focus for a moment on a few of these provisions that reflect many of the goals and purposes of the Americans Outdoors Act. Our approach focuses on grants that leverage Federal dollars, sometimes as much as 4 to 1, 5 to 1, even 6 to 1. Our efforts enhance local innovations in conservation, drawing on the

local knowledge of folks on the ground that live near and love places. They target high priority projects through a competitive process. They advance alternatives to land acquisition as the central way to achieve conservation and outdoor recreation goals, and they provide the kind of continual oversight for program results that has been mentioned here this morning.

The grants include grants that facilitate local and private conservation efforts, including $50 million for competitively awarded cost-share grants to States for landowner incentive programs. Our 2005 budget also proposes grants that enhance habitat for fish and wildlife and for projects that support wildlife-based recreation, a goal of title IV of the Americans Outdoors Act. Indeed, more than 50 percent of the Fish and Wildlife Service budget is currently devoted to payments and grants to States, local communities, and landowners to help in species protection and habitat conservation.

One cornerstone of our suite of cooperative conservation programs is our challenge cost-share grant programs. These grants enable our land management bureaus to partner with local communities, gateway communities to achieve common conservation goals and resource management goals. Through our Partners for Fish and Wildlife program, Interior has worked with nearly 9,000 landowners and communities over the last 3 years to protect over 150,000 acres of wetlands and over 700,000 acres of prairie and grasslands. Over the last decade or more, we have partnered with nearly 30,000 landowners and communities.

A central focus of the Americans Outdoors Act is protection of coastal areas in States with offshore energy activities. While we recognize the importance of and are investing in coastal conservation, we would also like to mention that coastal communities enjoy benefits from these offshore development activities. Rather than establish a process for automatically distributing receipts from offshore activities to coastal States, the President's budget proposes to allocate funds to priority coastal conservation needs through existing conservation programs. The Fish and Wildlife Coastal Program is one such program, a program that leverages Federal dollars on average by 4 to 1.

Other programs in other Departments also provide coastal assistance, such as the Department of Commerce's Coastal Zone Management grants.

The administration strongly supports discretionary spending for conservation programs that are consistent with many of the principles set forth in the Americans Outdoors Act. However, as I noted earlier, we cannot support the mandatory nature of the funding mechanism which removes the ability of both Congress and the administration to weigh the programs funded under this legislation against other national priorities and trends such as parks maintenance, the forest and rangeland health issues, particularly adjacent to wildland/urban interface communities.

I can pledge to you that this administration's willingness to work with this committee and others in the Congress on issues embodied in the Americans Outdoors Act is strong. Those issues focus on working in partnerships with States, local governments, tribes, and individuals to conserve natural and historic resources and provide outdoor recreation opportunities.

Mr. Chairman, I would be happy to answer any questions you or members of the committee might have. Thank you.

[The prepared statement of Ms. Scarlett follows:]

PREPARED STATEMENT OF P. LYNN SCARLETT, ASSISTANT SECRETARY FOR POLICY, MANAGEMENT & BUDGET, DEPARTMENT OF THE INTERIOR

Mr. Chairman and Members of the Committee, I appreciate the opportunity to appear before you today to discuss S. 2590, the "Americans Outdoors Act of 2004."

The Americans Outdoors Act presents an ambitious vision. It proposes mandatory spending for a stream of funding, using revenues from oil and gas development from federal offshore lands, to (1) establish a Coastal Impact Assistance Program; (2) provide Land and Water Conservation Fund (LWCF) Act assistance to states; (3) conserve and restore wildlife; and (4) provide grants to local governments consistent with the Urban Park and Recreation Recovery Act. The bill would provide for the automatic funding of four programs at levels higher than they have been funded in the past. The Administration strongly supports the goals of these activities. However, we cannot support moving funding for these programs off the discretionary spending ledger and converting it into non-discretionary automatic spending. The total cost of the bill would be $1.425 billion annually.

A central goal of S. 2590 is to better enable local communities to carry out activities that benefit conservation and recreation. In this respect, the legislation highlights goals that the Administration has pursued in recent years through a suite of cooperative conservation grants. By partnering with states, tribes, community organizations, and citizens, the Department of the Interior is achieving conservation through cooperation. communication, and consultation—what Secretary Norton calls the 4 C's.

These partnerships exemplify Secretary Norton's cooperative conservation vision. By applying a caring hand to the local lands where they live, work and play, citizen stewards are working with federal agencies to conserve habitat and enhance outdoor recreation opportunities while maintaining working landscapes that support dynamic economies and thriving communities.

To implement this vision, the Department has provided since 2002 over $1.3 billion in grants to states, tribes, local governments, and private landowners through programs that conserve open space, restore habitat for wildlife, and protect endangered species. With our partners, we have restored millions of acres of habitat; removed invasive exotic species; replanted native grasses; improved riparian habitat along thousands of miles of streams; conserved limited water resources; and developed conservation plans for endangered species and their habitat. To help meet this challenge, the President's fiscal year (FY) 2005 budget includes $507 million for cooperative conservation programs.

These cooperative conservation grants leverage non-federal funding and the initiative of landowners, nonprofit organizations, tribes, and other governments to achieve conservation results and outdoor recreation opportunities. The Department has a strong interest in enhancing these efforts.

We appreciate the efforts put forward in S. 2590 to support conservation at the local level, but we believe funding allocation decisions should be made through the appropriations process and not through new mandatory spending. Mr. Chairman, I would like to take a few minutes to walk you through the provisions of our recent budget proposal that reflect many of S. 2590's purposes and goals.

LAND AND WATER CONSERVATION FUND STATE GRANT PROGRAM

Title III of S. 2590 would provide for $450 million in LWCF state conservation grants to be apportioned among states, the District of Columbia, and territories to be used for the planning, acquisition (but not condemnation), and development of projects under the LWCF. Tribes, through a competitive grant program to be developed by the Secretary, and political subdivisions, through grants from states, would also be eligible to receive funds. The legislation would also require states to develop "action agendas" that describe priorities and criteria for selection of outdoor recreation and conservation acquisition and development projects, among other things.

The President's FY 2005 Budget proposes, through the appropriations process, $900 million in LWCF funding for a mix of programs that advance many of the goals set forth in S. 2590. Over the past several years, we have developed a comprehensive approach to funding a wide array of state recreation and conservation needs through grant programs. This approach offers states, tribes, local governments, and citizens the flexibility to determine priorities among various program purposes. These grants also encourage innovation in conservation tools. Conserva-

tion of wildlife and habitat is a major component of conserving and enjoying our natural resources. States, tribes, and local partners should be able to use these funds for projects that protect or enhance habitat for an array of fish and wildlife, including wetlands for migratory birds and other species.

One of the criticisms of previous legislation like S. 2590 was the increase in funding for federal land acquisition and its implications for private land ownership. Our cooperative conservation approach offers an alternative to land acquisition as the central way to achieve conservation of land. The Administration's Land and Water Conservation Fund's budget for FY 2005 includes $679 million for such grant and cooperative programs. Secretary Norton strongly believes that conservation dollars can go farther and conserve more open space and wildlife habitat if more land is left in private ownership and private landowners are provided with incentives for private stewardship. The President's budget proposal funds a number of programs to facilitate local and private conservation efforts, including $50 million for competitively awarded cost-shared grants for state landowner incentive programs, and $10 million for competitively awarded private stewardship grants to support individuals and groups engaged in local, private, and voluntary land and wildlife conservation efforts.

CONSERVATION AND WILDLIFE RESTORATION

Title IV of S. 2590 would provide $350 million in funding to the Wildlife Conservation and Restoration Account established under recent amendments to the Pittman-Robertson Wildlife Restoration Act. These monies would be made available to states, the District of Columbia, territories, and tribes for use in fish and wildlife conservation and related recreational opportunities.

The Department's FY 2005 budget proposes a number of grant programs that enhance habitat for fish and wildlife and for projects that support wildlife-based recreation. More than 50 percent of the U.S. Fish and Wildlife Service's budget is currently devoted to payments and grants to states, local communities, and landowners.

One of the cornerstones of the Department's partnering program is the Cooperative Conservation Initiative (CCI) challenge cost-share grants. These challenge cost share grants fund conservation partnerships with our land management bureaus, enabling them to work with local communities to achieve common conservation goals. Our CCI program also includes the coastal program, Migratory Bird Joint Ventures, and Partners for Fish and Wildlife, all in the Fish and Wildlife Service; and Take Pride in America, a public lands volunteer program. In FY 2005, we propose $129.5 million for CCI-related funding. Through the Partners for Fish and Wildlife program alone, the Department has worked with nearly 9,000 landowners and communities to restore over 150,000 acres of wetlands and over 700,000 acres of prairie and grasslands from 2001 to 2003.

Our FY 2005 budget also includes S90.0 million for the Cooperative Endangered Species Conservation Fund and $54.0 million for the North American Wetlands Conservation Fund. A significant portion of the remaining request will support technical assistance at the local level under programs such as Endangered Species Act Consultation and Habitat Conservation Planning and Fish and Wildlife Assistance.

COASTAL IMPACT ASSISTANCE

Finally, Title II of S. 2590 would establish a new $500 million program of payments to states with approved coastal impact assistance plans. The bill delineates several purposes for these funds, including projects and activities related to the conservation, protection, infrastructure, or restoration of coastal areas. The funds protect wetlands, mitigate of damage to fish and wildlife or natural resources, as well as mitigate the impact of OCS activities. Generally, funds would be allocated to states in the proportion that the amount of qualified OCS revenues generated off the coastline of the producing state bears to the amount of qualified OS revenues generated off the coastline of all producing states. In addition, 35 percent of the funds allocated to each state would be further payable by the Secretary directly to coastal political subdivisions in the producing state.

While we recognize the importance of and are investing in coastal conservation, we would also like to mention that coastal communities enjoy benefits from offshore development activities. Rather than establish a new and complicated process for automatically distributing receipts to coastal states, the President's Budget proposes to allocate funds to priority coastal conservation needs through existing discretionary programs. Our proposed FY 2005 budget includes $13.1 million for the Fish and Wildlife Service's Coastal program, through which the Fish and Wildlife Service and its partners work to conserve fish and wildlife and their habitats to support

healthy ecosystems. This program provides assessment and planning tools to identify priority habitats for protection and restoration; conserves coastal habitat through voluntary conservation easements and locally initiated land acquisition; restores degraded coastal wetlands, uplands, and stream habitat; and focuses resources through partnerships that leverage financial and technical resources. On average, the Coastal program leverages federal funding at a rate of 4:1. In addition, the Department provides coastal wetlands grants, over $90 million for refuge operations in coastal areas, and over $50 million in U.S. Geological Survey science, mapping, and hazards programs that pertain to coasts and ocean areas. Our Coastal Program protected over 200,000 acres of wetlands and more than 750,000 acres of uplands in 2001 to 2003.

In addition, the Department of Commerce's proposed FY 2005 budget includes a request for almost $64 million for Coastal Zone Management grants to states. These grants are intended to provide matching funds to support state and local projects that address a broad spectrum of coastal management issues.

CONCLUSION

The Administration strongly supports discretionary spending for conservation programs that are consistent with many of the principles of set forth in S. 2590. As you know, the cost of this legislation, over $1.425 billion per year over the next 5 years, is not in keeping with the President's budget for FY 2005 or with the Administration's efforts to control increases in federal spending over the next several years. Moreover, the Administration has stressed the importance of strong conservation funding under the programs listed above, under the conservation title of the 2002 Farm Bill, for wetlands projects, for National Parks operations and maintenance, and for forest and rangeland fuels reduction. However, the Administration opposes the mandatory nature of the funding mechanism, which removes the ability of both Congress and the Administration to weight the programs funded under this legislation against other national priorities and needs.

I can, however, pledge to you this Administration's willingness to work with this Committee and others in the Congress on the issues embodied in S. 2590, those of working in partnership with states, local governments, and individuals in conserving the Nation's natural and historic resources and providing outdoor recreation opportunities. This Administration has a clearly developed record of success with cooperative conservation initiatives. I believe that as more of the public becomes involved, our Nation will have healthier lands and a whole new generation of self-motivated citizen stewards.

Mr. Chairman, this concludes my prepared statement. I am pleased to respond to any questions that you or other Members of the Committee might have.

The CHAIRMAN. Thank you very much, Madam Secretary.

Senator Bingaman, do you have any questions? Then we will go down the line one and one.

Senator BINGAMAN. Thank you, Mr. Chairman.

Let me first ask something I raised with Secretary Norton when she testified earlier this year, I believe. As I understand the proposed budget that you have given us for 2005, it contains no funds for Federal land acquisition. Is that accurate?

Ms. SCARLETT. No, that is not accurate. Our Land and Water Conservation proposal has a modest amount of Federal land acquisition in it.

Senator BINGAMAN. How much is that?

Ms. SCARLETT. In Interior, we have about $153 million proposed, of which about $40 million is for some proposed acquisition of oil and gas subsurface mineral rights. There is an additional portion of land acquisition in the Forest Service budget.

Senator BINGAMAN. My impression—and correct me if I am wrong on this—is that the law that established the Land and Water Conservation Fund required that half go to the States for their land acquisition needs and half be retained by the Federal Government for its land acquisition needs. Essentially what you are doing each year and what you are proposing to do next year

is to take the funds that by law are required to be spent on land acquisition and using them for these various things that you call cooperative conservation grants instead of land acquisition. Am I wrong? Do you read the law differently?

Ms. SCARLETT. Senator, as we read the law, the Land and Water Conservation Fund in 1965 proposed $900 million in spending for land acquisition or—and these are the exact words—unless otherwise allotted in the appropriations act for purposes consistent with the conservation and recreation goals. We believe that the proposal that we have put forth is indeed consistent with the provisions of the Land and Water Conservation Act and does, in fact, achieve those purposes. There are many hundreds of millions of dollars in our proposals that go to States, tribes, and local communities for recreation and conservation purposes, using partnerships rather than strictly emphasizing one tool, land acquisition.

Senator BINGAMAN. But it is fair to say that your budget proposal recommends to Congress that most all of the funds that are supposed to be on the Federal side of the Land and Water Conservation funding not be used for land acquisition, be used for cooperative conservation grants of one kind or another, and then if the Appropriations Committee agrees to that, then your view is that is legal?

Ms. SCARLETT. Senator, just to clarify, the total Federal land acquisition piece is over $200 million, combining Forest Service and Interior, which is a substantial portion.

But yes, we have been working with Congress and the appropriators. Indeed, in 2003 and 2004, they significantly agreed with this approach and did allot funding for our landowner incentive program, our private stewardship grant program, our partners program, and others through Land and Water Conservation, consistent I believe with the language that I read earlier.

Senator BINGAMAN. Following the CARA debate, Congress established what was called the conservation spending category as part of the fiscal year 2001 Interior appropriation bill. Under this conservation spending category, there was a certain amount of funding that was fenced off in the budget each year for land conservation and related activities as critical national priorities. That was sort of a fall-back, as I recall it. Since CARA did not become law, there was a general agreement, okay, let us at least put it in the budget.

This program has been in place now for 4, 5, 6 years. The amount has been decreasing. This year, as I understand your fiscal year 2005 budget request, you have asked for no funds for the conservation spending category. Am I right about that?

Ms. SCARLETT. Senator, that would be inaccurate. This conservation spending category is a category that includes a lot of different programs within it, and in fact in 2004, I met with Congressman Dicks and walked through the programs that we have that fit within that conservation spending category. Overall, since 2001, our conservation spending in the Department of the Interior for our cooperative conservation programs is up some 240 percent, significant increases in conservation spending.

Senator BINGAMAN. But in the budget submission that we received from you, there is no longer a conservation spending category identified for this upcoming fiscal year.

Ms. SCARLETT. For this fiscal year, we did not present the budget in that way. I would be happy to go back and, as we have done in the past, align the programs that come under that category and provide you that information and that alignment.

Senator BINGAMAN. I think that would be useful because then we can determine whether, as I believe is the case, we have seen a drop-off in spending for those activities over the last several years since we last had the CARA debate here.

That is all I have, Mr. Chairman.

The CHAIRMAN. Madam Secretary, would you supply that information to each member of the committee please?

Ms. SCARLETT. We will be happy to do that.

The CHAIRMAN. Senator Thomas.

Senator THOMAS. Thank you, sir.

When we talk about acquisitions and so on, do you have any interest in sort of the no net gain thing? In other words, if we are going to add Federal here, can we reduce some over here, particularly inholdings and things that have no particular significance?

Ms. SCARLETT. Senator, this was a concept that I heard for the first time today expressed, and we certainly would be interested in discussing it with you. It is not something that we have discussed yet at Interior.

Senator THOMAS. You know, we have always some expansion and so on, generally justified, but on the other hand, seldom do we ever see any exchange. For instance, we are exchanging in Yellowstone a State section. Then maybe we ought to reduce some.

What about the backlog? I just returned from a weekend at Glacier National Park and about all they talked about was trying to catch up. How would this impact your efforts to use the money for maintenance and pick up the backlogs?

Ms. SCARLETT. Senator, let me first thank you for your strong efforts in the maintenance backlog arena, both focusing on the management needs we have there and also supporting the President's efforts to address that backlog.

I think there are two responses. One, as I said in my testimony, we are concerned that we maintain the discretion and flexibility to address priorities as they emerge over time. For this administration, addressing that maintenance backlog has become a significant priority.

We are on target to spend the $4.9 billion to address that backlog, and with those dollars expended, to date we have either accomplished or have underway some 4,000 maintenance backlog projects across our 388 park units. We are continuing that effort and look forward to working with Congress to get the Transportation Efficiency Act reauthorized to get the road portion which will allow us to address road maintenance.

The CHAIRMAN. Senator Thomas, would you yield for a moment on land acquisition/land disposal?

Senator THOMAS. Yes, sir.

The CHAIRMAN. I am getting the statute to ask her a question. But you might recall when we acquired in New Mexico that beautiful piece of property that we call the Baca location. We spent a lot of money for it. The second title to it required the Federal Government dispose of all the inholdings, which there was no use for

and were determined already to be useless. That would have been very many thousands of acres. I do not believe they have done anything with it, but we will ask her as soon as we get the statute.

Senator THOMAS. That is great. Thank you, Mr. Chairman.

I have no further questions. Thank you.

The CHAIRMAN. Senator?

Senator LANDRIEU. Yes, thank you. I appreciate your testimony and understand that there are some programs within the Department that you all are proud of in terms of the grant program. But I was just wondering if I could just focus with you for a minute just on the coastal programs.

I note, Madam Secretary, this is the Interior budget brief, which you are familiar with, and on page 48 here I just want to be sure under the Land and Water Conservation Fund that I am reading this correctly. It says coastal programs, 13060, which would be $13 million for coastal programs. that would be for the whole country. As you might recall, we had put up that map. Only four coastal States are producing, which is approximately $6 billion.

So I just want the committee to be aware that while there are, in fact, coastal programs underway, it is $13 million for the whole country, and from what I understand, the Federal Government puts up $1 and the private sector has to put up the other $4 of this program. Considering that just for Louisiana, the cost of our restoration estimated just for Louisiana's restoration is $14 billion over the next 20 years. Clearly, I just wanted to show this is not adequate.

So I wanted to ask you, given the great need of Louisiana, which is America's wetlands, and our coast, is the administration arguing that this money is a sufficient investment in coastal conservation programs in the Nation?

Ms. SCARLETT. Yes, thank you, Senator, for raising that issue. Actually our coastal program is one small program of many that actually benefit coasts. For example, we spend some $90 million each year on our wildlife refuges on coasts. We spend about $50 million in our U.S. Geological Survey in specific activities relating to coastal mapping, coastal protection, coastal science. The Department of Commerce has $64 million for additional coastal programs. And then as many are aware, because so many of our wetlands are along the coasts, our North American Wetlands Conservation Act fund also invests significantly in coasts. So when you put those funds together, it amounts to in the hundreds of millions rather than the $13 million.

Senator LANDRIEU. Well, I realize that is just one program, but even when you add them up and it is $100 million and it is for the coast of the entire United States, it still does not seem to me to take into account particularly the coastal States that are serving as a platform for the oil and gas and how limited the investments seem to be in that particular area. I would argue when you spread that couple of hundred million around the whole United States, it really falls short considering two-thirds of our population in this country live within 50 miles of the coast.

So in addition, Mr. Chairman, I would like to ask the Secretary if she is aware of the volatility in funding, which is what we are attempting to solve with this piece of legislation. In 1965, the State

side of Land and Water, which there does not seem to be much disagreement on this committee—there is disagreement about the Federal side and how much it should be, how it should be allocated. But on the State side, did you know that one of our intentions is to try to level the funding to give States some planning opportunities?

In 1965, this Government only allocated $10 million to the State side of Land and Water. In 1978, it went up to $305 million. In 1982, it went down to 0. Then in 1996, 1997, 1998, 1999, 0, 0, 0, and then back up to 1997. This chart, which I did not have blown up, but I would like to show the committee, is what happens to the State side of Land and Water.

So my question is, do you think it is possible for the 50 States to plan a very good conservation program with their own money with this kind of volatility in funding of the State side of Land and Water? And if not, what is the administration's position about trying to give some reliability to this stream of funding?

Ms. SCARLETT. Senator, we have tried to significantly invest in the State-side Land and Water Conservation program, and over the last 3 years, the administration has consistently proposed over $90 million for that program. In addition, we have actually significantly funded the State and tribal wildlife grant program, something that we heard from States about a strong need for. Together those programs bring over $150 million to States.

On the one hand, I understand the challenges of changes in the spending flow. On the other hand, it is precisely the flexibility that allows us to address emerging priorities or trends on an ongoing basis as they surface.

Senator LANDRIEU. Well, I would just end with this, Mr. Chairman, that while flexibility is always desirable, it is equally desirable to have reliability and to be a partner to be there year in and year out, not be a partner in the sunshine and then not a partner in the rain, to be a solid partner with the State governments to provide much needed land and recreation efforts for the 50 States. With volatility in funding that they cannot count on, it makes it very difficult. So I just wanted to point that out and thank you for the questions, Mr. Chairman.

The CHAIRMAN. Thank you very much.

Senator Burns.

Senator BURNS. Thank you, Mr. Chairman.

Whenever we get into mandatory type spending or entitlement type spending, here is the problem we run into. We run into a situation where it is almost a perfect storm. I have requests on my desk right now for 347 acres that they want to sell to the Federal Government. The Federal Government wants to own it at a cost of $5.5 million. Right across the river is 147 acres that they want $1.5 million for. Whenever you get entitlement spending—and here is the problem we run into. We always say, well, there is a clause in there that says, Senator, it is willing seller/willing buyer. In this case we got both. And that costs lots of money. It just throws reason and logic out the door.

So I do not have a question of Ms. Scarlett, but I am saying that we have to watch our policy here when we write it into law. I have seen some awfully high priced land that you would never make a

living on it like that even from—they say, well, you ought to see the view. Well, if that is all they are buying now, we are going to start selling view in the grocery store.

Senator LANDRIEU. Senator Burns, would you yield just a moment?

Senator BURNS. Yes.

Senator LANDRIEU. Since you were not directing the question, I would like to take a shot at answer that because part of Senator Alexander's and my bill is exactly that, to give the taxpayer a good bargain for the money that they spend. And what happens when we do not have a steady stream of revenue, when money becomes available, the managers and people that are looking at what land should the Federal Government buy or what lands should they not are so desperate that they will overpay for property. Why? Because they do not know they will have the money next year.

That is exactly the point of our bill, to give a steady stream of money so we do not have to overpay for property, so we can wait out sellers if their property is too high and say, no, we are not paying you $100 an acre. We are going to wait till the price comes down or to you offer it to the taxpayers. The taxpayers get a good deal. That is part of this bill.

So I just wanted to share that with you because I do think we overpay for property and we do because nobody ever knows from year to year how much money we are going to have to buy it. So if we allocate it, we can plan better and save the taxpayers some money.

The CHAIRMAN. Senator Burns.

Senator BURNS. I will pass on this. I think just the opposite will happen. I think just the opposite will happen, Senator. I am just going from past experience of buying and selling.

So I thank the chairman.

The CHAIRMAN. Thank you.

Senator Murkowski. Senator Alexander, questions?

Senator ALEXANDER. Yes.

The CHAIRMAN. Go ahead.

Senator ALEXANDER. Thank you very much, Mr. Chairman.

Ms. Scarlett, thank you very much for your testimony today. I thought it was helpful and constructive. I understand your point about mandatory spending.

And I want to say that I have carefully looked at the information you gave me about the administration's work on cooperative conservation and I think it is impressive. Senator Bingaman was asking questions about this. Generally speaking, you spent a lot more money on these cooperative projects while not as much money has been spent on the Land and Water Conservation Fund.

I want to go back, though, as much for the record as anything else. President Bush said in 2001 that in outlining his budget proposal for that year, "I propose fully funding the Land and Water Conservation Fund. $900 million will fully fund the fund. It is the highest request in the fund's history and half the money will go to the States, just like the authors of the law intended." So am I not correct that in President's first budget, he did ask full funding of the Land and Water Conservation Fund?

Ms. SCARLETT. Senator, we believe the President has asked for full funding in each year. The 2002 budget of the President actually did distribute the funds, $450 million for Federal and $450 million for State-side. Working with Congress, we ended up with a different mix, and subsequently have moved forward with the alternatives that I have described here this morning.

Senator ALEXANDER. Maybe it is easier for me to say than for you, but some Members of Congress were not willing to appropriate $900 million for the Land and Water Conservation Fund. So you took a different tack. Is that close to right?

Ms. SCARLETT. As I noted, in 2002, we provided a very traditional approach, and Congress gave us other directions. Subsequently we have worked with that direction to provide a different mix and focus on our cooperative conservation efforts.

Senator ALEXANDER. Diplomatically stated.

[Laughter.]

Senator ALEXANDER. But President Bush did say in his campaign and, as you said, he through his definition believes he has continued to, but in his first budget he put 450 and 450 in the traditional way of funding the Land and Water Conservation Fund.

While we will hear more from Henry Diamond in the next panel, I want to emphasize that my own experience with the Land and Water Conservation Fund came when President Reagan asked me to be chairman of the President's Commission on Americans Outdoors in 1985 and 1986. While we recommended a broad number of proposals that were mainly outside Washington, the one proposal we agreed on was to spend at least $1 billion a year from offshore drilling on the Land and Water Conservation Fund.

I only have one question about that. You say that the administration opposes mandatory funding, and so did several other Senators. But would you not agree that the program that has been in place since the 1920's, which gives 50 percent of royalties from drilling for oil and gas onshore, not mandatory funding? That money goes directly the States. The appropriations committees of Congress never get a penny of it. Would that not be considered to be mandatory funding?

Ms. SCARLETT. Senator, as was noted in several of the comments by other Senators, there certainly are a number of areas where we have mandatory spending, and the 50 percent share that is automatic might fall into that kind of category.

Senator ALEXANDER. Does the administration propose taking the $500 million that goes to Wyoming each year and the other onshore oil and gas drilling money that automatically goes to States and putting it in the Federal Treasury for appropriation each year in order to deal with the budget deficit?

Ms. SCARLETT. Senator, I think we are certainly not proposing changing any of the current allocations. We look at each proposal as it comes forward, and in this particular instance, of course, Congress has a long history of opining on the appropriate allocation of those moneys offshore, dating back I think to the 1940's when the Submerged Land Act actually determined that rather than having those first 3 miles be Federal, they would be State and 100 percent of those moneys would go to States, again automatically. Subsequently the change to the law allowed the next 3 miles to have a

27-plus percent distribution to the coastal States. So we look forward to continuing to work with Congress on what the appropriate ongoing distribution is.

Senator ALEXANDER. Is it not true that there is something called Pittman-Robertson and Dingell-Johnson, which are Federal laws passed several years ago, through which hunters and fishermen pay license fees that automatically go for wildlife conservation? And would that not also be considered mandatory spending that does not go through the appropriations process?

Ms. SCARLETT. Senator, as noted before, there certainly are many programs that are mandatory. I think our concern is that of adding to those programs, particularly at a time with a lot of other Federal priorities. We are increasingly seeing, as we put our budget together, the important ability to flexibly meet needs such as law enforcement, such as maintenance backlog as they surface. So our concern would be adding to the mandatory programs that already exist.

Senator ALEXANDER. I accept that.

Mr. Chairman, as a concluding comment, I think it is a matter of priorities really, and since it was President Reagan's commission that recommended this and President George H.W. Bush endorsed that commission, and since this President Bush has said he wants to fully fund the Land and Water Conservation Fund, and since we already create a State royalty for onshore oil and gas drilling, it seems to me a little different and appropriate, even in light of budgetary considerations, to say let us take 25 or 30 percent of offshore oil drilling and devote that to a State royalty for conservation purposes. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much.

Senator Murkowski.

Senator MURKOWSKI. Thank you, Mr. Chairman.

Just a very quick question on the coastal impact assistance program. Alaska received in 2001 a little over $12 million in coastal impact assistance. I am trying to understand under the proposal that we have before us by Senator Alexander and Landrieu, what would the coastal impact assistance be to Alaska on an annual basis?

Ms. SCARLETT. I am afraid I will have to get back to you with that specific amount because there is a formula and it is somewhat complicated, but we would be happy to go through the numbers and figure out what that might be.

Senator MURKOWSKI. Well, it is complicated and you want to know whether you are going to be better under the new proposal than you are under the status quo. Quite honestly, I cannot determine that. So I would like an answer on that if we could get that from you. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Will you get that answer as soon as you can?

Ms. SCARLETT. Yes, we will. Thank you.

The CHAIRMAN. Senator Craig.

Senator CRAIG. Lynn, maintenance backlogs on all of our public lands, BLM, Forest Service, Parks, continues to grow, and is estimated now to be over $23 billion. And some of those backlogs are considered to be life-threatening or hazardous to humans who

might traffic those areas. Although we do not know how much Federal land this bill would add to the Federal estate, the sponsors have indicated that they plan on a Federal land acquisition provision to be added. If like in past proposals we add $450 million to $500 million of direct Federal land acquisition spending over the next 6 years in the bill or 20 years in the House version, we are talking about $2.7 billion to $10 billion over the potential life of this legislation.

At the same time, in 3 of the last 4 years, we have expended more than $1 billion on fire fighting and this year with what is going on in the West and in Alaska, we have the chance of a record burn year and a record cost year. The good news is I guess that in Nevada the fire is under control. A variety of homes and small businesses, but no lives lost.

Lynn, do you really believe that we can continue to acquire Federal land when we do not have the funding to maintain the land we have got?

Ms. SCARLETT. Senator, thank you for raising the matter of the maintenance backlog. Secretary Norton's No. 1 priority is to invest in maintaining the lands that we have, and President Bush, of course, committed to addressing the $4.9 billion estimated backlog on the national park lands and that is what we are focused on doing.

It is for this reason that we have focused our conservation efforts on partnerships, that is, rather than land acquisition, working in partnership with private landowners to achieve conservation goals, rather than putting additional land into the Federal dominion.

Senator CRAIG. The conservation partnership approach is such a positive one because in that relationship a great deal is learned and a cooperative environment is created. Out West, if it is Fed land, oftentimes the sign goes up, the gate goes closed, and do not tread, all in the name of the environment. That can be tremendously frustrating at times in a State like mine that is 63 percent owned by the Federal Government, and you are one of our larger landlords, and sometimes we do not like you very much in the style of your stewardship.

Do you think it is responsible for the Government to suggest that any additional Federal land acquisition be reasonable and prudent in the context with its ability to maintain it?

Ms. SCARLETT. Senator, first, I hope that our stewardship has created improved relations.

Senator CRAIG. It is improving.

Ms. SCARLETT. We have certainly focused on trying to do that.

Again, our priority is to focus on caring for the lands that we have. We do have an opportunity, at the request of the House Appropriations Committee, to create a land transaction strategy or plan that we are to submit in December. We expect that that plan will help to set priorities and give some greater focus to how we undertake our land transactions and where we focus dollars, and I look forward to sharing that with you.

Senator CRAIG. In the development of that strategy, let me ask then one other thing. I would like you to provide to this committee a list of the Federal land acquisitions that have been made over the last 10 years. I think as we talk about acquiring more land, it is

important we know what we are doing now. I have not seen the grand total of 10 years' worth of Federal acquisition, but I think it would be quite surprising in the total volume and number of acres acquired. So I think it would be important to do that.

And in doing so, how much of its cost is in acquisition? How about new maintenance costs? And of course, we know the fire suppression costs. Right now we are stealing from all kinds of accounts within the system to fight fires, and then we do not replenish the money back into the accounts. So the stewardship programs, the conservation programs, fire suppression programs, or pre-fire programs are not being funded. What we are doing out there right now, my guess is if it were fully exposed to the public, there would be a phenomenal argument about mismanagement in the first order. And that is not just on your watch. That has been happening for some time because you have to do what you do at the time fires are underway, and then we here in Congress do not have the money to replenish the funds. So then you cannot contract out to do the kind of work that Congress by law and you by definition of good stewardship are allowed to do, and the cycle goes on. And here we want to acquire more land? That to me is a phenomenal frustration.

As the chairman and others know, I am a bit obsessed at times with invasive weeds. Small item. You are losing 10,000 to 15,000 acres a year, wipe-out, to invasive weeds, just BLM alone, not counting the Forest Service, and you do not have the money to fight them. You will not fight them. You cannot fight them. We are trying to change things so that you will fight them. These are weeds that are so obnoxious that even wildlife no longer inhabit the area. Erosion sets in because they become the dominant species on the land. Under any reasonable conservation-minded person's attitude, it would suggest that that is phenomenal mismanagement, and yet it goes on today and it continues to go on, and under greater acquisition, it will go on on that land also. That is one example.

Last idea here. Somewhere in my memory, I recall that the original Land and Water Conservation law indicated that only 15 percent of Land and Water Conservation funds would be expended in Western States. Has that been the case over the last 20 years? Do we know that we have held at that 15 percent level?

Ms. SCARLETT. Senator, I do not know. We would have to go back and evaluate that.

Senator CRAIG. Hit the total button, if you would, and give us a number. That would be valuable. And would you provide the committee a State-by-State and a year-by-year accounting of the funds expended under the Land and Water Conservation Fund? That ought to be a reasonably easy task to do.

I think as we ask—and I know what the Senator from Louisiana is about, and I would suggest to her that when money comes off from offshore drilling, that States that are willing to allow that to happen ought to be the recipients of some of those benefits. I am quite amused by States who come and ask me to join in on Land and Water Conservation funding to acquire lands in their State, but they have a prohibition to offshore drilling. They want to take somebody else's money to benefit their State but they will not allow

the money to be generated offshore of their States. And that example is replete up and down the east coast and the west coast. Take somebody else's money so that we can stay pristine. Well, thank you, Louisiana, for supplying a huge supply of oil so all you folks could get here today in your automobiles.

Those are some of my frustrations about how we handle these resources. I am not quite sure I can get to the idea of an entitlement or dedicated funds, especially when we are not funding properly good stewardship and management today at the level that almost any reasonable person would suggest ought to be. Thank you.

The CHAIRMAN. Madam Secretary, let me first say to you I was pleasantly surprised with your grasp of the issues and I commend you for it. I did not know you very well and I had no dealings with you, but I think on this complicated issue, you have done a very good job.

I have some questions of you that have to do with the partnership activities, but I am going to submit them so you can answer them.

But I do have something I would like to lay before you and put in the record.

Public Law 106-248 was adopted 3 years ago and it provided for two things. First, it acknowledged that in the United States there were millions of dollars of inholding lands, lands which were completely surrounded by the Federal Government of no use to anyone but the Government. The Government had indicated an interest in condemning them and there were millions that were condemned, neither of which had been paid for. So we said in this legislation we have surplus Federal land. Now, this is not land that anybody should get excited about in the conservation community, and I do not think they did because this land is not good for anything. It is on the maps already as surplus. We suggested that that ought to be sold in an orderly manner and the proceeds be used to pay these Americans who had not been paid.

I would like to know from your Department whether that law has been used, either of the two, and if so, how, and if not, why not. Would you do that for us?

Ms. SCARLETT. Yes, Senator. I believe you are referring to what we sometimes call the Baca legislation?

The CHAIRMAN. That is correct.

Ms. SCARLETT. We have utilized the Baca legislation but we have not utilized it to the extent originally anticipated. If my memory serves me correctly—and we will have to get back to you on the right number—I think we may have only done something like $4 million worth of transactions in recent years through the Baca legislation.

We are actually very interested and Secretary Norton has made it a priority to explore working with Congress on some changes to that which would give a stronger incentive and ability of our agencies to utilize that legislation so that we can achieve the goals set forth.

One of the elements of it was a restriction on addressing lands that were in existing resource management plans up to a certain date, and because we have now revised those plans, it puts some

of those areas off limits and we would like to explore working with you on that.

The CHAIRMAN. Well, ma'am, let me tell you one thing I really have learned in my years around here is to make sure that the executive branch does what it is told. We are all arguing about new things, but there are many things that the executive branch does not do that are already on the books. This was an important part of acquiring that huge property called the Baca location. I do not think the Republicans would have bought that had we not had this provision in the law, and so I ask you to give us the information.

But I want to tell you that I expect—and I will be here a while—to see you do this. This is not so difficult. It is just you do not want to devote the time and energy to do it, and the field people do not want to either.

Now, having said that, I want to say to my friend, the Senator from Louisiana, when I went to your State and you showed me how the coast lands were eroding and you suggested this new source of funding, I guess I should have known, but I did not, that the State of Louisiana is getting a lot of money from the offshore drilling. I thought you were really getting nothing, as you explained what the inland States got from either royalties there or distribution of some of your resources. But I have found that your State got $969,276,130 from the years 1986 to 2003, which I think is 17 years.

Now, what is that money used for? I do not have to ask you. I can ask Mr. Angelle, but I do want that on the record because we are talking here as if you get nothing, while as a matter of fact you get a lot. Do you use it for any of these conservation issues that we are talking about?

Senator LANDRIEU. Can I answer that, Mr. Chairman?

The CHAIRMAN. You sure can.

Senator LANDRIEU. I think you are referring to the amount of money that we get between 3 and 6 miles, which is referred to as the 8(g) track.

The CHAIRMAN. That is correct.

Senator LANDRIEU. It was an agreement that was reached in prior Congresses. It sounds like a lot of money. $900 million is not small change, but relative to what we have produced in that time, it works out to be just a few percentage points because from those years, if you go back to 1986, in terms of offshore oil and gas production—and I can give you these numbers. The staff can figure them up now. Mr. Chairman, it sounds like a lot of money, but relatively it is minor. It would be less than just a few percentage points. So the case remains the same, that Louisiana produces billions of dollars every year for the Federal Treasury and, even with the 8(g) settlement, still only gets a very few percentage points.

That money, though, is used for an education trust fund which was basically established under the direction of Senator Johnston, with the help of Senator Breaux, before I got here, which has been used very wisely by our State, Mr. Chairman, to help support our universities, to promote early childhood education, and unlike Western States that have great flexibility in how that money is used, that money in our State is dedicated to education, as is a lot

of the Texas offshore oil and gas money or onshore oil and gas money. They put it in a trust fund for education as well.

The CHAIRMAN. But that was your choice.

Senator LANDRIEU. Yes, it was. Let me tell you we are happy for the 8(g) money because if it was not for 8(g), we would not get anything. But still, even counting that, it is a fairly small percentage, extremely small percentage of what we produce.

The CHAIRMAN. Okay.

Any other questions of the Secretary?

[No response.]

The CHAIRMAN. Thank you very much. We are sorry it took so long. You are excused.

Oh, Senator Cantwell, did you have any questions?

Senator CANTWELL. Thank you, Mr. Chairman. I do not have any. I will ask the next panel.

The CHAIRMAN. I am sorry I missed you.

Senator CANTWELL. That is all right, Mr. Chairman.

The CHAIRMAN. You got here a little late and I missed you.

Senator CANTWELL. I just arrived, Mr. Chairman.

The CHAIRMAN. You are excused.

The next panel is: Scott Angelle, secretary of the Louisiana's Department of Natural Resources; John Baughman, executive vice president of the International Association of Fish and Wildlife Agencies; and Nancie Marzulla. We are going to do all six of you, if you would get there, please. Charles Jordan, chairman of the Conservation Fund, Portland, Oregon; Henry Diamond, chairman of Americans for Our Heritage and Recreation; and Daniel Clifton, Federal affairs manager for Americans for Tax Reform.

I think we have your cards there. Daniel Clifton. You start on this side please. Nancie, you are next. Can we call you in the order that I announced you, if you do not mind? So the first witness will be Scott Angelle. There you are on the right side. Go ahead.

Now, would you all put your statements in the record? I am just ordering that they be made a part of the record, as if you read them, and if you can make them shorter than reading them, we would greatly appreciate it.

STATEMENT OF SCOTT ANGELLE, SECRETARY, LOUISIANA DEPARTMENT OF NATURAL RESOURCES, BATON ROUGE, LA

Mr. ANGELLE. Good morning, Mr. Chairman, members of the committee. I bring greetings to you from the great State of Louisiana and Governor Kathleen Blanco. My name is Scott Angelle. I am the secretary of the Louisiana Department of Natural Resources. And while you may wonder where some of the people who will speak today are from, my accent will give you no doubt as to where I come from.

[Laughter.]

Mr. ANGELLE. I thank you for the opportunity to speak in enthusiastic support of the Americans Outdoors Act. I appreciate so much the comments of the Senators today recognizing Louisiana's vital role in providing the energy that this Nation needs. I want to especially thank Senator Landrieu for her assistance and her untiring efforts in trying to pass this type of legislation that is so crucial to Louisiana.

We believe this act is a sound concept, to take non-renewable, one-time resources in the form of OCS revenues and to invest them in our renewable resources.

The coastal States that host our Nation's offshore oil and gas production play a critical role in this country's economic and energy security. Louisiana, like other producing States, is proud to contribute to the fueling of this great Nation. That is precisely why we are here today, to put us in a position to allow us to continue the oil and gas production that this Nation needs.

But there are costs that come with the national benefits that we provide, costs to our environment and costs to maintain onshore infrastructure that supports offshore energy activities. Sharing OCS revenues with the producing States will provide the steady stream of revenue needed to plan and mitigate the effects of this production.

Offshore oil and gas production in the Gulf of Mexico has provided close to $140 billion to the Federal Government, as Senator Landrieu has said. Up to 90 percent of that figure has come from Louisiana. This is the second largest source of revenue to the Federal Government, the first being taxes.

In 2002, more than $7.5 billion in offshore revenues went into the Federal Treasury. More than $5 billion, or two-thirds of that amount, came from offshore Louisiana. Yet, due to the fact that this production was outside the 3 mile jurisdiction, we received less than 1 percent of that. The same year, other States together received more money, or 50 percent of the revenues generated, from mineral production on Federal lands within those States. We believe because the Nation benefits from drilling on Federal lands and because non-coastal States like Wyoming and New Mexico incur impacts from that production, we fully support the share of revenues they receive. However, Louisiana and other producing States are feeling the full impact of offshore oil and gas activity and are not sharing in the revenues. I respectfully point out the inequity because it is profound.

Distinguished committee members, Louisiana is losing its coast at a staggering rate of 25 square miles a year, a football field every 30 minutes. We have lost more than 1,900 square miles in the last 70 years, an area the size of the State of Delaware. And the U.S. Geological Survey predicts we will lose another 1,000 if action is not taken now. Natural processes like subsidence and storms, combined with the unintended consequences of Federal actions like the leveeing of the Mississippi River and impacts from offshore oil and gas exploration and development, have led to an ecosystem on the verge of collapse.

Louisiana truly is America's wetland. It is not a beach but a vast landscape of wetlands, the seventh largest delta on earth where the Mississippi River drains much of the United States. It is one of the most productive ecosystems in America, producing more seafood than any other State in the lower 48. It is the nursery ground for the Gulf of Mexico and habitat for one of the greatest flyways in the world for waterfowl and migratory song birds. These wetlands protect the largest port system in the world by tonnage. They protect 2 million people and a unique culture from storm surge. They protect America's strategic oil reserve. They protect oil and gas in-

frastructure that was designed and built with the expectation of this protection. While difficult to imagine, almost 30 percent of the oil and gas that is consumed in this country comes through the wetlands of Louisiana to be distributed to the rest of the Nation. These are truly working wetlands.

Through the Breaux Act of 1990, we have initiated or completed more than 100 coastal restoration projects and gained great technical and scientific knowledge. We have also seen many long-term partnerships with our five Federal agency partners.

Last year the citizens of Louisiana passed three constitutional amendments to address the State cost-share capabilities and to limit liability to the State due to coastal restoration activities. We have worked hard with the U.S. Army Corps of Engineers, producing a comprehensive, long-term plan. We will continue to struggle to restore America's wetlands, but the cost of restoring is in the billions and neither Louisiana, nor any other State in this Union, can do it alone. The revenues generated by offshore oil and gas production should be shared to help mitigate the impacts, and they should benefit from this production and the Nation will surely lose if it is not restored.

On behalf of my State of Louisiana and other coastal producing States, I urge Congress to enact the Americans Outdoors Act. It would show foresight, vision and would be a gift to our Nation for generations to come and put Louisiana in the position to continue to aggressively provide the oil and gas this country so desperately needs.

Thank you.

[The prepared statement of Mr. Angelle follows:]

PREPARED STATEMENT OF SCOTT ANGELLE, SECRETARY, LOUISIANA DEPARTMENT OF NATURAL RESOURCES

Mr. Chairman and members of the committee, I am Scott Angelle, Secretary of the Louisiana Department of Natural Resources. Thank you for giving me this opportunity to speak in enthusiastic support of the Americans Outdoors Act. I'd like to offer a special thanks to Senator Landrieu for her untiring efforts to pass this type of legislation, so crucial to Louisiana, a state that is experiencing perhaps the greatest environmental crisis in our nation today.

The Americans Outdoors Act is a sound concept—to take non-renewable, one-time resources in the form of OCS revenues and to invest them in our renewable resources—through the preservation of our coasts, our wildlife, our parks, and our history. This legislation is vitally important to all coastal producing states and it is absolutely critical to my state of Louisiana.

The coastal states that provide our nation with its offshore oil and gas supply play a critical role in this country's economic and energy security. Louisiana, like other producing coastal states, is proud to contribute to the fueling of this great nation. But there are costs that come with the national benefits we provide—costs to our environment and costs to maintain onshore infrastructure that supports offshore energy activities.

Sharing OCS oil and gas revenues with the producing states is the obvious and appropriate way to provide the steady stream of revenue needed to mitigate the effects of this production. As the distinguished Members of this committee know, there is precedence for this.

Offshore oil and gas production in the Gulf of Mexico has provided close to $140 billion to the Federal government. Up to 90 percent of that figure has come from offshore Louisiana. This is the second largest source of revenues to the Federal government. The first is taxes.

In 2002, more than $7.5 billion in offshore revenues went into the Federal treasury. More than $5 billion, or two-thirds of that amount, came from offshore Louisiana. The same year, Wyoming and New Mexico together received about $800 million, or 50% of the revenues generated from mineral production on Federal lands

within those states. However, because the activity off Louisiana's coast was outside the state's three-mile jurisdiction, we received only $30 million in 2002, less than one percent of what was generated off our coast.

Because of the benefits the nation receives from drilling on Federal lands on shore and the impacts those states incur from that production, we fully support their share of revenues. However, Louisiana and other producing coastal states are feeling the full impact of supporting offshore oil and gas activity, but are not sharing in the revenues. I only point out the inequity because it is profound.

Every coastal state that serves our country through hosting offshore oil and gas production must deal with the impacts of that activity and both impacts and needs are as unique as their individual coastlines. I can only share with you why Louisiana could serve as a model for the case to reinvest OCS revenues in our natural resources through the Americans Outdoors Act.

LOUISIANA'S STORY

Louisiana is losing its coastal land at the staggering rate of 25 square miles a year. That's square miles, not acres. That's a football field every 30 minutes. We've lost more than 1,900 square miles in the past 70 years and the U.S. Geological Survey predicts we will lose another 1,000 if decisive action is not taken now to save it. The effects of natural processes like subsidence and storms combined with the unintended consequences of Federal actions like the leveeing of the Mississippi River and impacts from offshore oil and gas exploration and development, have led to an ecosystem on the verge of collapse.

Louisiana's coast is truly America's WETLAND. It is not a beach, but a vast landscape of wetlands. It is the seventh largest delta on earth, where the Mississippi River drains two-thirds of the United States. It is one of the most productive ecosystems in America, producing more seafood than any other state in the lower 48. It's the nursery ground for the Gulf of Mexico and habitat for the one of the greatest flyways in the world for waterfowl and migratory song birds.

These wetlands provide protection for the largest port system in the world by tonnage and protection from storm surge for two million people and a unique culture. They also provide protection for America's strategic oil reserves and for 80% of the nation's offshore oil and gas supply, with almost 30% of all the oil and gas consumed in this country coming through these wetlands to be distributed to the rest of the nation.

This country's richest oil and gas resources are located off our shore and the majority of support infrastructure runs through Louisiana's coast. In 1995, the Deepwater Royalty Relief Act was passed. With its passage and the advancement of new technology, the deepwater in the Gulf of Mexico became the new frontier for oil and gas exploration. By 2002, deepwater production had surpassed production on the OCS and there is an estimated 71 billion barrels of reserve in the deepwater Gulf—more than Alaska.

In addition to domestic production, Louisiana's coast is the land base for LOOP, America's only offshore oil port that handles about 15% of this country's foreign oil and is connected to more than 30% of the total refining capacity in the U.S. Much of the support infrastructure is located in the most rapidly deteriorating coastal areas.

Port Fourchon is the geographic and economic center of offshore drilling efforts along the Louisiana Gulf Coast. Port Fourchon supports 75% of the deepwater production in the Gulf. This port and much of the nation's energy supply is connected to the mainland by a 17-mile stretch of two-lane highway—LA 1—that is inundated by flooding in relatively mild storms and is vulnerable to being washed out completely. In 2002, Tropical Storm Isidore and Hurricane Lili shut down much of the Gulf production off the Louisiana coast. In only 8 days, more than one billion dollars of raw product was unavailable to the U.S. market. Would the American public stand for paying an additional $2 to $3 a gallon for gasoline should LA 1 and its surrounding wetlands and infrastructure continue to degrade?

THE IMPACTS

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 is 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, allowing salt water into fresh marshes, killing vegetation and habitat. 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.

There are 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 percent 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.

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 percent of the nation's total catch. Louisiana is first in the annual harvest of oysters, crabs and menhaden, and is a top producer of shrimp. Some of the best recreational saltwater 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 relate 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 absorbs 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.

A direct hit of a hurricane on New Orleans would be devastating. Because the city is literally below sea level and sits "in a bowl", the potential loss of life and property is incomprehensible, and the threat of disaster was not lost on the city's residents.

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 that 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 are estimated in the billions of dollars.

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.

THE SOLUTIONS

Louisiana began work in earnest to restore its coast in 1989 when the legislature created the state's coastal restoration program. In 1990, Congress enacted the Breaux Act, or CWPPRA (The Coastal Wetlands Planning Protection and Restoration Act). Since then, more than 100 restoration projects have been initiated or 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.

Several years ago, the Coast 2050 Plan was developed in partnership with the public. It has served as a blueprint to rehabilitate the Louisiana coastline, to sustain our 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 making recommendations, the process did not view the number of coastal wetland 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.

During the past two years, the state has created the Louisiana Coastal Area plan in a 50-50 partnership with the U.S. Army Corps of Engineers. The LCA plan addresses the critical near-term needs during the next five to ten years and creates a Science and Technology Program to ensure the best science and engineering continues to lead the way. We are now in the process of putting together a comprehensive plan to address the long-term efforts needed to save this coastal landscape.

Last year, the citizens of Louisiana passed three constitutional amendments to address the state's cost share capabilities and to limit liability to the state due to coastal restoration efforts.

Louisiana will continue its struggle to restore America's Wetland, a landscape so rich in natural resources and of such benefit to the entire nation. To continue to let it disappear is a national tragedy. The cost of will be in the billions and Louisiana, like other coastal producing states, cannot do it alone. The revenues generated by the offshore oil and gas production off their shores should be shared with these states to mitigate the impacts. The nation is the beneficiary of this production and the nation will surely be the loser if the investment is not made now to invest in the preservation of our renewable natural resources.

On behalf of my state of Louisiana and the other coastal producing states, I urge Congress to enact the Americans Outdoors Act. It would show extraordinary foresight and vision and would be a gift to our nation for generations to come.

The CHAIRMAN. Thank you very much.

Before we go to the next witness, let me say to you and to those residents of your State and the public officials that this Senator is fully aware of what you do for our Nation. I tell you, if some of our other States who are coastal States just knew what is happening to America's future because we will not maximize our oil production, if they just knew it and could see it, it probably would be impossible for them to maintain their current posture.

But let me tell you how difficult it is. We had an item in a bill, you might remember, Larry, that merely said let us inventory the value, the resources that are on our coastal States that are not

being explored. Let us just find out how much might be there. That was stripped from the bill by a vote because there are States who are even frightened that we would know how much is there.

But your State is bearing the burden and producing huge quantities, and frankly I would like to do everything I can to help you. I am not sure that this year is the right time or this bill is the right one. But you know that you have a Senator that truly believes that we owe you a lot, and I will get back in a minute to asking you a question about what you do with the moneys that you get now.

Let us proceed to John Baughman. Would you please give us your statement and abbreviate it please. Oh, I am supposed to take Charles Jordan. Excuse me.

[Laughter.]

STATEMENT OF CHARLES JORDAN, CHAIRMAN OF THE BOARD, THE CONSERVATION FUND, PORTLAND, OR

Mr. JORDAN. If I was standing, you would not have missed me.

[Laughter.]

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

The CHAIRMAN. My brain told me what I should do.

[Laughter.]

Mr. ANGELLE. Thank you very much and also to Senator Landrieu and Senator Alexander for this opportunity.

Mr. Chairman, thank you for my opening remarks. I really appreciate you not requiring me to read this document because you have more copies than I do.

You talked about the threat to America, America's future. That is what I want to talk about. Today I am not representing the Conservation Fund. I am speaking for State-side Land and Water and that includes local areas. When you talk about America's future, you have got to look at State and local parks.

Lamar, in 1985-87, as we, along with 14 others, traveled all around this country for 18 months talking to Americans about the great outdoors, thousands of them came and they shared with us their dreams and their hopes for the future. And we were so excited because we thought we were going to make a difference. We completed this report, and this is chapter 2. It says our greatest recreation needs are in urban areas close to home. How quickly we forget.

And I will tell you I have come 3,000 miles to share these moments. I am not going to be able to finish, so cut me off when you please.

But talking about a threat, our young kids, 80 to 85 percent of all Americans live in and around cities. Now, who is serving those people? We are. They are not going to national parks. They are the ones who are going to inherit these national parks. All of these national treasures you are now talking about setting aside and we are arguing about today, who is going to assume responsibility for those? The people that I am serving today in urban parks, and they do not know anything about this responsibility you are going to drop on them. They are not factoring those costs into their future. They want to buy a home. They want a car. They want to travel. But when they realize the responsibility they have, they are not

prepared. So you cannot forget urban parks and State parks. That is where the people are.

I sat there and as I listened to you talk about the national parks—and I used to hear the President talk about national treasures, and I would just wait for him to say something like, well, all of our national treasures are not at the national level. We have urban treasures. We have State treasures. No one ever talks about our State and our local treasures. We have parks there that carry quite a story that we like to share with our young people.

I just became a grandfather, and I will tell you it changed my life because now at the age of 66, I wanted to rest. I wanted to retire and give up, but I cannot. When Mia came into this world, I looked at that little girl and I said, boy, in order to give her a fighting chance, I have got to get back in the race. I have got to try to do all I can to make this a better place.

I take her to the park often, local parks. She is too young to go to national parks, but I am counting on that because the national treasures are just as important to me as the urban treasures. It is not going to be enough for me to take her where she can have fun and games and play. It is coming a time when I need to take Mia to some of our national treasures, to the underground railroad. I need to tell her what went on in this place. I need her to feel proud of Harriet Tubman, but also I need Mia to know that she and her white friends are going to do a lot better than you and I have done. And I want her to bring her white friend along when I take her to these places so as we tell the stories—Harriet Tubman could not have succeeded without white friends. You and I both know that.

So we do have a history of succeeding by working together, but all we talk about are the negatives, the slavery and discrimination. When are we going to talk about the positives? We have a history of doing things together. I want Mia to know about those. Yes, I want her to know about slavery and everything else, but I need to take her to those special places. We need the place. The books are not enough. I want to take her to the grounds and I want to show her what happened here and why it is important that you never forget this, Mia.

I want her to know about the responsibility that we have and that we want to make sure that our national parks and our State parks and our urban parks work together, which they do not now. We talk it. We got a lot of verbiage, but we really do not collaborate. That is why we all need lots of money.

Senator Landrieu is right. In the last 3 to 4 years, we have not had any UPARR money, and therefore the city would not invest in those capital projects because they know they cannot complete them. I heard a lot of talk about partnership. That is what we want. We are not asking you to pay for everything. But these are challenging times for us in urban areas. And I will not get so excited. I will slow up and try to calm down now.

But we need partnerships and I know it appears as if you are supporting the State-side Land and Water. But let me tell you, it is needed, but I also want to protect those 17 sites in the National Park System that are of significance to African Americans. I do not need to tell you. Look around this room. Look around this room. There are 73 million blacks and browns in America. Now, can we

win this one without them? Can we win the conservation war without them? No. 73 million people are not involved in the great outdoors movement. Look at it.

We are facing some challenges, and where are these people now? In and around cities. And who is serving them? We are in our urban parks, and we are having to close down parks. Now, that is not a good testimony.

That is where Mia goes. That is where she meets people of different colors and different backgrounds, and they learn to play together. They learn to win together. And if they learn to play and win together, they are going to continue that through their adult lives.

Every kid cannot dunk a basketball or hit a home run or kick a football, but every kid has a need to at least one time in his or her life to run home that day and say, Mom, today I was No. 1. That is what we do in urban parks. We help kids win. We give them a taste of victory. We help them to learn to work together. You cannot do that in national parks.

We need an effective national system of parks. We have a National Park System, but we do not have a system of parks. There are certain things that are not appropriate for national treasures, but maybe we can say for this reason, we prefer that you not use that machine in this park simply because it destroys this. However, our State parks or our urban parks allow you to do that. If we work together, we could collaborate a lot more. We do not have that.

So today when you read my report, you already know everything that is in there. You have heard it many times before. But, Mr. Chairman, I just would hope that you would give some very strong consideration to the challenge that we face at the State and local level. I hate competing with police, fire, homeless, houses. I cannot compete. Parks and recreation are considered to be fun and games. We are not considered a basic service. And yet, there is no greater partner in an urban area than parks and recreation.

And I will close with this. Tonight at this very moment, there are thousands of kids running up and down community gyms, soccer fields, baseball fields, thousands, different colors, different backgrounds. They are not harming themselves nor are they harming other people. Where are they going to go? When we close, are they going to go the library and sit down and study? We know better.

So today I am asking that you would give us some assistance and maybe with a little help, we can keep our promise not to Mia and her generation, but to the Roosevelts and the Pinchots and all of the others because we made a commitment and we hope that maybe just with a little help we can ensure that our legacy would be no less than our inheritance.

Thank you.

[The prepared statement of Mr. Jordan follows:]

PREPARED STATEMENT OF CHARLES JORDAN, CHAIRMAN OF THE BOARD, THE CONSERVATION FUND, PORTLAND, OR

Chairman Domenici, Ranking Member Bingaman and Members of the Committee, I wish to express my appreciation to you for holding today's hearing on the Americans Outdoors Act (S. 2590) and for the opportunity to testify on the provisions in

the bill relating to the "stateside" component of the Land and Water Conservation Fund (LWCF) and the Urban Park and Recreation Recovery Program (UPARR).

My testimony is based on my thirty-year career as a park official in Portland, Oregon and Austin, Texas, where I worked to provide recreational opportunities directly to the public. My testimony also draws upon my work with state and local park directors, the National Park Service and other federal land managing agencies. Currently, I serve as the Chairman of the Board of The Conservation Fund, a national non-profit organization with a mission to protect wildlife habitat, historic sites, working landscapes and community open space. I am testifying in my personal capacity.

Before discussing the Americans Outdoors Act, I wish to express my appreciation to the Senate and the Congress for including funds for the stateside LWCF program in the Interior appropriations bills for the last several years. At the state and local level, these funds strengthen and promote partnerships between state, county and local governments and between public agencies, the non-profit sector, businesses and other stakeholders. Most importantly, these funds give local governments the financial tools they need to provide access to affordable leisure opportunities in a clean and safe environment.

President Bush's commitment to fund the stateside program in his budget requests, coupled with Congress's support for the President's requests, has revived the stateside program. This recent funding has also laid the foundation to fulfill the promise of the Land and Water Conservation Fund through dedicated funding, as embodied in the Americans Outdoors Act.

Senator Alexander and Senator Landrieu have performed a great service to our country by introducing the Americans Outdoors Act. This bipartisan legislation requires annual allocations of $450 million for stateside LWCF and $125 million for UPARR, along with funding for state wildlife grants and impact assistance to coastal communities.

Almost twenty years ago, I had the opportunity to serve as a commissioner with Senator Alexander, who chaired President Reagan's Commission on Americans Outdoors. To carry out the vision outlined by President Reagan, the Commission recommended expanding federal investments in state and local parks and open space conservation. Today, Senator Alexander's bill implements one of the Commission's top recommendations—to make the Land and Water Conservation Fund a dedicated trust to pay for land acquisition and for state and local facility development and rehabilitation.

In the fourteen years since the Commission's report, the need for federal support for our states, counties, cities and towns has only grown.

STATESIDE LWCF

Following my work on the Commission, I served as the director of the Department of Parks for the City of Portland, Oregon. During that time, I worked with my staff and partner organizations to ensure affordable and accessible recreational opportunities for all the city's residents.

To meet these goals across the country, park and recreation agencies at the state, regional, county and local levels are working to conserve open space, provide recreational facilities and promote outdoor recreation.

State and local parks provide the public with opportunities to go for a walk, run along a trail, bike along a stream or river, play team sports on a ball field, go for a swim in a municipal pool, enjoy a family picnic and engage in other activities. State parks also provide opportunities for camping, boating and hiking within a short drive of our cities and suburbs.

Thanks to the vision and leadership of Congress and this Committee, our country has the world's greatest system of National Parks, National Forests, National Wildlife Refuges and other public lands. These national treasures are complemented by our country's great system of state and local parks, to form a network of parks and open space from the inner cities to the highest mountain peaks.

For most Americans, their only park and recreational experience is close to home, in their local neighborhood at a basketball court, tennis court, playground or local beach or within a days drive from home.

Mr. Chairman, at a time of international uncertainty and threats to our security at home, Americans need places in their neighborhood to escape from the stress of daily life more than ever.

Through parks and recreational programs, we build communities. Building communities means connecting people to their neighborhoods, one another and to the land.

Mr. Chairman, for over thirty years as I've traveled the country and visited my colleagues at the state and local level. I've seen the challenges facing many state and local parks agencies and community organizations along with the benefits that stateside and UPARR funding can provide to cities, towns, small communities and to urban neighborhoods.

Unfortunately, conserving land and developing recreational infrastructure is expensive. These capital expenses must compete with increasing budget pressures to ensure public safety, educate our children and provide for other local infrastructure needs. Cities, counties and states are struggling to pay salaries for public safety personnel, teachers, park and recreation employees and other municipal employees. Despite these budgetary challenges, state and local governments are working to ensure that local recreational facilities and state parks are open, clean and safe.

In addition to providing recreational opportunities, many states are working to manage urban sprawl, changes in land tenure and decisions by large forestland owners to consolidate land holdings. In many states in the east, changes in land ownership patterns have created one-time opportunities to conserve large tracts of land for recreation, water quality and fish and wildlife habitat.

To meet these challenges, local leaders and the public have voted to support parks and open space conservation. Out of a total of 134 ballot measures in November 2003, voters approved 100 ballot initiatives to raise $1.8 billion in non-federal funding for land conservation. In many communities, the public understands that parks and recreational opportunities are not just amenities; they are necessary to promote local economic development to attract and retain businesses and jobs.

The Bush Administration and the Congress have also supported the stateside program in recent years. These dollars benefit people directly, by supporting a variety of projects on the ground, in all fifty states.

As a former parks director, I can testify that these annual appropriations are very much appreciated. Since 1971, Portland, Oregon has received $5.5 million to acquire land at six parks. While in the grand scheme of the federal budget this figure may seem small, at the local level this funding has had a big impact.

State and local governments are *not* asking the federal government to pay for operations and maintenance at state and local parks. State and local governments are asking the federal government to support this legislation to help pay for the one-time cost of land acquisition and facilities development through the 50/50 match program and to provide greater predictability for budgeting and long-range planning.

Supporters of full funding of the stateside program include the National Governor's Association, National Association of Counties, U.S. Conference of Mayors, National Recreation and Park Association, National Association of State Parks Directors, National Association of State Outdoor Recreation Liaison Officers and other organizations representing municipal governments and officials. In addition to local agencies, these funds will benefit many of our partners—the local Boys and Girls Clubs, YMCAs, YWCAs and other groups.

By passing this bill, Congress can fulfill the original promise of a program that has a forty-year track record of success and which has funded over 40,000 projects in every corner of our country.

The funds that Congress provided for stateside LWCF have helped underserved neighborhoods and state open space programs throughout America and have yielded tremendous dividends for children, young people, young adults, families and senior citizens. These dividends are enjoyed by every income and ethnic group.

The stateside program works. It works in big and small cities, suburban areas, and rural counties. Examples include:

- Bozeman, Montana. A $50,000 LWCF grant was part of a successful project to complete the development of Sundance Springs Park to enable the acquisition of 10.25 acres and to promote access to Bozeman's urban "Main Street to the Mountains" trail.
- Willcox, Arizona. The City of Willcox received LWCF funds to install a new sprinkler system and lights for the Rodeo and lights for the Quail Drive Sports Park.
- Transylvania County, North Carolina. The State of North Carolina received stateside funding to support a partnership to acquire 10,000 acres of lands in and around the Jocasse Gorges to establish Gorges State Park.
- Juneau, Alaska. The City of Juneau Parks and Recreation Department received stateside LWCF funds to help open a new ice skating rink at the Treadwell Arena in 2003.

State and local governments seek federal assistance to defray some of the costs for these types of projects. They ask Congress to provide greater certainty and pre-

dictability for planning and funding long-term capital projects and other initiatives, which would be provided by this bill. Land acquisition and facilities development are capital expenditures and state and local officials need greater certainty to budget and plan for these improvements.

As provided for in the bill, the Land and Water Conservation Fund deserves permanent funding, because the LWCF is tied to a dedicated funding source—offshore oil and gas royalties. Fully funding LWCF is consistent with other federal wildlife and conservation programs that enjoy dedicated funding, such as the Dingell-Johnson and Wallop-Breaux programs. In addition, the federal transportation reauthorization bill is funded via its own funding source—the federal gasoline tax. Last year, Congress approved spending for airport improvements which are paid for by airport user fees and other revenue sources. Four years ago, Congress approved mandatory spending for payments to rural counties which rely on timber receipts from federal timber harvests.

S. 2590 does not seek special treatment for park, wildlife and coastal programs. By providing dedicated LWCF funding to states, Indian tribes and Alaska Native Corporations from 2005-2010, the bill puts stateside LWCF, urban park, wildlife and coastal funding on par with other federal programs which have dedicated funding sources.

With the 50/50 match requirement for stateside LWCF, the Alexander-Landrieu bill will also leverage significant non-federal funding—approximately $2.25 billion over the life of the bill.

URBAN PARK AND RECREATION RECOVERY PROGRAM

I commend Senators Alexander and Landrieu for including funding for UPARR in the bill. When it established the UPARR program in 1978, Congress authorized the National Park Service (NPS) to provide federal matching grants and technical assistance to help ensure that young people in economically-distressed cities and neighborhoods have access to high quality recreation facilities.

In the last twenty-five years, UPARR has provided 1,461 grants to 380 local jurisdictions in 43 states, the District of Columbia and Puerto Rico. These grants have rehabilitated existing facilities, promoted innovative programs, and funded planning activities.

Most of the UPARR grants have been used to rehabilitate playgrounds, recreation centers, ball fields, neighborhood parks, swimming pools, picnic areas and basketball and tennis courts. These grants are matched by the local jurisdiction on a 70/30 basis.

With the Congressional appropriations between FY 2000 and FY 2002, the National Park Service has worked in close partnership with our cities—both large and small in many regions of our country to fund on the ground improvements.

I know first hand the benefits that UPARR provides. In Portland, UPARR funding allowed us to convert an abandoned fire station into the Interstate Fire House and Cultural Center and to rehabilitate the University Park Community Center.

Other recent examples include:

- Covington, Kentucky. The NPS provided a $120,000 grant to rehabilitate a 6.3 acre park by installing a new play surface, new playground equipment and replace a picnic shelter.
- Kansas City, Missouri. The NPS provided a $500,000 grant to rehabilitate the pool facility at Swope Park, in an economically-depressed neighborhood.
- Las Vegas, Nevada. The NPS provided $425,000 to rehabilitate basketball courts, a skateboard rink, playground equipment and restrooms.
- Phoenix, Arizona. The NPS provided a $500,000 grant to replace the current recreation building, water play area, playground equipment and softball field lighting.

To build on the past success of the program, our cities need the $125 million provided in the bill.

FEDERAL LWCF

In my capacity as Chairman of The Conservation Fund, a nationwide non-profit organization, I've learned that our nation's landscape is as diverse and varied as our nation's population. Our landscape encompasses the coasts, the cities, piedmont and foothills, mountain valleys and the backcountry. Our nation's built environment is also diverse and varied, from the downtowns of our large and small cities, to the suburbs, to rural county land, working landscapes and remote communities.

Over the last forty years, this Committee and the Congress have recognized the diverse needs of our lands and our people. Starting forty years ago with the Land

and Water Conservation Fund Act, Congress passed a series of bills authorizing a suite of federal grant programs to address our most pressing conservation and recreation needs. To build on these legislative accomplishments, we need adequate resources to carry out the programs that Congress has authorized.

We also need the flexibility provided by the federal LWCF program. On the ground, local governments, conservation organizations and their partners are using all available tools to preserve our lands and waters. Full funding of the federal LWCF program is an important tool for land conservation, especially as acquisitions grow more creative and complex.

Successful conservation initiatives often require a mix of federal, state, local, or private funding. Federal LWCF is an essential ingredient for projects that are locally supported and respectful of the needs of landowners.

By fully funding the stateside and federal LWCF, we can ensure that our people can enjoy a nationwide network of local, state and national lands dedicated to recreation and land and water conservation. By approving this bill, Congress can protect, enjoy and pass on America's great natural resources to future generations.

Thank you for the opportunity to testify in support of the bill. I would be pleased to respond to question.

The CHAIRMAN. Thank you very much.

Senator LANDRIEU. Amen.

The CHAIRMAN. If we were not in a Senate hearing, we would applaud you.

[Laughter.]

Mr. JORDAN. I thank you for hearing me.

The CHAIRMAN. I have 11 Mias. So I have a bigger job than you.

Mr. JORDAN. That means you are wealthier than I am right now.

[Laughter.]

The CHAIRMAN. We are going to John Baughman.

STATEMENT OF JOHN BAUGHMAN, EXECUTIVE VICE PRESIDENT, INTERNATIONAL ASSOCIATION OF FISH AND WILDLIFE AGENCIES

Mr. BAUGHMAN. Thank you, Mr. Chairman, and thank you for trying to put me on before Mr. Jordan. It would have been a lot easier.

[Laughter.]

Mr. BAUGHMAN. My name is John Baughman. I am the executive vice president of the International Association of Fish and Wildlife Agencies. Our association was founded in 1902 and we are the organization of all the public agencies charged with the protection and management of North America's fish and wildlife resources. Our governmental members include the fish and wildlife agencies of all 50 States, plus the provinces and territories and Federal Governments of the United States, Canada, and Mexico.

The association sincerely appreciates the opportunity to appear before you today to share with you the collective and continued strong support of the 50 State fish and wildlife agencies for the assured wildlife conservation and outdoor recreation funding reflected in S. 2590, the Americans Outdoors Act. I would like to start by thanking you, Senator Domenici and Senators Alexander and Landrieu, for again elevating and reengaging this discussion on what we think is a very important merits of the conservation outdoor recreation funding in this country.

At your request, Mr. Chairman, I will be brief. I will summarize my written testimony, and I think I can do that in three points.

First, natural resource conservation and outdoor recreation are important issues to America, typically ranking right up there with

national security, the economy, and social programs. I wish I could say that as well as my colleague here did. As our population approaches 300 million in this country, wildlife conservation just does not happen. Like clean air and clean water, it takes a reliable and ongoing commitment of human and financial resources.

Second, unless Congress makes a multi-year commitment, history shows that we will continue to postpone conservation efforts which then cost more and result in substantial impacts on public and private lands and on our local communities. We need only to look at the 1,200 species right now on the threatened and endangered species list to witness the financial, administrative, and regulatory burdens that accompany underfunded conservation.

Finally, history also clearly demonstrates the tremendous success of fish and wildlife conservation in this country when dedicated and assured funding is available. At the turn of the century, we could look at white-tailed deer, wild turkeys, elk, pronghorn antelope, most of the water fowl in this country, many species of migratory fish. They were all depleted, some of them near extinction. With the assured and dedicated funding from the State hunting and fishing licenses plus Federal excise taxes on sporting arms and ammunition that came along in 1937 with the Pittman-Robertson Act, the excise taxes on fishing equipment that came along in 1950 with the Dingell-Johnson Act, supplemented by motorboat fuel and small engine Federal-side tax in 1984 with the Wallop-Breaux amendments, the States have been able to join with our Federal, nonprofit, and corporate partners, along with the private landowners of this country, to restore all these species I mentioned and their habitats. And likewise, the 20 or so species that we have already removed or should be removed, could be removed from the threatened and endangered species list are those species where adequate funding has been devoted. You can look at the examples of peregrin falcons, bald eagles, grizzly bears, species where we put the money and we have made the progress.

Now it is time to provide conservation for all of America's wildlife, not only those species of fish and wildlife considered game or those already listed as threatened and endangered but also the two-thirds of the Nation's wildlife which presently receive too little attention and many of which could be tomorrow's next threatened and endangered crises.

America's wildlife agencies have the expertise, they have the will, and with assured funding, they would have the resources to work with our Federal and private partners, including the Nation's landowners, to continue our successes which made America's system of fish and wildlife conservation the model which other countries seek to emulate.

In closing, Mr. Chairman, the International Association of Fish and Wildlife Agencies stands ready to assist you and the committee in whatever way we can to help make the programs under the Americans Outdoors Act a reality for all our citizens. I thank you and we would be happy to answer questions.

[The prepared statement of Mr. Baughman follows:]

PREPARED STATEMENT OF JOHN BAUGHMAN, EXECUTIVE VICE PRESIDENT, INTERNATIONAL ASSOCIATION OF FISH AND WILDLIFE AGENCIES

Thank you, Mr. Chairman. My name is John Baughman of the International Association of Fish and Wildlife Agencies. 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 all 50 states, plus the provinces and territories 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.

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 assured funding for wildlife conservation and outdoor recreation as reflected in S. 2590, The Americans Outdoors Act, a bill that will ensure a conservation legacy for all Americans. This bill is unquestionably one of the most significant legislative initiatives for fish and wildlife (and other natural resources) conservation in the last several decades. Whether an American hunts, fishes, bird watches, hikes, plays soccer or just enjoys 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.

Let me also thank you, Chairman Domenici and Senator Alexander and Senator Landrieu for re-engaging serious deliberations over the merits of and need for assured funding for conservation and outdoor recreation. You have created the momentum that brings us back here today to consider a bill that is desperately needed and strongly supported by the majority of the American public and members of Congress, as reflected in the progenitor to S. 2590, CARA. Mr. Chairman, we stand committed to working with you and this Congress as we have in the past.

Natural resource conservation is an extremely high priority for the American people as recent polls again affirm. Support for S. 2590 sends an unmistakable message that funding certainty for conservation 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 the safety net for American's quality of life and their environment. Unless Congress makes a multi-year commitment, history indicates that we will continue to postpone conservation efforts which then cost more and result in substantial impact on private and public land because many species ultimately become threatened and endangered.

Stewardship of our fish and wildlife, land, and coastal resources is important to every one of our citizens. It is particularly important to future generations who will either 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 as reflected by 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 the Americans Outdoors Act.

As you know, Mr. Chairman, 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 and it took a lot more than just banning the use of certain pesticides to achieve this goal. In this case, funds were available under the Endangered Species Act, but no secure funding is currently available for the many imperiled non-game species from whose 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 far less expensive to restore species before they become threatened or endangered, and our opportunities to use voluntary incentive-based, non-regulatory programs are much greater.

Our experience with game and sportfish clearly demonstrates the tremendous success of fish and 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 efforts of America's sportsmen and women, 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 and brought back species like the white-tailed deer, pronghorn antelope, wood duck, wild turkey and striped bass. Now is the time to build on that success to help all the nation's wildlife with funding provided under the Americans Outdoors Act. We have the expertise, we have the will, and with assured funding we will have the resources to continue our successes which make America's system of fish and wildlife conservation the model which other countries seek to emulate.

Also, as you are aware, private land habitats are instrumental in maintenance an restoration of much of our nation's wildlife. Assured, long-term funding is necessary to create voluntary incentives for private land stewardship, to provide technical assistance, and to develop cooperative conservation agreements. 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 help integrate their land management intentions with fish and wildlife conservation efforts.

The Association has testified several times before this Committee (and others) in the previous Congresses on CARA and other proposals that would have dedicated Outer Continental Shelf (OCS) revenues to State-based enhancement programs for fish and wildlife conservation, conservation education, and wildlife-associated recreation; land and water conservation; general outdoor recreation; and coastal conservation and impact assistance. The Association strongly supports the Americans Outdoors Act because it is a bipartisan, consensus-built, common sense approach to conservation. It makes good economic sense, good common sense, and good political sense.

The coalition of organizations that has come together (again) in support of the Americans Outdoors Act truly represents a broad and diverse grass-root alliance 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 S. 2590. The Americans Outdoors Act 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. This coalition truly represents America's interest in our natural and cultural heritage, and our need to conserve that heritage for future generations.

Also, as you know, Mr. Chairman, outdoor recreation is one of the fastest growing industries in this country, and the Americans Outdoors Act will position the State fish and wildlife agencies to help local communities identify and develop 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 IV) of the Americans Outdoors Act. The Association staff will continue to work closely with your Committee staff on the details.

First, we ask for your serious consideration of eliminating the existing (in statute) 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 fosters understanding, appreciation, and support, and it significantly contributes to building the public's commitment to wildlife conservation which is essential to achieving the on-the-ground conservation goals.

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 IV 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 endan-

gered 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 program for conservation of all wildlife and should, at the discretion of the State, be eligible for *up to* 10% funding under the Wildlife title of the Americans Outdoors Act.

Mr. Chairman, in closing, the Association stands ready to assist you in whatever way we can to make programs which would be funded under Americans Outdoors Act a reality for all of our citizens. Let's work together to advance this legislation as expeditiously as possible 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. Thank you. I am very sorry on your name.

Mr. BAUGHMAN. I should spell it differently.

The CHAIRMAN. That is right.

[Laughter.]

The CHAIRMAN. Henry Diamond.

STATEMENT OF HENRY L. DIAMOND, CHAIR, AMERICANS FOR OUR HERITAGE AND RECREATION

Mr. DIAMOND. Mr. Chairman, thank you for having us. I represent the Americans for Our Heritage and Recreation, which is a very broad coalition of folks, ranging from urban people to wilderness advocates. We, of course, thank the committee for having us and we thank, of course, Lamar Alexander and Senator Landrieu.

Our basic thrust is we applaud the introduction of this bill but urge that Federal funding be added to it to fund our national parks and forest and wildlife areas.

The Land and Water Fund really has a wonderful, long history. In 1958, Congress created the Outdoor Recreation Resources Commission. It made recommendations to the President and the Congress, and the centerpiece was the Land and Water Fund. The chairman of the Outdoor Recreation Commission was one of America's great conservationists, Laurance S. Rockefeller. We lost Laurance last week. He always cited the creation of the fund as one of his proudest achievements, and indeed, it is a monument to his leadership.

By the way, your colleague, Senator Kyl's father was a member of that commission. So there is a long-term connection.

In response to the recommendations of the commission and to the growing need, Congress created the Land and Water Conservation Fund. As has been noted but cannot be stressed too much, a basic principle of the fund is that when one public natural resource is sold, at least some of the proceeds should be used to buy another public resource. Thus, Congress dedicated a portion of the receipts of OCS to buy more public land.

The fund has been a success. It has brought about conservation and protection of more than 5 million acres of land and water across the country. It has created and consolidated or improved more than 700 different Federal land areas. The State side of the program has funded more than 40,000 projects in 98 percent of the counties in America. My testimony focuses on the Federal side, but AHR strongly endorses the State side as well.

The Land and Water Fund has provided a lot for the American people, but its future is uncertain. The need for a permanent, adequate fund is urgent. Many decisions will be made over the next

6 years that cannot be put on hold for lack of money. Already we see the losses and already we pay the consequences in threatened water quality, loss of wildlife habitat, lack of neighborhood parks, and indeed quality of life.

The fund must have a guaranteed revenue stream so that cities, States, and Federal managers can keep up and plan ahead. A dependable funding source also provides for a timely process in dealing with private landowners, many of whom are waiting for this. The inconsistent record in providing the promised $900 million of the fund during the past decade dramatically demonstrates why this legislation is now essential.

We realize that there are very real questions about the budget impacts and the increased Federal landholding this bill might entail. We look forward to discussing this issue and because of the importance, working with you to resolve them.

The Federal part of the Land and Water Fund is a key force in conserving our precious places and providing recreation opportunities for the American people. Thus, we urge the committee to amend S. 2590 to include $450 million for the Federal side of the fund and report the bill favorably.

Thank you.

[The prepared statement of Mr. Diamond follows:]

PREPARED STATEMENT OF HENRY L. DIAMOND, CHAIR, AMERICANS FOR OUR HERITAGE AND RECREATION

Mr. Chairman, and members of the Committee, my name is Henry Diamond, and I am pleased to appear before you today on behalf of Americans for our Heritage and Recreation (AHR). AHR is an unusually broad and diverse organization ranging from urban communities to wilderness advocates.

I appear here today as Chairman of AHR, but my primary occupation is as a partner in the law firm of Beveridge & Diamond. I have been involved with the Land and Water Conservation Fund for a long time. As Commissioner of the New York State Department of Environmental Conservation, I administered the Fund for New York and saw its great impact. As editor of the reports of the Outdoor Recreation Resources Review Commission, I helped formulate the Commission's recommendations which led to the creation of the Fund.

The Chairman of the Outdoor Recreation Resources Review Commission was Laurance S. Rockefeller, whom we lost last week. He always cited the creation of the Fund as one of his outstanding achievements, and indeed it is a monument to his leadership. Now more than ever, we must re-affirm and rededicate ourselves to the Land and Water Conservation Fund.

Mr. Chairman, I would like to thank you and the full Committee for holding this hearing on S. 2590, and for providing AHR with the opportunity to testify on the importance of permanent and adequate conservation and recreation funding. We salute the sponsors of S. 2590, Senators Alexander and Landrieu, for introducing this legislation and reaffirming Congress' commitment to the Land and Water Conservation Fund.

THE LAND AND WATER CONSERVATION FUND—
RESPONDING TO A NEED FOR OUTDOOR RECREATION

In 1958, Congress created the Outdoor Recreation Resources Review Commission to inventory and identify natural resources, and make policy recommendations to meet the growing public demand for outdoor recreation. The report was presented in 1962 and called on a partnership among all levels of government—the centerpiece being the Land and Water Conservation Fund.

Three years later in response to the Commission's report, Congress passed the "Land and Water Conservation Fund Act of 1965," and with it, the promise to protect our natural and recreational resources for future generations. For more than 40 years, LWCF has faithfully fulfilled its mission to conserve, develop, and utilize outdoor recreation resources for the benefit and enjoyment of the American people.

Initially, three sources of revenue to the fund were designated: proceeds from sales of surplus federal real property, motorboat fuel taxes, and fees for recreation use of federal lands. The level of funding from FY 1966 through FY 1968 reached about $100 million per year, which was far short of Congress' expectations. To remedy this shortfall, Congress amended the Act to include Outer Continental shelf (OCS) mineral leasing receipts as part of the funding stream. LWCF's increase in authorized funding to its current level came in June 1977, when Congress augmented it to $900 million.

In 1985, President Ronald Reagan called on Senator Lamar Alexander, then governor of Tennessee, to chair a new Commission on Americans Outdoors. The Commission report issued in 1987 found many threats to the opportunity to enjoy the outdoors, including loss of space through urban growth, pollutants, and disappearance of wetlands. Most importantly, it found that budget cuts to conservation programs were undermining efforts to provide access to recreation and that "the quality of the outdoor estate remains precarious." The report went on to recommend that Congress should dedicate at least $1 billion a year from offshore oil and gas drilling revenues to provide a steady and reliable flow of funds to the Land and Water Conservation Fund.

The success of the Land and Water Conservation Fund has resulted in the conservation and protection of more than five million acres of land and water areas across the country. Since its inception in 1964, LWCF has created, consolidated, and improved more than 700 different federal land areas. Notable projects to which LWCF funds have gone include:

- Denali National Park & Preserve, AK (country's highest mountain; more than 300,000 visitors per year)
- Grand Canyon National Park, AZ (4 million visitors per year)
- Golden Gate National Park, CA (one of the largest urban national parks in the world; 16 million visitors per year; 33 federally protected or endangered species)
- Everglades National Park, FL (1 million visitors per year)
- Great Smoky Mountains National Park, NC/TN (9 million visitors per year)
- Appalachian National Scenic Trail, 14 states (LWCF funding key to multi-state project; much loved by the public; more than 99 percent protected through federal or state land ownership or by rights-of-way)
- Martin Luther King, Jr. National Historic Site, GA (birthplace and home of Martin Luther King in Atlanta, 600,000 visitors per year)
- Hawaii Volcanoes National Park, HI (world's most active volcano; 1 million visitors per year)
- Santa Fe National Forest, NM (1,000 miles of trails for hiking, horseback riding, 4-wheeling, skiing, snowmobiling; more than 629 miles of streams and lakes)
- Women's Rights National Historical Park, NY (home of suffragist Elizabeth Cady Stanton)
- Kirtlands Warbler National Wildlife Refuge, MI (preserves the endangered neotropical Kirtlands Warbler, a migratory song bird)

Coupled with the stateside LWCF program, more than 40,000 projects have been developed in 98 percent of the counties in America. While my testimony today will concentrate on the federal side of the Land and Water Conservation Fund, I want to point out that AHR is committed to full funding of the entire program at its $900 million authorized level, with an equitable allocation of funds between its federal and state grant programs. In addition, AHR supports a revived and substantially funded Urban Park and Recreation Recovery program (UPARR). We view all three programs as integral tools in providing Americans places to get outdoors.

AHR also supports the addition of the Historic Preservation Fund (HPF) to the final bill. The HPF provides matching grants to encourage private and non-federal investment in historic preservation efforts nationwide. The HPF is legislatively authorized to receive OCS revenues and complements the work of state recreation and wildlife grants through conservation of historic and cultural treasures.

A new conservation program, called Forest Legacy, was developed in the 1990's to preserve working forestlands and protect critical forest resources. The program has a proven record of assisting private landowners, leveraging non-federal funds, and ensuring conservation benefits like many of the other programs included in S. 2590. AHR believes this program provides creative and innovative land protections for the twenty-first century. In fact, the demand for this program has exceeded $250 million for the past several years. As the Committee considers additions to S. 2590, we would encourage including Forest Legacy in the reported bill.

40 YEARS OF BIPARTISAN PRESIDENTIAL SUPPORT FOR LWCF

LWCF continues to be the premier tool available to the American people to permanently protect our most valuable and vulnerable lands. The LWCF federal land acquisition program has been integral in establishing and maintaining our country's priceless network of national parks, forests, and wildlife refuges that is the envy of the world.

Every President of the United States since Lyndon B. Johnson has submitted annual budgets calling for Congress to expend a portion of the authorized Land and Water Conservation Fund to acquire conservation lands. Just this year, President Bush submitted in his FY 05 budget request to Congress that $220 million be spent for federal land acquisitions. President Bush has said, "Our legacy should be an unwavering commitment to preserve and conserve our treasured lands—a commitment I intend to keep."

Congress has worked hand in hand with the White House during these 40 years to honor the principle of the Land and Water Conservation Fund—using the sale of proceeds of one capital asset to buy another—into an ongoing program for park and open space protection. In fact, federal funding of LWCF is less than four-tenths of one percent of the total U.S. Budget.

To date, there is still approximately a $10 billion backlog in land acquisition projects that have been identified by the federal land agencies. Most of these projects come about due to the interest of a willing private landowner and the cooperation of the state's congressional delegation. In fact, in FY 02 and 03 combined, 84 percent of LWCF appropriations went to the purchase/acquisition of inholdings as opposed to expansion or dedication of new areas.

FEDERAL LWCF—FLEXIBLE INTEGRATED SOLUTIONS FOR THE TWENTY-FIRST CENTURY

The ability to preserve land across a continuum of jurisdictions—federal, state, and local—is critical to the increasing struggle to preserve what remains of our nation's dwindling open space. Indeed, the need is now more urgent than it was in 1965 at the inception of the Fund. Population has boomed beyond projections; land has been gobbled up faster than we thought, and we have come to understand better the vital role protected lands play in the health of our ecosystem and our own well being.

On March 25, 2004, a representative from the Department of the Interior testified before Congress that "certain acquisitions of land or interests in lands are necessary, not only to achieve Departmental goals, but also to meet collaborative agreements with private property owners, States, local governments, and third party groups, improve or provide legal access to existing land, provide rights-of-way, and protect historical recreational and natural resources." [Statement of Robert Lamb, Senior Advisor to the Assistant Secretary of Policy, Management and Budget]

One reason that federal LWCF has worked so well during the past 40 years is because of its flexibility. It is not simply a land-buying program, it does much more. The federal LWCF Act provides the authority to acquire land, provide agencies with the authority to make minor boundary changes, receive donated land, purchase land with donated funds, purchase easements on private lands, or transfer or exchange lands from other federal agencies.

For example, the Administration's FY 05 budget request includes a $2,000,000 request for Bureau of Land Management's (BLM) Upper Snake/South Fork Snake River project in Idaho. Since 1991, Congress has appropriated $13 million to purchase more than 1,100 acres of fee and conservation easements on more than 3,000 acres. Other investments in this project area have been made by the Bonneville Power Administration, the Wetlands Reserve Program, and private conservation organizations.

Similarly, federal LWCF can be used for purchase of small, but strategic, parcels of land that mitigate future maintenance costs and provide safer public access to parks.

For example, at Mt. Rainier National Park, 800 acres, a mixture of public and private land would allow a new road to be built on higher ground, reducing the maintenance cost of rebuilding the current road that is annually washed out by heavy rains. Even this small land purchase will receive a specific congressional authorization before LWCF funds will be appropriated.

And, the Columbia River Gorge in Oregon and Washington has been funded by LWCF for 15 years to help the U.S. Forest Service implement the congressionally-authorized national scenic area, which follows the Lewis and Clark expeditionary route along the Columbia River.

In 2002, Congress passed the Flight 93 Memorial Act to create a new unit of the National Park System to commemorate the bravery of the passengers and crew of

Flight 93 on September 11, 2001 who gave their lives in defense of the Nation's Capital. Local partners are working with the National Park Service to protect more than 1,000 acres of the crash site and associated viewshed, through a partnership involving the Commonwealth of Pennsylvania, the local county, landowners, and non-profit organizations. To begin the federal land acquisition, the President's Fiscal Year 2005 budget request to Congress included $2.2 million from the federal Land and Water Conservation Fund. If the federal LWCF funds are approved by Congress, they will leverage significant non-federal contributions, including an in-kind donation of land.

New or renovated parks and trails in communities around the country are proven catalysts for local economic development. LWCF investments in parks, forests, and wildlife areas generate tourism dollars and increase real estate values in adjacent gateway communities.

Finally, we would encourage the federal land managers to think creatively and use the federal LWCF for consolidation and land transfers among federal, state, and local agencies. Federal land agencies need to be given adequate resources to make this a priority during the life of S. 2590. These multi-agencies, multi-state transfers are tedious and difficult, but in the long-run, federal LWCF dollars used wisely could create new recreation opportunities for the public that are more cost effective.

CONCLUSION

The Americans Outdoors Act, S. 2590, will provide a conservation legacy for the next generation and provide the reliable stream of funding that has beleaguered the Land and Water Conservation Fund during the past 40 years. By integrating wildlife, coastal, state and urban parks, and federal land programs under a dedicated fund guided by Congress, future generations will inherit American landscapes resplendent with parks, trails, hunting and fishing areas, wetlands, and a more pristine environment.

In addition, the Centers for Disease Control and Prevention has indicated that regular physical activity is a crucial part of good health. Economists now predict that significant health care savings to state and federal governments could be achieved through increased physical activity and exercise. By providing access to places for physical activity, such as our parks, forests, and trails, LWCF has become an important tool in providing Americans access to outdoor recreation.

Given the conservation, recreation, and public health benefits inherent in the federal LWCF program, we urge the committee to amend S. 2590, the Americans Outdoors Act, to include $450 million for the federal Land and Water Conservation Fund. The Fund has proven to:

- conserve, develop, and utilize outdoor recreation resources for the benefit and enjoyment of the American people;
- provide federal land managers with key tools to integrate lands for more efficient management and better public access;
- assist private property owners with options to be reasonably compensated for decades of stewardship of their lands and their personal rights to dispense with their land as they wish;
- protect and preserve our nation's heritage for future generations and to encourage livable communities for a healthier population;

The need for a permanent, adequate LWCF is urgent. America's bounty is shrinking fast. Since 1960, the number of Americans has increased from 179 million to 255 million. Farmland and open space is being consumed at twice the rate that our population is growing, losing 2.3 million acres of open space a year to single family housing. Recent polling shows that voters are so concerned about protecting clean air and water and conserving the lands that help preserve water quality that they would support additional taxes to pay for protecting parks and wildlife areas.

Public investment to preserve the rapidly dwindling resource must have a guaranteed revenue stream so that our city, state, and federal managers can keep up and plan ahead for our children's future. Also, it provides for a timely process of acquisitions and easements to meet the requests of private land owners. The inconsistent record in providing the promised $900 million of LWCF during the past decade dramatically demonstrates why this legislation is essential.

Many of the decisions that will be made in the next six years cannot be put on hold; already we see the losses; already we pay the consequences in threatened water quality, loss of wildlife habitat, lack of neighborhood parks, and quality of life.

We look forward to achieving these goals by passage of the Americans Outdoors Act, S. 2590, that includes full funding of both the federal and stateside of the Land and Water Conservation Fund.

Senator ALEXANDER. Thank you, Mr. Diamond. Senator Domenici has stepped out for a moment. He will be back.

Ms. Marzulla.

STATEMENT OF NANCIE G. MARZULLA, PRESIDENT, DEFENDERS OF PROPERTY RIGHTS

Ms. MARZULLA. Thank you and thank you for the opportunity to testify here today. I am testifying on behalf of Defenders of Property Rights, as well as the Keep Private Lands in Private Hands Coalition, a coalition comprised of over 600 State and local organizations dedicated to the principle of private property ownership.

Let me say at the outset that we fully support the many important objectives and goals that we have heard discussed this morning, outdoor recreation, conservation, wildlife protection, and the like. However, I am here to testify in opposition to S. 2590 to the extent that it provides funding for State acquisition of private property. Likewise, to the extent that the bill may be amended to provide funding for Federal land acquisition, we also oppose any such amendment.

I have only one point to make and that is that we do not need more government land ownership in this country. Whenever government acquires more land, it acquires more power. Now, this power is not an abstract concept. The architect of communism, Karl Marx, wrote about the relationship between land ownership and power in his Communist Manifesto, stating that you reproach us with planning to do away with your property. Precisely. That is just what we propose. The theory of the communists may be summed up in a single sentence: abolition of private property.

Today most of the world has abandoned communism as a failed idea by reaching out toward protecting private property rights. Countries such as Russia, China, and Cuba are moving toward capitalism and embracing property rights protection. Yet, ironically this bill and the proposed amendment moves this country back in the direction of communism to the extent that it authorizes abolition of private property.

I would further add that my rough calculation referencing the map that we looked at today showing government ownership of land in this country, government in the form of the Federal Government, State government, and local government already owns almost 40 percent of the land in this country. Now, that is fee simple ownership. I do not have any figures on how much land government also owns in lesser than fee simple ownership, if you look at leases and easements and the like.

The important thing to note about government ownership of land is that the Government not only exercises power over the land it owns title to, but it also exercises power over adjacent land. The Federal Government relies on Article IV of the Constitution, or the Property Clause, for its authority to regulate adjacent property. States and local government rely on their police power and other provisions in their State constitutions. Thus, whenever the government is your neighbor, it can reach beyond its borders and control your property in a way that no private neighbor could.

Kathy Stupack-Thrall and her fellow riparian landowners found this out in Michigan. There, they had private rights in a lake and

the Forest Service purchased land adjacent to the lake as well, and Forest Service came in and extinguished State-established, State-created riparian rights in the lake to the point where these landowners were told they could engage in no use of motorized equipment on the waters of the lake, including such things as radios. So marina owners were put out of business and outdoor recreational activities were seriously curtailed.

Last but not least, the Federal Government, using its commerce power and the State again using its police power, today regulates every conceivable aspect of private property ownership through environmental laws and State and local land use laws. In King County, Washington, for example, one proposal would allow landowners to build on only 10 percent of their land. Landowners would be required to set aside 65 percent of their land and maintain it in its pristine, natural vegetative condition, unable to make any changes to their land whatsoever, thus leaving the property owner with only a small fraction of his "privately owned land" with which to put to beneficial and productive use.

Thus, we flatly oppose the creation of a massive slush fund for acquisition of additional government-owned land. We obviously recognize that there are instances where the public good will necessitate the acquisition of specific parcels of private property, but we think those instances should be targeted and the power narrowly tailored and exercised.

In closing, I would like to say that I heard the concept discussed today by Senator Burns and others, the notion of no net loss of private property. We heartily endorse that notion and think that would be a very good way of striking a balance and preserving the balance, in fact, that our Founding Fathers adopted in our Constitution.

I would be happy to answer any questions.

[The prepared statement of Ms. Marzulla follows:]

PREPARED STATEMENT OF NANCIE G. MARZULLA, PRESIDENT, DEFENDERS OF PROPERTY RIGHTS

Mr. Chairman and Members of the Committee, thank you for the opportunity to testify today regarding this Committee's examination of S. 2590, the Americans Outdoors Act.

My name is Nancie Marzulla. I am President of Defenders of Property Rights, the nation's only nonprofit legal foundation dedicated exclusively to the protection of individual rights in the ownership and use of private property. Founded in 1991, Defenders works in the courts, the legislature, and in the marketplace of public opinion to preserve private property rights, a cornerstone of individual liberty. Defenders of Property Rights is a member of the Keep Private Lands in Private Hands Coalition,[1] chaired by Chuck Cushman, Executive Director of the American Lands Right Association. Defenders submits this testimony on its own and the Coalition's behalf.

As we understand it, S. 2590 guarantees that each year $1.425 billion (collected from offshore oil and gas royalties) that would otherwise go directly into the Federal Treasury will instead go to fund three existing federal programs as well as the State Land and Water Conservation Funds (LWCF). This money would provide "a reliable stream of funding by collecting a conservation royalty on revenues from drilling for

[1] This Coalition is comprised of over 600 state and local property rights and agricultural, and resource—user organizations, and organizations representing federal land inholders. Together these organizations represent millions of people, in all 50 states.

oil and gas on offshore federal land."[2] A large portion of these funds will be used by the states to acquire private land.

We further understand that this bill may be amended and sent to the Senate floor with $450 million in funding for federal land acquisition. As one sponsor of the bill stated "there is at least one piece of unfinished business. At some point in the process, Senator Landrieu and I will offer an amendment to our own legislation that will fully fund (at $450 million a year) the 'federal side' of the Land and Water conservation Fund."[3]

To the extent that S. 2590 provides federal dollars for more government land acquisition, we oppose it. In our view, there is no legitimate justification for any government—state or federal—to acquire any more private property in this country. For that reason, we oppose S. 2590 to the extent that it makes any funds available to the states for land acquisition, and further oppose any amendment that would allocate supplementary federal funds for additional federal land acquisition.

By providing billions of dollars for more government land acquisition, and by depleting the base of American private property ownership, this bill moves our country toward socialism and collectivism at the very time in history when all the fallen, and some still falling, communist regimes in the world are moving in the opposite direction. Discovering what the Founding Fathers knew more than 200 years ago, most of the world now rejects government ownership of private land as a failed experiment.

In the former Soviet Union, for example, 50 million Russians have acquired vast amounts of private land holding rights—the equivalent of the size of continental Europe.[4] The world's most populous nation, China, has also recently been moving toward primitive markets and private property ownership; in fact, last March, China passed its first-ever constitutional amendment protecting private property rights. Article XIII of the Chinese Constitution states that "[l]egal private property is not to be encroached upon."[5] Even in Cuba, where Fidel Castro confiscated almost all private property in 1959, agricultural land reforms have dramatically increased the number of private holders of property since 1989.[6]

I. WE OPPOSE S. 2590 BECAUSE THIS COUNTRY NEEDS MORE, NOT LESS, PRIVATE PROPERTY

That S. 2590, as drafted, provides money to states (and not the federal government) to purchase more land is irrelevant to our overarching alarm at the loss of private land ownership. Private property itself, not simply just compensation for its appropriation, is critical in any civil society. This principle applies to state governments no less than the federal government. Indeed, one argument in favor of enhancing the federal government's power was that many founders believed the states to be the greater threat to individual liberty. As James Madison warned in the Federalist No. 10: "The smaller the society, the smaller the number of individuals composing a majority, and . . . the more easily they will concert and execute their plans of oppression."[7] Private property ownership restrains the growth and power of states just as it restrains the federal government.

Although S. 2590 contemplates that states will purchase, rather than confiscate privately owned land, this does not cure the fundamental problem resulting from more government, and less private, ownership of land. Indeed, local governments are notorious for their abuses of the eminent domain process. One study alone reports documenting over 10,000 eminent domain abuses.[8] According to the Hoover Digest, protections against eminent domain abuses in some communities are nonexistent:

> "All a condemning authority has to do is publish a small advertisement in the legal notices section of the local newspaper. It does not have to state the consequences of the owner's failure to act. Yet if the owners happen not to see the notice or fail to act promptly, they will lose their right to challenge the taking on public-use grounds 30 days following the publication."[9]

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[2] Lamar Alexander, Floor Remarks Before the Senate, June 24, 2004.

[3] *Id.*

[4] Alexei Overchuk, Deputy Head of Federal Land Cadastre Agency, Press Conference, March 20, 2003.

[5] Chinese Const., art. XIII.

[6] Eduardo Moises Penalver, *Redistributing Property: Natural Law, International Norms, and the Property Reforms of the Cuban Revolution*, 52 U. FLA. L. REV. 107, 130 (2000).

[7] James Madison, The Federalist No. 10 (1787).

[8] Clint Bolick, *The Monster in Our Backyard*, in Hoover Digest No. 3, 191-198, at 197 (2004).

[9] *Id.* at 193.

Nor does S. 2590's contemplation that privately owned land will be purchased only from "willing sellers" adequately protect private landowners, for the state always holds in reserve the paramount power of eminent domain that allows it to take any home, farm, business or factory it pleases. The individual property owner is virtually powerless in negotiating with government. Unfortunately, "[l]ocal governments are abusing their power with increasing frequency, yet the typical citizen lacks the resources, knowledge, and skills to take on the local leviathan that our local governments have become."[10]

The U.S. Supreme Court has repeatedly stepped in to unmask local government's extortionate schemes, which falsely claim to be "voluntary" arrangements to acquire private land:

> [T]he right to build on one's own property—even though its exercise can be subjected to legitimate permitting requirements—cannot remotely be described as a "governmental benefit." And thus the announcement that the application for (or granting of) the permit will entail the yielding of a property interest cannot be regarded as establishing the voluntary "exchange . . . ."[11]

In another example of state and local abuse, the city of Tigard, Oregon decided that it would be in the public interest to have a municipally owned pedestrian/bicycle pathway linking streamside greenways. The city's planners drafted designs that were formally adopted into a comprehensive development scheme. The city then enacted an ordinance that on its face extorted from landowners the land necessary for accomplishing the public objective:

> The City shall review each development request adjacent to areas proposed for pedestrian/bike pathways to . . . require the necessary easement or dedications for the pedestrian/bicycle pathways.[12]

The city stated that the privately owned land to be acquired was the "backbone of the open space system . . . ."[13] When Florence Dolan applied for a building permit to expand the plumbing availability on her land, Tigard tried to condition Ms. Dolan's building permit on her willingness to "voluntarily" give the city (in fee simple) ten percent of her private land to complete the public pathway. The city was strongly rebuked in *Dolan v. City of Tigard*, 512 U.S. 374 (1994). But if S. 2590 money been available to the city of Tigard, it could have attempted to accomplish the same extortionate result by simply conditioning Ms. Dolan's permit on her "voluntarily" agreeing to sell her land to the city.

A. Private Property Ownership Promotes Stable, Local Communities

Private ownership of land promotes the beneficial and productive use of land, and serves as economic basis supporting local governments and communities. Local governments touch the lives of every American every day. They operate schools, playgrounds, libraries, and provide or control the essential services such as water, electricity, policing, and firefighting.

In contrast, the loss of private property ownership destroys the economic bases of both families and communities. For example, in the Pacific Northwest, the federal designation of 6.9 million acres of privately owned land as federal habitat for the northern spotted owl led to what were commonly known as "green ghettos." The University of Oregon reported that local taxes were increased by tenfold in five Oregon counties to replace the income generated from timber sales.[14] The resulting loss of jobs led to marked increases in affected communities in unemployment, alcoholism, suicide, battered spouses, and troubled children.[15] As Chuck Cushman noted:

> Over time, 10-15 years, they strangle—systematically cut off—the community. There is a hardly group of folks willing to deal with the hardships, the drive for 50-100 miles to the grocery store, the fact that there aren't services that companies supply. Over a very short period of time the town turns into a ghost town.[16]

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[10] *Id.* at 192.
[11] *Nollan v. California Coastal Comm'n*, 483 U.S. 825, 833 n.2 (1987).
[12] City of Tigard, Comprehensive Plan, Section 8.4.
[13] *Id.*
[14] J. Heissenbuttel & W. Murray, *A Troubled Law in Need of Revision*, 90 J. FORESTRY 13 (1992).
[15] *Id.*
[16] *Interview with Chuck Cushman*, MAGIC CITY MORNING STAR, Sept. 20, 2003.

B. Private Property Ownership Promotes Sounds Conservation and Multiple Land Use

Public ownership of land does not reap the economic or environmental benefits that interest groups and government agencies expect to accrue once land is taken out of private hands. To the contrary, governments make poor ecological stewards. Degradation in national parks runs rampant, ecological imbalances often cause unexpected declines or disappearances of entire populations of plants and animals, and tourism pressures frequently offer perverse incentives to government managers of public land.[17] In short, government is a poor substitute for mother nature.

The federal government seems particularly ineffective at managing land. But states perform just as badly as the federal government in attempting to do the same task. According to analyst Randal O'Toole:

> State governments are no better managers than are federal bureaucrats. They are just as economically inefficient, ecologically short-sighted, and politically driven as their federal counterparts . . . In fact, state governments have been rapidly expanding . . . their land estates . . .[18]

State management of public lands poses many of the same problems surrounding federal control of land. Moreover, any governmental management of land whatsoever tends to cause unexpected consequences. Apart from simple land mismanagement, even activities that are pursued in good faith by state officials can have profound effects on ecological systems. Forest management can disturb delicate habitats, increases in population of any given species can devastate others, and inefficient resource allocation can increase the likelihood of disasters like forest fires.[19]

Private property, however, despite common misconceptions, has a good record of balancing ecological and economic interests. Property rights provide the foundation for markets, and establishing property rights over environmental resources enables individuals and organizations to pursue environmental goals in the marketplace. Individuals who care most about ecological matters are surely the most efficient protectors of those resources. Private groups should take the place of politically unstable government agencies.[20] These groups are capable of surviving without the benefit of government aid, are better able to protect wilderness land, and are more successful in implementing conservationist policies than would be state or federal governments.

Regardless of one's opinion of private landowners' ability to balance economic and environmental goals, there must be agreement that the federal and state land management programs are certainly not achieving the goals they set for themselves. Private ownership, in addition to preserving the civil rights of American citizens, also offers the chance to better effectuate environmental goals than does government land management.

C. Private Property Rights Are the Engine of Economic Prosperity and the Foundation of the Free Market

Economic studies over the last 20 years show that private property rights are the cornerstone of a prosperous society.

One study, completed in 1984 by Freedom House, correlated rankings on a scale of political and civil freedom, including private property rights, with economic welfare. The study found that a one unit improvement on the seven-point liberty scale correlated with a 34% decrease in infant mortality and a 49% increase in GNP per capita.[21]

Another study, reported in the *Journal of Political Economy*, built upon the Freedom House measurements, and contributed valuable empirical analysis to the earlier data. The study concluded that societies committed to the protection of private property "grow at three times (2.73 to 0.91% annually) the rate and are two and one-half times as efficient as societies in which these freedoms are circumscribed or proscribed."[22]

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[17] Terry L. Anderson, *How and Why to Privatize Federal Lands*, Cato Institute Policy Analysis no. 363, Nov. 9, 1999, p. 5-6.

[18] Randall O'Toole, *Should Congress Transfer Federal Lands to the States?*, Cato Institute Policy Analysis no. 276, July 3, 1997, p. 1.

[19] Anderson, *supra* note 16, at p. 5-6.

[20] TERRY ANDERSON & DONALD LEAL, ENVIRO-CAPITALISTS: DOING GOOD WHILE DOING WELL (Lanham, Md.; Rowman & Littlefield, 1995).

[21] Milton Friedman, *A Statistical Note on the Gastil-Wright Survey of Freedom*, in FREEDOM, DEMOCRACY AND ECONOMIC WELFARE (M.A. Walker, ed.) 1988. Fraser Institute, Vancouver, B.C.

[22] G.W. Scully, *The Institutional Framework and Economic Development*, 96 J. POL. ECON. 652, 661 (1988).

Interestingly, studies have also determined that property rights encourage equitable income distribution. The author of the *Journal of Political Economy* study noted in 1992 that societies protecting property rights "have much larger shares of income going to the middle 60 percent of the [population] distribution than is observed in societies where men are not free to choose . . ." Moreover, he added, "[t]he income share of the highest income group is much larger in nations that repress individual rights than in those where rights are protected."[23]

Indisputably, the citizens of less restrictive regimes enjoy a higher standard of economic efficiency, growth, and equity.

D. Without Private Property Ownership, Civil Rights and Liberty become a privilege, Not a Right, of Americans

The U.S. Supreme Court has repeatedly confirmed that property rights and civil liberty are interdependent:

> [A] fundamental interdependence exists between the personal right to liberty and the personal right in property. Neither could have meaning without the other. That rights in property are basic civil rights has long been recognized.[24]

For that reason, the protection of rights in property lies at the heart of our constitutional system of government. The Founding Fathers, in drafting the Constitution, drew upon classical notions of legal rights and individual liberty dating back to the Justinian Code, Magna Carta, and the Two Treatises of John Locke, all of which recognize the importance of property ownership in a governmental system in which individual liberty is paramount. Concurrently, the constitutional framers drew upon their own experience as colonists of an oppressive monarch, whose unlimited powers vested him with the ability to deprive his subjects of their God-given rights of "life, liberty, and property."

The United States Constitution imposes a duty on government to protect private property rights. Thus, within the Bill of Rights, numerous provisions directly or indirectly protect private property rights. The Fourth Amendment guarantees that people are to be "secure in their persons, houses, papers, and effects . . . ."[25] The Fifth Amendment states that no person shall "be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation . . . ."[26] The Fourteenth Amendment echoes the Due Process Clause of the Fifth Amendment, stating that no "State shall deprive any person of life, liberty, or property without due process of law . . . ."[27] Additionally, the Contracts Clause of the Constitution indirectly protects property by forbidding states from passing any "law impairing the Obligation of Contracts.[28]

The protection of private property receives such strong emphasis in the United States Constitution because the right to own and use property was historically understood to be critical to the maintenance of a free society. To understand this concept, one must understand that property is more than just land. Property is buildings, machines, retirement funds, savings accounts, and even ideas. In short, property is the fruit of one's labor and the ability to use, enjoy, and exclusively possess the fruits of one's labor is the basis for a society in which individuals are free from oppression. Thus, there can be no true freedom for anyone if people are dependent upon the State for food, shelter, and other basic needs. Under such a system, nothing is safe from being taken by a majority or a tyrant because the citizens, as government dependents, are powerless to oppose any infringement of their rights.

John Adams once stated, "[p]roperty must be secured or liberty cannot exist."[29] Others have stated that "the right of property is the guardian of every other right, and to deprive a people of this, is in fact to deprive them of their liberty.[30]

President Reagan, in announcing his intention to sign a Presidential Executive Order to protect private property rights, told Congress:

> It was an axiom of our Founding Fathers and free Englishmen before them that the right to own and control property was the foundation of all other individual liberties. To protect these rights, the Administration has urged the courts to re-

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[23] G.W. Scully, CONSTITUTIONAL ENVIRONMENTS AND ECONOMIC GROWTH 196-97. Princeton, N.J., Princeton University Press, 1992.

[24] *Lynch v. Household Finance Corporation*, 405 U.S. 538, 552 (1972).

[25] U.S. Const. amend. IV.

[26] U.S. Const. amend. V.

[27] U.S. Const. amend. XIV.

[28] U.S. Const. art I, sec. 10, cl. 3.

[29] *Discourses on Davila, in* 6 THE WORKS OF JOHN ADAMS 280 (Charles Francis Adams ed., Little Brown 1865).

[30] ARTHUR LEE, AN APPEAL TO THE JUSTICE AND INTERESTS OF THE PEOPLE OF GREAT BRITAIN, IN THE PRESENT DISPUTE WITH AMERICA 14 (1775).

> store the constitutional right of a citizen to receive just compensation when government at any level takes private property through regulation or other means. Last spring, the Supreme Court adopted this view in *Nollan v. California Coastal Commission*. In a second case, the Court held that the Fifth Amendment requires government to compensate citizens for temporary losses that occur while they are challenging such a government regulatory "taking" in court. In the wake of these decisions, this Administration is now implementing new procedures to ensure that federal regulations do not violate the Fifth Amendment prohibition on taking private property; or if they do take a citizen's property for public use, to ensure that he receives constitutionally required just compensation.[31]

II. DESPITE ITS IMPORTANCE TO INDIVIDUAL RIGHTS AND THE FREE MARKET ECONOMY, PRIVATE PROPERTY IS DISAPPEARING IN THIS COUNTRY.

Approximately 630 million acres, or nearly one-third of the United States, is already owned by the federal government.[32] Much of that land is out West, with States such as Idaho, Nevada, Oregon, and Utah virtually belonging to the federal government. Nevada holds the record; it is almost entirely owned (79%) by the federal government.[33]

The risk for the outright elimination of private property rights was described by Justice Oliver Wendell Holmes in 1922:

> The protection of private property in the Fifth Amendment presupposes that it is wanted for public use, but provides that it shall not be taken for such use without compensation . . . . When this seemingly absolute protection is found to be qualified by the police power, the natural tendency of human nature is to extend that qualification more and more until at last private property disappears.[34]

This dire scenario is rapidly becoming reality in modern America. In recent decades, during the birth and growth of the administrative regulatory state, federal government agencies have begun implementing policies that deprive owners of the use and benefit of their property. Many of these confiscatory measures are based neither upon constitutionally granted powers, nor statutes adopted by Congress. Rather, the mere ownership of land itself confers power on federal agencies to regulate not only what they own, but what private citizens own for miles around.

The Sixth Circuit Court of Appeals summarized the state of the law in upholding a Forest Service regulation which put several marina owners out of business after the federal government acquired most of the shoreline of Crooked Lake, Michigan:

> Contrary to plaintiffs' apparent assertions, Congress's inherent authority under [the Property Clause] is not limited to regulation of purely federal property. In fact, since 1897, the Supreme Court has recognized that "needful" regulations "respecting" government property will sometimes include the exercise of power over purely private property, in order to ensure adequate protection of the federal interest.[35]

As of September 1994, the federal government had rights-of-use through leases, agreements, permits, and easements to over 3 million acres of nonfederal land, usually to support the management of adjacent federal lands. In 1995, the federal government held about 52.3 million acres in 33 states in trust for Native Americans.[36]

Private property, however, is not only burdened by federal regulations. Indeed, the notion that states need to take more private land from their citizens to carry out their conservation and recreation objectives is belied by the myriad regulatory programs at their disposal, all of which affect and control private land use. Every state, for example, has adopted various environmental protection and conservation schemes that mirror, and often exceed, federal requirements. State and local governments also have land use regulations for historic preservation, battlefield protection, scenic designations, setbacks along waterways and streams, farmland protection, establishment of "greenways," buffer zones, wetlands, resource protection areas,

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[31] President's Legislative and Administrative Message to Congress, 24 WEEKLY COMP. PRES. DOC. 91 (Jan. 25, 1988).

[32] General Accounting Office, Report to Congressional Requesters, Land ownership—information on the Acreage, Management, and Use of Federal and Other Lands. March 13, 1996. Available at: *http://frwebgate.access.gpo.gov/cgibin/useftp.cgi?IPaddress=162.140.64.21&filename=rc96040.txt&direct ory=/diskb/wais/data/gao* (last visited, July 19, 2004).

[33] *Id.*

[34] *Pennsylvania Coal v. Mahon*, 260 U.S. 393, 415 (1922).

[35] *Stupack-Thrall v. Glickman*, 70 F.3d 881, 885 (6th Cir. 1995).

[36] GAO Report, *supra* note 31.

parks, preserves, and restrictions on natural resource development. Such regulations reach from the depths of bodies of water to the heights of the stratosphere—but apparently not far enough. Seemingly, states want it all, leaving nothing for private ownership.

In addition to the extraordinary amount of land owned by the federal government, the state and local governments also own and control surprisingly large amounts of property. One study noted that state governments own 196,924,100 acres of land, comprising 8.7% of all land holdings. As of September 1994, the 13 western states owned about 141.9 million acres. Sadly, federal, state, and local governments own fully 39.8% of all the land in this country.[37]

I would be happy to answer any questions that you may have.

The CHAIRMAN. Thank you very much.

Mr. Clifton.

STATEMENT OF DANIEL M. CLIFTON, FEDERAL AFFAIRS MANAGER, AMERICANS FOR TAX REFORM

Mr. CLIFTON. Chairman Domenici, members of the committee, thank you for the opportunity to testify. My name is Daniel Clifton. I am the Federal affairs manager and chief economist at the Americans for Tax Reform. We are a nonprofit, nonpartisan coalition that works for lower taxes, fewer regulations, and free markets.

Americans for Tax Reform strongly opposes S. 2590. As we heard in the prior testimony, this is an assault on private property rights. We would also argue that this is an assault on the taxpayer, and I will give you five major reasons.

The first, as Chairman Nickles accentuated, we are moving from a discretionary program to an entitlement spending. In his example, he used from 1990 to 2004, but if we go back, mandatory was one-quarter of the budget. Now it is over 50 percent, and in the future it will be as high as 75 percent. We have a real growing need with the mandatory programs to be reforming these programs, not adding onto these programs.

A second issue is moving funds that would come out of the Treasury into a dedicated fund. I know that the sponsors of the bill have worked hard to avoid this, but money is still fungible and the shift to a dedicated fund would ultimately require higher taxes or more bonding to pay for it.

A third is that this would continue the spending spree that Congress has started, which has exacerbated the budget deficit to $400 billion. I know a lot of people like to make the point that this is because of the tax cuts, but the fact is that Federal spending is increasing on average almost $100 billion a year. No matter how much tax revenue you are going to have, you are going to have a deficit. Tax revenues do not grow by that much. The fact here is this continues that culture of spending in the future.

At the same time, many people often tell me that this is so small relative to the budget, the amount of money spending. I would say hardly. We hear this on every program and when these programs are compounded on top of each other, that is what is leading to these spending increases.

In addition, as we heard today, there is a push now to add the Federal component onto this legislation. Once we get that in, they will come back for even more spending and more. We have a very big concern with this, watching this process go on since 1999.

[37] GAO Report, *supra* note 31.

Another major sticking point is that this would lose flexibility. I know that that was discussed. If there is an emergency, revenues would not be able to be offset and moved into the general fund quickly. The accountability gets lost because this money is now in the bureaucratic shuffle.

On top of that, the Federal, State, and local governments own too much land as it is. And these proposals would hurt rural communities and the local property tax base. I know some people say that this is needed to lower local property taxes, but the fact is by taking more land and stifling economic development, it has a harsh impact on local communities and their tax bases which are paying for cops and general services.

Again, I would like to say that the Federal Government revenue situation is improving. Revenues are up. Economic growth is at its fastest rate in 20 years. Now Congress needs to hold the line on spending. This would violate that, exacerbate the budget deficit, and I would urge members to oppose this legislation.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Clifton follows:]

PREPARED STATEMENT OF DANIEL M. CLIFTON, FEDERAL AFFAIRS MANAGER, AMERICANS FOR TAX REFORM

Chairman Domenici and members of the Committee, thank you for the opportunity to testify today concerning S. 2590, the Americans Outdoors Act.

My name is Daniel Clifton and I currently serve as Federal Affairs Manager and Chief Economist for the Americans for Tax Reform. ATR is a non-partisan, not-profit coalition of taxpayers and taxpayer groups throughout the country dedicated to lower taxes, fewer regulations, and free markets.

Americans for Tax Reform strongly opposes enactment of S. 2590. As we heard in the prior testimony, S. 2590 is an assault on private property rights. But in addition to the property rights violations, ATR opposes this legislation from a *fiscal* perspective for four major reasons.

As a starting point, this legislation will exacerbate the current bipartisan spending spree that has resulted in a budget deficit of more than $400 billion. Second, this legislation removes funding from the general fund and transfers revenue to a dedicated fund. The resulting shortfall in the general fund will have to be made up with higher taxes or more bonding. Third, the matching component for state and local governments will require higher taxes in each state. Fourth, the government's continual effort to purchase land is removing more properties from the local tax rolls and thus driving up property and other local taxes.

As members of this Committee may recall, similar legislation moved forward in 1999. At that time, the federal budget was moving from a deficit to a small surplus. The idea of moving revenues from the general fund to a dedicated fund was a bad idea while the nation was in surplus; it's an even worst idea now that the country is facing deficits.

The change in the nation's fiscal outlook during the 1990's was the result of three factors. First, strong economic growth resulted in higher tax revenues. Second, the rapid acceleration of Americans invested in the stock market resulted in a four fold increase of temporary capital gains tax revenue. And most importantly, spending restraint was the absolute essential key element.

From 1992-2000, inflation adjusted federal spending increased at an average annual rate of $12.4 billion per year. Federal spending (as a percentage of income) declined for eight straight years, which reduced government spending from one out of every four dollars of national income to one out of every five dollars. By 2000, average Americans worked 14.3 days less of the year to pay off their federal spending burden than in 1992. This enabled the country to move from deficit to surplus.

Yet, as the budget scenario continually improved, a new culture of spending took hold. No longer could members tell the Washington spending interests "no" to new spending requests. Over time the new ideas for spending programs continued to increase and when the economy started to slow, the promises of new spending continued despite the change in the budget outlook.

In fact, spending has accelerated in the wake of slower economic growth. The average annual spending increase from 2000-2004 has been $95.4 billion, more than 7 times the average annual rate in the preceding eight year period and more than twice the growth of household income.

I would note some of this spending is related to the two wars, homeland security, and fighting the War on Terrorism. Moreover, mandatory programs such as Medicare and Medicaid are increasing at double digit rates. But even with that, non defense, non homeland security spending continues to substantially increase.

And it is exactly because of programs being proposed in S. 2590. In speaking with members in both the Senate and the House, I often hear "but this is program is so small" compared to total spending or the budget deficit. Yet, this argument misses the main point. Every member has their own projects and when they are combined together the compounded effect is quite large.

Moreover, these programs continue to grow over time. As I mentioned, many programs continued to come into existence starting in 1999. The original cost and scope of these programs have grown over time. S. 2590 will be very similar. The legislation we are speaking about only has a local component and will be in existence for six years. The total cost is roughly $1.425 billion a year. Yet, the true intent of the proponents of this legislation is just to get the legislation in place then extend it to a new federal component. All this adds new costs which over time compounds and combined with hundreds of other programs also having the same effect at the same time results in a deep pressure on taxpayers to pay higher taxes.

Another major sticking point with the proposed legislation is the bypassing of the appropriations process. This is terrible fiscal policy for several reasons. First, in case of an emergency, revenues cannot easily be moved back into the general fund. Second, accountability of spending gets lost in the bureaucratic shuffle and fuels waste and mismanagement. Third, a dedicated fund will tie the hands of Congress in the future when spending priorities may shift drastically. Budgeting should be done so that all proposals must compete for limited funds.

The federal and state and local governments already own too much land as it is. Roughly 40 percent of all land in America is owned by the government. This is too much. According to the federal land agencies themselves, they have a backlog of billions of dollars in operations and maintenance on these federally held lands. But instead of addressing this problem, this bill would spend record amounts of money on buying more land instead of taking care of the land that the government already owns.

The new purchases of land will stifle economic growth in rural communities and further reduce local property tax bases. This is important because in almost all jurisdictions, local property taxes are the primary funding source for important services such as schools, police protection and fire departments. Also, once all of this land is bought, taxpayers will have to take care of it. This will add to overall federal spending and increase the existing backlog in maintenance and operations of land the federal government already controls.

I would also add that many members of this Committee are on record complaining about the federal budget deficit and yet voting for this legislation will only further exacerbate the situation. This legislation is moving revenues out of the general fund and into a dedicated fund. The lost revenues to the general fund will need to be made up with higher taxes and/or more bonding.

The federal revenue situation is improving. Despite this Congress passing the third largest tax cut in American history federal revenues are actually *increasing*. Revenues in the first nine months of the year have increased 3.5 percent compared to same nine month period a year ago. Tax collections have increased by more than 10 percent in three of the past four months and the Congressional Budget Office (CBO) revenue targets for the fiscal year have already been met, despite the fact that three months remain in the fiscal year. As a result, ATR is forecasting a reduction of deficit of roughly $60 billion when the CBO summer update is released next month.

Yet, as the evidence shows from the previous decade, stronger economic growth only gets you so far in reducing the deficit. For every new dollar the federal government is taking in two dollars of federal spending is being spent. It does not take a Nobel Laureate economist to figure out this formula will never bring the budget back into balance.

Fiscal responsibility starts right here with S. 2590. This program is an assault on every American taxpayer from a number of different angles. I urge the committee to reject this ill advised policy and start the process toward true fiscal accountability.

Thank you for your time and I will be happy to answer any questions from members of the committee.

The CHAIRMAN. Thank you.

Senator Cantwell, we are going to let you ask first since you have not had an opportunity. Are you ready?

Senator CANTWELL. Yes, Mr. Chairman. Thank you for that. I appreciate the opportunity to join my colleagues on this important hearing. I want to thank you, Mr. Chairman, for holding this hearing. I think this is a very important issue to people in the West and I would say to people throughout America.

Certainly my colleague has a unique circumstance in Louisiana that makes this issue imperative to her, but I can guarantee her that there are other issues throughout the West, where rapid-growing communities are faced with the challenge of preserving and protecting recreational areas in urban areas. I think that our challenge has been that we have been basically outpaced by the demand. Consequently, this fluctuation in funding through the committee process, where funds are actually supposed to be dedicated to these resources and then not actually authorized and appropriated, has been very frustrating, I think, to lots of local governments throughout America.

My question. Mr. Diamond, you seem to have quite a bit of history here with this issue. One of my predecessors from the State of Washington, Henry Jackson, Senator Jackson, was a very big supporter of the Land and Water Conservation Fund.

Mr. DIAMOND. A member of the original commission.

Senator CANTWELL. And a member of the original commission. At that time, President Kennedy and Senator Jackson and many others saw the basic growth patterns of the United States, and saw that the West was becoming, with the interstate highway system and suburban development, a very rapidly growing part of the country. And that is where the Land and Water Conservation Fund came from.

So now here we are today, and I applaud my colleagues for coming up with this proposal. Without a process in place, it seems to me that what happens is that State and local governments are now without the resources that had previously been provided by the Land and Water Conservation Fund throughout the 1960's and the 1970's. And now demand is completely outpacing available resources.

So if you could comment on this instability of the fund that we are currently seeing, and on the fact that, as it seems to me, we actually are stealing these resources from Land and Water acquisition and using them for other purposes in the budget. Am I correct on that?

Mr. DIAMOND. We would say that Congress' wisdom is reallocating. But yes, it has been taken away.

You raise a very important point. There was a very precise process put into place by the Land and Water Fund where governments had to plan the so-called State-wide comprehensive outdoor recreation plan and look forward over years to doing a well-planned, well-thought-out development of recreation resources and parks.

We saw a chart on the Federal fluctuations earlier. The same has been true in the States. The States have not been able to plan, and this not only hurts park, it hurts property owners who stand in line often and say, when are you going to buy my property. So a

smoothing out—that is one of the basic precepts I think that Senator Landrieu and Senator Alexander have brought about, a smoothing out and having a permanent funding, which will give certainty and save money.

Senator CANTWELL. And allow us to do better planning.

I wonder if I could ask Mrs. Marzulla if she supports—I was listening to the principles that you were talking about for your organization. Do you support the current Land and Water Conservation Fund activities?

Ms. MARZULLA. I will not profess to be an expert on everything that the Conservation Fund does, but I certainly support the principles of conservation and outdoor recreation and wildlife protection. My point is really a very targeted point, which is enough is enough in terms of government land acquisition. The objectives that we have talked about here today we fully support, but more government land is not needed in our opinion. At least not a wholesale acquisition of land is not needed to accomplish these objectives.

The Constitution has always been and interpretations of the Constitution, the way it was formed, has been very clear that property rights are fundamental and essential and regardless of what objectives we want to accomplish, we should not do so by breaking the back of private property ownership.

Senator CANTWELL. I understand that point, but the Land and Water Conservation Fund does now partner with State and local governments, and land is acquired by partnership between them and the Federal Government. So I would think under what you were just describing, you would not support this. But maybe you could look at that and get back to the committee, because my sense is that you probably do not support the current program either.

Ms. MARZULLA. Well, that may be true. I would like to have a chance to respond to that.

But the point that I also made toward the end of my testimony is one that I would really urge the committee to look closely at. I know a number of Senators have bounced the idea back and forth, and that is the notion that there be no net loss of private property. I think we have all acknowledged that there are many States out West, Nevada, 80 percent government-owned. To the extent that the fund is used to acquire land elsewhere, then it seems to me a good principle would be to have land that is currently in private ownership restored to private ownership.

Senator CANTWELL. Thank you. I see my time is up. Mr. Chairman, I wanted the witnesses to have their opportunity to respond. But if I could submit a longer statement for the record and just say that I think that what our colleagues are putting before us is something that is very important. Mr. Diamond's point about how to plan over a period of time, for many of our western regions that have such rapid growth, is a very difficult thing. And then to have local governments go through a process, which is actually a very good process of prioritization, so that taxpayer money is being spent in the right ways. Looking at the demand across the country, prioritizing the need, coming up with the criteria—this would be a much better process.

What is very frustrating to local governments in my State, and I would assume in other States, is to have none of their priorities funded, and then to have one of their Members of Congress stick in their favorite park or their favorite appropriation bill, and that is the only thing that gets funded. This is a very challenging and frustrating thing. So I think there is a lot to be gained for the taxpayers in the kind of program that prioritizes projects and tax dollars. Thank you.

The CHAIRMAN. Thank you, Senator and you might submit your statement or questions at your leisure. Whoever they are directed at, would you please answer to them to each member of the committee?

Senator Alexander.

Senator ALEXANDER. Thanks, Mr. Chairman. I want to thank each of the six witnesses for traveling some long distances, as Charles Jordan did, but all of you have made a special effort to be here. You have been succinct. I have read your testimonies. It has been a great help to us as we really try to work our way through this.

We are not trying to be a debating society here. We are actually trying to see if we can come up with something that will create a consensus. So we are doing something Senators are not always accused of doing, which is listening and seeing if we can find a way through this.

I have two or three questions. I will try to be brief in my questions so I can get to more of the witnesses.

Mr. Clifton, I respect and understand the point about mandatory spending. Given your concern about mandatory spending, would you recommend that we repeal the 50 percent State royalty for onshore oil and gas drilling that this year gave $500 million to Wyoming, $318 million to New Mexico, $62 million to Colorado, and $54 million to Utah without ever going through the Federal budget?

Mr. CLIFTON. Senator, Americans for Tax Reform would like to see as much go through the Federal budget as possible. We just passed a Medicare prescription drug bill. The Congress decided that it was important. At the same time, the system is going broke in 2018. Social Security is going to go broke in 2042. Give a year or two——

Senator ALEXANDER. No. I——

Mr. CLIFTON. I am sorry to interrupt. At this point we do not think that anything should be added to the mandatory side——

Senator ALEXANDER. But the question is, would you be in favor of repealing the mandatory spending? Since you oppose a royalty for offshore oil drilling, to be evenhanded, would you be in favor of repealing the existing royalty for onshore oil and gas drilling?

Mr. CLIFTON. I have not looked at it fully, to be honest with you. I think it is a great question. I will promise I will look at it and get it to the committee.

Senator ALEXANDER. I would appreciate that.

Mr. CLIFTON. My major concern is adding any new types of entitlements in the wake of the Medicare prescription drug benefit.

Senator ALEXANDER. Thank you.

Ms. Marzulla, I appreciate your suggestion, and let me see if I can hone in on a few things to understand your position. At one point in your testimony, you say in our view there is no legitimate justification for any government, State or Federal, to acquire any more private property in this country. Is that what you mean?

Ms. MARZULLA. I think conceptually yes, but I acknowledge and tried to do so articulately in my testimony, and perhaps I failed to do so—we acknowledged that there are instances where government must acquire more private property, but we urge this committee to adopt an approach that is narrowly tailored with a heavy presumption, a rebuttable presumption, but nevertheless a heavy burden on government justifying a need for more acquisition of private property. Personally I think we have enough, and that is why we support the notion of a no net loss of private property. I think it is an idea with a lot of appeal.

Senator ALEXANDER. Well, that is actually a very constructive suggestion. Obviously, if we needed new schools, we need new land, or if we need a new park, we new land or a new port. But the overall sense I got from you is I think I understand your point, and I am not sure I disagree with most of it, particularly in the western United States where we own so much of the land. Senator Thomas had suggested no net gain as one way, to use a word of yours, to try to achieve some balance in what we do.

Another thing Senator Landrieu and tried to do in fashioning this bill was to say that in spending in this money, there would have to be a willing seller/willing buyer, in other words, no land condemnation. Is that also something that would help achieve balance in your view?

Ms. MARZULLA. I listened very carefully to that exchange, frankly with some surprise to the notion of the willing seller. Perhaps in Louisiana they do things differently, but our experience has been that the notion of a willing seller is more of a fiction than a reality. Typically what we see is the Government comes in with the heavy hand of regulation and threats of condemnation and then says, gee, we will buy your property. Guess how far below the fair market value we are going to give you, and that is it, take it or leave it.

So to the extent that this committee could struggle with the notion of ensuring that there be adequate protections in place, guaranteeing a true fair market exchange looking at some of the principles appraisers use, that would be something that we would endorse.

Senator ALEXANDER. That is very helpful, and as you reflect on this, if you have other suggestions that you see that as the legislation is making its way through, that would help achieve a better balance that protects property rights, recognizing that most of what we do here is a conflict of objectives and principles, I would welcome seeing them.

If I may ask one last question of Mr. Diamond. With your long experience with the Land and Water Conservation Fund—maybe this is something you have already said, but looking back all the way to 1958 and 1962, what can you say to those who would say that it is inappropriate to take a steady stream of funding and make it mandatory for spending rather than an appropriated year-

by-year approach? How would you sum that up in the strongest possible way?

Mr. DIAMOND. We thought about this, Senator. How can we come up here and say with all of the public needs, this one should be a dedicated fund? I think there are several reasons.

One we alluded to earlier, the planning process makes being able to know in your bill that for 6 years this is what happens.

But more fundamentally in our view there was a trust made with the American people in the original Land and Water Conservation Fund whereby some portion of the resources that are being extracted and the public owns them, that some of those resources would go back to other resources which the public wanted, and we think this is the basic justification for a dedicated fund. It is rather different. It is not a tax source, but it is a revenue source coming from a like kind, and we believe that is the sound basis for it.

Senator ALEXANDER. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Landrieu, I am going to ask my friend Senator Alexander, can you stay for a couple minutes?

Senator ALEXANDER. I can.

The CHAIRMAN. So you can preside while Senator Landrieu——

Senator ALEXANDER. I will be happy to.

The CHAIRMAN. Because I have to be somewhere, but I would like to ask two questions and then excuse me.

First, I join Senator Alexander in thanking all of you. Whatever difficulty it has been for you to come here, I think it is worthwhile. The cause is worthwhile, so your presence is worthwhile.

Mr. Diamond, were you the author of the report that we are talking about?

Mr. DIAMOND. I was the editor, yes, sir. It was a commission made up of eight Members of Congress and seven private citizens, but I was a staff editor of the report.

The CHAIRMAN. Now, when was that done?

Mr. DIAMOND. It was reported to President Kennedy in 1962.

The CHAIRMAN. Have we made any strides since that report?

Mr. DIAMOND. Oh, yes, sir. I think we tend to forget that the Federal Government did not buy land for park purposes really. Cape Cod maybe in 1962 is the first time. It came out, as this committee well knows, of the public domain. I think the Land and Water Fund has helped the Federal Government fill in much needed inholdings, buy new areas which were needed and help the States to create this system that my friend Charles Jordan referred to.

The CHAIRMAN. Let me say to Ms. Marzulla, I believe you have contributed to our discussion. I have noticed that Senator Alexander and Senator Landrieu are very willing to accept ideas that will make this legislation more palatable to a broader section of Senators, and some ideas that you put forth will clearly be looked at.

Let me ask you Mr.—tell me how you say your last name again?

Mr. ANGELLE. You can call me what you want if we can get the right money, but it is Angelle.

[Laughter.]

The CHAIRMAN. I did not tell you that that was any quid pro quo.

[Laughter.]

The CHAIRMAN. I will call you Scott if that will relieve me from the responsibility of assuring you of money.

[Laughter.]

The CHAIRMAN. I want to ask you—if you know, okay; if you do not, will you find out—first, can you cite the leveeing of the Mississippi and impacts from OCS oil and gas exploration and production as two reasons Louisiana is losing 25 square miles of wetlands each and every year?

Mr. ANGELLE. Yes, sir. I appreciate the opportunity that you had to visit with us in the State. Certainly the leveeing of the Mississippi River——

The CHAIRMAN. Were you there when I visited?

Mr. ANGELLE. No, sir. Actually I was doing something else in local government at that time.

The CHAIRMAN. I think they told me that.

Mr. ANGELLE. The leveeing of the Mississippi River certainly had great intentions and some of the unintended consequences of interrupting the deltaic system—the Mississippi River can no longer overflow its banks and replenish the coastal marshlands and wetlands of Louisiana. Certainly a majority of scientists have come to that conclusion.

When we talk about the oil and gas situation, we talk about the gulf intercoastal waterway and the navigation channels that have been built and saltwater intrusion. While we are very proud of our relationship with the oil and gas industry and look forward to continuing our role to serve America's energy needs, there is no question that there has been some impact.

The CHAIRMAN. Now, under section 8(g) of the OCS Lands Act, Louisiana has received $969 million since 1986. How much of that revenue that Louisiana receives from the Federal oil and gas activities is spent on wetlands mitigation?

Mr. ANGELLE. I am not qualified to answer that at this time. I can get that for you and enter it into the record, sir.

The CHAIRMAN. Would you be surprised if it was none?

Mr. ANGELLE. I would say that it is my understanding that the majority of those funds have been used for education. Obviously, in Louisiana we put that at the very top, and we are making considerable strides in our education. In fact, here recently, one of the accountability acts that was passed in Louisiana is now being used as a model in America. So we are proud of that, and it has helped us in a lot of areas. But certainly coastal restoration is a very important issue for us.

The CHAIRMAN. But you understand the purpose of my question.

Mr. ANGELLE. Yes, sir.

The CHAIRMAN. Could you also tell the committee—if you do not know, if you would get it—how much does the State of Louisiana realize in property, payroll, and corporate income from the OCS oil and gas exploration and production?

Mr. ANGELLE. I will get that answer for you, sir.

The CHAIRMAN. How much does the State of Louisiana realize in income from oil and gas exploration and production on State lands and how much of that income is devoted to wetlands reclamation and mitigation? Now, I mean submerged State land.

Mr. ANGELLE. I can answer that question. I think here in the current year about $450 million direct to the State budget. One of the positive things that we have done in Louisiana is we have adopted a constitutional amendment that provides and dedicates a portion of those funds to coastal wetlands activities. We are using those funds to match some of the requirements of our Federal partners.

The CHAIRMAN. Before I leave, I want to also congratulate the two lead sponsors of this bill. Senator Alexander, I commend you. You have done a lot of work. You told me about this when you first came here, and it is extraordinary that you have moved this rapidly and understand this so well. But I would not be surprised because you have great experience in working on these kinds of things.

Senator Landrieu, I have gotten to know you very well. I was very privileged to be in your State. Now all I have to do is find a reason for getting you to come to my State.

[Laughter.]

The CHAIRMAN. Thank you very much, and I thank the witnesses.

Senator LANDRIEU. Thank you, Mr. Chairman. The chairman has been so gracious with his time and has to step out, but I am going to be proud to submit what Louisiana has contributed to this effort over the last 20 years with virtually little help from the Federal Government, to remind the staff and others, that we have to put up 25 to 40 percent of all the Corps of Engineers projects that go on in our State. A lot of those projects are not just for flood protection, but for commerce and dredging. So the taxpayers of Louisiana pick up a substantial amount of money to manage and maintain this coastal area, not for the benefit of just the people that live in Louisiana. We drain two-thirds of the continental United States, and we are trying to preserve 80 percent of the coastal wetlands left in the United States of America. Those coastal wetlands do not just benefit the 4.5 million people that live in our State, but they benefit the 300 million that live in the United States.

So I will submit more details to the record, but I did not want this committee to close, Senator Alexander, with there being any thought that the taxpayers of Louisiana have not contributed mightily to this effort, basically standing alone against the tide, on top of which we are contributing, as I said, anywhere from $2 billion to $6 billion, depending on the leasing activity, virtually alone in the Nation. And it is a tragedy and a crime that we have not been compensated in a fair and more just manner than we have to date.

In addition, for the taxpayers of Louisiana to be willing to share this revenue with the rest of the country, even to those States who refuse to produce the oil and gas themselves, is also a testament to the generosity and the big-heartedness of people in Louisiana who understand.

I just have two questions, and then I will be ready to wrap up.

I want to understand, Mr. Clifton, if the people that you represent, given their choices to send the $6 billion either to the Federal Treasury for general expansion of operating revenues or would they rather see a portion of this revenue dedicated to preserving,

to be good stewards of the land we already have, and purchasing property so that all taxpayers, whether you are wealthy or middle income or poor, could benefit? Are you testifying before this committee that the people you represent would rather see the Federal budget expanded as opposed to an investment in conservation?

Mr. CLIFTON. Senator, I think that is a great question. Let me first say we represent about 100,000 taxpayers who are members of Americans for Tax Reform. They have joined our membership because they oppose enlargement of the Federal budget and Federal spending.

But with that said, the Federal Government is still providing a lot of money right now for conservation. Let me give you an example. The National Park Service right now is spending an enormous amount of money, despite the backlog.

But with that said, what we see as the trend happening nationally is local governments instituting taxes on top of their property tax rate dedicated for open space and conservation purposes. We also see State governments now branching into that. The common identity of those programs is that voters are voting themselves—some of them get rejected, some of them get approved, but voters are having a say whether they would want higher taxes for those purposes. Do I have an exact breakdown of how that has panned out right now? No. But the fact is that taxpayers have a choice. Here it is very much more diffused from the taxpayer and our members are opposed to new spending on Federal programs.

Senator LANDRIEU. Well, you may want to just take back one of the goals that Senator Alexander and my bill which is to keep taxes lower and to use the taxes that we already have in ways that the taxpayers tell us that they want those moneys spent. I would like to submit to your organization the most recent study conducted by Mr. Luntz.

Mr. CLIFTON. Frank Luntz.

Senator LANDRIEU. Frank Luntz, thank you. It indicates exactly that point, that the taxpayers of the United States would like to see a portion of the tax dollars already being paid, not new dollars, directed to these programs.

Ms. Marzulla, just one question. Under the philosophy of I guess people who have money can own property and those that do not do not get the benefits of it, how does your organization argue the idea that people with less resources would obviously, under your philosophy, have access to open space or lakes or streams because unless you can own it, you cannot use it? How do you all square your philosophy? Because I hear you say that you think that all property should basically be privately owned. In that case, only the people that own it could use it. So what about the millions and millions and hundreds of millions of people that do not own a lake? Where do they go to swim?

Ms. MARZULLA. Well, I could spend the rest of the afternoon answering that question because it is——

Senator LANDRIEU. Well, try to answer it, if you could, and I am serious. Where do the people that do not own a lake go to swim? I would like to give you a minute and a half to answer that.

Ms. MARZULLA. Okay. First of all, I would like to just clarify that property, of course, is more than just land, but the topic of course is land.

I think the short answer is that I do not think that the only way that we can have outdoor recreation in this country is by government ownership of land or water. There have been countless studies done. I would be happy to submit reports and analyses that talk about private ownership and ways of accomplishing many of the objectives, if not all of the objectives, that we have talked about here today.

But I would also like to underscore the fact that my testimony is not that we should have no government ownership of any land for any reason ever. My testimony today is to urge the committee not to create a slush fund to acquire more. The balance has been struck. There is a balance between government ownership of land and private ownership of land. And it is a constitutional balance that is being struck. So let us not go off in the direction of extremities.

Senator LANDRIEU. I would agree with that. So when you refer to communism, that might be something that we would want to keep in mind.

But I would like answer to my question in writing, if you would. Where do the people that do not own a lake swim? And you can submit that to me anytime in the next couple of weeks. Thank you.

Ms. MARZULLA. I would be delighted to.

Senator ALEXANDER [presiding]. Senator Landrieu, thank you.

I do not know how the Senator from Louisiana feels about it, but we go to lots of hearings. This has been one of the better hearings, I think, that I have had a chance to attend because we have had a very clear purpose. We have had good attendance from a lot of Senators. They provide lots of different points of view, and we have had excellent witnesses. The administration's testimony was on point and direct and very helpful. And then the six of you I think gave us exactly the range of thoughts and opinions that we hoped to elicit. We did not want to just get one side or we did not want to hear the cheerleaders of the opponents. We wanted to hear, in this big, complicated country of ours, what should we take into account as we try to move ahead with this.

And we have heard about Louisiana's interests and what is happening on the coast.

Charles Jordan, as he has for years, eloquently talked about city parks. I well remember President Reagan's Commission on the Americans Outdoors. One of its most important points was that so many people live close to home, let us create some parks close to where the people live.

Mr. Baughman reminds us of the great gains we have made with our, I still call them, game and fish commissions across this country. These are the organizations that our hunters and fishermen love because they create sporting and outdoors activities that all of us enjoy.

Henry Diamond has brought us a perspective that spans the whole history of the Land and Water Conservation Fund, for which we are very grateful.

Ms. Marzulla, I appreciate your specific suggestions that we can consider about how to achieve a better balance, as we consider land acquisition.

Mr. Clifton, thank you for your directness about the importance of keeping in mind our budget.

Senator Landrieu and I now intend to work with our colleagues. We are going to fashion an amendment to the existing legislation that will include the Federal side of the Land and Water Conservation Fund, but we have learned some things here today and from our colleagues that we need to take into account there. Then we will decide where to go from here.

She has been working on this for a number of years. I want to salute her for that. During her whole first term, this was a major priority, and we would never have gotten to this point if it had not been.

I had the privilege of working outside of Congress as a Governor with our State commissions and as chairman of President Reagan's Commission on Americans Outdoors. I think it is worth saying that this idea has had strong bipartisan support. It has had Presidential support. Let us see if as legislators we can find a way to create a consensus within the Senate that recognizes what I believe is the huge conservation majority in the United States that supports the Americans Outdoors Act.

My final statement will be I would like to submit to our committee hearing a list of the two dozen Americans Outdoors bill supporters. These are organizations. Actually it is more like three or four dozen, ranging from the U.S. Conference of Mayors, the National Wildlife Federation, to the Boone and Crockett Club and a variety of outdoor recreation organizations. They have letters in support of this activity.

Senator Landrieu, if you have nothing else, I thank the witnesses and the hearing is concluded.

[Whereupon, at 12:40 p.m., the hearing was adjourned.]

APPENDIXES

APPENDIX I

Responses to Additional Questions

NOTE: Responses to the following questions were not received at the time this hearing went to press.

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC, July 22, 2004.

Hon. GALE NORTON,
Secretary, Department of the Interior, Washington, DC.

DEAR SECRETARY NORTON: I would like to take this opportunity to thank you for sending your delegate, Assistant Secretary for Policy, Management and Budget, the Honorable Lynn Scarlett, to appear before the Senate Committee on Energy and Natural Resources on Tuesday, July 20, 2004, to testify on S. 2590, a bill to provide a conservation royalty from Outer Continental Shelf revenues to establish the Coastal Impact Assistance Program, to provide assistance to States under the Land and Water Conservation Fund Act of 1965, to ensure adequate funding for conserving and restoring wildlife, to assist local governments in improving local park and recreation systems, and for other purposes.

Enclosed herewith please find a list of questions which have been submitted for the record. If possible, I would like to have your responses to these questions by Tuesday, August 5, 2004.

Thank you in advance for your prompt consideration.

Sincerely,

PETE V. DOMENICI,
Chairman.

[Enclosures.]

QUESTIONS FROM SENATOR DOMENICI

Question 1. You testified that the Department of the Interior's cooperative conservation approach offers an alternative to land acquisition as the central way to achieve conservation of land. Please explain.

a. Has DOI been able to leverage its federal dollars with this cooperative conservation approach? How so?

b. How were these programs developed?

c. Can you give me some examples of projects?

Question 2. Your testimony highlights the Partners for Fish and Wildlife Program in which DOI has worked, from 2001 to 2003, with almost 9,000 landowners and communities to restore over 150,000 acres of wetlands and over 700,000 acres of prairies and grasslands. How does this program add value to your efforts?

Question 3. Do you see any impact on these types of collaborative programs if S. 2590 is enacted?

Question 4. S. 2590 provides a dedicated source of funding for a number of conservation projects. Has this Administration advanced conservation efforts in any other major way that goes beyond dollars?

Question 5. You testified that the Administration's Budget proposes to allocate funds to priority coastal conservation needs through existing discretionary programs. Please explain.

QUESTIONS FROM SENATOR CRAIG

The maintenance backlog continues to grow and is estimated to be over $23 billion. Although we don't know how much federal land this bill will add to the Federal estate, the sponsors have indicated that they plan on a Federal Land LWCF Acquisition provision to be added.

If like in past proposal we add $450 to $500 million of direct federal land acquisition spending for the 6 years in this bill, or the 20 years in its House of Representative companion bill, we are talking about $2.7 to $10 billion over the expected or potential life of the bill.

At the same time, in three of the last four years we have expended more than a billion on fire fighting and this year has the potential to set both acres burned records, as well as a record for costs.

Question 1. Ms. Scarlett, do you really believe that we can continue to acquire federal lands, when we do not have the funding needed to maintain these lands? Do you think it is responsible government to suggest that any additional federal land acquisition is reasonable or prudent.

Question 2. I would like you to provide for this Committee a list of the federal land acquisitions that have been made over the last ten years, how much it cost to acquire the lands, how much new maintenance back log resulted, how much additional fire pre-suppression, and suppression costs were added to your work load, and how many new employees had to be added to ensure these lands are managed as they should be. I would like that list to be provided on State by State basis.

Question 3. Somewhere in my memory, I recall that the original LWCF law indicated that only 15% of the LWCF funds would be expended in the Western States. Has that been the case over the last 20 years? Would you provide for the Committee a State by State and year by year accounting of funds expended under the LWCF program?

QUESTION FROM SENATOR THOMAS

Question 1. The AOA would provide a significant amount of funding toward land acquisition at a time when our country has a tremendous maintenance backlog in all public land management agencies. Adding more land to the Federal domain should not be a priority at this time. Can you explain the maintenance backlog in all bureaus at the Department of the Interior, how the National Park Service has been addressing the maintenance backlog in the last 3 years, and whether the Park Service methods for assessing and prioritizing maintenance requirements would work for other bureaus?

QUESTIONS FROM SENATOR BUNNING

Question 1. Kentucky received $1.3 million dollars in State allocation from the Land and Water Conservation Fund last year. How can we in the Commonwealth and in other States expect both State and Federal funding levels to change with this new legislation?

Question 2. This legislation calls for $1.425 billion in mandatory spending to fund these conservation programs. What are your concerns with this funding's exemption from the annual appropriations process?

AMERICANS FOR OUR HERITAGE AND RECREATION,
Washington, DC, August 4, 2004.

Hon. PETE DOMENICI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR SENATOR DOMENICI AND COMMITTEE MEMBERS: Thank you again for the opportunity to testify before the committee on July 20, 2004 to speak about the importance of the Land and Water Conservation Fund.

Attached is my response to the series of questions submitted for the record from the hearing. I am happy to provide any further information to you and the committee.

We hope that in the near future a markup of S. 2590 will be scheduled and that a final bill can be passed by the Senate.

Sincerely,

HENRY DIAMOND,
Chairman.

[Enclosures.]

QUESTIONS FROM SENATOR DOMENICI

Question 1. In your testimony, you note your organization's support for full funding for the LWCF program and UPARR. You also recommend dedicated funding for additional programs—namely the Historic Preservation Fund and Forest Legacy.

a. Why were some programs included and not others in S. 2590 as introduced?

b. Should all the programs included in H.R. 701 as reported by the Senate ENR Committee be included in S. 2590? If not, why not?

c. If the answer to (b) is "no", are there other programs your organization would like to see added to this legislation?

Answer. The Land and Water Conservation Fund and the Historic Preservation Fund are two programs that have traditionally been recognized by Congress to receive portions of receipts from the Outer Continental Shelf revenues. We would hope that any new trust fund created would recognize and honor the original programs tied to the OCS receipts and include them in the 21st century conservation trust fund.

We do not know why the Historic Preservation Fund, along with the other programs in H.R. 701, was not included in S. 2590.

Americans for our Heritage and Recreation did support the Senate Energy and Natural Resources Committee reported, H.R. 701, and the programs contained within the bill. We believe the Forest Legacy Program to preserve working forestlands and protect critical forest habitat through easements and we believe it should also be included in a permanent trust. The fragmentation of open space. The loss of critical habitat in many our states is a serious conservation concern, and the success of this program is proving that collaborative efforts between states, private land owners, and the federal government can make a huge difference.

AHR also supports the addition of the Historic Preservation Fund (HPF) to the final bill. Like the state-side of LWCF, the HPF provides matching grants to encourage private and non-federal investment in historic preservation efforts nationwide. The HPF is legislatively authorized to receive OCS revenues and complements the work of state, recreation and wildlife grants through conversation of historic and cultural treasures.

AHR is certainly happy to provide further testimony regarding other conservation programs that the Committee might consider adding to S. 2590.

Question 2. Some have accused this administration and past administrations and Congress of failing to properly manage and maintain the current federal estate. Given the current budget deficit that is projected to be with us for at least a few more years, do you believe it wise to mandate such significant spending on a relatively narrow range of programs?

Answer. The Land and Water Conservation Fund was created to preserve our outdoor recreation and natural heritage. It is as important to the quality of our American way of life; it reaches into all communities (98% of all counties in the U.S. have received LWCF funds); and it is an excellent financial investment, by returning a tangible asset for a depleting resource.

In the 1987 Report of the President's Commission on Americans Outdoors, the report noted:

> "Accelerating development of our remaining open spaces, wetlands, shorelines, historic sites, and countrysides, and deferred maintenance and care of our existing resources, are robbing future generations of the heritage which is their birthright."

Due to the lack of carrying through on earlier commitments to LWCF we find in 2004 the situation remains even more at risk. Furthermore, alarming medical reports are finding our population at health risk due to lack of physical activity. Preservation of our outdoor resources is a foundation for health; competes with economic vitality in our communities; stimulates tourism; enhances environmental quality especially in protecting our air and water; protects key habitat for our plants and wildlife; and enriches our life and culture. Few federal programs bring as much return as does the LWCF program.

We not only believe it is wise to invest and mandate the spending, we believe it is imperative. Further, we believe that the federal government should be doing more to manage and maintain our federal parks, forests, and refuges. We believe that Congress should use more appropriated dollars to address the maintenance backlog.

Question 3. You testified there is a $10 billion backlog in land acquisition projects that have been identified by the federal land agencies. Please explain what you mean by backlog.

a. Are these potential projects that the federal government would like to do but that have not received Congressional appropriations?

b. If Congress, as the result of this bill, were to provide the full $450 million per year for the Federal LWCF program, after 6 years the program will receive $2.7 billion—only a portion of this backlog. Is that where you would see this new funding going? To the backlog?

Answer. In March, 2001, the Natural Resources Policy, Environment and Natural Resources Policy Division of the Congressional Research Service, released a report on the *Land and Water Conservation Fund: Current Status and Issues.* The report by Jeffrey Zinn reports:

> "The Department of the Interior has estimated that the overall backlog for acquisitions that await funding exceeds $10 billion."

The backlog exists because Congress and the Administration has not provided enough money over the past 40 years of the annual appropriations to meet the need. Furthermore, the approximate $14 billion appropriated for the Fund has been unevenly allocated among the states and four federal land agencies with average appropriations during the past 20 years ranging between $200 million and $300 million. The states have seen even greater uncertainty in their funding, with a number of years zero funds being appropriated.

Land values have also dramatically changed during the past 40 years. The purchasing power of federal dollars in 2004 is much less than it was in 1965, when the Fund was in its inception, creating even more demand on the agencies backload. Today's dollar doesn't buy what it once did.

Congress has been the decision-maker during the past decade in deciding how much and where the federal dollars are spent. In FY 02 and FY 03 combined, 84% of LWCF appropriations went to the purchase/acquisition of inholdings as opposed to expansion and dedication of new areas. We have consistently encouraged the federal land agencies to use their current authority under the LWCF to seek land exchanges, transfers, cooperative agreements, and easements, and we would hope that the increased spending would allow the federal agencies to work to reduce the long waiting period of willing-sellers for the government to purchase their inholdings.

As noted during the hearing, history and natural events are not static. Since January, 1993, for the National Park Service alone, Congress has authorized the federal acquisition of 2.5 million acres of land at a cost of $338.8 million. Most of President Bush's FY 2005 budget request involves Congressionally supported authorizations. One such authorization and budget request involves protection of land to commemorate the Flight 93 Memorial site. The flexibility of the Fund to be used for purchasing inholdings, conservation easements, and new acquisitions is a key to its achievement.

AHR believes that if the $450 million of federal LWCF was guaranteed through this legislation, the federal agencies could do a much better job in stretching the federal dollar by collaborating with other federal agencies in exchange, transfers, use of easements, better appraisals and purchases, and greatly reducing the waiting period for the willing seller.

QUESTION FROM SENATOR CRAIG

Question 1. Mr. Diamond, In your testimony, you note your organization's support for full funding for the LWCF program, UPARR, and even recommend dedicated funding for additional programs—namely the Historic Preservation Fund and Forest Legacy.

I notice you don't mention your support for the proposed Coastal Impact Assistant program in S. 2590. The bill proposed to fund this program at $500 million per year.

Do you support funding for this effort or would you prefer the annual $500 million for coastal impact assistance be redirected elsewhere?

Answer. Americans for our Heritage and Recreation had been asked to testify regarding the federal Land and Water Conservation Fund, and our coalition organization has not taken a specific policy position on Title I of S. 2590 at this time.

As you know, the United State's Commission on Ocean Policy released its preliminary findings on April 20, 2004, AHR was especially pleased that the Commission sought to first use the offshore oil and gas royalties toward funding the Land and Water Conservation Fund (LWCF) and the Historic Preservation Fund, while applying the remaining royalties for coastal conservation purposes. We have commended the U.S. Commission on Ocean Policy for taking a leadership role in creating a long-term solution to help protect our nation's valuable shorelines and coastal beaches, while reaffirming the national need for more close-to-home parks, trails, hunting and fishing areas, as well as thousands of athletic and playing fields.

QUESTIONS FROM SENATOR BUNNING

Question 1. This legislation calls for $1.425 billion in mandatory spending to fund these conservation programs. Given our already tight spending constraints, why should these funds in particular be exempted from the annual appropriations process?

Answer. Americans value the outdoors, and for forty years, since 1964 passage of the Land and Water Conservation Fund, localities, states and members of Congress have supported the simple principle that a portion of the receipts from the sale of nonrenewable resources owned by Americans—oil and gas from the Outer Continental Shelf—is reinvested in permanent assets for future generations.

This legislation has been introduced to solve the fluctuation of the revenue stream getting from the Treasury to the states and federal land managers, as authorized.

From 1982 through 1999 the disbursement of Federal and American Indian mineral lease revenues shows 62.2% of all the revenues returned to the General Treasury, with 15% of the revenues being used for the Land and Water Conservation Fund and 2.3% for the Historic Preservation Fund. (Report by the U.S. Dept. of Interior, Mineral Management Service). Currently more than 50% of OCS receipts are already made available to Congress and the Administration for its annual budget and appropriations process to be used for the government's discretionary spending. We believe that the fundamental principle that all Americans get return on their diminishing natural resources is a sound one supported by the American public. It is not an either/or situation.

Nearly all of the federal acquisition projects appropriated during the past decade have been specifically earmarked by the Interior Appropriations Committee, at the specific request of Members of Congress. We do not have an objection to establishing a process for designation of expenditure of the funds that includes the Appropriations Committee in consultation with federal land managers through the Administration's annual budget request, but there must be a guarantee that the funds be spent for the purposes intended in LWCF and not be reprogrammed or returned to the U.S. Treasury unused.

Question 2. This legislation will provide funding for many multi-purposed and multi-jurisdictional programs. How can we ensure that there will be collaboration and communication among private, local, State, and Federal interests?

Answer. AHR appreciates your question because we believe that best practices and efforts in protecting our natural environment happens when all parties, public and private, finds ways to work together. Our public lands are national treasures of enormous value, and serve as economic assets for our towns, cities and states where the federal lands are located.

Many of the current statutes governing public land management require public processes to ensure that collaboration occurs at all government levels. For example, the state-side of the Land and Water Conservation Fund requires each state to produce a state-wide needs assessment that includes public review and comment, and is then reviewed and approved at the national level by the National Park Service. Most, if not all, federal acquisition projects receive review by the Appropriations Committee, which includes public hearings, letters of support from local communities, governors, and the Members of Congress that represent the land under consideration.

AHR to build on the strong support and to encourage strong partnerships with the private sector, profit and non-profit, and with other federal, state, and local agencies.

Question 3. You have mentioned that these programs have had good experiences working with sports fishermen and hunters. Could you elaborate on how sportsmen in Kentucky, for example, would benefit from this legislation?

Answer. The Land and Water Conservation fund was created to provide American families with increased opportunities for outdoor recreation at national, state and local sites. More than 600 hunting and nature areas have been funded by LWCF during its 40 year history. Another 10,000 swimming and boating facilities have been provided, along with 5,000 campgrounds and overnight recreation areas.

Kentucky has received through the state-side of LWCF $49,200,286.81 (through FY 2000). Attached is a chart,* provided to AHR by the National Park Service, that shows all Projects that have been funded for fishing facilities, and two projects related to hunting for total $1,601,974.20.

A recent Centers for Disease Control (CDC) report shows that 55% of American adults don't move enough to meet the minimum recommendation of 30 minutes of moderate-intensity physical activity on most days of the week. Kentucky was ranked

*The chart has been retained in committee files.

as the least active state, with only 29% of its residents met the minimum physical activity requirements.

Funding S. 2590 will provide a more reliable stream of funding for state wildlife, local parks, and recreation centers to plan, implement and provide the citizens of Kentucky with better outdoor recreation opportunities whether to hunt and fish, hike or bike, or enjoy the vast richness of the state's wildlife. Increased wildlife funding will enable state fish and game employees to protect important wildlife species habitat through cooperative agreements with private landowners.

LOUISIANA DEPARTMENT OF NATURAL RESOURCES,
Baton Rouge, LA, August 16, 2004.

Hon. PETE V. DOMENICI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR SENATOR DOMENICI: Thank you for the opportunity to testify before the Committee on Energy and Natural Resources on Tuesday, July 20, 2004. I appreciate your inquiry and the ability to respond to the questions regarding Louisiana's coastal wetland restoration program and its relation to Outer Continental Shelf revenues. Attached, you will find responses to the questions posed on July 22, 2004. I hope you find the responses informative and complete. However, if further clarification or information is needed, please do not hesitate to contact me at (225) 342-2710.

As stated in my testimony, the S. 2590 bill is instrumental in Louisiana's effort to save our rapidly disappearing wetlands. Since 30 percent of all oil and gas consumed in the country is either produced in or travels through our coastal wetlands, the reinvestment of OCS revenues in our restoration efforts is both logical and justified. I appreciate any support you could lend toward the passage of this very important bill.

Very truly yours,

SCOTT A. ANGELLE,
Secretary.

[Enclosure.]

QUESTIONS FROM SENATOR DOMENICI

Question 1. Your testimony cites the leveeing of the Mississippi and impacts from OCS oil and gas exploration and production as two reasons Louisiana is losing 25 square miles of wetlands each year.

Can you tell the Committee how much wetlands loss is attributable to each of those suggested impacts?

Answer. Because these factors overlap in their areas of influence, it is impossible to distinguish between the relative impacts of each on Louisiana's current land loss crisis.

LEVEES

The most significant levees in South Louisiana are a system of dikes that were brought to modern grades as part of the Mississippi River and Tributaries Project (MR&T), authorized in 1928. This project had two major goals, to enhance navigation and reduce river flooding. Levees severed the river from its flood plain and tightly constricted the lower river (below Vidalia), precluding all overbank flooding, on which deltaic wetlands depend. Levees also result in the annual loss to the Louisiana coast of 200 million tons of vital sediment, which flows past New Orleans and is lost in the Gulf of Mexico.

In addition to levees, several natural distributaries, including the Atchafalaya River, Bayou Manchac and Bayou Lafourche, were dammed or controlled, further limiting the river's influence and decreasing ecosystem sustainability. These distributaries once acted like arteries carrying vital river water, sediment, and nutrients to the large portions of the delta. The MR&T levee system also includes the Old River Control structure, which has been used to prevent the lower river from changing course thereby limiting the building of new land in the Atchafalaya delta.

OCS OIL AND GAS EXPLORATION AND PRODUCTION

Oil and gas production in coastal Louisiana began with a massive exploration and development program in the forties, extending through the seventies. Most of this activity took place in coastal wetlands, and was especially concentrated around salt domes that had been formed by the weight of the sediments that created the Mis-

sissippi River delta. Onshore development impacts included the direct "footprint" of a massive network of canals for oil and gas development and transportation and the indirect hydrologic impacts that result from them. Brine discharges from produced waters and marsh buggy tracks also caused enormous permanent damage to wetlands. Onshore production peaked in 1970 and steadily moved offshore, first into Louisiana waters and then into federal waters greater than three miles off our coast.

In addition to disrupting the natural hydrology of the affected area, oil and gas canals also provide avenues for higher salinity water to move into previously freshwater marshes, thereby compounding the saltwater intrusion problems associated with levees.

As OCS production increased and moved into deeper water, the energy service industry needed deeper channels to accommodate larger and deeper boats. These artificial channels, such as the Houma Navigation Canal, created conduits for storm surge flooding to move miles inland and caused major wetland impacts from saltwater intrusion and erosion from boat wakes. These damages and risks increase steadily.

Servicing the OCS activity requires specialized port facilities that are accessible to larger, deeper-draft supply ships that can safely and economically cover the greater distances. These and other technological changes have spurred both public and private investments to upgrade the previously existing port infrastructure. Notably, Port Fourchon was constructed expressly to serve the deepwater industry. The thousands of people who work on offshore structures served by Port Fourchon as well as the stream of trucks bringing supplies to, and hauling waste from, this multimillion dollar facility must traverse 100 miles of an often flooded two-lane state highway, much of it through marsh. The continued maintenance of this elaborate pipeline network and the port infrastructure within and at the expense of Louisiana's fragile wetlands will therefore be required to support the OCS industry. At the same time, it can be expected that state taxpayers will be incurring significant additional costs for projects to stop the catastrophic loss of wetlands exacerbated by oil and gas activities over many years, both onshore and offshore. The oil and gas comes across the Louisiana coast through a pipeline system that is increasingly prone to damage from subsidence and erosion of the wetlands that surround it. New pipelines that bring OCS oil and natural gas onshore will connect to an existing collection and distribution network that has developed within the marshes of the Mississippi River deltaic plain.

Question 1a. Also, under Section 8(g) of the OCS Lands Act Louisiana has received $969 Million since 1986. How much of the revenue Louisiana receives from Federal oil and gas activities is spent on wetlands mitigation?

Answer. Although coastal protection projects were constructed as early as 1981, the magnitude of Louisiana's land loss problem and the cost of the solutions were not fully understood even as recently as 1986. However, the State was acutely aware of the need to increase funding to other socially important issues, such as education. Therefore, when section 8(g) was established, the State decided to dedicate this money to the impoverished education system in Louisiana by depositing these revenues into an Education Trust Fund.

Question 2. How much does the State of Louisiana realize in property, payroll, and corporate income from OCS oil and gas exploration and production?

Answer. The economic impact of OCS activities in Louisiana is hard to pinpoint. The few companies operating solely in Louisiana, who are active in the OCS, are also active in state offshore and onshore regions. The majority of the major companies who had corporate offices or drilling and exploration headquarters in Louisiana in the 1990's are now relocated to Houston, Texas. (Chevron-Texaco, Exxon Mobile, Ocean-Meridian, Unocal and others).

PROPERTY TAXES

Those corporations that do remain are a few large independent drilling and exploration companies. Most of their "property" is equipment and material that are not based on shore or are used in areas that are not taxable by state property or ad valorem taxes. The actual figures are unavailable, but, given the nature of the business in general, are in a sharp decline.

PAYROLL

According to a recent MMS state paper on Louisiana, "MMS and Louisiana—Summer 2003," "An estimated 40,000 jobs directly depend on the offshore program—about 60% of them are in Louisiana. As of 2001, the average annual salary for these jobs was $58,000. These wages generate about $155 million per year in state and

local tax revenues . . . Thus although OCS activities impose costs in Louisiana for roads, schools and other support activities for workers and families, the revenue from the OCS provides substantial benefits."

Although the MMS study does indicate a benefit, it unfortunately provides no quantifiable cost-benefit analysis. Our contention has always been that, yes, there are benefits to Louisiana, but many of these benefits are not solely to Louisiana but the United States in general. To a large extent the infrastructure burdens placed on Louisiana by the OCS are practically unrecoverable from a taxation perspective since a huge portion of the workers and most of the companies operating in the OCS are beyond the state's taxing authority.

Although they work in Federal OCS area, many OCS workers live and pay taxes in areas far remote from Louisiana's taxing authority. Past efforts to find out where OCS workers live revealed that huge numbers (over 60% by some estimates) commute from Texas, Arkansas, Mississippi, Alabama, Georgia, Tennessee, Florida, and other states, as well as foreign countries such as Venezuela and Mexico. The 7 day on, 7 day off, 14 day on, 14 day off and similar schedules for offshore workers facilitate long distance commuting. Workers mostly pay taxes where they live, buy homes and cars, shop, etc. For large numbers of OCS workers, that is not Louisiana.

Additionally, the production, equipment, property, profits, etc. of OCS companies and operations are in federal waters, beyond the taxing jurisdiction of the state of Louisiana, other than the incomes of employees and companies headquartered in Louisiana.

Question 3. How much does the State of Louisiana realize in income from oil and gas exploration and production activities on State lands? How much of that income is devoted to wetlands reclamation and mitigation?

Answer. As shown in the table below, Louisiana realizes a total of $802.48 million per year from oil and gas production within the state boundary. Of this, $25 million is appropriated directly to a constitutionally protected trust fund for restoration activities.

FISCAL YEAR 2003/04 OIL AND GAS REVENUE

	Total State ($ million)	State Lands & Water Bottoms
Royalty	409.39	409.39
Severance[1]	439.60	22.51
Bonuses	23.79	23.79
Rentals	11.67	11.67
Total Revenue	884.45	467.36
Severance Parish fund	41.03	2.10
Royalty Parish	40.94	40.94
State Net Revenue	802.48	424.32
Wetland Fund	25.00	13.22

[1] DNR estimated number based on 10 months of actual data.

Question 4. In your testimony, you note that since the enactment of the Coastal Wetlands Planning Protection and Restoration Act in 1990, more than 100 restoration projects have been initiated or completed.

How much has Louisiana received under this Act to date?

Answer. Since 1992, Louisiana has received approximately $712 million from the Coastal Wetlands Planning Protection and Restoration Act (CWPPRA). The complexity of this restoration effort is unprecedented and project construction has been a learning process for scientists nationwide. Through CWPPRA, we have learned what types of restoration features are most ecologically beneficial and cost-effective. We have also learned that small, site-specific projects are effective but at a very localized scale. While this scale is useful, the causes of land loss are basin-scale or greater. Thus, the strategies outlined in the Coast 2050 plan (see response to Question #5) must be implemented in order to provide an ecosystem-level, process-based approach to restoration of coastal Louisiana. Full implementation of the Coast 2050 plan has been estimated to cost $14 billion.

Question 5. Your testimony also notes that the state's "Coast 2050 Plan" has served as a blueprint to rehabilitate the Louisiana coastline. Please describe this

program in more detail. How has this Program been funded? How much funding has the program received to date?

Answer. The Coast 2050 plan, completed in 1998, is a technically sound, science-based conceptual plan, intended to achieve the overarching goal of ". . . sustain(ing) a coastal ecosystem that supports and protects the environment, economy, and culture of southern Louisiana and that contributes greatly to the economy and well-being of the Nation." Restoration strategies outlined in this plan were based upon elements of previous restoration efforts along with initiatives from private citizens, local governments, State and Federal agency personnel, and the scientific community. Additionally, new quantitative techniques for projecting future land loss patterns, a coastwide assessment of subsidence rates and patterns, and a comprehensive consideration of changes in fish and wildlife populations were incorporated. The three strategic objectives of Coast 2050 are: (1) to sustain a coastal ecosystem with the essential functions and values of the natural ecosystem, (2) to restore the ecosystem to the highest practicable acreage of productive and diverse wetlands, and (3) to accomplish this restoration through an integrated program that has multiple use benefits.

Although Coast 2050 established a conceptual framework for restoring Louisiana's coast, it contained no mechanism for plan implementation or funding acquisition. Coast 2050 focused on a process-based, ecosystem scale that would require construction of projects generally larger than had been previously implemented. Since completion, Coast 2050 has served as the guiding document for all restoration programs, including CWPPRA and the Louisiana Coastal Area (LCA) Study. If funded, the LCA plan will be the first big step towards implementing the Coast 2050 plan.

Question 6. Your testimony further notes the Louisiana Coastal Area plan, a partnership the state recently created with the U.S. Army Corps of Engineers. According to your testimony, this plan addresses the critical near-term needs during the next five to ten years and creates a Science and Technology Program. Please describe this program in more detail. How has this program been funded? What are the projected costs?

Answer. The Louisiana Coastal Area plan (LCA plan) is currently under consideration for Water Resources Development Act (WRDA) 2004 authorization. It is one avenue we are pursuing in order to implement the Coast 2050 plan (see response to question #5, above). The cost of the LCA near-term plan is estimated to be $1,961,380,000 over a 10-year period, with $1,171,110,000 of that total being requested for WRDA 2004 authorization. Of this portion, $100,000,000 would be dedicated to the Science & Technology (S&T) program, and an additional $175,000,000 would be used for an associated Demonstration Project program.

The overall purposes of the Science and Technology (S&T) program are to provide the necessary planning and predictive tools for efficient program implementation, to facilitate resolution of scientific and technological uncertainties, and to integrate advancing science and technology into planning, design, and operation of future projects and program components. All activities of the S&T program would be coordinated through an S&T Office. The office would provide a physical location and a single point of contact for State and Federal agencies, universities, and private sector engineering firms and individuals with interests in science and technology related to the Louisiana coastal zone. The S&T office will coordinate scientific and engineering research and analytical tool development in support of LCA objectives. Demonstration projects are another tool that will be used by the S&T office to help advance the LCA program. Through focused design and monitoring of such projects, critical areas of uncertainty may be resolved, leading to more cost-effective project construction and operation in the future.

The LCA plan builds upon the best available science and engineering knowledge, which has resulted in part from the restoration activities that have been ongoing in coastal Louisiana for the past several decades. The construction of over 400 projects of varying scales since 1986 has taught managers what types of projects are most cost-effective, achieve the intended ecological benefits, and are most appropriate for a specific location. However, uncertainty is inherent in ecosystems, and is therefore unavoidable when managing large-scale ecological systems. Acknowledging and identifying these uncertainties is critical to the advancement of any large-scale restoration program. Additionally, large-scale restoration programs may last for decades, and a mechanism is needed to ensure that the best available science and engineering knowledge continue to be incorporated into planning, design, and operation of components of the restoration program.

As the LCA Program advances, uncertainty will be reduced through research and demonstration projects directed by S&T Office. Through a process called adaptive management, information resulting from demonstration projects as well as other research directed by the S&T office may be incorporated into future planning, design,

and operation of individual projects within the LCA restoration program. Additionally, adaptive management allows for large-scale ecosystem restoration to proceed even as researchers work to reduce those uncertainties. Therefore, the S&T program and demonstration projects are essential pieces of the adaptive management of the LCA program.

By instituting and funding a formal Science & Technology program we can recruit and maintain state-of-the-art expertise with appropriate support for modeling, monitoring and advanced engineering. Recognizing the critical role of applied coastal science for restoration, the State of Louisiana has already invested in a coastal R&D program currently housed in the Governor's Office of Coastal Activities and directed by a senior coastal scientist. This program is currently operating on state funds at close to a $1 million/year level.

QUESTIONS FROM SENATOR BUNNING

Question 1. This legislation calls for $1.425 billion in mandatory spending to fund these conservation programs. Given our already tight spending constraints, why should these funds in particular be exempted from the annual appropriations process?

Answer. Louisiana has already lost 1900 square miles of land (an area the size of Delaware), and continues to lose coastal wetlands at a rate of 24 square miles per year. If restoration is not implemented quickly, Louisiana could lose another 500 square miles by the year 2050.

Saving these wetlands is not only important to the state of Louisiana, but to the Nation as a whole. Louisiana is nationally important in its contribution to energy supply and security. Nearly 30% of all oil and gas consumed in the United States either is produced in or travels through Louisiana. When oil and gas production from the Outer Continental Shelf (OCS) is factored in, Louisiana ranks first in the Nation in crude oil production and second in the Nation in natural gas production. Our wetlands provide protection for over 40,000 of miles of pipelines and major components of the infrastructure and services to support the OCS activities. In addition, these coastal wetlands protect an internationally significant complex of shallow and deep-draft ports from the destructive forces of storm-driven waves and tides. This complex handles 21 percent of the Nation's waterborne commerce, more than any other port in the Nation, and has the most active segment of the Nation's Gulf Intracoastal Waterway (GIWW) (Waterborne Commerce Statistics Center (WCSC), 2002). Coastal Louisiana's environmental services include commercial fishing landings at a dockside value of $305 million in 2002, and account for approximately 30 percent of the total catch by weight in the lower 48 States (USDOC 2002).

Additionally, the proposed restoration activities may also contribute to reduction in nutrient loading to the continental shelf that that is needed in order to reduce the hypoxic zone that develops each year off the coast of Louisiana. Currently, managers are looking to the farmers upriver in the Mississippi River basin to reduce nutrient runoff from agricultural fields. While this also will be needed to address the problem fully, diverting Mississippi River water through Louisiana's coastal wetlands before it reaches the open Gulf of Mexico is a crucial component of the overall effort to reduce the hypoxia problem.

Historically, royalties from OCS oil and gas activities have bypassed Louisiana and gone directly to the Federal government. In 2002, Louisiana only received 0.30% of the OCS revenue generated Nationwide. That is less that one-half of one percent of revenue returned to the state that leads the country in OCS crude oil production. These monies are crucial for the restoration of our coastline which contributes so greatly to the energy security and environmental sustainability of the Nation.

Question 2. This legislation will provide funding for many multi purpose and multi jurisdictional programs. How can we ensure that there will be collaboration and communication among private, local, State, and Federal interests?

Answer. Louisiana has a proven record of collaborative relationships among private, local, state, and federal interests. Through a variety of avenues, the state encourages communication between all who live and work in the coastal zone. Louisiana Governor Kathleen Blanco has elevated coastal restoration to the highest priority of state issues with which she will deal during the next four years. The Governor's Executive Assistant for Coastal Activities chairs a task force of all State resource agencies which authorizes all restoration program and project funding.

The Governor's Advisory Commission on Coastal Restoration and Conservation was established in 2002 to represent the principal stakeholders (business and industry, commercial and recreational fishing, local government, NGO's and the national environmental community, etc.). Its purpose is to advise the Governor and state leg-

islature on the overall status and direction of coastal restoration and to foster coordination among federal, state, and local agencies and the public.

Louisiana's Coastal Zone Management Program involves a partnership between Louisiana's Department of Natural Resources (LDNR), NOAA, and local parish governments. A Parish Coastal Wetlands Restoration Program is implemented through local governments throughout Louisiana's 20 coastal parishes. LDNR coordinates this program, which primarily involves construction of low-cost shoreline protection structures.

Finally, Louisiana has three very good examples of effective collaboration and communication among all interests in the coastal zone with regard to the restoration program.

- The Coastal Impact Assistance Program (CIAP) provided a one-time appropriation of $150 million to assist states in mitigating impacts from Outer Continental Shelf oil and gas production. Louisiana was one of seven coastal states eligible to receive funds under CLAP. In 2001, Louisiana received $26.4 million that was utilized for project construction, monitoring, erosion control, or control of invasive species. Before coastal states and coastal political subdivisions received funding, the state was required to submit a CIAP plan detailing how funds will be spent. In Louisiana, the LDNR was responsible for creating this plan utilizing input from private, local, and state interests.
- Significant federal involvement in coastal restoration began in 1990 with the passage of the Coastal Wetlands Planning Protection and Restoration Act (CWPPRA). This law allocated federal funding for the planning, identification, and implementation of priority coastal restoration projects. The CWPPRA program is guided and directed by the Coastal Wetlands Conservation and Restoration Task Force comprising representatives from 5 federal agencies (USACE, NOAA/NMFS, NRCS, USFWS, and USEPA) and the State of Louisiana, represented by the Governor's Executive Assistant for Coastal Activities. This group makes final decisions concerning issues, policies, and procedures necessary to execute the CWPPRA program and its projects. Considerable collaboration and communication on a federal level has been demonstrated over the past 14 years through the construction of 68 CWPPRA projects.
- A clear example of Federal/State/Local cooperation in Louisiana came in 1997-1998 when federal, state and local governments collaborated to create the Coast 2050 plan. This restoration plan outlines the general ecosystem strategies for restoring coastal Louisiana. It is based upon elements of previous restoration efforts along with new initiatives from citizens, local governments, state and federal agencies, and the scientific community. The level of citizen support for this approach to restoration planning in coastal Louisiana was demonstrated by the fact that Parish Councils and Police Juries of all 20 coastal parishes passed resolutions in support of the Coast 2050 Plan.

Question 3. You have mentioned that these programs have had good experiences working with sports fishermen and hunters. Could you elaborate on how sportsmen in Kentucky, for example, would benefit from this legislation?

Answer. The connection to fishermen and hunters is evident in Louisiana's nickname, the "Sportsman's Paradise". In large part, this Sportsman's Paradise is Louisiana's coastal wetlands and the fish and wildlife they support. In Louisiana, as in Kentucky and other portions of the Mississippi River drainage basin, duck hunting is a popular form of outdoor recreation. The ducks hunted in these states breed during the spring and summer in the northern U.S. and Canada. Many ducks travel the Mississippi flyway from their breeding grounds to winter in the Mississippi alluvial flood plain. Ducks that use this flyway funnel over many states, including Kentucky, while traveling to their wintering habitat. Louisiana wetlands provide the largest and most important wintering habitat for those birds using the Mississippi flyway. Since quality of winter habitat improves breeding success of ducks, monies used to restore Louisiana's wetlands can directly affect the numbers of ducks available for harvest in other states along the flyway.

In addition to migrating waterfowl, Louisiana also provides essential stop over and wintering habitat for neotropical migratory song birds. These long distance migrants tend to be more vulnerable to habitat loss and fragmentation than resident birds or short distance migrants. Therefore, maintaining their habitat in Louisiana is of considerable importance to the preservation of these fascinating and ecologically important birds.

Louisiana also provides opportunities to sports fishermen from Kentucky and around the country. For example, bass fishing continues to grow nationally. Because of the vast amount of suitable habitat, the largest bass tournament in the country, the Bassmasters Classic, has taken place in New Orleans in 1999, 2001, and 2003.

This tournament is nationally televised and is not only of tremendous interest to Louisianans, but also to the rest of the country.

RESPONSES OF JOHN BAUGHMAN TO QUESTIONS FROM SENATOR DOMENICI

Question 1a. In your testimony, you note that you have testified several times before Congress on past efforts to enact legislation to dedicate OCS revenues to conservation programs.

Why has it been so difficult for Congress to reach consensus on this issue?

Answer. While previous legislative efforts to dedicate OCS revenues to conservation passed the House in 2000 by a wide margin, the bill was never scheduled for floor attention in the Senate. The difficulty centered principally around the provision to dedicate statutorily these funds to conservation, thus removing these expenditures from discretionary appropriations oversight. Less so, property rights concerns about additional federal land acquisition also impeded passage.

Question 1b. How does S. 2590 differ from previous Congressional attempts?

Answer. S. 2590 is different in that it is a smaller bill in both portfolio and price tag. Significantly, federal-side Land and Water Conservation Fund is not in the bill as introduced.

Question 2. Your testimony notes that in 1996, over 62 million American participated in wildlife viewing with an economic impact of nearly $30 billion. Can you share some more recent figures with the Committee?

Answer. 80 Million Americans participated in wildlife viewing in 2001—an economic impact of nearly $108 Billion.

Question 3. You propose at least 2 amendments to S. 2590 as introduced. Please explain what these proposed amendments are and why you feel they are necessary.

Answer. The 2 amendments, as described below, related to eligibility of projects for funding under the Wildlife Conservation and Restoration account in Pittman-Robertson. Both amendments would allow the State fish and wildlife agency further discretion over fund expenditures. Our testimony details further the need for these.

- Currently, the WCRA caps expenditures for wildlife-associated recreation at 10%. We are asking that expenditures for that be at the discretion of the state fish and wildlife agency according to it's needs, and that the statutory cap be removed.
- Currently, the Pittman-Robertson law precludes spending any funds on wildlife law enforcement. We are requesting that, at the discretion of the state fish and wildlife agency, up to 10% of WCRA funds be eligible for law enforcement use.

RESPONSES OF JOHN BAUGHMAN TO QUESTIONS FROM SENATOR BUNNING

Question 1. This legislation calls for $1.425 billion in mandatory spending to fund these conservation programs. Given our already tight spending constraints, why should these funds in particular be exempted from the annual appropriations process?

Answer. Because the history of funding for natural resources conservation in the United States under discretionary appropriations for the last 30 years continues to decline. With increasing human populations, pressure on land and habitat, and human growth and development in sensitive habitats as our coastal areas, we need long-term and assured funding to ensure that population growth is consistent with natural resource conservation. The vagaries and uncertainties of discretionary appropriations simply cannot address those challenges.

Question 2. This legislation will provide funding for many multi-purposed and multi-jurisdictional programs. How can we ensure that there will be collaboration and communication among private, local, state, and federal interests?

Answer. The wildlife title authorizing language, currently in statute as part of the Pittman-Robertson law, requires cooperation among governments and the opportunity for public participation.

Question 3. You have mentioned that these programs have had good experiences working with sports fishermen and hunters. Could you elaborate on how sportsmen in Kentucky, for example, would benefit from this legislation?

Answer. Just as the so-called non-game species have benefited from game and sport fish conservation programs under Pittman-Robertson and Dingell-Johnson/Wallop-Breaux, habitat conservation programs for non-game species will also benefit game species found in these habitats. Similarly, increased access to lands for all wildlife associated recreation uses will enhance hunting and fishing opportunities for sportsmen and sportswomen.

RESPONSES OF DEFENDERS OF PROPERTY RIGHTS TO QUESTIONS FROM SENATOR DOMENICI

Question 1. Ms. Marzulla, I gather from your written testimony that your organization is fearful not only of the federal government having more money available to purchase private property and add it to the federal estate, but also that states and localities may pursue acquisition of private property more aggressively. Can you elaborate on those concerns for the Committee?

Answer. Documenting more than 10,000 cases of eminent domain abuse by local and state governments, the Hoover Institution has recounted the level of abuse that takes place each day by local government:

> The typical person lacks the resources, knowledge, and skills to take on the local leviathan that our local governments have become. The odds are further stacked by the ability of politicians to use their own citizens' dollars against them. Except for the rare situation in which local media take an interest, individuals usually stand no chance against the very officials that in our federalist system are supposed to protect our rights.[1]

The U.S. Supreme Court has repeatedly stepped in to curtail local government's extortionate schemes, which falsely claim to be "voluntary" arrangements to acquire private land.[2]

State and local governments, through their police powers, have come to exercise just as much damage to the civil rights of American citizens as the federal government. Congress should consider the extent of state and local governments' violations of private property rights before it invests these institutions with additional power, and additional resources to enable the use of that power.

Question 2. Ms. Marzulla, you note in your testimony that you are skeptical of S. 2590's requirement that private property can only be purchased from a "willing seller." I think what I am hearing is that when the government, either federal, state or local, is the only "willing buyer,' then the "willing seller" is at a significant disadvantage. Please comment.

Answer. S. 2590's provision that privately owned land will be purchased only from "willing sellers" does not adequately protect private landowners because the government always holds in reserve the paramount power of eminent domain that allows it to take any home, farm, business or factory it pleases.

The government often harasses citizens into selling their property. The American Land Rights Association has reported finding significant abuse and harassment on the part of National Park Service agents once sellers become hostile to initial offers for purchase from the Park Service.[3] These agents have searched out individuals who are in financial need because of personal loss and by purchasing certain properties in a community, they have "checker boarded" entire communities.

The phenomenon known as "condemnation blight" illustrates how the government rarely purchases from a "willing seller," since private property owners often have no choice but to sell to the government. Condemnation blight occurs when property values plummet due to the threat of government condemnation or by delays between the time the government announces a proposed acquisition and the time the actual condemnation occurs. In the City of Norfolk, Virginia, for instance, the Norfolk Redevelopment and Housing Authority targeted 90 acres for condemnation in East Ocean View in an effort to develop valuable waterfront property. When NRHA identified the 90-acre site in 1993, it did not have the funds to purchase the property in two to three years as announced, and years later, the city still had not purchased most of the targeted property.

According to one commentator:

> The city has, in effect, put a dome over East Ocean View, imposing conditions that prohibit private property owners from acting in their own best interests.

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[1] *The Monster in Our Backyard*, Hoover Digest No. 3, 191, 197 (2004).

[2] *See, e.g., Nollan v. California Coastal Comm'n*, 483 U.S. 825, 833 n.2 (1987) ("And thus the announcement that the application for (or granting of) the permit will entail the yielding of a property interest cannot be regarded as establishing the voluntary "exchange . . . ."); *Dolan v. City of Tigard*, 512 U.S. 374, 385 (1994) ("Second, the conditions imposed were not simply a limitation on the use petitioner might make of her own parcel, but a requirement that she deed portions of the property to the city. In Nollan, *supra*, we held that governmental authority to exact such a condition was circumscribed by the Fifth and Fourteenth Amendments.").

[3] American Land Rights Association, *Willing Seller—a Myth*, Hearing on Land Acquisition and Maintenance in the National Parks, Testimony Before the Resources Subcommittee on National Parks, Recreation and Public Lands United States House of Representatives (September 27, 2003), *available at http://www.landrights.org/ubbs/ultimatebb.cgi?ubb=get_topic&f=8&t=000037*.

> For these property owners in the path of condemnation, there is no market to sell their property because buyers will not willingly purchase property in a neighborhood targeted for demolition. The only potential buyer is NRHA, which puts NRHA in a uniquely advantageous bargaining position. Banks make it difficult, if not impossible, to refinance mortgage loans. Landlords find it almost impossible to attract quality tenants to a neighborhood featuring boarded-up buildings, broken windows, and trashed buildings, all awaiting demolition.[4]

In Richmond, Virginia, a similar story unfolded when the Richmond Redevelopment Agency had repeatedly advised a landowner that it would acquire a property as part of a redevelopment zone, but thirteen years after the property was initially included in the zone, it decided to abandon the acquisition. The property owner sued in federal court and won, with the Ninth Circuit Court of Appeals affirming on appeal that the government's actions had so interfered with the landowner's property rights, it had to pay compensation for the land taken.[5]

Question 3. Ms. Marzulla, do you believe that this legislation can be amended so as to adequately protect private property owners from having their land taken without fair compensation?

Answer. Yes, the bill could incorporate a requirement guaranteeing no net gain of public land. That is, if a government wishes to purchase land from a seller under the Americans Outdoors Act, it must subsequently sell a different piece of public property to a private buyer. With this guarantee in place, the bill would at least place an obstacle in front of the gradual encroachment of private property by the government.

The bill should also set explicit limits on the amount and types of property to be purchased, the tactics available to government actors in those purchases, and internal checks on abuses to guard against condemnation blight and ensure that these sales are truly voluntary. There should be a limit set on the amount of time that can elapse between announced sales of private property and acquisition.

Again, it should be stressed that these changes would be relatively minor in scope, and that the heart of the bill's purpose—to convert vast amounts of private property into publicly owned land—is contrary to Defenders' mission. We see little value in amending the bill's structure in minor ways while disapproving of its larger consequences on private ownership.

Question 4. In his testimony, Mr. Diamond notes that increased conservation-related tourism, such as bird-watching, will lead to increased property values. How do you respond?

Answer. Certainly conservation and recreational activities do increase the value of privately owned land in some circumstances, but not always.

For example, in one case seeking just compensation in the U.S. Court of Federal Claims for a taking of property located in Reno, Nevada, the government required property owners to set aside 200 acres of their land as a conservation (wetland) area. According to the broker who was tasked with marketing the remainder of the land next to the conservation areas, these areas reduced the value of the private land. At trial for damages, he testified that, "As a matter of fact, we see [the conservation areas] as a real danger. You'll notice that a lot of the wetlands have to be left in their existing state. They had wells, holes that were dug by the ranchers. As a matter of fact, we see it as dangerous to children, and for residents that don't want to enter them. And we cannot touch them to manicure them or do any work . . . We did not advertise that as an amenity."[6]

RESPONSES OF DEFENDERS OF PROPERTY RIGHTS TO QUESTIONS FROM SENATOR CRAIG

Question 1. You imply during your testimony that the true answer to many of the problems with our public lands is not more money, but spending our money more wisely. Can you give the Committee a few examples of what you are seeing on the ground?

Answer. Yes. For instance, in the Pacific Northwest, the federal designation of 6.9 million acres of privately owned land as federal habitat for the northern spotted owl led to what are commonly known as "green ghettos." The University of Oregon re-

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[4] *Condemnation Rights in Ocean View, The Virginia-Pilot* (May 26, 1998), *available at http://www.vaemdomain.com/essays/oceanview.html.*

[5] *See Richmond Elks Hall Ass'n v. Richmond Redevelopment Agency*, 561 F.2d 1327 (9th Cir. 1997) ("When a public entity acting in furtherance of a public project directly and substantially interferes with property rights and thereby significantly impairs the value of the property, the result is a taking in the constitutional sense and compensation must be paid.").

[6] Trial Tr. at 355, *Norman v. United States*, No. 95-667L (Fed. Cl. Dec. 2, 2003).

ported that local taxes were increased by tenfold in five Oregon counties to replace the income generated from lost timber sales.[7] The resulting loss of jobs led to marked increases in affected communities in unemployment, alcoholism, suicide, battered spouses, and troubled children.[8]

According to the Property and Environment Research Center (PERC), public land managers often fail because they have to kowtow to politician's wishes rather than managing the land properly, as many private parks are able to do. PERC states that "[o]n-the-ground federal land managers have little authority to care for the more than 400 million acres in their charge. These trained professionals, supported by biologists, botanists, forest ecologists, and a host of other scientific experts, are often taking orders from Washington politicians who know nothing about forest health."[9] PERC further notes the Forest Service's mismanagement:

> Year after year, the General Accounting Office has criticized the Forest Service for the severity of its accounting and reporting deficiencies. One particularly glaring error arose in fiscal year 1995 when the Forest Service could not account for $215 million of its $3.4 billion operating budget. The GAO reports that the agency is "unable to reliably keep track of billions of dollars of major assets, cannot accurately allocate revenues and costs to its programs, and made significant errors in preparing its financial statements."[10]

PERC lauds the private management of the Clinch Valley forest in Virginia:

> [T]he Clinch Valley Forest Bank, the brainchild of the Nature Conservancy, deserves mention. The Clinch River Valley in southwest Virginia is one of the biologically richest watersheds in the country. Much of the land is owned by small private landowners, who may rely on the timber for income or to meet sudden cash needs such as medical emergencies and school tuition. The Nature Conservancy has come up with a plan that links conservation with the land's economic productivity. Landowners may deposit the legal rights to their timber in return for an annual dividend of about 4 percent on the appraised value of the timber. The individuals retain ownership, but the bank acquires the right to grow, manage, and harvest the trees in perpetuity. To fund the dividend payments, the forest bank will harvest and sell the timber in a [sic] ecologically sound manner that protects the health of the watershed and the forest.[11]

While the federal government is particularly ineffective at managing land, the states perform just as badly. According to analyst Randal O'Toole:

> State governments are no better managers than are federal bureaucrats. They are just as economically inefficient, ecologically short-sighted, and politically driven as their federal counterparts . . . In fact, state governments have been rapidly expanding . . . their land estates . . . [12]

Private property ownership fosters environmental protection by rewarding those who conserve their resources and refrain from harming the public by use of their land. Indeed, it is no surprise that in those countries where private property is, or was until recently, not protected, neither is the environment. In Bangladesh, Africa, Chernobyl, and Eastern Europe, where property rights were or are at under governmental control, incentives to protect the environment or natural resources remain non-existent, and the environment falls into ruin.

Question 2. Some concerns have been raised by groups such as yours that an expanded land acquisition trust fund will erode any multiple-use management of public lands. Can you expand on your concerns and the reasoning behind it?

Answer. We do believe that multiple-use management of lands would be eroded by an expansion in the land acquisition trust fund. This is because government does a remarkably poor job at managing public land in an ecologically sensitive way, private stewardship of land, particularly if incentives could be offered to private landowners, would be much more effective at preserving the multiple uses of important and ecologically significant land.

In the early 1960s, Interior Secretary Stuart Udall initiated a program in which the National Park Service would reward landowners for being good stewards. If they

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[7] J. Heissenbuttel & W. Murray, *A Troubled Law in Need of Revision*, 90 J. FORESTRY 13 (1992).

[8] *Id.*

[9] Linda Platts, *Politics Manages Our Public Lands, Tom Daschle Shows How, PERC Reports* (Dec. 2001), *available at http://www.perc.org/publications/percreports/sept2002/politics.php.*

[10] *Id.*

[11] *Id.*

[12] Randall O'Toole, *Should Congress Transfer Federal Lands to the States?*, Cato Institute Policy Analysis no. 276, July 3, 1997, p. 1.

met certain criteria, their land would be nominated as a National Natural Landmark, and they would receive recognition and awards for their excellent stewardship. But this program turned from one based on incentives to one that precluded private landowners from exercising the full scope of their property rights. If Secretary Udall's plan to provide incentives for private stewardship of land had continued, the government could encourage multiple-use aspects of private land. In government hands, however, even if such efficient use is possible, it has rarely been realized.

RESPONSES OF DEFENDERS OF PROPERTY RIGHTS TO QUESTIONS FROM SENATOR LANDRIEU

Question 1. If every piece of property in the United States was privately owned, where would the general public go to enjoy the outdoors, such as open lands and lakes?

Answer. Approximately 630 million acres, or nearly one-third of the United States, is already owned by the federal government.[13] Much of that land is out West, with states such as Idaho, Nevada, Oregon, and Utah virtually belonging to the federal government; Nevada is almost entirely owned (79 percent) by the federal government. The country is hardly in danger of every piece of property being privately owned.

Even if all land were in private ownership, however, all navigable waters in the United States are public property and thus, the public would still enjoy the right to use all navigable lakes, rivers, streams, and seashores. Due to the federal government's navigational servitude, a private owner cannot prevent the public from accessing and using a navigable water for fishing, boating, or other recreational activities, at least not without the government's permission. Furthermore, states also regulate these navigable waters and the lands underneath them for the public use under the public trust doctrine.

Further, Defenders does not take the position that all property must be privately owned. Although we strongly favor additional constraints on the government's ability to confiscate private land, we recognize the occasional, if rare, benefit to state-owned property. Unfortunately, the Americans Outdoors Act fits squarely into the type of legislation that most endangers private property rights, and has the potential to seriously undermine constitutional rights.

Often, the government's zeal to achieve social objectives, like those stated in the Americans Outdoors Act, endangers constitutional freedoms. The government's efforts to secure benefits for one group of individuals almost always impairs the ability of others to secure their own rights; the Americans Outdoors Act is no exception. Perhaps one reason why many of us are so willing to trade individual property rights for desirable public benefits is that we have, in many instances, forgotten why we have property rights protection in the first place. Government plays such a large role in our daily lives that it is difficult to imagine any social good not emerging from the government. Government provides us with roads, schools, police protection, and innumerable other public benefits.

In our testimony, we distinguished the governments of the Soviet Union and other communist nations from our American democracy, which rejects the idea that government must own excessively large amounts of property for the public good. From the Ten Commandments to Justinian's Code, John Locke to James Madison, and Thomas Jefferson to today, private property rights have constituted a central part of our civil society, and help to ensure that our government will not grow too large.

That private property does not always efficiently meet public demands, or that it burdens certain segments of society, does not mean that the government should expand its holdings so significantly as to undermine fundamental civil rights. The Americans Outdoors Act, despite good intentions, would severely hinder constitutional rights, and would violate the traditions of the founders of this nation.

RESPONSES OF DEFENDERS OF PROPERTY RIGHTS TO QUESTIONS FROM SENATOR BUNNING

Question 1. This legislation calls for $1.425 billion in mandatory spending to fund these conservation programs. Given our already tight spending constraints, why should these funds in particular be exempted from the annual appropriations process?

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[13] General Accounting Office, Report to Congressional Requesters, Land ownership—Information on the Acreage, Management, and Use of Federal and Other Lands (Mar. 13, 1996), *available at http://frwebgate.access.gpo.gov/cgibin/useftp.cgi?IPaddress=162.140.64.21&filename=rc96040.txt&directoryr/diskb/wais/data/gao.*

Answer. We think this question is better directed to the witnesses who provided testimony before the Committee in support of this legislation. Since Defenders opposes passage of the Americans Outdoors Act, as it is now drafted, we have not considered whether funds to support the legislation should be exempted from the annual appropriations process.

Question 2. This legislation will provide for many multi-purposed and multi-jurisdictional programs. How can we ensure that there will be collaboration and communication among private, local, state, and federal interests?

Answer. Again, this question is better directed to those witnesses who provided testimony before the Committee in support of this legislation. Since Defenders opposes passage of the Americans Outdoors Act, as it is now drafted, we have not considered how the legislation would provide for collaboration and communication among private, local, state, and federal interests.

Question 3. You have mentioned that these programs have had good experiences working with sports fishermen and hunters. Could you elaborate on how sportsmen in Kentucky, for example, would benefit from this legislation?

Answer. No comment.

APPENDIX II

Additional Material Submitted for the Record

INTERNATIONAL ASSOCIATION OF FISH AND WILDLIFE AGENCIES,
Washington, DC, June 4, 2004.

Hon. LAMAR ALEXANDER,
Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR SENATOR ALEXANDER: The Association strongly supports and endorses your initiative reflected in the proposed "Americans Outdoors Act" to address the need for assured and dedicated funding for conservation and recreation that is state and local-based and directed. We are particularly appreciative of your recognition in Title IV—Conservation and Restoration of Wildlife, of the need for providing funds to the state fish and wildlife agencies for comprehensive fish and wildlife conservation, education and recreation programs. As you know, all 50 State fish and wildlife agencies are members of the Association.

The Title IV funds will be particularly significant in positioning the state fish and wildlife agencies to proactively conserve declining fish and wildlife species before the only remedy is to list them as threatened or endangered. Addressing the life needs and habitat requirements of declining species early on allows greater use of voluntary, non-regulatory programs in working with private landowners when flexibility in choice of management tools is still available. This will avoid not only the "emergency-room" need for the Endangered Species Act, but also minimize the socioeconomic impacts of this largely regulatory statute. Preventative conservation makes good biological sense, good economic sense, and good common sense.

We applaud your dedication to shepherding a bipartisan bill through the legislative process, and look forward to working with you to bring this to legislative success. The support and assistance of the 50 state fish and wildlife agencies stands ready to assist you in your endeavor.

Sincerely,

JOHN BAUGHMAN,
Executive Vice President.

THE WILDLIFE SOCIETY,
Betheda, MD, June 7, 2004.

Hon. LAMAR ALEXANDER,
Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR SENATOR ALEXANDER: The Wildlife Society strongly supports your initiative to introduce the Americans Outdoors Act, reopening deliberations on the need for long-term, dedicated conservation and recreation funding. The Wildlife Society is the organization of professional wildlife biologists and managers, dedicated to wildlife stewardship through science and education. For more than a decade we have advocated for a permanent funding source, statutorily dedicated to fish and wildlife conservation, wildlife related recreation, and conservation education. Your commitment to shepherding such an initiative through Congress is of great importance to the wildlife profession.

There are significant benefits to wildlife and habitat in the Americans Outdoors Act. Most importantly, Title III would provide $350 million annually in assured, long-term funding for state fish and wildlife programs. These funds would be allocated through the Wildlife Conservation and Restoration Account established in the Pittman-Robertson Act, which apportions funds on a formula of ⅔ population and ⅓ land area. This would mean more than,$6 million per year for Tennessee and more than $5 million per year for Louisiana to conserve all species of wildlife, to reverse declines of species in need of conservation, and to meet public demand for outdoor recreation and conservation education.

Your leadership in drafting a bill that can engender bipartisan support is extremely valuable and much appreciated. We are poised to help you build momentum to successfully move this bill through the legislative process. Thank you again for your commitment to conservation.

Sincerely,

THOMAS M. FRANKLIN.

BOONE AND CROCKETT CLUB,
Cody, WY, June 9, 2004.

Hon. LAMAR ALEXANDER,
Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR SENATOR ALEXANDER: The Boone and Crockett Club is pleased to see the "Americans Outdoors Act" introduced to continue the dialog about how to fund state wildlife agencies to preserve their lead role in delivering wildlife conservation at the local level, and to provide carefully selected additional lands for Americans to use in recreation. We continue to be supportive of legislation that taps logical funding sources, carefully and clearly protects the rights of the private landowner, and helps to conserve America's outdoors.

We are pleased to see a bipartisan effort under way and look forward to working with you, other members of Congress and the Administration to pass legislation that meets the needs of the states, the American public, and America's outdoor heritage.

Sincerely,

ROBERT MODEL,
President.

AMERICAN SPORTFISHING ASSOCIATION,
Alexandria, VA, June 21, 2004.

Hon. LAMAR ALEXANDER,
Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR SENATOR ALEXANDER: The American Sportfishing Association strongly supports your initiative reflected in the proposed "Americans Outdoors Act" that would assure and dedicate funding for conservation and recreation that is state and local-based and directed. We are particularly appreciative of your recognition in Title IV—Conservation and Restoration of Wildlife, providing funds to the state fish and wildlife agencies for comprehensive fish and wildlife conservation, education and recreation programs. The American Sportfishing Association is a non-profit trade organization whose members include fishing tackle manufacturers, boat builders, tackle retailers, state fish and wildlife agencies, angler organizations and the outdoor media.

The Title IV funds will be particularly significant in positioning the state fish and wildlife agencies to proactively conserve declining fish and wildlife species before having to list them as threatened or endangered. Addressing the life needs and habitat requirements of declining species early on allows greater use of voluntary, non-regulatory programs in working with private landowners and giving an amount of flexibility to choose the best management practices available. This will not only avoid requiring listing under the Endangered Species Act, but it will also minimize the socio-economic impacts of this largely regulatory statute. Preventative conservation makes good biological sense, good economic sense, and good common sense.

We applaud your dedication to shepherding a bipartisan bill through the legislative process, and look forward to working with you to bring this to legislative success. The support and assistance of the sportfishing industry stands ready to assist you in your endeavor.

Sincerely,

GORDON C. ROBERTSON,
Vice President.

ARCHERY TRADE ASSOCIATION,
Vienna, VA, June 22, 2004.

Hon. LAMAR ALEXANDER,
Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR SENATOR ALEXANDER: The Archery Trade Association strongly supports your initiative reflected in the "Americans Outdoors Act" to address the need for dedi-

cated funding for conservation and recreation that is state and local-based. We are particularly appreciative of your recognition in Title IV Conservation and Restoration of Wildlife, of the need for providing funds to the state fish and wildlife agencies for comprehensive fish and wildlife conservation, education and recreation programs.

The Title IV funds will allow state fish and wildlife agencies to proactively conserve declining fish and wildlife species before the only option is to list them as threatened or endangered. Addressing the life needs and habitat requirements of declining species early allows greater use of voluntary, non-regulatory programs in working with private landowners when flexibility in choice of management tools is still available. This will avoid not only the "trauma-type" use of the Endangered Species Act, but will minimize the socio-economic impacts of this regulatory statute. Preventative conservation will achieve biological goals in an economical fashion which makes good common sense.

We appreciate your efforts to push this bipartisan bill through the legislative process, and look forward to working with you to bring this to legislative success. Please accept the support of our 500 manufacturers and over 2,000 retailers and know that we stand ready to assist you in your endeavor.

Sincerely,

JAY MCANINCH,
CEO/President Archery Trade Association.

NATIONAL MARINE MANUFACTURERS ASSOCIATION,
Washington, DC, June 21, 2004.

Hon. LAMAR ALEXANDER,
Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR SENATOR ALEXANDER: The National Marine Manufacturers Association (NMMA), the nation's leading recreational marine trade association, your proposed legislation, the Americans Outdoors Act. NMMA represents over 1,500 member companies that are involved in every aspect of the recreational boating industry and our members manufacture over 80 percent of all recreational boats, engines, trailers, and accessories purchased by the boating community in the United States.

NMMA focuses considerable resources to support initiatives to strength fisheries conservation and management because fishing is very important to a majority of the recreational boating community. Statistics show that nearly 80% of U.S. boat owners enjoy recreational fishing as a wholesome pursuit and escape from the stress of everyday-life. As you know, the Americans Outdoors Act will provide funding for programs important to fishing and wildlife conservation in general. The boost in funding for wildlife conservation programs in the "Americans Outdoors Act" will help bridge a funding gap that makes it difficult for state fish and wildlife managers to effectively do their jobs. State fish and wildlife managers need the funding provided in this bill in order to monitor and manage game and non-game species including valuable fish stocks.

The coastal impact assistance will address a top conservation priority: protecting and enhancing wetlands. This habitat fills an irreplaceable niche that is vital to a huge variety of species. Wetlands habitat is under particularly heavy development pressure and is sensitive to the effects of offshore drilling related activities. The coastal mitigation support in your bill is an important step toward solving this important problem.

The funding for the planning and development of state and local parks and recreation facilities will help reverse trends that are seeing fewer and fewer kids take up outdoor pursuits. Providing better access and facilities for outdoor enthusiasts can strengthen the fraying bond between Americans and the natural world.

NMMA urges you to introduce the Americans Outdoors Act, and we are offering our services in this effort. Please do not hesitate to contact Jeffrey Gabriel of my staff at (202) 737-9764 or email at *igabriel@nmma.org.*

Sincerely,

MONITA W. FONTAINE, ESQ.,
Vice President, Government Relations.

FEDERATION OF FLY FISHERS,
Livingston, MT, June 22, 2004.

Hon. MARY LANDRIEU,
Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR SENATOR LANDRIEU: The Federation of Fly Fishers strongly supports and endorses your initiative reflected in the proposed "Americans Outdoors Act" to address the need for assured and dedicated funding for conservation and recreation that is state and local-based and directed. We are particularly appreciative of your recognition in Title IV—Conservation and Restoration of Wildlife, of the need for providing funds to the state fish and wildlife agencies for comprehensive fish and wildlife conservation, education and recreation programs.

The Title IV funds will be particularly significant in positioning the state fish and wildlife agencies to proactively conserve declining fish and wildlife species before the only remedy is to list them as threatened or endangered. Addressing the life needs and habitat requirements of declining species early on allows greater use of voluntary, non-regulatory programs in working with private landowners when flexibility in choice of management tools is still available, This will avoid not only the "emergency-room" need for the Endangered Species Act, but also minimize the socioeconomic impacts of this largely regulatory statute. Preventative conservation makes good biological sense, good economic sense, and good common sense.

We applaud your dedication to shepherding a bipartisan bill through the legislative process, and look forward to working with you to bring this to legislative success.

Sincerely,

KIM GATES,
Conservation Coordinator.

AMERICAN FISHERIES SOCIETY,
Bethesda, MD, June 24, 2004.

Hon. LAMAR ALEXANDER,
Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR SENATOR ALEXANDER: The American Fisheries Society strongly supports and endorses your initiative reflected in the proposed "Americans Outdoors Act" to address the need for assured and dedicated funding for conservation and recreation that is state and local-based and directed. We are particularly appreciative of your recognition in Title IV—Conservation and Restoration of Wildlife, of the need for providing funds to the state fish and wildlife agencies for comprehensive fish and wildlife conservation, education and recreation programs.

The Title IV funds will be particularly significant in positioning the state fish and wildlife agencies to proactively conserve declining fish and wildlife species before the only remedy is to list them as threatened or endangered. Addressing the life needs and habitat requirements of declining species early on allows greater use of voluntary, non-regulatory programs in working with private landowners when flexibility in choice of management tools is still available. This will avoid not only the "emergency-room" need for the Endangered Species Act, but also minimize the socioeconomic impacts of this largely regulatory statute. Preventative conservation makes good biological sense, good economic sense, and good common sense.

We applaud your dedication to shepherding a bipartisan bill through the legislative process, and look forward to working with you to bring this to legislative success.

Sincerely,

GUS RASSAM,
Executive Director.

NATIONAL WILDLIFE FEDERATION,
June 24, 2004.

Hon. LAMAR ALEXANDER,
Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

Hon. MARY LANDRIEU,
Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR SENATOR ALEXANDER AND SENATOR LANDRIEU: On behalf of the four million members and supporters of the National Wildlife Federation (NWF), I would like to thank you for introducing the Americans Outdoors Act. Enactment of long-term

and reliable annual appropriations for wildlife conservation, natural areas and safe neighborhood parks, recreation, and coastal restoration would be a milestone appreciated by this and future generations.

The bill's $350 million wildlife title is especially important to NWF. Its stable funding will enable state and tribal fish and wildlife agencies to effectively conserve wildlife, so our children's children can experience the birds, fish, and wildlife that we enjoy in our backyards, streams, and rural areas. While state agencies manage all species within their boarders—with the exception of marine mammals—most of their resources are dedicated to the wildlife we hunt and fish. These programs have successfully restored wild turkey, elk, black bear, and striped bass to their native habitats. However, over 90 percent of the species within our nation are not hunted and fished and their needs are vast. The wildlife title embraces all species, but strategically invests in those that are most in need of conservation. It proactively addresses these needs through partnerships with landowners, nonprofit organizations and others in an effort to prevent species from becoming threatened or endangered in the first place.

Our neighborhood parks and recreation areas are among the most valued assets of our cities and towns and reflect the vision and wisdom of past community leaders. Similarly, access and opportunities to hunt, fish, and study nature have contributed a major facet of American character. Your bill ensures that these proud traditions will continue as our nation and communities grow.

We also support your effort to ensure that additional funds are made available for coastal restoration. Louisiana alone loses a football field every thirty minutes and between 25 and 30 square miles of marsh and swamp a year due to a range of factors including the impacts of oil and gas activities.

We truly appreciate the leadership and consultation with colleagues that are reflected in your bill and the consideration the Senate Energy and Natural Resources Committee will afford your bill as a result. Having said that, we do urge that as the bill makes its way through the legislative process, it be amended to include titles on the federal side of the Land and Water Conservation Fund (LWCF) and the Forest Legacy program (FLP).

Federal LWCF makes a valuable and lasting contribution to the citizens of every state. The federal acquisition of willing-seller lands is a critical conservation tool that has been associated with OCS revenues for nearly three decades.

The Forest Legacy program allows states to protect important forests that are threatened with conversion to non-forest uses and to protect local communities and their way of life. Designed to encourage the protection of privately owned forest lands, FLP is an entirely voluntary program. To maximize the public benefits it achieves, the program focuses on the acquisition of partial interests in privately owned forest lands. It encourages and supports acquisition of conservation easements, legally binding agreements transferring a negotiated set of property rights from one party to another, without removing the property from private ownership. Ultimately, the program is a win for private timber operators, landowners, wildlife and the environment.

We applaud your effort to keep our common fish and wildlife common and to invest in the outdoors and recreation opportunities that contribute to the physical, mental, social, and spiritual health of our citizens and communities. These investments must be made each year to keep up with our nation's growth and to save taxpayers the enormous costs that result when they are not

Once again, thank you for introducing the Americans Outdoors Act. The National Wildlife Federation looks forward to working with you as the Americans Outdoors Act progresses through the legislative process.

Sincerely,

LARRY SCHWEIGER,
President & CEO.

COASTAL STATES ORGANIZATION,
Washington, DC, June 24, 2004.

Hon. LAMAR ALEXANDER,
Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

Hon. MARY LANDRIEU,
Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR SENATORS ALEXANDER AND LANDRIEU: On behalf of the coastal states, I am writing to voice our support for the principles contained in the *Americans Outdoors Act*. The Coastal States Organization has long-held the position that revenues de-

rived from Outer Continental Shelf (OCS) oil and gas development belong to all Americans and as such, should be reinvested in ocean and coastal programs that provide for the protection, restoration, and management of coastal resources.

The recently released preliminary report by the U.S. Commission on Ocean Policy affirmed the need for assured and dedicated funding. The Commission called on Congress to ensure that a portion of the OCS revenues be invested in the conservation and sustainable development of ocean and coastal resources through grants to coastal states.

As coastal resources face increasing pressure from use and development, it is important that funding be provided to assist states in mitigating the impacts. CSO asks you to consider providing all coastal states with an equitable share of the federal revenue from OCS oil and gas development. These funds will enable states to address erosion, habitat loss, environmental contamination, invasive species, and to mitigate the impacts of offshore oil and gas development. Coastal states where OCS oil and gas is produced may receive a larger portion of the compensation to address the environmental impacts of energy activities. Lastly, any OCS revenue-sharing legislation should contain assurances that no incentives for additional exploration or production on the OCS will be created and current moratoria on offshore oil and gas leasing are unaffected.

This bill is an important step towards enacting dedicated funding for coastal conservation and strong coastal communities. We applaud this bipartisan effort and look forward to working with you on this legislation.

Sincerely,

TONY MACDONALD,
Executive Director.

HODGMAN INC.,
Montgomery, IL, June 14, 2004.

Hon. LAMAR ALEXANDER,
Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

Hon. MARY LANDRIEU,
Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR SENATORS: We are writing to express the Theodore Roosevelt Conservation Partnership's strong support for the "Americans Outdoors Act."

In particular, we are pleased to see elements in this legislation that provide funding for programs important to hunting and fishing and wildlife conservation.

The boost in funding for wildlife conservation programs in the "Americans Outdoors Act" will help bridge a funding gap that has made it difficult for state fish and wildlife managers to effectively do their jobs. In order to monitor and manage game and non-game species so that all Americans can benefit from interacting with the wildlife of this country, state fish and wildlife managers need the funding provided in this bill.

The coastal impact assistance will address a top conservation priority: protecting and enhancing wetlands. This habitat fills an irreplaceable niche that is vital to a huge variety of species. Wetlands habitat is under particularly heavy development pressure and is sensitive to the effects of offshore drilling related activities. The coastal mitigation support in your bill is an important step toward solving this important problem.

The funding for the planning and development of state and local parks and recreation facilities will help reverse trends that are seeing fewer and fewer kids take up outdoor pursuits. Providing better access and facilities for outdoor enthusiasts can strengthen a bond between Americans and the natural world that has become frayed.

At the Conference on the Conservation of Natural Resources at the White House in 1908, our greatest conservation president, Theodore Roosevelt said,

"It is time for us now as a nation to exercise the same reasonable foresight in dealing with our great national resources that would be shown by any prudent man in conserving and wisely using the property which contains the assurance of well-being for himself and his children."

The "Americans Outdoors Act" represents just the sort of conservation foresight T.R. was talking about. This bill can help ensure that future generations are able

to enjoy this country's beautiful wild spaces and the fish and wildlife that live in them.

Sincerely,

RONALD W. FOSTER,
President.

STATEMENT OF BRAD HAYS, CHAIRMAN, U.S. SOCCER FOUNDATION

The United States Soccer Foundation, a public, not-for-profit organization committed to health and recreation through the increased development of the sport, would like to thank Senator Lamar Alexander of Tennessee and Senator Mary Landrieu of Louisiana for their leadership and express our strong support for the Americans Outdoors Act, a bipartisan effort to provide states and municipalities a permanent source of matching funds for parks and recreation.

The Americans Outdoors Act provides a dependable source of recreation support for State and Local Governments by fully funding the stateside component of the Land and Water Conservation Fund (LWCF) and providing ample funding for the Urban Park and Recreation Recovery Program (UPARR). Funding for these two programs have long been a priority for the entire U.S. Soccer membership (including national youth, adult, and professional soccer organizations).

The reason for our support is clear: the LWCF has played an integral role in creating and developing our nation's parks and recreation spaces. In its 35-year history, LWCF has helped communities develop more than 38,000 state and local park and recreation projects, including well over 7,000 soccer fields nationwide. UPARR (LWCF's urban sister program) enhances opportunities for critically necessary recreation facilities in neighborhoods that need it most. A recent lack of dependable annual funding has turned UPARR into less of a resource, but we still view it as an untapped gem in assisting with the renovation of playing fields in the swiftly growing urban soccer market.

Permanent annual funding for these two programs will allow soccer enthusiasts to enhance the development and growth of the game in their local communities. It will also allow organizations like the U.S. Soccer Foundation to better utilize the game of soccer as a vehicle to promote healthy and active lifestyles and improve the communities in which we live, work, and, now more importantly than ever before, play.

The U.S. Soccer Foundation, and the U.S. Soccer Federation member organizations, including U.S. Youth Soccer; U.S. Adult Soccer; and the American Youth Soccer Organization, representing the over 19 millions Americans who play soccer each year, enthusiastically support the passage of the Americans Outdoors Act.

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

Mr. Chairman and members of the Committee, American Hiking Society represents 5,000 members and the 500,000 members of our 150 affiliated organizations. As the national voice for America's hikers, American Hiking Society promotes and protects foot trails and the hiking experience. As the only national recreation-based conservation organization dedicated to establishing, protecting, and maintaining America's foot trails and a long-time partner with the National Park Service (NPS), USDA Forest Service, and Bureau of Land Management (BLM), American Hiking and its constituents have a very strong interest and stake in conservation and recreation funding programs for national parks, forests, trails, and public lands.

In order for Americans to enjoy the outdoors and find healthy places to recreate, we need protected open spaces and access to natural and recreational resources. The Americans Outdoors Act, S. 2590, introduced by Senators Lamar Alexander and Mary Landrieu, funds a variety of critical outdoor recreation and conservation programs including the stateside Land and Water Conservation Fund. American Hiking applauds the sponsors for introducing this significant legislation and strongly urges the inclusion of the federal side of the Land and Water Conservation Fund (LWCF) in the Americans Outdoors Act. The LWCF is one of the government's most important land protection tools that protects open space, trails, and natural and recreation resources for the benefit of the nation and future generations of hikers.

LWCF—BACKGROUND

The Land and Water Conservation Fund is a visionary and bipartisan program, established by Congress in 1964 to create parks, protect trails and open spaces, preserve wilderness and wildlife habitat, and enhance recreational opportunities.

LWCF was created in response to the need for quality and accessible outdoor recreation as well as threats to the open space and natural resources that provide that recreational experience. Early successes of the program and the popularity of the projects that LWCF has made a reality created pressure to increase the amount of money in the Fund. In 1968 Congress made offshore oil and gas drilling lease proceeds a source for LWCF and in 1977 increased the amount of funds available to $900 million per year.

Over the past decade, the majority of LWCF funds have been diverted to programs unrelated to the traditional LWCF uses such as land protection and recreation. While LWCF funds have been cut severely, the need for open space and recreation has soared. Authorized at $900 million annually, LWCF is one of the most important conservation tools ever designed and is critical to the future protection of national trails and trail lands.

The federal program of LWCF funds the purchase of land and water areas for conservation and recreation purposes within the Forest Service, Fish and Wildlife Service, National Park Service, and Bureau of Land Management. During the last forty years, the Land and Water Conservation Fund has protected some of America's most recognized and treasured national parks, wilderness, trails, forests, and refuges. Federal LWCF projects have protected lands and resources endeared by hikers including: Acadia National Park; Grand Canyon National Park; the Appalachian, Pacific Crest, Florida, Ice Age, and Continental Divide National Scenic Trails; Rocky Mountain National Park; King Range National Conservation Area; Great Smoky Mountains National Park; Denali National Park; Green Mountain National Forest; Gallatin National Forest; and many others.

Federal land agencies obtain LWCF monies only after completing an in-depth prioritization process and receiving specific appropriations approved by Congress. After taking into account a variety of factors—including cost, threat/probability of development, local support, whether the project meets a public need, and federal management agency objectives, among other criteria—the agencies develop lists of prioritized needs for LWCF projects. These lists are then reviewed and approved or rejected by the Office of Management and Budget, after which they are included or excluded from the President's budget.

LWCF & THE NATIONAL TRAILS SYSTEM

Hikers, other recreationists, and all Americans benefit from our twenty-three national scenic and historic trails, but only one—the Appalachian National Scenic Trail—is fully open for public use from end-to-end. For most of these trails, barely half of their congressionally authorized length and resources are protected and available for public use. Land acquisition through the LWCF is an essential means for protecting the resources and continuity that form the basis for these trails.

The NPS, Forest Service, and BLM play an essential role in protecting resources and rights-of-way critical to the integrity and continuity of these trails. Federal acquisition through LWCF is one of many land protection tools, but it is a critical and proven one. The federal government complements land acquisition through a number of alternative land protection mechanisms including conservation easements, private stewardship grants, challenge cost-share programs, and other types of partnerships.

Land managers purchase land to protect the national trails only as opportunities arise and as Congress appropriates the necessary funds. If Congress doesn't want to fund federal land acquisition, it doesn't have to appropriate the funds requested. Congress' intent to provide opportunities for outdoor recreation and appreciation and enjoyment of natural and historic resources may never be fully achieved along these trails without the agencies' ability to purchase land from willing sellers through the LWCF. Many landowners have offered to sell their land to the federal government to maintain the continuity of a national scenic trail. Individual families have voluntarily protected many unique and special sites along the scenic and historic trails for several generations.

Acquisition through the LWCF enables the federal agencies to carry out their responsibilities under the National Trails System Act (NTSA) to protect nationally significant components of our nation's cultural, natural, and recreational heritage and to provide public access to and travel within them. Appropriations from the LWCF enable the federal agencies to respond to conservation opportunities presented by willing landowners. For most national scenic trails, the need to acquire land is acute

and requires prompt action in order to save irreplaceable and invaluable resources and experiences.

Ultimate control over how much land may be purchased for the national trails remains with Congress through the annual appropriation process. Acquisitions are also controlled by the limited funding available for acquisitions combined with the linear nature of these trails. However, if the administering agency can only protect a segment of trail corridor by acquiring a whole parcel larger than needed for the corridor, the NTSA allows agencies to exchange or dispose of land acquired as part of a whole tract that falls outside the area of trail acquisition. The federal land management agencies are needed as partners to add their staff and acquisition dollars to the efforts of state/local agencies and private organizations to protect the rights-of-way that will enable these trails to become the continuous footpaths Congress intended.

The trails and trail lands protected through the LWCF represent one of our nation's most valuable assets, bringing individuals and families outside for recreation, inspiration, and education, and providing healthy physical activities, alternatives for transportation, and protection for natural and cultural resources. Hiking is one of the nation's most popular outdoor activities—73 million Americans hike regularly or occasionally (Outdoor Industry Association Participation Study 2002). By increasing physical activity, trail use such as walking/hiking reduces the risk of life-threatening diseases such as heart disease, diabetes, and cancer and combats one of the leading causes of preventable death today: obesity. Our parks, forests, and trails serve as outdoor classrooms for natural and cultural history in addition to outdoor recreation areas. Trails also provide economic vitality to communities, increasing property values and enhancing regional tourism. Nationally, sales of outdoor gear, clothing, footwear, and other accessories amount to more than $18 billion per year.

CONCLUSION

American Hiking Society supports the conservation and recreation funding programs included in S. 2590; however, we strongly urge the Committee to amend the Americans Outdoors Act to include full funding of $450 million for the federal side of the Land and Water Conservation Fund, a cornerstone program that protects trails and trail lands for the benefit of the nation and future generations of hikers.

American Hiking Society and its members and member clubs do their part every year to help maintain our nation's outstanding network of trails, contributing tens of thousands of volunteer hours worth millions in labor along with direct financial contributions. These efforts complement federal and state agency responsibilities to protect our natural, cultural, and recreational heritage and to provide public access to and travel within them. These responsibilities are not achievable without consistent, dedicated funding to both the stateside and federal sides of the Land and Water Conservation Fund, a visionary, proven program that provides essential conservation, recreation, economic, public access, and public health benefits to the nation.

Thank you for your consideration.

STATEMENT OF THE NATIONAL RECREATION AND PARK ASSOCIATION

Mr. Chairman and Members of the Committee, pending before you is a bill that challenges the Committee on Energy and Natural Resources, the Senate and others to consider the national imperative for public recreation access and resource stewardship. This is not exclusively an issue of conservation and investment in federal lands most often discussed by the committee. Rather, it is an issue fully intergovernmental in nature. Public recreation and stewardship responsibilities are shared by state governments, where state park systems include over 6,000 sites and host over 750,000,000 visits annually, and with more than 5,000 'local' public park and recreation entities that plan, finance, design, and manage over 80,000 sites. Our best estimate suggests that collectively local public park and recreation places—from large regional parks to community recreation centers—likely host 2.5-3.0 billion visits annually. In reality, the American people seek a continuum of recreation destinations and experiences.

Public investments in capital projects are most efficient when funds are sufficient to address specific public needs and are reasonably predictable. Despite exceptional work by members of this Committee and many other legislators, neither LWCF nor the Urban Park and Recreation Recovery Program, have, over time, had the benefit of sufficient, predictable funds. Accordingly, we urge the Committee to continue active consideration of S. 2590, to amend it as necessary, and to favorably report it

to the Senate. NRPA will in the near future recommend specific areas where, in its judgment, S. 2590 should be strengthened.

The National Recreation and Park Association is a 501(c)(3) organization. Among many activities, it is an advocate for progressive national policy and actions that support public recreation and park systems and services. Its membership consists of public executives, managers, elected and appointed citizen policy makers, and citizen advocates associated with the creation and public use of recreation and park places and public services. Our 23,000 members are associated with public park and recreation agencies at all levels, water and other conservation authorities, research, undergraduate and graduate education, continuing education and training, recreation services and site adaptations for persons with disabilities, and recreation for members of the Armed Forces and their dependents. Our trustees include representatives of this "community." They are also representative of large and small businesses, foundations, and other private interests.

Our earliest institutional roots reach to the creation in 1898 of the New England Association of Park Superintendents, to a merger in 1965 of five associated groups. Prior to 1965, most of these groups participated in the work of the congressionally authorized Outdoor Recreation Resources Review Commission. They separately testified in support of the creation of the Land and Water Conservation Fund. NRPA was the principal national not-for-profit advocate for the creation in 1978 of the Urban Park and Recreation Recovery Act. The urban park restoration program is the only element of then-President Jimmy Carter's urban initiative that the Congress enacted into law.

THE RECREATION AND PARK IMPERATIVE

Today, the imperative for investing in public recreation resources is, in our view, at least as great and arguably greater than were circumstances in 1964 and 1978, respectively, when the U.S. Congress enacted the Land and Water Conservation Fund Act and the Urban Park and Recreation Recovery Act. Why?

Population Growth: One answer lies in observations of U.S. Senator Bill Frist (R.-Tenn.) as recent as July 12 in remarks at the National Press Club. By 2014, just short 10 years from now, Senator Frist observed, the U.S. population will approach or exceed 320 million people. Twenty-five percent of us will be over 65, and the fastest growing segment of our population will continue to be over 85. This will result, and is resulting, in two scenarios of critical importance: First, more people will result in increased demand for public recreation destinations, space, and services, in all likelihood close to where they live. Second, the availability of the most geographically critical space for public recreation and conservation, again, mostly close to home will be greatly diminished. Also, the purchase power of the presently authorized OCS revenue credited to the U.S. Treasury—$900 million annually (and amounts available for the restoration of urban parks in distressed places)—will be greatly diminished.

Population Diversity: The national population will be increasingly diverse. The growth rate of minority populations—37 percent of total population—will be twice the rate of the general population by 2014. New immigrants are settling in large cities and small communities. This scenario brings significant social and economic change, and impacts the types and location of recreation demand, among other factors. A high percentage of this population will depend on public recreation resources and services.

Healthy People and Health Care Costs: The Land and Water Conservation Fund Act contains a single policy objective: *To improve individual and public health through access to a network of recreation resources.* There is an increasing abundance of medical science and practice that supports this objective. Increasingly, a physically active life-style through recreation is a viable strategy for disease prevention and health promotion for many people. Access to this information and interpreting it is recognized by health professionals, policy-makers, and health-focused organizations. This spring, for example, 26 groups, including NRPA, urged House and Senate appropriators to recognize the health outcomes of active recreation by appropriating more adequate funds for LWCF and urban park-aided investments. *Advocates for Health, Public Parks, and Recreation*, include the American Heart Association, Center for Science in the Public Interest, State Directors of Health Promotion and Education, Amputee Coalition of America, Institute for Cancer Prevention, Association of State and Territorial Public Health Nutrition Directors, and Physicians Committee for Responsible Medicine, among others.

Health and health care costs will "pretty much determine" whether or not (American) companies will compete successfully in the global market place, Sen. Frist observed. The administration's announcement on July 16 that certain types of obesity

will be considered an illness and thus eligible for Medicare, could dramatically change public health care costs and estimates. Active recreation will not be a panacea, but it must be considered as an element of a healthy lifestyle.

Revelations in the *Journal of the American Medical Association* (March 10, 2004) on the increasing rate of mortality attributable to physical inactivity and poor diet increase the imperative to invest in public park and recreation facilities that encourage active lifestyles. The 400,000 deaths annually due to physical inactivity and poor diet is the "largest increase among all causes of death," the report observes. Also, Kenneth H. Cooper, M.D., M.P.H. recently noted, "(Today) our kids are fatter and less fit than they have been in the history of this country." (Statement to National Governors' Association, Winter Meeting, Feb. 22, 2004). Idaho governor and National Governors Association president Dirk Kempthorne on July 17 announced an NGA policy initiative that will anticipate state health care strategies and costs of a soon-to-retire 'Baby Boom' generation. These individuals, most with reduced incomes, are expected to place enormous demands on local and state park systems, and recreation-accessible federal resources.

A report by the National Center for Chronic Disease Prevention and Health Promotion reinforces the recommendations of health-recreation community. The Center observed, "(C)haracteristics of our communities such as the accessibility and location of parks, trails, sidewalks and recreation centers... may play an even greater (than social environments) role in promoting or discouraging an individual or family's level of physical activity."

More sufficient congressional support for increased public access through recreation development and resource conservation holds high potential for at least stabilizing some types of health costs over the long term. For example, the four diseases that may be prevented by appropriately active lifestyles, including active recreation—heart disease, cancer, stroke, and diabetes—are life-threatening and costly to treat. The Centers for Disease Control and Prevention has observed that if physically inactive people were to become sufficiently active, the nation could potentially reduce health care costs by over $75 billion a year. Active recreation also can promote mental health by reducing anxiety and depression. Youth, especially, can benefit from active recreation. About 15 percent of all children are obese, a condition that increases the risk of high blood cholesterol, high blood pressure, and diabetes. By being physically active on a regular basis, often at public park and recreation sites, youth may be able to avoid or delay health problems associated with obesity and related conditions. With sufficient predictable funds thousands of public park and recreation facilities in American communities will be created, restored, and expanded, thus offering greater opportunity for active lifestyles.

CAPITAL INVESTMENT NEEDS

Since 1990, the National Recreation and Park Association has undertaken three national surveys at 5-year intervals to objectively estimate local public recreation and park investment needs. In January 2000 NRPA surveyed 500 local park and recreation agencies, selected randomly from 5,050 agencies nationwide to determine the needs, priorities, and probable funding sources for capital investment during fiscal years 2000 through 2004. Estimates of total local needs for the five-year period were developed. We are scheduled to initiate a 2005-2009 needs survey later this year.

The NRPA research on 2000-2004 indicated that local park and recreation agencies need to invest, from all sources, an estimated $55 billion for rehabilitation, land conservation, and construction of facilities. Localities expected to have less than one-half that sum available. The total estimated need is twice the amount, $27.7 billion, projected for the 1995-1999 period. *It must be noted that this survey occurred prior to Sept. 11, 2001 and a major decline in the value of personal, corporate, foundation and other stocks.*

Nonetheless, the capital investment priorities for FY2000-2004 are instructive. They emphasize the need *to expand the capacity of public recreation systems generally, and enhance access*—46.2% of local agencies ranked this as the greatest priority. Over 36% of the agencies ranked *eliminating and/or reducing specific recreation deficiencies as the highest priority. Conserving specific natural resource features, and shaping and controlling the direction of land use change* were ranked as the top priority by 20.2% and 9.2% of local agencies, respectively.

In terms of fiscal need, the development of *new recreation infrastructure ranked highest*, with a total need of $25.5 billion (46.3%) nationwide. For those agencies expressing such needs, the averages need per agency was $5.6 million, up from $3 million for the previous five-year period. *Rehabilitation and restoration needs of lands and facilities* nationwide totaled $13.8 billion (25.2%). These needs are not for

"maintenance," but reflect major costs for resource renovation to correct deficiencies due to age or wear, outdated design, accessibility for persons with disabilities, and to increase user capacity of existing lands and facilities. For those agencies expressing a need for rehabilitation, the average need per agency was $3 million, up from $2.2 million in the previous survey.

Land acquisition needs including both fee simple purchase and less than fee approaches totaled $16 billion (28.5%). For those agencies expressing the need for investment in land acquisition, the average cost per agency was $3.4 million, up from $2.4 million estimated previously. The average amount of additional recreational space rose from 214 to 349 acres per local system. Local governments anticipated that about six percent of capital needs (almost $1.8 billion) would come from federal sources.

LWCF DEDICATED VERSUS AVAILABLE FUNDS

Access to and investment of OCS revenues allocated to the Land and Water Conservation Fund have varied greatly. Appropriations have always been less than the $900 million authorized to be annually credited to the Fund, or requested by all governments. During the last 20 years (FY1985-FY2004), for example, revenues *from* Outer Continental Shelf activities *credited* to the Land and Water Conservation Fund U.S. Treasury account total about $17.4 billion (Minerals Management Service, *Minerals Revenue Management*, 1982-2003). During the same period, actual LWCF appropriations—federal and state—totaled about $7.8 billion. Appropriations for assistance to states and local governments during this period totaled $876 million. Of this amount, about $551 million was appropriated during the period 2000-2004. This followed four consecutive years of zero funds for grants. Assuming an equal distribution ($450 million each) for federal and state/local projects at full dedicated funding ($900 million), state assistance and federal investments, would each total $2.7 billion over the six-year life of S. 2590.

The table below reflects the variability in LWCF appropriations for state assistance.

APPROPRIATIONS FOR LAND AND WATER CONSERVATION FUND STATE/LOCAL ASSISTANCE

[Five-Year Periods from Fiscal Years 1965-2004]

Period	$ in Millions
1965-1969	256
1970-1974	750
1975-1979	1.250
1980-1984	657
1985-1989	184
1990-1994	116
1995-1999 (1 year)	25
2000-2004	551
Total	3.7 Billion

Through FY 2004 the LWCF state assistance program has made available over $3.7 billion to be apportioned to the 50 states, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands for planning (states only), acquisition and development of recreation resources. Through fiscal year 2003, nearly 40,000 projects have been approved to support acquisition or other forms of conservation and development of recreation facilities and infrastructure necessary for public access and recreation use. State and local LWCF fiscal partnerships occur in almost every county and a high percentage of small and large localities nationwide. LWCF appropriations for state and local projects have been equally matched by state and local contributions for a total LWCF grant investment in excess of $7 billion.

Of the total number of grant projects, over 10,000 have helped states and localities conserve about 2.55 million acres of land. Over 27,000 projects have aided development or redevelopment of recreation sites. Through FY 2003 over sixty-five

percent of the total obligated funds have gone to locally sponsored projects to provide accessible "close-to-home"* recreation.

DISTRIBUTION OF FUNDS

Since FY1965, LWCF state assistance funds have been invested as follows:

Project Sponsor	
State resource agencies, including park, forest, public land and wildlife, among others:	38%
Local governments, including municipalities, towns, townships, park districts other than counties:	49%
County governments:	13%
Project Type	
Land conservation:	33%
Development for public access and use:	62%
Planning (states only):	2%
Combination—land conservation and development:	3%

Source: National Park Service

CONTEMPORARY AND FUTURE NEEDS

Requests for Fiscal Partnerships: Recent requests for both Land and Water Conservation Fund and Urban Park and Recreation Recovery Program assistance bring perspective to macro-scale need estimates. Specific plans, projects and processes begin to define the nature of present and continuing work to be done. In North Dakota, for example, less than one-half of projects submitted to the state LWCF liaison officer for fiscal years 2002, 2003, and 2004 were funded. Unfunded local government projects totaled $4.57 million. All requests came from communities of less than 15,000 and counties. Relative to LWCF-eligible projects, "For the past several years, the funds requested in those applications have far exceeded our (federal) allocation," according to a state official.

The Town Council of Brunswick, Maine recently adopted a $5,045,700 5-year capital improvement program principally for public recreation and park resources. Many projects would be eligible for Land and Water Conservation Fund assistance. Brunswick's present system of trails and parks are central elements of a more livable, healthy community.

The Murfreesboro, Tenn. Parks and Recreation Department anticipates capital investment needs of $15.8 million for Fiscal Years 2003-2008. All projects would be either LWCF or UPARR-eligible. Siegel Park at Regency Park Dr. illustrates the imperative for investment. This multi-feature park will serve a 370-unit public housing project in an economically distressed area. Park design responds to identified needs—a 'community gathering place,' girls softball, basketball, multi-purpose sports fields, tennis, and parking," according to the agency director.

A private consulting group advised NRPA in 2002 that the firm had at least 23 local government clients with identified recreation facility needs. Needs were determined by assessments and feasibility studies. Clients included Juneau, Alaska, population 30,711; Fort Bragg, California, 7026; Windsor, Colorado, 12,000; Greenfield, Indiana, 14,600; Lehi, Utah, 19,000; and Camas, Washington, 11,534, among others. While the private firm's specific clients continue to evolve, these and other clients indicate that the need for recreation investment across every population category. Planning, finance, architecture/engineering, construction, landscaping, and, ultimately, facility operations and recreation services, result in an array of jobs and payrolls—and ultimately more livable, economically viable communities.

Portland, Oregon park and recreation officials, citing the city's *Parks 2020 Vision Plan* (2001) anticipates 1870 additional acres of public parkland, including 620 acres of protected habitat; 100 new sports fields; 150 additional miles of trails, and completion of the 40-mile loop trail. Many swimming pools, some built in the 1920's, are still in use but need repair.

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*'Close to home'—Within 15 minutes from home by foot or bicycle, or 10 miles from home by car or public transit. Witnesses appearing at most of the hearings of the Presidents Commission on Americans Outdoors (1985-1986) repeatedly stressed that public recreation investments should occur 'close to home.' PCAO staff reviewed a number of transportation 'origin—destination' studies and public recreation and park plans and practices. While perhaps imprecise at that time, it was a best estimate of where investments were of high importance. Presently, the security of children and other factors and conditions suggest that 'closer to home' may be preferred, especially for young people.

SUMMARY

Local and state park systems are critical to the health of the American people and others who work and reside among us. With sufficient funds, more recreation resources could become accessible. These resources address diverse public interests and our collective need for quality recreation and associated services for children of working parents. Local agencies in particular host programs that serve millions of nutritious breakfasts, lunches, snacks, and suppers to needy children. Public recreation and park sites and services help reduce crime and delinquency, especially during non-school hours, days and seasons. Public recreation and park managers recognize that at any given time perhaps 50 million people have a physical disability: They attempt to accommodate their needs for recreation.

State and local park agencies contribute importantly to plant and wildlife diversity. Hundreds of local systems contain more than 5,000 acres, with many systems in excess of 15,000 acres. An estimated 80 to 85 percent of larger systems are typically undeveloped, thus contributing to an array of conservation and environmental outcomes. Most systems also provide opportunities to create public awareness of environmental conditions and convey messages about stewardship.

The National Recreation and Park Association appreciates the opportunity to submit this statement. NRPA public policy director, Barry Tindall (202-887-0290), is available to discuss issues raised in this statement or to respond to questions.

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