

MISCELLANEOUS NATIONAL PARKS BILLS

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

ON

S. 264	S. 888
S. 265	S. 925
S. 324	S. 970
S. 764	S. 1063
S. 864	S. 1134
S. 883	

JULY 28, 2011



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MISCELLANEOUS NATIONAL PARKS BILLS

THURSDAY, JULY 28, 2011

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

The committee met, pursuant to notice, at 2:32 p.m. in Room SD-366, Dirksen Senate Office Building, Hon. Mark Udall presiding.

OPENING STATEMENT OF HON. MARK UDALL, U.S. SENATOR FROM COLORADO

Senator UDALL. We'll come to order. Good afternoon to everyone.

The Subcommittee on National Parks is holding a hearing to consider eleven pending bills. I believe most of the bills are non-controversial. Three of the bills on today's agenda were considered and favorably reported by the committee last Congress.

Because of the number of bills on the agenda, I won't read through the list, but at this time I'll include the complete list of bills in the hearing record.

A few of the bills, such as the St. Croix River Crossing bill, are more controversial, and this afternoon the subcommittee will receive testimony from several of the bills' sponsors, and also hear from witnesses on both sides of the issue so that we can establish a complete legislative record on the bill. I know this is an important issue to the Minnesota and Wisconsin senators, and I will continue to work with them as we consider the policy issues raised at this hearing.

I know several of our colleagues have statements they would like to make, and we will turn to them in a few minutes.

But before that, I would like to congratulate my colleague, Senator Paul, who was ratified last week by the committee as the new ranking member of the National Parks Subcommittee.

The subcommittee has one of the busier legislative agendas in the Senate, and the key to working through the large number of bills that are referred to the subcommittee is a strong working relationship with the ranking member. I'd like to take this opportunity to welcome Senator Paul as the new ranking member, and I very much look forward to working with him.

At this point I'd like to recognize Senator Paul for any remarks he would care to make.

[The prepared statement of Senator Udall follows:]

PREPARED STATEMENT OF HON. MARK UDALL, U.S. SENATOR FROM COLORADO

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We have received written statements from several of the sponsors of bills on today's agenda. Without objection, statements from Senator Boxer, Senator Lieberman, and Senator Cardin will be included in the hearing record. We have received several statements with respect to S. 1134, the St. Croix river bill, representing views both for and against the bill, including statements from Governor Dayton of Minnesota, Governor Walker of Wisconsin, Representative Betty McCollum of Minnesota, and former Vice President Walter Mondale, and their statements will be included in the record as well. We are joined this afternoon by Senators Klobuchar and Johnson, who are here to speak on S. 1134.

[The prepared statements of former Vice President Mondale and Senators Boxer, Cardin, Lieberman, and Barrasso follow:]

PREPARED STATEMENT OF HON. WALTER F. MONDALE, FORMER VICE PRESIDENT OF THE UNITED STATES

Chairman Udall, members of the National Parks Subcommittee of the Senate Energy and Natural Resources Committee including our great Minnesota Senator, Al Franken. I also wish to recognize Minnesota's wonderful Senior Senator, Amy Klobuchar. While we do disagree on this issue, I am honored to be one of her earliest and strongest supporters.

I thank the committee for permitting me to submit my testimony in writing to be made part of the Record.

I make this statement in opposition to the S1134 because I believe that the huge bridge that would be authorized by this measure is a brutal assault on one of the most magnificent rivers in America. After careful study required by the Federal Court, the National Park Service determined that the huge bridge authorized by the pending legislation would have a 'direct and adverse effect' on the St. Croix National Scenic Riverway, one of eight original Wild and Scenic rivers designated for protection in that legislation.

In 1968, I joined my colleague and friend, Sen. Gaylord Nelson, so well known to you and this committee, to sponsor the Wild and Scenic Rivers legislation. Gaylord considered the Wild and Scenic Rivers Act and the protection of the Namekagon and St. Croix Rivers, one of his proudest accomplishments, a major part of his brilliant legacy to our country including Earth Day.

I am testifying today not only on my own behalf but I believe, also for Gaylord Nelson who would have certainly opposed this mega bridge proposal.

This bill if enacted would, for the first time in the nearly 43 year history of the Wild and Scenic Rivers program, permit the construction of a new bridge or infrastructure project of this magnitude in our glorious national system of protection for 166 rivers in 38 states. It would be a potent precedent, not only for the magnificent but fragile St Croix river that forms the border between Minnesota and Wisconsin, but for all of these treasured rivers.

In fact, the very reason for the adoption of the Wild and Scenic Rivers legislation was to protect these cherished and magnificent rivers from the very kind of massive

development approved under this proposal. As Gaylord then predicted, these rivers will be exposed to tremendous developmental pressure that, if permitted, will convert these national treasures into the typical industrial rivers. If this mega bridge is built across the St Croix River, this will be not the end of such abusive encroachments but the beginning. I can guarantee the Committee that there are a multitude of developers that will soon seek authorization for development on and across our protected rivers. They will surely cite this bridge as evidence that our national river system is open for sale.

In the preamble to the proposed authorizing legislation it states that the mega bridge would contain "appropriate mitigation measures to promote river values." But, as the Park Service report concludes, there is no way this huge bridge can be built consistent with the values of the national rivers system. It is an enormous \$700 million four lane massive bluff top bridge that accommodates noisy high-speed commercial traffic of all kinds. This new structure will be nearly 200 feet tall, visible for many miles along this stretch of the St. Croix.

Moreover, it would be by far the most expensive bridge ever built in Minnesota and Wisconsin, while both states have hundreds of failing bridges in need or repair or replacement.

The preamble of P.L. 90-452 states that, "It is hereby declared to be the policy of the United States that certain selected rivers of the Nation which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural or other similar values, shall be preserved in free-flowing condition." Those words ring as true today as in 1968.

A bit of history is in order here about the St. Croix River and its inclusion in 1968 in the list of original rivers. In the early 1960's Minnesota permitted the construction of a coal-fired power plant on the St. Croix River in Bayport, south of Stillwater, despite citizen efforts to stop it. It was precisely because of this plant siting and the potential for additional incompatible projects that Gaylord and I insisted this stretch of the St. Croix be included in the Wild and Scenic Rivers system.

Proponents of the St. Croix Crossing Project point to this power plant and an adjacent wastewater treatment facility as evidence that some sort of industrial zone exists on this river. They argue adding a massive bridge that will attract large and loud trucks around the clock is somehow compatible with this section of the river. This argument turns the reason for the inclusion of the St. Croix in the system on its head. Our magnificent Park Service, which administers this river, has clearly ruled against a bridge of this type.

The proponents of this mega-bridge will tell the Committee about the long history of efforts to build a new bridge in Stillwater to replace an aging Lift Bridge, despite the fact that the rarely congested Interstate 94 bridge is just 7 miles south.

The Committee will also hear about a so-called Stakeholders group established during the Bush and Pawlenty Administrations to seek a consensus on a bridge alignment and design. You should know this was not a fair process, as only designs that could accommodate vehicles traveling at 70 MPH were analyzed. Alternative, less impactful designs were simply not considered.

I do acknowledge there is considerable history of plans to replace the Stillwater Lift Bridge. And there have been several NPS reviews of proposed bridge designs to assess the impacts on a river landscape the U.S. Congress designated for special protection for future generations.

I appreciate that many in the region are weary of this issue, including elected officials. Some are ready to build the proposed bridge believing this process has gone on too long.

But neither a long process nor bridge issue fatigue justifies this particular bridge. This design and location does not makes sense for this river today anymore than it did when first proposed more than a decade ago. In fact, there are many in Stillwater and the river valley that prefer the Lift Bridge simply be rebuilt. I count myself in that group.

However, I understand the argument that a new bridge is necessary to deal with rush hour congestion in this historic river town and accommodate western Wisconsin commuters into the Twin Cities. But those goals can be achieved without spending close to \$700M of public funds in a era of fiscal stress on a bridge that is essentially another freeway crossing over this segment of the St. Croix River.

Consequently, I hope the Committee will not act on this bill in this session.

Rather, I believe the Governor of Minnesota and Minnesota Department of Transportation should evaluate a recent and new alternative put forward by the Sensible Stillwater Bridge Partnership that would result in a much less expensive and impactful bridge, just downstream from the current Lift Bridge, costing less than half the projected budget of the proposed bridge.

I urge the Committee to direct the National Park Service to review this recent proposal under its section 7a responsibilities based on a request from the Minnesota Department of Transportation. I am confident following a good faith review, the NPS will conclude the Sensible alternative is preferable to the massive bridge S. 1134 would authorize.

Based on the dramatically lower cost of the 'Sensible' alternative, there is no longer pressure to pass this legislation by the date certain established by the Governor of Minnesota to allocate federal highway funds. Both states' share of the construction costs of this bill is dramatically reduced, as is the impact on the St. Croix River.

In conclusion, let us remember the words of a beloved colleague who served with distinction on this Committee for much of his public life. Gaylord Nelson said of the St. Croix River, "If we don't take care of this great resource, it will end up as just another urban river' whose values have been squandered."

I plead with you not to let this happen.

PREPARED STATEMENT OF HON. BARBARA BOXER, U.S. SENATOR FROM CALIFORNIA,
ON S. 864 AND S. 925

Thank you, Chairman Udall and Ranking Member Paul, for considering S. 864, the Distinguished Flying Cross National Memorial Act and S. 925, the Mt. Andrea Lawrence Designation Act of 2011 in today's hearing. Each of these bills would honor people who have made unique and important contributions to our nation's history.

S. 864, the Distinguished Flying Cross National Memorial Act, would designate the recently constructed Distinguished Flying Cross Memorial at March Field Air Museum in Riverside, California, as a national memorial to recognize members of our Armed Forces who have distinguished themselves by heroism in aerial flight. I am pleased that Congressman Ken Calvert has sponsored this legislation in the House of Representatives, where it passed in the last Congress by a vote of 410-0.

The Distinguished Flying Cross recognizes members of the U.S. Armed Forces and a few select civilian aviators who perform acts of "heroism or extraordinary achievement while participating in an aerial flight." It is America's oldest military award for aviation, with recipients including Wilbur and Orville Wright, Charles Lindbergh, Amelia Earhart, former President George H. W. Bush, Senator John McCain, former Senator John Glenn, Chuck Yeager, General Jimmy Doolittle and Admiral James Stockdale.

The most reliable statistics indicate that 126,318 members of our Armed Forces received the medal during World War II, approximately 21,000 members received the medal during the Korean conflict, and 21,647 members received the medal during the Vietnam War. Since the end of the Vietnam War, more than 203 members of the Armed Forces have received the medal in times of conflict.

However, the United States currently lacks a national memorial dedicated to recipients of the Distinguished Flying Cross. Designating the Distinguished Flying Cross Memorial at March Field Air Museum in Riverside, California, as a national memorial would honor the bravery and sacrifice of the thousands of men and women who have received this prestigious award.

This bill was developed in collaboration with the Distinguished Flying Cross Society—a nonprofit organization dedicated to honoring recipients of the Distinguished Flying Cross. The legislation is also supported by the Military Officers Association of America, the Air Force Association, the Air Force Sergeants Association, the Association of Naval Aviation, the Vietnam Helicopter Pilots Association and the China Burma India Veterans Association.

The Distinguished Flying Cross National Memorial Act is a fitting tribute to the incredible men and women who have served our nation with honor and distinction in flight. I look forward to working with my colleagues to see this legislation enacted into law.

S. 925, the Mt. Andrea Lawrence Designation Act of 2011, would designate a peak on the border of Mono and Tuolumne Counties in California as "Mt. Andrea Lawrence" in memory of the late Andrea Lawrence—a three-time Olympian and former member of the Mono County Board of Supervisors who dedicated her life to conserving the breathtaking landscapes of the Eastern Sierra. I am pleased to have worked with Congressman Buck McKeon in crafting this bipartisan legislation, which previously passed the House of Representatives by voice vote in the last Congress.

Andrea Mead Lawrence was a three-time Olympian who remains the only American double Olympic gold medalist in alpine skiing. She was inducted into the U.S. National Ski Hall of Fame in 1958 at the age of 25. In 2002, sports documentarian Bud Greenspan called her “the greatest Winter Olympian of all time,” basing his choice not only on her accomplishments as an athlete, but also on how she later translated her love of mountains into a lifetime of civic service.

After retiring from competitive skiing, Andrea Lawrence spent the rest of her life working to protect the natural landscapes that she had so loved and enjoyed as a skier. She moved to Mono County, California, where she worked to protect and restore Mammoth Lakes, Mono Lake, Bodie State Historic Park, and other important natural and cultural resources of the Eastern Sierra. She served for 16 years on the Mono County Board of Supervisors, served on the Great Basin Air Pollution Control District, and in 2003 founded the Andrea Lawrence Institute for Mountains and Rivers to promote environmental protection and economic vitality in the region.

Andrea passed away on March 31, 2009 at 76 years of age, leaving five children—Cortlandt, Matthew, Deirdre, Leslie, and Quentin—and four grandchildren. The day before she died, President Obama signed into law a bill that I authored with Representative McKeon, the Eastern Sierra and Northern San Gabriel Wild Heritage Act, which Andrea had strongly supported. Her family told me that they celebrated the bill’s enactment with her in her hospital room. It touches me deeply to know how much this bill meant to her, and I am so grateful that she lived to see it become law.

The peak we are naming after Andrea is currently identified only by its elevation as “Peak 12,240,” and is located on the border of Mono and Tuolumne Counties between the Ansel Adams Wilderness and Yosemite National Park. The John Muir trail passes close to the peak, providing an unobstructed view of the future Mt. Andrea Lawrence.

Supporters of my bill include Andrea Lawrence’s family, the Mono County Board of Supervisors, the Tuolumne County Board of Supervisors, the Wilderness Society, the Sierra Club, the Mono County Democratic Central Committee, the Mammoth Town Council, the Mono Lake Committee, the Andrea Lawrence Institute for Mountains and Rivers, the Sierra Nevada Alliance, the Mammoth Mountain Ski Area, Town of Mammoth Lakes Council Member Wendy Sugimura and former Mono County Supervisor Tim Alpers.

Like the mountains she once tackled with such skill and grace, Andrea Lawrence’s spirit and accomplishments were both larger than life. I look forward to working with my colleagues to advance this legislation and grant this iconic woman such a fitting tribute.

PREPARED STATEMENT OF HON. BENJAMIN L. CARDIN, U.S. SENATOR FROM
MARYLAND, ON S. 324

I would like to thank Chairmen Bingaman and Udall and Ranking Members Murkowski and Barrasso for allowing me to submit the following testimony on my bill, The Chesapeake and Ohio Canal National Historical Park Advisory Commission Act (S. 324), this afternoon. The sole purpose of my bill, and the commission it supports is to support greater public involvement in the administration of one of Maryland’s most treasured and most popular National Parks, The Chesapeake and Ohio Canal National Historical Park. My bill ensures that the communities located along the 184-and-a-half mile-long C&O Canal National Historical Park have a voice with the National Park Service regarding decisions affecting the administration of the Park. The Commission keeps the people and small businesses most affected by the operation of the C&O Canal National Historical Park informed and involved in the decisions surrounding the Park. Citizen involvement in the governmental process is a hallmark of our democracy and the C&O Canal National Historical Park Advisory Commission Act exemplifies the goal of ensuring the public’s role in government decision making.

The importance of the Commission is intrinsically tied to the uniqueness of the C&O Canal National Historical Park. The Park covers an area of 20,000 acres winding North and West along the Potomac River from the heart of Georgetown’s old industrial district in Washington D.C. to Cumberland, MD nestled in the valleys and mountains of Western Maryland. The Park’s watered canal, contiguous towpath (popular among cyclists, backpackers, day hikers, runners and families), hundreds of historic structures and towns like Hancock, Hagerstown, Harpers Ferry, Williamsport and Sharpsburg that grew during the Canal’s heyday, all tell the story of how the C&O Canal once served as a crucial East/West commercial link. The Park also preserves pristine views of the Potomac River, evocative of the C&O Ca-

nal's working days. At its widest points, the C&O Canal National Historical Park spans less than two tenths of a mile across and in many areas directly abuts neighboring commercial and residential properties bordering the Park.

During the commercial operation of the C&O Canal, these towns were local commercial centers where area farmers and tradesman utilized the canal boats to deliver their goods to market. Today, the hospitality and tourism industries of these communities thrive upon the C&O Canal National Historical Park's popularity and are integral to enhancing the park user experience. Whether it is a hotel or Bed and Breakfast to spend the night in, a restaurant or diner to grab a meal, stores to shop in or to stock up on camping provisions, boathouses to rent a canoe for the afternoon, bike shops to service a flat tire or make repairs to your bicycle or any of the myriad of goods and services park visitors may need while visiting the Park, the communities along the C&O Canal are as important to the Park user experience as the Park's users are to maintaining their businesses.

In 2009, more than 3.75 million people visited the C&O Canal National Historical Park. To put it in perspective, in 2009, more people visited this historic treasure than the number of people who visited Yellowstone, Yosemite, the Everglades or Shenandoah National Park. Much of the C&O Canal National Historical Park's success is attributable to the positive relationship that has developed over time between the National Park Service and the local community leaders that span the length of the Park. The Park's Commission has greatly facilitated this relationship. As a sign of that I support, I have included letters of support for my bill from local county commissioners and other community leaders with my written statement for the hearing record.

The Commission provides the vital link between the affected committee that the Park runs through and the National Park Service. The Commission ensures that the public is engaged in the numerous processes surrounding operational policy, infrastructure maintenance and restoration projects on the C&O Canal National Historic Park. The Commission plays a vital consultation and planning role for park activities and operations. The cooperation that has developed between the Commission and the National Park Service helps ties to the Park to its communities. The Commission serves a purely advisory function and does not have the authority to make binding park policy.

The Commission was first established as part of the 1971 Chesapeake and Ohio Canal Development Act sponsored by Rep. Gilbert Gude (R-MD). Every ten years, a bill like mine comes before Congress, when the 10-year extension of the Commission's authorization expires. Three times over a 40-year period extension bills have passed by Unanimous Consent and without controversy. My bill is another 10-year extension of the Advisory Commission's authorization and makes no changes to the Commission's authority. Legislative precedent has never set an authorization amount for the Commission, but the Commission has always functioned at a nominal cost.

The General Services Administration's Federal Advisory Commissions Act database determined that the C&O Canal Advisory Commission's expenses totaled \$33,199 for fiscal year 2010. All expenses came out of the National Park Service's general operating budget. Expenses covered the cost of travel for commission members (\$295), federal staff time (\$28,074) and miscellaneous expenses (\$4,830) like meeting space, printing, supplies and website maintenance. Reauthorizing this program would not establish a new authorization but would rather extend a current and long-standing authorization that exists in the U.S. Code.

The National Park System is a showcase of America's natural and historical treasures. So much of the National Park System's success is rooted in the citizen stewardship projects and the involvement of caring citizens and community leaders. Like so many of our National Parks the C&O Canal National Historical Park has an extensive backlog of maintenance and repair projects. The Commission plays a critical role in helping keep these projects moving forward and assisting the National Park Service with their completion because there is recognition of the shared responsibility between the Park Service and the Commission about the importance of continuing to make the Park a desirable tourism and outdoor recreation destination. The Commission provides that bridge between the government and public. I urge the committee to support this bill.

PREPARED STATEMENT OF HON. JOSEPH I. LIEBERMAN, U.S. SENATOR FROM CONNECTICUT, ON S. 883

Chairman Udall, Ranking Member Paul, and members of the Subcommittee, I want to thank you for taking the time to examine S. 883. I was honored to introduce

this legislation, along with Senator Grassley, to authorize the National Mall Liberty Fund, DC, to establish a memorial in Washington, DC, to recognize African American patriots who fought during the Revolutionary War. I am further proud that Senator Landrieu, a member of your esteemed subcommittee, is also a cosponsor. As you may be aware, the full Energy and Natural Resources Committee unanimously reported identical legislation, then sponsored by Senator Dodd, last congress.

In my view, the memorial authorized by S. 883 would not only be of great historical significance, but would also serve to remind Americans of the enduring values that unite us as a nation.

This bill was inspired by the tireless work of Maurice Barboza, a native of Plainville, Connecticut. When Maurice was a young boy, he discovered that he was a distant relative of two patriots, Jonah Gay and Samuel Stinson, who fought for the colonists during the Revolutionary War. Naturally, Maurice was very proud to learn of this connection, and was accepted into the Sons of the American Revolution. He then encouraged his Aunt, Lena Ferguson, to join the prestigious Daughters of the American Revolution (DAR).

Despite the fact that Maurice was able to prove that his Aunt could trace her lineage back to Gay and Stinson, DAR still refused her membership. It was only after years of struggle that Mrs. Ferguson was admitted. During this protracted dispute, Maurice came to realize that there were many African Americans who had fought bravely during the American Revolution but had not received the recognition they deserve. As a result of his and his aunt's efforts, the DAR launched a project to identify and honor these overlooked heroes, which the organization completed several years ago.

According to the DAR, over 5,000 African Americans served as sailors and soldiers for the colonial forces during the Revolutionary War, and there may have been many more. Some of those who fought for the colonial forces were slaves motivated by the fight for liberty or the promise of freedom from bondage. Many others were free African Americans who, despite suffering pervasive discrimination in their own lives, bravely took up arms against the British to defend the rights of their fellow countrymen. For a great number of these patriots, America was the only country they had known. All of them were true American heroes.

Throughout our history the sacrifices of these remarkable patriots have often been relegated to a mere footnote. This is unfortunate not only because it overlooks their service, but also because it prevents us from taking an honest, nuanced view of our nation's history. By establishing a memorial to honor African Americans' contributions to our nation's founding, we will broaden all Americans' understanding of the diversity of the patriots who helped to secure our independence. As The Worcester Telegram put it in a recent editorial supporting the memorial: ". . .we imagine visitors [to the memorial] wanting to know much more about the lives and the circumstances that came together for the cause. That's how history leads us to honesty: by fleshing out the facts, and inviting us to dig deeper."

In conclusion, ladies and gentlemen of the subcommittee, S. 883 would not only provide a fitting tribute to the role many African Americans played during the Revolutionary War, but would also serve as an enduring reminder that what defines the United States as a nation is not membership in a particular race, creed or class, but rather a strong belief in individual liberty and freedom. This ultimately was what colonial soldiers and sailors, black and white alike, were fighting for, and what our nation has strived to realize throughout its history.

Thank you for considering my testimony.

PREPARED STATEMENT OF HON. JOHN BARRASSO, U.S. SENATOR FROM WYOMING,
ON S. 1134

I want to thank the witnesses for their testimony today.

It has been an interesting discussion.

As a general rule for parks and lands bills, I respect the wishes of the home state delegation.

There are sometimes exceptions to my rule.

The St. Croix River Crossing legislation is not one of those circumstances.

The river was designated Wild and Scenic in 1972.

The Minnesota and Wisconsin delegations believe a new bridge over the river is important.

I respect that.

Sometimes restrictive federal laws and rules do not recognize local conditions or interest.

If Wyoming faced a similar situation, I would expect members to afford our delegation the same consideration.

**STATEMENT OF HON. RAND PAUL, U.S. SENATOR
FROM KENTUCKY**

Senator PAUL. Thank you, Senator Udall.

People often say in Washington nothing is ever bipartisan. I think we're going to show a change to that today, and I'm excited to see members on both sides of the aisle testifying before us. I think Senator Udall has a reputation for working with both sides. Of course, my friend Senator Franken has a reputation for working with both sides. I look forward to being on this committee.

That sounded very sincere, didn't it?

[Laughter.]

Senator PAUL. I heard a few titters, and I was wondering if someone was questioning my sincerity.

I think I'm, you know, I think I'm on such a roll with that, I think I'm just going to leave it at that. Thank you.

Senator UDALL. Thank you, Senator Paul. We hit the ground running. I very much look forward to working with you.

With that, let me recognize a member of the committee, Senator Franken from Minnesota. Senator Franken.

**STATEMENT OF HON. AL FRANKEN, U.S. SENATOR
FROM MINNESOTA**

Senator FRANKEN. Thank you, Chairman Udall.

Congratulations, Ranking Member Paul—who is my mentee—did you know that? In the Senatorial mentor program. My mentee. So, congratulations, and, took my advice, and now you're the ranking member.

Stillwater, Minnesota is beautiful city that's between a rock and a hard place. The current lift bridge between Minnesota and Wisconsin is 80 years old, and was not designed to handle the traffic that it currently sees on a daily basis. Cars and trucks idle for hours every day along the historic main street, even when the bridge is open. When the lift bridge is raised, the problem multiplies.

The St. Croix River is federally protected under the Wild and Scenic Rivers Act, which was authored by Vice President Walter Mondale when he represented this State in the Senate, and also co-authored by Gaylord Nelson, who represented Wisconsin in the Senate. Senator Klobuchar and I revere the Vice President. I think that's safe to say.

Now, the National Park Service ruled that they can't allow any new construction in the protected riverway. The lift bridge cannot be replaced because it is listed on the National Register of Historic Places. While the witnesses before the committee today may disagree on the size and the design of a bridge, the fact remains that a new bridge is absolutely necessary, and any bridge would need congressional approval to move forward under the Wild and Scenic Rivers Act.

But I want to make it clear that this is a unique situation with unique needs, and that we are not declaring open season on the

Wild and Scenic Rivers Act. I believe very much in preserving Vice President Mondale's landmark legislation and his intent.

I look forward to hearing from all of the witnesses today, and I'd especially like to thank Senators Klobuchar and Johnson for appearing before the committee to discuss this important issue for Minnesota and Wisconsin.

Thank you, Mr. Chairman.

Senator UDALL. Thank you, Senator Franken.

We have received a number of written statements from several of the sponsors of bills on today's agenda, and without objection, statements from Senator Boxer, Senator Lieberman, and Senator Cardin will be included in the hearing record.

We have received several statements with respect to S. 1134, the St. Croix River bill, representing views both for and against the bill, including statements from Governor Dayton of Minnesota, Governor Walker of Wisconsin, Representative Betty McCollum of Minnesota, and former Vice President Walter Mondale, and their statements will be included in the record as well.

As I mentioned earlier, we've been joined by 2 of our colleagues, Senators Klobuchar and Johnson, who are here to speak on S. 1134.

Let me first recognize Senator Klobuchar for her statement.

**STATEMENT OF HON. AMY KLOBUCHAR, U.S. SENATOR
FROM MINNESOTA**

Senator KLOBUCHAR. Thank you very much, Chairman Udall. Congratulations, Ranking Member Paul.

Thank you, also, to my colleague, Senator Franken.

Thank you for holding this hearing today on S. 1134, the St. Croix River Crossing Project Authorization Act, which I introduced with my colleagues Senators Kohl and Johnson of Wisconsin, and Senator Franken.

Before I begin, I want to welcome to the U.S. Senate the Minnesota witnesses who will be speaking later: Stillwater Mayor Ken Harycki, who drove here, Chairman, with his family. That's how badly he wanted to get here. I'm sure he went over many bridges. Also, Roger Tomten, who will also be testifying.

The St. Croix River Crossing Project Authorization Act would allow construction of a bridge across the St. Croix River. The project would not only provide a new link between the States of Minnesota and Wisconsin, but also ensure that a critical package of projects are built to mitigate impacts the bridge may have on the scenic recreation or historical value of the St. Croix River Valley. The project, as you mentioned, has the support of Governor Dayton and Governor Walker, as you can see from their strong testimony on the record.

There's broad consensus, as Senator Franken noted, that a new bridge is necessary. The current crossing is the lift bridge, which was built in 1931 and is designed to handle 11,000 vehicles per day. Today it handles over 18,000 vehicles per day, and as many as 25,000 per day in the summer.

The Minnesota Department of Transportation has listed the bridge as being structurally deficient, and is also fracture-critical,

which means that if one component of the bridge fails, the entire structure will fail.

As the bridge has aged, closures for maintenance and repairs have increased. This spring the lift bridge was featured on the History Channel's Inspector America program, which showed the severe corrosion on the steel plates, and the host's ability to remove concrete from the piers with his own hands.

The bridge itself is a source of significant traffic congestion, especially in the summer months when it lifts frequently to allow water craft to pass. This backs up on both sides of the bridge as much as an entire mile, creating extensive gridlock and air pollution, hindering economic activity, and threatening public safety, particularly when emergency vehicles are unable to pass through. Simply put, there is nearly unanimous agreement that the current bridge is completely inadequate.

Mr. Chairman, Mayor Harycki will discuss the impact the lift bridge has on the community, and testimony discussing the regional impact of the lift bridge has been submitted by Lakeview Hospital; Leo's Grill and Malt Shop, a small business owner; and the Minnesota Building and Construction Trades Council.

You may ask why this project has taken 30 years, if everyone agrees that a new bridge is necessary, which is a very good question—Why are we here today?

In October 2010 the National Park Service determined that the proposed bridge would violate section 7(a) of the Wild and Scenic Rivers Act. This was the third such determination issued by the NPS which, in doing so, reversed the previous 7(a) determination, which, in turn, was a reversal of their first 7(a) determination on this project dating back to the mid-1990s. So, when you combine these actions with endless litigation, it's very easy to see why we're here today, in the U.S. Senate, considering a bill to authorize the project to finally move forward.

The bridge that my bill would authorize has been developed through a comprehensive stakeholder process that began 3 decades ago. Local, State and Fed officials joined with the environmental community, historical preservationists, local businesses, and the general public to partner on the process. I worked closely with the NPS to ensure that the legislation required a comprehensive package of mitigation projects which would be implemented with the construction of the bridge. This mitigation package was developed among a 2-member stakeholder process in 2006, including the National Park Service, and would make important improvements, like remove other manmade structures from the river and protect parklands and bluffs. As you can see from this picture right here, the bridge would be constructed near an existing power plant, with a water treatment facility and a marina. Also nearby, you'll see in the background, is a prison. All of these structures already exist in the river valley.

Now, in 2004, options were studied with the goal of choosing the most appropriate bridge project that would not only meet the region's current and future transportation needs, but would also have the best design with the smallest impact on the river valley's scenic recreational, historical and environmental resources.

A few weeks ago—and you'll hear about this today—a proposed lower and slower bridge design reemerged that would have a diagonal 3-lane bridge be constructed closer to the existing lift bridge. Now, I say it reemerged—and I'm sure it did with all good intentions—but it reemerged because it is similar to options that were studied during the 2004 review. Those options were studied extensively and rejected because it was determined that they would have greater environmental impacts than the preferred alternative next to that treatment plant—impacts that would affect everything from park properties, bluff areas, historical structures, flood plains, wetlands, and commercial properties; and they would face a difficult time making it through this scenic river review process.

That's not to mention the issue of costs. In 2004 the rejected bridge proposals that—one that was similar to the lower, slower plan—were anticipated to cost at least \$500 million. That is nearly double the design estimate that's made for this project now. So, obviously, we're concerned about the cost with the alternative.

Finally, as we know, this would have to go through the entire review process again, and would add more and more time to the process, and here we get to the nub of the problem.

The States of Minnesota and Wisconsin have worked hard to plan for this project over 30 years, and they have the money to build it. They're not asking here today, they're not coming and asking Congress for money. Some of the State and Federal funds that would be used for construction will expire in 2014. That is why we cannot go through an entire process again, Mr. Chairman, for a different design.

Unfortunately, the Minnesota Department of Transportation estimates that it will take 3 years to complete all the necessary permits for constructing this project. That is why Governor Dayton has said that the legislation to authorize the bridge should be enacted by September 30th, 2011.

In conclusion, Mr. Chairman, for decades the people and businesses of the St. Croix River Valley have been crying out for a safer, more efficient alternative to the lift bridge. Not only that, the States have the resources necessary to start construction, and any bridge proposal would likely need congressional authorization.

So, what are we waiting for? It's time to break the deadlock and bring this project out of the bureaucratic limbo that it's been in for 30 years. We've waited long enough, and it's time to move forward.

I ask for your support and your help in moving this bill quickly to the Energy and Natural Resources Committee, to the full Senate.

Thank you very much, Mr. Chairman.

[The prepared statement of Senator Klobuchar follows:]

PREPARED STATEMENT OF HON. AMY KLOBUCHAR, U.S. SENATOR FROM MINNESOTA

Chairman Udall, Ranking Member Paul, and members of the Subcommittee, thank you for holding this hearing today on S. 1134, the St. Croix River Crossing Project Authorization Act, which I introduced with my colleagues Senators Kohl and Johnson of Wisconsin, and Senator Franken, a member of this Subcommittee.

Before I begin, I would like to welcome to the U.S. Senate the Minnesota witnesses who will speak later: Stillwater Mayor Ken Harycki and Roger Tomten.

The St. Croix River Crossing Project Authorization Act would allow construction of a bridge across the St. Croix River. The project would not only provide a new link between the states of Minnesota and Wisconsin, but also ensure that a critical

package of projects are built to mitigate impacts the bridge may have on the scenic, recreational or historical values of the St. Croix River valley.

And, the project has the support of Governors Dayton and Walker as you can see from their strong testimony for the hearing record.

There is broad consensus that a new bridge is necessary. The current crossing is the Lift Bridge, which was built in 1931 and designed to handle 11,000 vehicles per day. Today, it handles over 18,000 vehicles per day and as many as 25,000 per day in the summer.

The Minnesota Department of Transportation (Mn/DOT) has listed the bridge as being “structurally deficient,” and is also “fracture critical,” which means that if one component of the bridge fails, the entire structure will fail.

As the bridge has aged, closures for maintenance and repairs have increased. This spring, the Lift Bridge was featured on the History Channel’s, “Inspector America” program, which showed the severe corrosion on the steel plates and the host’s ability to remove concreted from the piers with his hands.

The bridge itself is a source of significant traffic congestion, especially in the summer months, when it lifts frequently to allow watercraft to pass. This backs up on both sides of the bridge, as much as an entire mile, creating extensive gridlock and air pollution, hindering economic activity and threatening public safety—particularly when emergency vehicles are unable to pass through.

Simply put, there is nearly unanimous agreement that the current bridge is completely inadequate.

Mr. Chairman, Mayor Harycki will discuss the impact the Lift Bridge has on his community. And, testimony discussing the regional impact of the Lift Bridge has been submitted by Lakeview Hospital; Leo’s Grill and Malt Shop, a small business owner; and the Minnesota Building and Construction Trades Council on the potential to create 3,000 construction jobs each year.

You may ask why this project has taken thirty years if everyone agrees that a new bridge is necessary, which is a very good question.

In October 2010, the National Park Service determined that the proposed bridge would violate section 7(a) of the Wild and Scenic Rivers Act. This was the third such determination issued by the NPS, which, in doing so, reversed their previous 7(a) determination, which, in turn, was a reversal of their first 7(a) determination on this project dating back to the mid-1990s.

So, when you combine these actions with endless litigation, it’s very easy to see why we’re here today considering a bill to authorize the project to finally move forward.

The bridge that my bill would authorize has been developed through a comprehensive stakeholder process that began three decades ago. Local, state and federal officials joined with the environmental community, historical preservationists, local businesses and the general public to partner on this process.

I worked closely with the NPS to ensure my legislation required a comprehensive package of mitigation projects, which would be implemented with construction of the bridge. This mitigation package was developed among a 28 member stakeholder process in 2006, including the NPS, and would make important improvements like remove other manmade structures from the river, and protect park land and bluffs.

And, as you can see the bridge would be constructed near an existing power plant, water treatment facility, and a marina. All of these structures already exist in the river valley.

In 2004, options were studied with the goal of choosing the most appropriate bridge project that would not only meet the region’s current and future transportation needs, but would also have the best design with the smallest impact on the river valley’s scenic, recreational, historical and environmental resources.

A few weeks ago a proposed “lower and slower” bridge design reemerged that would have a diagonal three lane bridge be constructed closer to the existing Lift Bridge.

I say that the “lower-slower” bridge “reemerged,” because it is similar to options that were studied during the 2004 review. Those options were studied extensively and rejected because it was determined that they would have greater environmental impacts than the preferred alternative—impacts that would affect everything from park properties, bluff areas, historical structures, flood plains, wetlands, and commercial properties. And, they would face a difficult time making it through the very same Wild and Scenic Rivers Act review process that brings us here today.

That’s not to mention the issues of cost for the “lower-slower” option. In 2004, the rejected bridge proposals—the ones that included similar ideas to this “lower-slower” plan—were anticipated to cost at least \$500 million. That’s nearly double the estimate cited for the reemerged design.

In addition, because this may technically be a “new” proposal, the environmental work would have to be reopened, amended and perhaps redone. And, yet another review under the Wild and Scenic Rivers Act would also likely be required. This would cause the project to be delayed for years—perhaps as long as a decade. So, this would mean that we all could be sitting right back here, 10 years from now, discussing legislation to build the exact same bridge.

During that time, congestion will grow. . . the need for repairs and maintenance on the lift bridge will increase. . . threats to public safety and critical access to medical care will worsen. . . economic development will be stifled. . . and costs will continue to rise with inflation.

So, they are right when they say that their proposal is both “lower” and “slower!”

The states of Minnesota and Wisconsin have worked hard to plan for this project and they have the money to build it.

Some of the state and federal funds that would be used for construction will expire in 2014. Unfortunately, the Minnesota Department of Transportation estimates that it will take three years to complete all the necessary permits for constructing this project. That is why Governor Dayton has said that legislation to authorize the bridge should be enacted by September 30, 2011.

For decades, the people and businesses of the St. Croix River Valley have been crying out for a safer, more efficient alternative to the Lift Bridge. Not only that, but the states have the resources necessary to start construction, and any bridge proposal would likely need Congressional authorization. So what are we waiting for? It's time to break the deadlock and bring this project out of bureaucratic limbo. We've waited long enough and it's time to move forward. I ask for your support and your help in moving this bill quickly through the Energy and Natural Resources Committee to the full Senate.

Thank you.

Senator UDALL. Thank you, Senator Klobuchar.

Senator Johnson, welcome. We're eager to hear your statement.

**STATEMENT OF HON. RON JOHNSON, U.S. SENATOR
FROM WISCONSIN**

Senator JOHNSON. Thank you, Mr. Chairman.

Ranking Member Paul, congratulations; and Senator Franken.

Rather than repeat an awful lot of what Senator Klobuchar has already said—she's made a very good case—let me just ask that my testimony be added to the record, and I'll just make a few points.

First of all, I'm very happy to join my Senate colleagues from Minnesota and Wisconsin. This truly is a bipartisan effort. I think that's a good thing. So, I'm happy to support this, and really do appreciate Senator Klobuchar's leadership in getting this bill presented.

As soon as I travel in, particularly in the western part of the State of Wisconsin, this is a very high priority for the constituents. I mean, it's generally topic A, topic B, and topic C. So, this is very important from a standpoint of economic growth.

I'm originally from Minnesota so, back in the 1970s I repeatedly went over this bridge. In fact, the matter is, back then is, you know, when the Wild and Scenic Rivers Act was passed. It was 37 years old at that point in time, when I was crossing that bridge in the 1970s, it seemed like a pretty unsafe bridge at that point. So it hasn't improved much. Now it's 80 years old.

Just to kind of put some perspective, back when it was built in 1931, the number of cars on the road numbered about 26 million. Today the number of cars on the road are almost 10 times that amount—242—and you've heard the statistics that Senator Klobuchar cited in terms of the peak traffic out of that, close to 20,000 cars.

I realize that the Wild and Scenic Rivers Act is very important. I support it as well. I just want to say that no one enjoys a clean and pristine environment more than I do. I mean, when I had time for vacations, pretty much I did camping, fishing, hiking throughout the States of Minnesota and Wisconsin. I mean, I think they're 2 of the most beautiful States in the country. There may be some disputes. But, they're gorgeous. There would be, I would never propose anything that would harm—

Senator KLOBUCHAR. Remember, we have to keep the Ranking Member and the Chairman happy.

Senator JOHNSON. I understand.

[Laughter.]

Senator JOHNSON. But, anyhow, from my standpoint, I would never propose anything that would harm that scenic beauty. So, again, I think it's extremely important—one other point I'd like to make is, this project has been put on hold. Back when this was originally proposed back in 1992, the original construction costs would have been \$80 million. Today it's going to cost close to \$700 million, and we're looking at potentially having some funding running out here. So, again, I think it's just absolutely critical that we move forward with this thing.

Again, I'm happy to join this effort. I really do ask full consideration to get this project moving forward quickly. Thank you.

[The prepared statement of Senator Johnson follows:]

PREPARED STATEMENT OF HON. RON JOHNSON, U.S. SENATOR FROM WISCONSIN,
ON S. 1134

Chairman (Mark) Udall, Ranking Member Paul and Members of the Committee, thank you for your consideration of S. 1134. I am happy to join my three Senate colleagues from Wisconsin and Minnesota in cosponsoring this bill that facilitates the construction of a four-lane highway bridge over the Lower St. Croix River connecting St. Joseph, Wisconsin and Oak Park Heights, Minnesota.

The current lift-bridge that connects Stillwater, Minnesota and Houlton, Wisconsin was built in 1931. Herbert Hoover was president and the country was in the early stages of the Great Depression. According to the United States Department of Transportation, there were only 26 million motor vehicles registered in 1931. To put that in perspective, in 2009, there were 242 million. . .almost 10 times more.

In 1968, the Wild and Scenic Rivers Act was passed by Congress and signed into law by President Johnson. The intent of the Act was to help maintain the natural beauty of our nation's rivers. At that time, the Lift Bridge was already 37 years old. I remember crossing the bridge a number of times during the 1970's. It was already showing signs of age at that time, and was hardly a thing of beauty.

Now it is 80 years old, and conditions in the area are far different than they were in 1931. Motor vehicle traffic has increased exponentially in the area, and traffic congestion is having a negative impact on the daily lives of local citizens and the regional economy.

It is now estimated that as many as 20,000 cars use the lift bridge every day. Looking at pictures of the lift bridge, I think it's pretty clear that it wasn't built for that much traffic. Traffic backs up into the local communities causing congestion, delays, and more dangerous commutes to work and school. And the Minnesota Department of Transportation projects traffic volumes will increase significantly over the next 20 years.

Mr. Chairman, no one enjoys a clean and pristine environment more than my family and I. When we had time for vacations, we generally chose activities and locations that allowed us to enjoy the natural beauty of God's creation. We camped, fished, and hiked extensively throughout Minnesota and Wisconsin. They are two of the most beautiful states in America. I would not propose anything that would harm or detract from their beauty.

My experience in manufacturing and business certainly taught me how economic development can positively affect an area when a major project is initiated. The economic impact of a new bridge on the local communities, both during construction

and after, would be decidedly positive. According to the Minnesota Department of Transportation, more than 6,000 full time workers would be required during peak construction. In addition, this upgrade of an important element of regional infrastructure would help facilitate economic development for decades.

According to the Minnesota Department of Transportation, the deterioration of bridge components is expected and rehabilitation projects are needed to ensure its safety.

As I said earlier, I remember driving across the bridge during the 70's. It didn't feel very safe to me then, and now the safety ratings from the Minnesota Department of Transportation indicate the bridge is one of the least safe bridges in the Midwest. According to an April 2011 report by the Minnesota Department of Transportation, the sufficiency rating is only 33 out of 100. To put this into perspective, the I-35W Mississippi Bridge that collapsed on Aug. 1, 2007, causing 13 deaths and 145 injuries, received a sufficiency rating of 50.

Since 1980, the Wisconsin, Minnesota, and United States Departments of Transportation have worked together toward a replacement bridge.

It is important to point out that his bill does not require any new funding from the federal government in order to pay for the project. The only further contribution the Federal government needs to make is to pass this bill to let construction proceed. It is a shame construction of this bridge has been on hold since 1992, when the construction cost would have been approximately \$80 million. Today, the cost will be closer to \$700 million. Further delay in undertaking this necessary infrastructure project will only result in higher costs to our states in the future.

Both Governor Walker and Governor Dayton support the project. A bipartisan coalition of members from the House and Senate support an exemption from the Wild and Scenic Rivers Act for the St. Croix River Crossing Project. More importantly, the local communities in Wisconsin and Minnesota overwhelmingly support the construction of a new four-lane bridge connecting our states.

Therefore, I respectfully ask the Committee to take the necessary action to move this project forward. Congress should exempt the St. Croix River Crossing Project from the Act so that we can retire an old and substandard bridge and replace it with a modern bridge to meet the needs of the region and contribute to economic growth.

Senator UDALL. Thank you, Senator Johnson.

Thank you, Senator Klobuchar.

Your statements are self-explanatory. I don't have any questions. But let me turn to the Ranking Member to see if he has any questions.

Senator PAUL. You know, the first thing that comes to my mind—and I'm supportive of your effort. But the first thing that comes to my mind when it takes from 1992 to the present to get something done because Federal rules are inhibiting it, that perhaps the original Federal legislation has some problems. While I do support this specific exemption, really, to me it points to the fact that there are problems with the legislation if the Federal Government holds you up, and each of the States in particular saying this is not something, you know, we're worried that the new bridge will obstruct the view to the power plant, or worried that the new bridge might not let us see the prison.

So, but I really think we ought to review the Scenic Waters, you know. I mean, I understand the ode to Walter Mondale. But, for goodness sakes, 20-some-odd years to build a bridge because of this legislation makes me think there may be some problems with the legislation.

I don't have a specific question, unless you'd care to comment.

Senator KLOBUCHAR. Obviously, we have a lot of respect for the legislation in our States, and we love our rivers and our lakes. But right now we are really focused on this specific exemption, Senator Paul, and we think that is, and the story is, there have been reversals of opinions and a lot of litigation. We've come to the point now

where we actually have the money set aside from the 2 States, strong agreement from the 2 Governors, and we believe that this is the time to proceed.

You know, I'm sure there are other versions of the bridge, and other things that could be proposed here. But at some point you realize that time is running out here with the funds.

Senator UDALL. Senator Johnson.

Senator JOHNSON. I guess I'd just like to add that this is a moment in time when we can actually accomplish this. To open up a debate on a larger issue, it's probably just not worth. I mean, I think it's extremely important. Again, I just want to underline how incredibly important this is to, just, economic development.

I think one of the things that Senator Klobuchar pointed out, if you just speak construction, you know, their estimate's close to 6,000 jobs being created there. Again, this project would be instrumental for economic development for decades. So, it really is important.

Senator UDALL. Senator Franken.

Senator FRANKEN. I just want to thank my colleagues for testifying, and apologize on behalf of Senator Johnson. New Mexico and Kentucky are exquisitely beautiful.

Senator KLOBUCHAR. Colorado is—

Senator FRANKEN. Oh. Colorado. I'm sorry.

[Laughter.]

Senator KLOBUCHAR [continuing]. Really quite beautiful.

Senator FRANKEN. Yes. I was going to say—but, actually, I think New Mexico is more beautiful than Colorado. No. I'm sorry. I mistook you for your cousin for a second. Colorado and Kentucky are just exquisite States. We'd appreciate the vote for the bridge.

[Laughter.]

Senator UDALL. Let me thank both senators for taking time out of your busy schedules. I know you have much in the way of demands on your time. But if you'd like to stay, you're certainly welcome to join the committee. We would welcome your participation. We also understand if you need to go off to other engagements. So, thanks again.

Senator KLOBUCHAR. Thank you very much.

Senator JOHNSON. Thank you much.

Senator UDALL. While the senators take their leave, I'd like to call the second panel to the table, and we'll start with your testimony when you get comfortable and ready to go.

Welcome to both of you. We've been joined by Peggy O'Dell, who's the Deputy Director for Operations, National Park Service, Department of Interior, and by Joel Holtrop, Deputy Chief, National Forest System, Forest Service, Department of Agriculture.

Neither of you are unfamiliar to the committee. We welcome you. Thank you for taking the time to come up here today.

Let me turn to Ms. O'Dell for your opening statement.

**STATEMENT OF PEGGY O'DELL, DEPUTY DIRECTOR,
NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR**

Ms. O'DELL. Thank you, Mr. Chairman, Senator Franken, and Ranking Member Paul when he comes back.

Thank you for the opportunity to appear before your subcommittee to present the Department of the Interior's views on the 8 bills on today's agenda.

I would like to submit our full statement on each of these subjects for the record and summarize the Department's positions on these bills.

[The prepared statements of Ms. O'Dell follow:]

PREPARED STATEMENT OF PEGGY O'DELL, DEPUTY DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

S. 264

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to present the views of the Department of the Interior on S. 264, a bill to direct the Secretary of the Interior to convey to the State of Mississippi two parcels of surplus land within the boundary of the Natchez Trace Parkway, and for other purposes.

The Department supports S. 264 with an amendment described later in this statement. This legislation would authorize the conveyance of 67 acres of unused federal land to the State of Mississippi. This land was originally donated by the state to the National Park Service to help complete construction of the Natchez Trace Parkway (Parkway), but it was never used for that purpose. The bill would also adjust the boundary of the Parkway to include approximately 10 acres of land that the National Park Service owns around the current southern terminus, which were inadvertently excluded from the boundary previously.

The Natchez Trace was the main overland link between the old southwest territory and the Ohio River Valley in the 18th and 19th centuries. In 1938, Congress established the Natchez Trace Parkway as a unit of the National Park System. The Parkway was constructed between 1938 and 2005 at a cost of nearly \$500 million. During the construction period, the states of Mississippi, Alabama, and Tennessee helped acquire and donate over 50,000 acres of land to facilitate parkway construction and protect the scenic, natural, cultural, and historic resources within the Natchez Trace corridor. Today, the completed Parkway spans 444 miles from Nashville, Tennessee, to Natchez, Mississippi, and is enjoyed by over 13 million travelers each year.

The southern terminus in Natchez was the final section of Parkway constructed and was completed in 2005. Decades prior to this section being planned and designed, it was uncertain where the Parkway would terminate. In order to prepare, the State of Mississippi acquired and donated to the National Park Service two different sections of land to accommodate two possible construction alternatives.

The National Park Service began planning the final section of Parkway in the mid-1990s. After completing an environmental impact statement in 1998, which included significant public input, the Park Service selected the Liberty Road alternative. This decision left land acquired for the alternative terminus unused. The 67 acres identified in S. 264 are the unused land.

The 67 acres are subdivided into two parcels, both within the city limits of Natchez. One parcel, commonly known as the bean field property, is approximately 38 acres and is adjacent to Natchez High School. The other parcel, commonly known as the Feltus property, is approximately 29 acres and is located in the new business district of Natchez. The Feltus property includes a structure that has been used by the city since 1999 under a cooperative agreement with the National Park Service.

In 2000, the city approached the National Park Service with a request to lease the bean field parcel to facilitate construction of a public recreational complex for the city, including soccer fields and other amenities. Public Law 106-527, enacted that year, authorized the National Park Service to lease land within its boundary to the city "for any purpose compatible with the Parkway." This legislation provided authority for the National Park Service to accommodate the city's request to use the bean field property for public recreational uses.

The National Park Service then entered into a 25-year memorandum of agreement with the city to help facilitate the recreational project. In 2001, as part of the agreement, an extensive archeological investigation was performed to determine if any significant cultural or historical resources existed on the bean field property. None were found. This investigation was in addition to the assessments undertaken for the 1998 environmental impact statement, which covered all 67 acres.

The city is planning to invest up to \$5 million to build the recreational complex on the bean field property. With such a large local investment planned, we believe

this is an appropriate time to end the National Park Service's role as the property's lessor by conveying the property back to the state. Both the state and the city are highly supportive of the proposed conveyance and have discussed the best way to proceed should this legislation pass. The state has indicated that in the short term, the state would continue honoring the existing "any purpose compatible with the Parkway" lease authority and may consider conveying the parcel to the city to allow for fee simple ownership. The Feltus property would be retained by the state for purposes deemed appropriate, and the state would collaborate with the city on any future plans for this property as well.

While we support the proposed conveyance, we are concerned about how the bean field property might be used in the future, beyond the planned use for recreational purposes. We recommend that S. 264 be amended to provide for reversion of the 38-acre bean field property to the United States, for administration by the National Park Service, in the event that the land is not used for purposes compatible with the Parkway. The bean field, unlike the Feltus property, is visible from the Parkway. A reversionary clause would help protect against the future possibility of incompatible development detracting from the Parkway's scenic values. We would be happy to work with the committee on language for such an amendment, as well as a technical amendment needed for 10-acre boundary adjustment provision.

Mr. Chairman, this concludes my prepared remarks. I would be pleased to answer any questions you or any members of the subcommittee may have.

S. 265

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to present the views of the Department of the Interior on S. 265, a bill to authorize the acquisition of core battlefield land at Champion Hill, Port Gibson, and Raymond for addition to Vicksburg National Military Park.

The Department supports S. 265. This bill would enable the National Park Service to add three separate battlefield sites to Vicksburg National Military Park, which would each make significant contributions to telling the story of the remarkable campaign that resulted in the Union Army's capture of the city of Vicksburg during the Civil War.

The battlefields at Champion Hill, Port Gibson, and Raymond are sites of military engagement associated with the 1863 Vicksburg Campaign. The campaign was a major milestone on the road that led to the final success of the Union army in the war and the ultimate reunification of the nation. The strategies and tactics of Major General Ulysses S. Grant during the campaign continue to be studied by modern military leaders as examples of excellence in generalship.

The proposed addition of campaign battlefields to Vicksburg National Military Park is based on the study authorized by Public Law 106-487, the Vicksburg Campaign Trail Battlefields Preservation Act. That law directed the Secretary of the Interior to complete a study to determine what measures should be taken to preserve Civil War battlefields along the Vicksburg Campaign Trail. The Vicksburg Campaign Trail Feasibility Study, transmitted to Congress in 2006, identified Champion Hill, Port Gibson, and Raymond as "Tier I" sites, placing them among the 19 highest-ranked resources out of the more than 500 Vicksburg Campaign-related resources evaluated by the study. The study recommended Champion Hill and Port Gibson for addition to the National Park System. Raymond was viewed as adequately protected by the Friends of Raymond, a local non-profit group.

All three battlefields continue to exhibit a very high degree of historical integrity. Most essential features remain intact, and modern intrusions are limited. Acquisition of the battlefields would allow the National Park Service to ensure long-term preservation of the cultural landscape and other cultural resources, and to better interpret the stories of the Vicksburg Campaign. The renewed public interest in the need to protect Civil War battlefields that is being generated by Civil War Sesquicentennial activities makes this legislation particularly timely. In addition, this legislation would advance the vision of safeguarding our historic and cultural heritage that the President committed to through the America's Great Outdoors Initiative.

The battlefield at Port Gibson marks the first engagement of Grant's operations against Vicksburg after his army landed on Mississippi soil. After a day of battle, the Confederate army left the field and Grant secured his beachhead. The proposed boundary at Port Gibson encompasses about 3,810 acres. The State of Mississippi owns 14 acres in fee, and holds a preservation easement on 609 acres. The historic Schafer House, a Civil War-era home, is extant on the property owned by the state. Many roads within the battlefield remain very similar in appearance to the mid-19th century and provide a strong sense of how Civil War troops moved.

Eleven days after the battle at Port Gibson, the Union and Confederate armies met again on the field at Raymond. After a day of heavy fighting, Federal forces again prevailed and General Pemberton's troops withdrew to Jackson. The proposed boundary at Raymond encompasses about 1,520 acres. The Friends of Raymond owns 140 acres of this land in fee, and holds a preservation easement on an additional 6 acres. The battlefield remains largely pristine, and holds high potential for interpretation.

Following the battle at Raymond and the subsequent occupation of Jackson, General Grant turned his army towards the west. On May 16, Union and Confederate forces met again, this time at Champion Hill. The battle was the largest, bloodiest, and most decisive engagement of the Vicksburg Campaign. By the end of the day, the Confederates were in full retreat towards Vicksburg. The proposed boundary at Champion Hill includes approximately 6,350 acres. The State owns 836 acres in fee, and holds a preservation easement on an additional 558 acres. The Civil War Trust also owns 60 acres in fee. The historic Coker House, a Civil War-era home, is extant on the property owned by the State.

In total, S. 265 authorizes the addition of up to 11,680 acres to Vicksburg National Military Park. The State of Mississippi, Civil War Trust, and Friends of Raymond cumulatively own about 1,050 acres in fee, and hold preservation easements on about 1,172 acres of land. Each of these entities has expressed the desire to transfer its interests to the National Park Service. Acquisition costs for these properties would be nominal, since they would be donated. Based on current assessed property values, the acquisition costs for other lands in these areas are expected to average between \$1,700 and \$3,000 per acre (depending on the presence, if any, of marketable timber), totaling approximately \$16 million to \$28 million, for acquisition in fee. The National Park Service would also seek to protect land through less costly means, such as conservation easements. Additional management planning involving public participation would be necessary to best determine the level of facilities needed to serve the visiting public and to identify important battlefield protection strategies for these new lands. The capital investment needed to support infrastructure and recurring operational costs, consequently, have not been defined in detail. In gross terms, annual operational costs have been estimated at \$1 million to \$1.5 million.

Under S. 265, the properties identified for potential acquisition by the National Park Service would not be added to the boundary of, or managed as part of, Vicksburg National Military Park unless and until they are actually acquired.

S. 265 enjoys strong local and national support. Mississippi Governor Haley Barbour and leadership at the Mississippi Department of Archives and History are on record as supporting the transfer of state lands to the National Park Service. The Civil War Trust and Friends of Raymond have expressed support for the legislation, as have elected officials and community leaders in Hinds and Claiborne Counties and the communities of Raymond and Port Gibson. This bill would help guarantee the preservation, protection, restoration, and interpretation of these important lands for current and future generations.

Mr. Chairman, this concludes my statement. I would be pleased to answer any questions you or any members of the subcommittee may have.

S. 324

Mr. Chairman, members of the subcommittee, thank you for the opportunity to present the views of the Department of the Interior on S. 324, a bill that would amend the Chesapeake and Ohio Canal Development Act to extend the authority of the Chesapeake and Ohio Canal National Historical Park Commission.

The Department supports S. 324. The establishment of the Chesapeake and Ohio Canal National Historical Park Commission (Commission) on January 8, 1971, stemmed in part from the unique nature of the canal. It is unlike most areas administered by the National Park Service as it is a linear park running along a 185-mile stretch of river shoreline and is flanked by the nation's capital, suburban communities, and numerous small towns.

S. 324 would change the termination date of the Commission from 40 years to 50 years after the effective date of January 8, 1971. The Commission's authority to operate terminated on January 8, 2011. S. 324 would extend the authority to operate to January 8, 2021.

The Chesapeake and Ohio Canal, begun in 1828 and completed in 1850, runs continuously 185 miles from Georgetown in the District of Columbia through Maryland and West Virginia to Cumberland in Maryland. Originally planned to link Washington, D.C., and Pittsburgh, Pennsylvania, as part of this nation's canal-building boom, the canal was constructed to be a major commercial route. While the canal

operated until 1924 when it was abandoned, competition from the newly constructed railroad and the National Road resulted in much less commercial success than its builders had hoped. In 1938, the United States purchased the narrow canal right-of-way from Georgetown to Cumberland, Maryland, and partially restored the lower end of the canal.

In 1961, the C & O Canal Monument was created by Presidential Proclamation but no funding was provided to develop the area or acquire adjacent lands. A proposal to construct a highway along the canal's route met considerable public opposition led by Supreme Court Justice William O. Douglas and this support ultimately led to the establishment of the Chesapeake and Ohio Canal National Historical Park, running the length of the original canal.

When the park was established in 1971, the Chesapeake and Ohio Canal National Historical Park Commission was created. The 19-member Commission served to link the various jurisdictions along the length of the park. Under the 1971 legislation, the Secretary of the Interior was directed to meet and consult with the Commission at least annually on general policies and specific matters related to the administration and development of the park.

The Commission has performed valuable service during the past 39 years in advising and assisting the National Park Service in the administration and development of the park. In the early years, the Commission served as the vehicle for public meetings in the development of the general plan for the park, and subsequently for several park, site-specific development concept plans. In the years since, the Commission has served as the public forum for discussing implementation of plans along the 185 miles of the park.

The Commission represented not only the local park neighbors, but the national constituency as well. Many Commission members had a life-long interest in the C & O Canal and the National Park Service. The Commission met quarterly and Commission members were only compensated for reimbursement of actual expenses for meetings. Individual members of the Commission served on various volunteer groups and participated in park-sponsored events throughout the year. The commissioners communicated directly with the park superintendent during meetings and individually throughout the year regarding park issues.

The need for the Commission continues because the park is spread across 19 political jurisdictions. The Commission assisted park staff in reaching out to these numerous constituencies and ensuring that all their views were heard. As the work of managing C & O Canal National Historical Park continues, the public connection to park management through the Commission should continue as well.

This completes my prepared comments concerning S. 384. I will be pleased to answer any questions you or other members of the subcommittee may have.

S. 864

Mr. Chairman, thank you for the opportunity to appear before your committee to present the views of the Department of the Interior on S. 864, a bill to designate a Distinguished Flying Cross National Memorial at the March Field Air Museum in Riverside, California.

The Department would defer to the Department of Defense for a position on S. 864 since the purpose of the legislation is to further honor military personnel who have been awarded the Distinguished Flying Cross at a site that is not under the jurisdiction of the Department.

The Distinguished Flying Cross is awarded to a member of the United States armed forces who distinguishes himself or herself in support of operations by "heroism or extraordinary achievement while participating in an aerial flight." We applaud the effort of the March Field Air Museum to create a suitable memorial to the honor, bravery, and sacrifice of members of our Armed Forces who have earned this medal.

This legislation explicitly states that this memorial is not a unit of the National Park System. As this language makes clear, the use of the title "national memorial" creates a reasonable expectation among the general public that it must have an affiliation with the National Park Service, which currently administers 27 national memorials across the country. This is not the first time this issue has arisen, nor is it likely to be the last, and the Department respectfully encourages only the most thoughtful and judicious designation of any future "national" memorials or other similar sites.

That concludes my testimony Mr. Chairman. I would be pleased to respond to any questions from you and members of the committee.

Mr. Chairman and members of the subcommittee, thank you for the opportunity to appear before you today to present the Department of the Interior's views on S. 883, a bill to authorize the National Mall Liberty Fund D.C. to establish a memorial on federal land in the District of Columbia to honor free persons and slaves who fought for independence, liberty, and justice for all during the American Revolution.

The Department supports S. 883 if amended to conform to the principles, processes, and requirements set forth in the Commemorative Works Act, which has successfully guided the process for establishing monuments in the nation's capital since it was enacted in 1986 and as amended since that time.

The bill would authorize the establishment of a memorial on federal land in Area I in the District of Columbia to recognize and commemorate the contributions of 5,000 African Americans who served as soldiers and sailors or provided civilian assistance during the American Revolutionary War. The bill prohibits the use of federal funds to establish the memorial, directs that the memorial be established according to the Commemorative Works Act, and repeals two laws for the authorization and site selection of a similar memorial proposal that have already lapsed by operation of law.

In 1986, Congress enacted the Commemorative Works Act to guide the process for establishing memorials in the nation's capital. Since its enactment, the Act has played an important role in ensuring that memorials in the nation's capital are located, designed and erected in a manner that is worthy of their historically significant subjects. The act was amended in 2003 to, among other things, provide for establishment of the Reserve where no additional memorials may be located.

While S. 883 states that the memorial shall be established in accordance with the Commemorative Works Act, the bill contravenes a critical requirement of the Commemorative Works Act by pre-authorizing the memorial to be located within Area I. In effect, the bill directs that the memorial be located within Area I without benefit of public participation or the participation of the Secretary of the Interior, circumventing the process Congress has adhered to since 1986. This preempts the Secretary's responsibility to recommend Area I designations to Congress for Congress to consider and act upon, and it curtails the roles of the National Capital Planning Commission and the Commission of Fine Arts.

The Commemorative Works Act, as amended, designates federal land in two areas in the District of Columbia and environs on which memorials could be sited within the District of Columbia, and one area, known as the Reserve, where no additional memorials can be located. These areas are depicted on the attached map which is designated in the Act. All memorials authorized to be located on this federal land in the District of Columbia and environs are authorized to seek sites within the portion of the map designated as Area II. However, a new memorial may be located in Area I only if the Secretary determines, after 30 days of consulting with the National Capital Memorial Advisory Commission, which holds public meetings, that the memorial's subject warrants location in Area I, and if the Congress agrees with the Secretary's determination by passing legislation to this effect within 150 days. Area I is within the Monumental Core of the Nation's Capital extending from Third Street, N.W. to the eastern boundary of Arlington National Cemetery and along the shoreline on the Virginia side of the Potomac River.

The Department's position regarding adherence to the Commemorative Works Act process for Area I designation is consistent with the position taken by the National Capital Memorial Advisory Commission, which reviewed S. 883 at its public meeting on June 23, 2011. The Commission recommended support for S. 883 if brought into conformance with the Commemorative Works Act by deleting the word "preeminent" in Section 1, and the reference to Area I in Section 2(A)(i).

In the Department's view, following the Commemorative Works Act would not hinder the Liberty Memorial Foundation in its ability to establish this memorial. In fact, if the Foundation obtains an Area I designation through the Commemorative Works Act process, the Foundation's 7-year statutory period to establish the memorial is automatically extended seven more years, beginning on the enactment of the Area I designation, instead of expiring at the 7-year point. This change to give sponsors seven more years for a memorial when seeking an Area I designation, was made by Congress when it amended the Commemorative Works Act in 2003, and as a result, sponsors no longer need to factor into their goals that seeking an Area I designation would reduce the time available to them to locate, fund and design their memorials.

We also would point out that S. 883 makes no provisions for the disposition of monies raised in excess of funds needed for the establishment of the memorial or to hold in reserve the amount available should the authority to establish the memo-

rial lapse. The Department recommends that the bill be amended to clarify the disposition of these funds.

The Department reiterates our support of the establishment of a memorial in the Nation's Capital that recognizes and commemorates the contributions of African Americans who fought for independence, liberty and justice during the Revolutionary War. We look forward to the opportunity to work with the Subcommittee to develop language that would provide for such authorization in a manner consistent with the principles, processes, and requirements set forth by existing authorities.

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

Attachment (map)*

S. 970

Mr. Chairman, thank you for the opportunity to appear before your committee today to discuss the views of the Department of the Interior on S. 970, a bill to amend the Wild and Scenic Rivers Act by designating additional segments and tributaries of the White Clay Creek in Delaware and Pennsylvania as components of the National Wild and Scenic Rivers System.

The Department supports enactment of this legislation with one technical amendment.

S. 970 would amend the White Clay Creek Wild and Scenic River designation to add nine additional miles of segments and tributaries to the designation, to be administered by the Secretary of the Interior (Secretary). The additional segments and tributaries will be managed in accordance with the "White Clay Creek and Its Tributaries Watershed Management Plan" (amended Summer 2001) with the Secretary coordinating the White Clay Creek Watershed Management Committee.

In December 1991, Congress directed the National Park Service to undertake a study of the headwaters of the White Clay Creek in the Commonwealth of Pennsylvania to its confluence with the Christina River in the State of Delaware. The study was also to include the East, West, and Middle Branches; Middle Run; Pike Creek; Mill Creek; and other tributaries of the White Clay, as identified by the Secretary, to determine their eligibility for inclusion in the National Wild and Scenic Rivers System. The study was to be done in cooperation and consultation with various federal, state, regional, and local governments and affected landowners. In addition, a river management plan was to be prepared that would provide recommendations as to the protection and management of the White Clay Creek and its tributaries. The plan was to outline roles for the state and local governments and affected landowners to play in the management of the White Clay Creek as a designated component of the National Wild and Scenic Rivers System.

In 1998, a watershed management plan was prepared that contained six goals for management of the White Clay Creek and its tributaries. These goals include improving and conserving water quality and quantity, and conserving open space, woodlands, wetlands, and geologic features. The plan was done cooperatively and calls for a management framework for the White Clay Creek and its tributaries that rely heavily on local land use decisions.

In 1999, the National Park Service issued the "White Clay Creek and Its Tributaries National Wild and Scenic River Study Draft Report." In the report, the National Park Service found that the majority of the river segments identified in the study met the eligibility requirements of the Wild and Scenic Rivers Act by virtue of their free-flowing condition and presence of one or more outstandingly remarkable resource values. The watershed also includes open space and recreational opportunities for hiking, jogging, canoeing and fishing; in fact, the White Clay Creek is the most heavily stocked and heavily used put-and-take trout stream in the State of Delaware. In 2000, Public Law 106-357 designated 190 miles of the White Clay Creek and its tributaries as components of the National Wild and Scenic River System.

The study report also identified additional segments and tributaries, which are the subject of S. 970, that would be eligible and suitable for designation. These segments and tributaries are eligible and suitable because they are free-flowing streams with outstandingly remarkable values including the Cockeysville marble geologic formation that supports a high-yielding aquifer, a major source of drinking water, and threatened and endangered species including the Muhlenberg's (bog) turtle and cerulean warbler. However, these segments and tributaries were removed from consideration because the Delaware River Basin Commission was looking at

*Map has been retained in subcommittee files.

these areas as possible locations for reservoirs under their comprehensive plan. In addition, there was not demonstrated municipal support for such a designation.

In 2007, these segments and tributaries were removed from the comprehensive plan of the Delaware River Basin Commission. In addition, the New Garden Township in Pennsylvania, the only affected municipality, passed a resolution in support of the designation. With these two issues resolved, the Department now supports these segments and tributaries, totaling nine miles, be added to the National Wild and Scenic River System. The Department would like to work with the committee to make a technical correction to a map reference in Section 3 of the bill.

This concludes my prepared remarks, Mr. Chairman. I will be happy to answer any questions you or other committee members may have regarding this bill.

S. 1063

Mr. Chairman, thank you for the opportunity to appear before your committee to present the views of the Department of the Interior on S. 1063, the Huna Tlingit Traditional Gull Egg Use Act of 2011.

This legislation provides for the restoration of an important cultural connection to Glacier Bay by the Huna Tlingit, and provides for the environmentally preferred action identified in our studies. As such, the Department supports enactment of S. 1063 with an amendment.

Glacier Bay National Park is the traditional homeland of the Huna Tlingit who harvested eggs at gull rookeries in Glacier Bay prior to, and after the park was established in 1925. Egg collection was curtailed in the 1960s as Migratory Bird Treaty Act and National Park Service (NPS) regulations prohibited the activity.

The Glacier Bay National Park Resource Management Act of 2000 (P.L. 106-455) directed the NPS to study whether gull egg collection could resume without impairing the biological sustainability of the gull population in the park. The NPS conducted the study, wrote an environmental impact statement, and issued a record of decision, which found that collection under certain conditions would be sustainable. Those conditions, addressing the frequency of harvest and an annual harvest plan, are reflected in S. 1063.

Section 2 (b) of the bill contains a condition for the Secretary of the Interior to develop an annual harvest plan jointly with the Hoonah Indian Association. To clarify that the Hoonah Indian Association's role is purely advisory, we recommend the attached amendment.

The Department appreciates the opportunity to testify on this matter. I will be glad to answer any questions.

AMENDMENT TO S. 1063

On p. 2, line 9, strike "jointly by the Secretary and the Hoonah Indian Association." and insert "by the Secretary in consultation with the Hoonah Indian Association."

S. 1134

Mr. Chairman, thank you for the opportunity to present the views of the Department of the Interior (Department) regarding S. 1134, a bill to authorize the St. Croix River Crossing Project with appropriate mitigation measures to promote river values. This bill would allow construction of a new extradosed bridge crossing the St. Croix River if the mitigation items are included as enforceable conditions.

The Department cannot support this legislation, as the NPS determined that the St. Croix River Project would have a direct and adverse impact to the river and that these impacts cannot be mitigated, as documented in its Section 7(a) Wild and Scenic Rivers Act evaluation of October 15, 2010. We are very concerned about the precedent that such legislation would establish given that the Department found the bridge project would have a direct and adverse effect on the designated river. In its May 4, 2011 testimony NPS did not support a similar bill—H.R. 850, which would facilitate a proposed project in the Lower St. Croix National Scenic Riverway. S. 1134 differs from H.R. 850 with the inclusion of mitigation measures for the project.

This bill requires that the mitigation items described in paragraph 9 of the 2006 St. Croix River Crossing Project Memorandum of Understanding for Implementation of Riverway Mitigation Items, signed by the Federal Highway Administration on March 28, 2006, and by the National Park Service on March 27, 2006, are included

as enforceable conditions.¹ It also states that any subsequent amendments to the Memorandum of Understanding are included as enforceable conditions.

The Lower St. Croix National Scenic Riverway (Riverway) received protection as a "study river" with passage of the Act in 1968. Congress subsequently designated the upper 27-mile segment of the Lower St. Croix River as a Wild and Scenic River in 1972 and provided that if the Governors of the States of Minnesota and Wisconsin submit an application for the lower 25-mile segment, the Secretary of the Interior upon his approval shall designate that segment. The Governors did submit an application and the Secretary designated the lower segment in 1976. The Act established a method for providing Federal protection for some of our country's remaining free-flowing rivers, preserving them and their immediate environments for the use and enjoyment of present and future generations.

In Section 7(a) of the Act, Congress expressed the clear intent to protect river values. The Act prohibits Federal agencies from assisting in the construction of any water resources project that would have a direct and adverse effect on the values of a designated river. Section 7(a) states:

. . . no department or agency of the United States shall assist by loan, grant, license or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary charged with its administration. . . .

Pursuant to that statute, if the Department determines a direct and adverse impact would occur, the project cannot proceed absent congressional action.

The Riverway is administered by the states of Minnesota and Wisconsin for 25 miles and the National Park Service (NPS) for 27 miles. However, the Department of the Interior, through the NPS, has responsibility for evaluation of proposed Federal projects for the entire 52 miles of the designated river. The NPS is responsible for evaluating water resources projects under Section 7(a) of the Act to determine whether those Federal projects, including bridges, will have a direct and adverse effect on the Riverway's free-flowing condition, water quality, and outstandingly remarkable values. Each water resources project is evaluated independently on its own merits.

The Riverway runs fast over sections of exposed bedrock, slow and deep over great depositional sediments left by the last glaciers, and throughout its course to the Mississippi River, the river carves through steep forested bluffs and rich valley bottomlands. Although solitude in natural settings is increasingly rare so close to a major metropolitan area, the Riverway offers natural solitude and abundant recreation.

In 1995, the Federal Highway Administration (FHWA) released a Record of Decision to construct a new bridge over the Lower St. Croix National Scenic Riverway and in June 1996, the Sierra Club and Voyageurs Region National Park Association commenced a lawsuit against the United States Department of Transportation, the Federal Highway Administration, the Department and the NPS to enjoin construction of the project. They alleged that the Department had violated Section 7(a) of the Act by failing to determine whether the new bridge would have a direct and adverse effect upon the values for which the Riverway was established. In September 1996, the FHWA and its lead partner—the Minnesota Department of Transportation (MnDOT)—applied for a Section 10/404 permit to place fill in the waters of the United States for bridge construction. Subsequently, the NPS prepared a Section 7(a) evaluation and determined that the project would have a direct and adverse effect on the Riverway's scenic and recreational values because of its visual impacts and that no available mitigation measures could significantly reduce the negative effects of the proposed bridge. Therefore, permits could not be issued and the bridge project could not go forward. MnDOT, the Wisconsin Department of Transportation (WisDOT) and the City of Stillwater, Minnesota, intervened in the lawsuit as defendants. They alleged that the 1996 NPS Section 7(a) determination was arbitrary, capricious, and in excess of statutory authority. The court upheld the 1996 NPS Section 7(a) determination, establishing case law that bridges are water resources projects subject to Section 7(a) of the Wild and Scenic Rivers Act.

In 1998, after discussions with legislators and other interested parties, the FHWA, MnDOT and WisDOT decided to revisit the issue of a river crossing near Stillwater. MnDOT facilitated a consensus-building process for a new bridge crossing of the Riverway. This process resulted in a new bridge alignment and design as well as a mitigation package.

¹A copy of the Memorandum of Understanding may be found at <http://www.dot.state.mn.us/metro/projects/stcroix/pdfs/Memounder/Riverway%20MOU%204-11-06.pdf>

In 2000, the NPS prepared a Draft Section 7(a) evaluation for inclusion in FHWA's Environmental Impact Statement (EIS). This evaluation determined that the proposed bridge would have a direct and adverse effect on scenic and recreational values; however, the adverse effects were adequately offset by the mitigation package developed by the stakeholders.

In 2001, the FHWA suspended that EIS process short of a final decision, citing insufficient funds for the implementation of the mitigation measures.

In 2002, the FHWA and its two state partners again re-initiated a St. Croix River Crossing EIS process. A "Stakeholders Group," made up of 28 representatives of diverse interests was formed to provide input to the transportation agencies in their decision-making process. This process resulted in a new proposed bridge alignment (similar to the original 1996 alignment), a bridge design, and a mitigation package.

In 2005, the NPS prepared an updated Section 7(a) evaluation that determined that the proposed crossing, when taken along with its mitigation package, would not have a direct and adverse effect on the scenic and recreational values, provided that the mitigation package remained intact.

In 2006, the FHWA issued a new record of decision to allow the bridge to be built. The Sierra Club again sued the Secretaries of Transportation and the Interior, alleging violations of the National Environmental Policy Act, Section 4(f) of the Department of Transportation (DOT) Act of 1966 (40 U.S.C. 1653(f)), and the Wild and Scenic Rivers Act.

On March 11, 2010, the U.S. District Court of Minnesota found the 2005 NPS Section 7(a) evaluation "arbitrary and capricious" and vacated it.

On April 6, 2010, the FHWA requested that the NPS prepare a new evaluation in response to the court's decision. The NPS released its latest Section 7(a) evaluation on October 15, 2010. The evaluation determined that, due to visual impacts, the St. Croix River Crossing Project would have a direct and adverse impact to the river and that those impacts cannot be mitigated.

The NPS transmitted the 2010 Section 7(a) evaluation to the FHWA, stating that, "While the NPS believes the mitigation measures are not sufficient to eliminate the direct and adverse effects of the Project on the Lower St. Croix National Scenic Riverway's designated scenic and recreational values, the NPS strongly supports their implementation if Congressional action is taken to allow the Project to move forward. The mitigation measures are essential to meet the requirements of Section 4(f) of the DOT Act of 1966 and help the states of Minnesota and Wisconsin protect and enhance river values under Section 10(a) of the Act."

Mr. Chairman, that concludes my testimony. I would be pleased to answer any questions from members of the committee.

Ms. O'DELL. S. 264 would direct the Secretary of the Interior to convey 67 acres of land from Natchez Trace Parkway to the State of Mississippi. This land was donated by the State to the National Park Service to help complete construction of the southern terminus of the parkway at Natchez, but it was not needed for that purpose.

The bill would also adjust the parkway boundary to include 10 acres already owned by the National Park Service around the southern terminus.

The Department supports this legislation with an amendment to help protect against the possibility of future development that would be incompatible with the parkway.

S. 265 would authorize the National Park Service to add 3 separate battlefield sites to Vicksburg National Military Park—Champion Hill, Port Gibson and Raymond. These 3 sites would each make significant contributions to telling the story of the remarkable campaign that resulted in the Union Army's capture of the city of Vicksburg during the Civil War. All 3 battlefields exhibit a very high degree of historic integrity, and are among the highest-ranked resources evaluated in the study the National Park Service conducted of the Vicksburg Campaign Trail.

The Department supports this legislation.

S. 324 would amend the Chesapeake and Ohio Canal Development Act to extend the authority of the Chesapeake and Ohio Canal National Historical Park Commission. The Commission's authority to operate terminated on January 8, 2011. S. 324 would extend the authority to operate to January 8, 2021. The Department supports S. 324.

S. 864 would designate a Distinguished Flying Cross National Memorial at the March Field Air Museum in Riverside, California. The Department defers to the Department of Defense for a position on S. 864, since the purpose of the legislation is to further honor military personnel who have been awarded the Distinguished Flying Cross at a site not under the jurisdiction of the Department. This legislation explicitly states that this memorial is not a unit of the National Park Service.

S. 883 would authorize the National Mall Liberty Fund DC. to establish a memorial on Federal land in the District of Columbia to recognize the contributions of African-Americans who served as soldiers and sailors, or provided civilian assistance during the American Revolutionary War.

The Department supports S. 883 if amended to conform to the principles, process and requirements set forth in the Commemorative Works Act. While S. 883 states that the memorial shall be established in accordance with the act, the bill contravenes a critical requirement of the act by preauthorizing the memorial to be located within Area 1.

In addition, S. 883 makes no provisions for the disposition of excess moneys raised to establish the memorial, or to hold in reserve the amount available should the authority to establish the memorial lapse. The Department recommends that the bill be amended to clarify the disposition of these funds.

S. 970 amends the Wild and Scenic Rivers Act to designate approximately 9 miles of additional segments and tributaries of White Clay Creek in the State of Delaware and the Commonwealth of Pennsylvania as components of the National Wild and Scenic Rivers System.

The Department supports enactment of S. 970, with only a technical correction to the map reference.

S. 1063 would allow for the sustainable harvest of gull eggs by the Huna Tlingit people within Glacier Bay National Park. This legislation provides for the restoration of an important cultural connection to Glacier Bay, and provides for the environmentally preferred identified in a recent environmental impact statement.

The Department supports enactment of S. 1063 with one amendment, which is provided in our written testimony.

S. 1134 seeks to authorize the St. Croix River Crossing Project with appropriate mitigation measures. This bill would allow construction of a new bridge crossing if the mitigation items are included as enforceable conditions.

The Department cannot support this legislation, as the National Park Service determined that the St. Croix River Project would have a direct and adverse impact to the river, and that certain of those impacts cannot be mitigated, as documented in its section 7(a) Wild and Scenic Rivers Act evaluation of October 15th, 2010.

We are very concerned about the precedent that such legislation would establish. We feel strongly that any authorization or appropriations for this project should include the mitigation measures referenced above if congressional action is taken to allow the project to move forward.

While we cannot support the legislation, we acknowledge the efforts of Senator Klobuchar and her staff to include the mitigation provisions and to preserve the original intent of the Wild and Scenic Rivers Act, which are concerns that we raised during a hearing on a similar bill in the House Natural Resources Subcommittee on National Parks, Forests, and Public Lands.

Mr. Chairman, that concludes my statement. I'm available for any questions you all might have.

Senator UDALL. Thank you, Ms. O'Dell.

Mr. Holtrop.

STATEMENT OF JOEL HOLTROP, DEPUTY CHIEF, NATIONAL FOREST SYSTEM, FOREST SERVICE, DEPARTMENT OF AGRICULTURE

Mr. HOLTROP. Chairman Udall and Senator Franken, thank you for the opportunity to appear before you to provide the views of the Department on 3 bills being considered today.

The Department supports S. 764, which would amend the Wild and Scenic Rivers Act to make technical corrections to the segment divisions for the Chetco River in Oregon. This bill would also add language to the act to provide for withdrawal of the land within the entire river boundary, subject to valid existing rights, from all forms of mineral entry.

The Wild and Scenic River designation of the Chetco River protects its important anadromous fishery, water quality, and recreational values. The river also contributes exceptionally pure and clean water to the domestic water supplies for the communities of Brookings and Harbor, Oregon.

The technical corrections in the bill would move the divisional Wild and Scenic River boundary to extend the wild segment 2 miles. The scenic segment of the river would be extended 1.5 miles. Both changes better reflect the respective river classifications, and there is no change in the overall mileage of the designated portion of the Chetco River.

The withdrawal proposed in this bill would, will help to further protect these watersheds. To provide time for Congress to consider and take action on legislation introduced in June 2010, the Forest Service submitted a withdrawal request within the scenic and recreational segments of the Chetco River boundary for 5 years.

The Department strongly supports S. 888, which would amend the Wild and Scenic Rivers Act to designate a segment of Illabot Creek in Skagit County, Washington as a component of the National Wild and Scenic Rivers System. It would add 14.3 miles to the system in 2 segments, but would exclude the lower 2 miles of Illabot Creek.

The segment to be designated by this bill is a tributary of the Skagit River which was added to the National Wild and Scenic Rivers System in 1978. It is located on the Mt. Baker-Snoqualmie National Forest approximately 100 miles northeast of Seattle, Wash-

ington, and flows from the glaciers of the North Cascades into the upper Skagit River, the largest tributary to Puget Sound.

Illabot Creek provides exceptional spawning and rearing habitat for salmon, native steelhead, and one of the largest populations of bull trout in the Skagit River watershed. Puget Sound Chinook, steelhead and bull trout are listed under the Endangered Species Act.

Illabot Creek also provides habitat for wintering bald eagles. Eagles using the Illabot roost are a part of one of the largest concentrations of wintering bald eagles in the continental United States.

Because of Illabot Creek's outstandingly remarkable fish and wildlife values, I recommend the subcommittee consider designating all 16.3 miles of Illabot Creek, from its headwaters to its confluence with the Skagit River. With the designation of Illabot Creek as proposed in S. 888, only 0.6 miles of the entire creek would not be afforded the protections of a Wild and Scenic Rivers corridor.

The Department has no objection to the enactment of S. 925, which would direct the designation of an unnamed 12,240-foot peak located on the boundary between Ansel Adams Wilderness and Yosemite National Park as "Mount Andrea Lawrence." Ms. Lawrence was a successful Olympic athlete and a committed public servant. She was a strong supporter of the work of the Inyo National Forest and Yosemite National Park. She worked tirelessly to protect the health and vitality of the environment and economies in the Eastern Sierra and the Sierra Nevada as a whole. Ms. Lawrence passed away at the age of 76 on March 31, 2009.

The Department recognizes the contributions of Ms. Lawrence to both the United States and California, and concurs with the principles embodied in the legislation. However, we do note that the policy of the Board on Geographic Names requires that a person be deceased at least 5 years before a commemorative proposal will be considered.

This concludes my remarks, and I would be pleased to answer any questions you have.

[The prepared statement of Mr. Holtrop follows:]

PREPARED STATEMENT OF JOEL HOLTROP, DEPUTY CHIEF, NATIONAL FOREST SYSTEM, FOREST SERVICE, DEPARTMENT OF AGRICULTURE, ON S. 764

Chairman Bingaman and members of the Subcommittee, thank you for the opportunity to provide the views of the Department of Agriculture on S. 764, the Chetco River Protection Act of 2011.

S. 764 amends Sec. 3(a) (69) (A), (B), and (C) of the Wild and Scenic Rivers Act (the Act) to make technical corrections to the segment divisions for the Chetco River in Oregon. The bill would also add language to the Act to provide for withdrawal of the land within the entire river boundary (44.5 miles and all classifications), subject to valid existing rights, from all forms of appropriation or disposal under the public land laws; location, entry, and patent under the United States mining laws; and disposition under laws relating to mineral and geothermal leasing or mineral materials.

We support the legislation. The Chetco River was added to the National Wild and Scenic Rivers System in 1988 to protect its important anadromous fishery, water quality, and recreational values. The Chetco River supports significant populations of anadromous winter steelhead, fall Chinook salmon, and sea-run cutthroat with resident cutthroat and rainbow trout abundant in its upper reaches. The River has striking water color and clarity, and ability to clear quickly following storm events. It also contributes exceptionally pure and clean water to the domestic water sup-

plies for the communities of Brookings and Harbor, Oregon. The withdrawal proposed in this bill will help protect these regionally significant values.

There are two technical corrections proposed in this bill. The first would move the divisional boundary to extend the wild segment of the river 2 miles. The second would move the divisional boundary to extend the scenic segment of the river 1.5 miles. Both changes better reflect the respective classifications. There is no change in the overall mileage of the designated portion of the Chetco River. These technical changes are consistent with the recommendation in the decision notice for the Rogue River-Siskiyou National Forest's comprehensive river management plan for the Chetco River which was signed in 1993.

The wild segment of the Chetco River was withdrawn from mining and mineral leasing when the River was designated, as are all wild river classifications by the enabling legislation. To provide time for Congress to consider and take action on legislation introduced in June 2010 (H.R. 5526 and S. 3488), the Forest Service submitted a withdrawal request to the U.S. Department of the Interior, Bureau of Land Management to withdraw the approximate 5,610 acres within the scenic and recreational segments of the Chetco River boundary for 5 years in order to protect this area from future mining claims. This withdrawal request is consistent with the lands described in (this bill) S.764. We expect the withdrawal request to be published in the Federal Register within the next two weeks. All withdrawals are subject to valid existing rights and validity exams will have to be conducted on any proposed mining activity

S. 888, TO AMEND THE WILD AND SCENIC RIVERS ACT TO DESIGNATE A SEGMENT OF ILLABOT CREEK IN SKAGIT COUNTY, WASHINGTON, AS A COMPONENT OF THE NATIONAL WILD AND SCENIC RIVERS SYSTEM

The Wild and Scenic Rivers Act, Public Law 90-542 (16 U.S.C. 1271—1287, as amended) protects the free-flowing condition, water quality, and outstandingly remarkable natural, cultural, and recreational values of some of our most precious rivers. It also provides an opportunity to build partnerships among landowners, river users, tribal nations, and all levels of government.

S. 888 amends Sec. 3(a) of the Act to designate a segment of Illabot Creek in Skagit County, Washington, as a component of the National Wild and Scenic Rivers System. It adds 14.3 miles in two segments: 4.3 miles from the headwaters to the Glacier Peak Wilderness boundary classified as wild, and 10 miles from the Glacier Peak Wilderness boundary to approximately 1000 feet south of the Rockport-Cascade road classified as recreational.

We strongly support the legislation.

The segment to be designated by S. 888 is a tributary of the Skagit River, which was added to the National Wild and Scenic Rivers System in 1978. It is located on the Mt. Baker-Snoqualmie National Forest, approximately 100 miles northeast of Seattle, Washington and flows from the glaciers of the North Cascades into the upper Skagit River, the largest tributary to Puget Sound.

Illabot Creek provides exceptional spawning and rearing habitat for summer and fall Chinook, coho, chum and pink salmon; native steelhead; and, one of the largest populations of bull trout in the Skagit River watershed. Puget Sound Chinook, steelhead and bull trout are listed under the Endangered Species Act. Illabot Creek also supports the highest density of chum and pink salmon in the Skagit River watershed and provides habitat for wintering bald eagles. Eagles using the Illabot roost are a part of one of the largest concentration of wintering bald eagles in the continental United States.

Mr. Chairman, we recommend the Subcommittee consider designating all of Illabot Creek, from its headwaters to its confluence with the Skagit River (16.3 miles) as recommended in the Mt. Baker-Snoqualmie National Forest Plan (June 1990). This includes the lower 2 miles, classified as a recreational river, of which approximately 1.4 miles is in the Skagit Wild and Scenic River Corridor. With the designation of Illabot Creek as proposed in H.R. 1740, only 0.6 mile is not included in either Illabot Creek Wild and Scenic River or the existing Skagit Wild and Scenic River corridor. The lower 2 miles includes some of the most important fish spawning habitat and an important foraging and roosting area for wintering bald eagles. Much of this area is in the Skagit River Bald Eagle Natural Area and dedicated to resource protection.

S. 925 THE MOUNT ANDREA LAWRENCE DESIGNATION ACT OF 2011

This legislation directs the designation of an unnamed 12,240 foot peak, located on the boundary between Ansel Adams Wilderness Area and Yosemite National Park approximately six tenths miles (0.6) northeast of Donahue Peak, as "Mt. Andrea Lawrence."

The management of the proposed Mt. Andrea Lawrence is shared between the Inyo National Forest and Yosemite National Park. We have consulted with the U. S. Department of the Interior—National Park Service in the preparation of this statement.

Ms. Lawrence was a successful Olympic athlete and a committed public servant, having served 16-years on the Mono County Board of Supervisors and founded the Andrea Lawrence Institute for Mountains and Rivers. She was a strong supporter of the work of the Inyo National Forest and Yosemite National Park. She worked tirelessly to protect the health and vitality of the environment and economies in the Eastern Sierra and the Sierra Nevada Region as a whole. Ms. Lawrence passed away at the age of 76 on March 31, 2009.

The Department has no objection to the enactment of S. 925 and notes that it would have no adverse impact to the management of the Inyo National Forest, or the Ansel Adams Wilderness. However, the Board on Geographic Names was created by Congress in 1947 to establish and maintain uniform geographic name usage throughout the Federal Government. It is Board policy not to consider names that commemorate living persons. In addition, a person must be deceased at least 5-years before a commemorative proposal will be considered. In accordance with the Board's interpretation of Wilderness Act of 1964, the Board on Geographic Names discourages naming features in congressionally designated wilderness areas unless an overriding need can be demonstrated. Although the Administration does not have any objections to the enactment of S. 925, maintaining consistency with the long-standing policies of the Board on Geographic Names is recommended.

The Department recognizes the contributions of Ms. Lawrence to both the United States and California, and concurs with the principles embodied in the legislation. Should the legislation be enacted, the Forest Service would work to ensure that our visitor information maps reflect the new designation, and understand that the National Park Service would do the same when their maps, signs, and other informational materials are replaced or updated.

This concludes my prepared statement and I would be pleased to answer any questions you may have.

Senator UDALL. Thank you, Mr. Holtrop.

Let me turn to Ms. O'Dell. I have a suite of 3 questions I'd like to direct your way, and then I'll turn to Senator Franken.

Let me start with the S. 1036, the collection of seagull eggs in Glacier Bay National Park. The bill authorizes the collection of gull eggs from within the park, notwithstanding any other provision of law—that's quote, unquote. As I read this language, it would waive the National Park Service Organic Act, the laws specific to the establishment of Glacier Bay, and several other applicable laws.

Why do you believe such a broad waiver of park laws is necessary to allow for the limited collection of gull eggs?

Ms. O'DELL. Those laws govern that we protect the natural resources of Glacier Bay National Park without impairment. The environmental impact statement that we did was a legislative environmental impact statement. The ROD suggested that we would need legislation to protect the status of all of those other laws, and to allow for the sustainable harvesting of eggs to take place.

Senator UDALL. Thank you for that clarification. I may want to submit an additional question or more for the record to that particular point.

But, let me turn to the S. 1134, the St. Croix River bridge. The bill would authorize Federal agencies to assist in the construction of a bridge over the St. Croix River, notwithstanding section 7 of the Wild and Scenic Rivers Act. Do you know how many other times section 7 has been waived for other designated Wild and Scenic Rivers?

Ms. O'DELL. The National Park Service does not have the authority to waive section 7 of the bill, so if anything had ever happened, it would have been due to congressional action.

Senator UDALL. But, you don't know how many times it has been——

Ms. O'DELL. It hasn't——

Senator UDALL [continuing]. Waived?

Ms. O'DELL [continuing]. Been, sir.

Senator UDALL. I think that's an important question. We'll work together to find the answer.

Let me move to the second question tied to the bridge. There appears to be general consensus that a new bridge needs to be built. The question seems to be more about what type of bridge and how much it costs. Is legislation needed to move any new bridge forward, or just the bridge discussed in this proposal?

Furthermore, is the Park Service opposed to any new bridge over the river, or just the specific bridge that has been proposed?

Ms. O'DELL. Let me try to clarify what the National Park Service's role is in this project. It's our job to analyze any bridge proposal in this project, in this circumstance, and analyze whether or not it has direct and adverse impacts on the Wild and Scenic River. That's our sole role. So, any proposal for a bridge that comes to the National Park Service, we will do that analysis and present that finding. We have not been in a position, nor would we, under section 7(a), to compare any bridge proposal to another bridge proposal.

Senator UDALL. OK. That's an important clarification for this committee's understanding.

Third question——

Ms. O'DELL. Yes, sir.

Senator UDALL [continuing]. On the heels of your answer. I understand Senator Klobuchar's bill conditions the authorization for a new bridge on a requirement that a mitigation package be included as enforceable conditions. So, am I correct that the Park Service agrees that if a bridge is authorized, it's important that the mitigation be included in the legislation?

Ms. O'DELL. Yes, sir. We believe that's true. We're very grateful to the Senator for including that provision in her bill. It protects the spirit of the Wild and Scenic Rivers Act if this proposal should go forward. I think that many people in the community and the country will appreciate that factor.

Senator UDALL. Thank you.

Mr. Holtrop, I always enjoy asking you questions, but I have no questions for you today, so——

[Laughter.]

Senator UDALL [continuing]. I'll get over that.

Senator FRANKEN.

Senator FRANKEN. First, I just want to say something about the Wild and Scenic Rivers Act. I'm sorry that the Ranking Member isn't here. We want to preserve this act, and we want to preserve the intent that Senators Mondale and Gaylord Nelson had, which is to preserve these beautiful, beautiful rivers. This is, will be the first bridge that has been built over one of these rivers. It's really the exception that proves the rule. I think that's important.

I don't want this to be an invitation to override, wholesale overriding of the act, which has done its job for 43 years. I just want to say that.

Ms. O'Dell, in the National Park Service's most recent section 7(a) evaluation it explains that "adverse impacts must be eliminated rather than partially offset" for the Park Service to consent to the project. The Lower St. Croix was added to the National Wild and Scenic Rivers System in part because of its "outstanding, remarkable scenic values."

Would it ever be possible to completely eliminate all adverse impacts of a new bridge on the scenic values of a river?

Ms. O'DELL. That's a difficult question for me to answer without looking at a specific proposal.

Senator FRANKEN. OK. Let me move on. First of all, the 7(a) section of this bill calls for this process.

Ms. O'DELL. Yes, sir.

Senator FRANKEN. Right? That Senator Klobuchar and the rest of us have, that this legislation is following. This is part of the 7(a) process. So, I wanted to make that clear.

Ms. O'Dell, the National Park Service also oversees the National Register of Historic Places, which includes the Stillwater Lift Bridge. The Park Service has said it can't approve a bridge "where there was not one previously." Are you aware of that?

Ms. O'DELL. I am.

Senator FRANKEN. OK. The existing bridge cannot be replaced, because it is protected as an historic bridge.

Given the protections of these different programs, it is the position of the National Park Service that no bridge—this is my understanding. I've talked to the National Park Service, in Minnesota, at least—that no new bridge could move forward in the Stillwater area without congressional action. Is that your understanding?

Ms. O'DELL. I don't know that we could say that today, sir. Our job, really, is solely to evaluate a specific proposal, and to provide an analysis of that impact—

Senator FRANKEN. OK.

Ms. O'DELL [continuing]. Of that specific proposal.

Senator FRANKEN. I guess my, having looked into this, that, officially, that may be the case. But, basically, looking at all the different bridge plans, there, what I understood from the National Park Service in Minnesota was that no bridge would get a 7(a) exemption, or, a positive 7(a) ruling, but that the mitigation that we're putting in here will definitely help. Anyway, in, let's move on.

In the Park Service's letter to the Federal Highway Administration announcing the results of the most recent 7(a) evaluation, it mentions the congressional process—which is what we're doing—for authorizing specific projects in accordance with a provision within the act itself. In fact, it states that the NPS, National Park Service, strongly supports the implementation of the mitigation package if congressional action is taken to allow the project to move forward. This bill explicitly includes that same mitigation package, right?

Ms. O'DELL. Yes, sir.

Senator FRANKEN. If Congress is going to move forward with authorizing this project, does the Park Service have any concerns that this bill does not address?

Ms. O'DELL. Not that I am aware of, sir.

Senator FRANKEN. OK. OK. So, what I—and, having done a lot of research on this—is that we are, this act makes certain that nothing will disturb the nature of a wild and scenic river. We have this unique situation. The, a bridge can't be built that's not in the footprint of the current bridge. We can't get rid of the current bridge because of the historic nature of it. So, we're going to—and this bridge that we're talking about right now has mitigation that you favor, that doesn't qualify the 7(a) under the technical parts of whether it doesn't disturb the nature of the river, but which, under 7(a), the legislation as crafted does satisfy 7(a), and does allow for the building of this bridge.

Ms. O'DELL. The mitigation measures that the Park Service and Federal Highways agreed to do not mitigate the direct and adverse impacts of the building of a new bridge. However, they do support the spirit of the Wild and Scenic Rivers Act.

Senator FRANKEN. Great. I thank you very much.

Ms. O'DELL. Thank you, Senator.

Senator UDALL. Thank you, Senator Franken.

I have no further questions.

I want to thank you for taking the time to come to the Senate side of Capitol Hill.

We will keep the record open, which, of course, I will announce at the end of the hearing, and you may have additional questions directed your way.

Thanks again for your service. Thank you.

As Mr. Holtrop and Ms. O'Dell leave, I'd ask the 3 witnesses for the—would the witnesses, Ms. O'Dell and Mr. Holtrop, would the witnesses, actually, be willing to stay for a few more minutes? I think Senator Coons is here. Evidently he has a question or 2.

If Ms. O'Dell would stay.

Mr. Holtrop, we will excuse you. It's your luck day.

[Laughter.]

Senator UDALL. So, yes. So, yes. Ms. O'Dell, it's, your number came up. We'd like you to rejoin us at the—That was, I'm indebted to you. I'll see if I can make it up to you at some point, if you—

Senator Coons is recognized when he's ready.

**STATEMENT OF HON. CHRISTOPHER A. COONS, U.S. SENATOR
FROM DELAWARE**

Senator COONS. Thank you very much, Senator Udall. Thank you for convening this hearing.

My congratulations to Senator Paul on joining you as the ranking minority.

I simply wanted to speak for a few moments, if I could, Ms. O'Dell about, I believe it's S. 970, to designate some additional segments and tributaries of the White Clay Creek and include them in the National Wild and Scenic Rivers System, as someone who grew up in the area of that rivering system, and has hiked and fished it since childhood.

I was just recommending to you, its consideration is something that my predecessor, Senator Kaufman, worked very hard on, that has enjoyed the support of Congressman Pitts of Pennsylvania, Congressman Carney of Delaware.

The reason these 2 sections were held out of the original designation was because they were being considered by both a Pennsylvania and Delaware local government as a future water storage site. I was actively involved in my previous role as County Executive in some of those discussions. They've both since been removed from consideration for water storage because other options have been pursued.

So, I just wanted to say that this bill, which passed favorably from this committee in the last congress, I think, is worthy of consideration. My sense was that it had no cost. I wanted to make sure that that is accurate before urging my colleagues to support this common-sense, no-cost, modest scope expansion to the Wild and Scenic Rivers Act.

Ms. O'Dell.

Ms. O'DELL. Yes, sir. That's true. We believe there is no additional cost to including these 9 extra miles in this system that's already about 190 miles wide.

Senator COONS. Hopefully, this common-sense, no-cost bipartisan amendment will pass—

[Laughter.]

Senator COONS [continuing]. Without any huge controversy. But, given where we are in the Congress these days, I thought it none-the-less worthwhile to compel you to say that it has no cost.

Ms. O'DELL. I'm happy I could say that for you, sir.

[Laughter.]

Senator COONS. Thank you very much. I appreciate the opportunity to—

Senator FRANKEN. Can I ask one question? How much does it cost?

[Laughter.]

Ms. O'DELL. I would have to get back to you on that, Senator.

[Laughter.]

Senator UDALL. Thank you, Senator Coons, and Senator Franken.

Senator Coons makes an important point.

Ms. O'Dell, I know he and I both look forward to the day when we call you back to the committee to discuss further a proposal to create a national park in the 1 State that doesn't have a national park, which is the great State of Delaware—the first State. I know Senator Coons feels strongly about this. We're going to continue to work together to make this a reality for the people of Delaware, and the people of the United States.

Senator COONS. Thank you, Senator Udall. We have a very solid plan that Senator Carper has advocated for tirelessly. I'm grateful for your support. We look forward to the detailed consideration of how we can keep the cost to a bare minimum for the last State without a national park. Thanks, Senator.

Ms. O'DELL. We look forward to working with you to get us across that finish line, sir.

Senator UDALL. There's a lot of looking forward. Thank you, Ms. O'Dell, again, and thank you for returning to the witness table. That was, I think, relatively painless. I think we would all look forward to adding some acreage to the Wild and Scenic River System

in Delaware. I think it's important to note that we have Pennsylvania's support as well.

Ms. O'DELL. Correct. We do.

Senator UDALL. We do. So, thank you again, and—

Ms. O'DELL. Thank you, Senator.

Senator UDALL [continuing]. We can move to the next panel.

If the next panel would join us, we look forward to your testimony.

We've been joined by, it's Mayor Harycki, Mr. Tomten, Mr. Hession.

Thank you all for being here. We look forward to your testimony.

Let me start with Mayor Harycki, and we'll move from my right to my left. We would love to hear from each of you, and if you can work within a 5-minute timeframe, that would be excellent, and then we will direct some questions your way as necessary.

So, again, thank you. Thanks for making the long trip to our Nation's capital. I just drove across country a few weeks ago with my daughter, who's at the University of Virginia, and we bonded in a 36-hour non-stop drive back here. So, I know the time it takes to get here, but it's great to have you here. I know this speaks to the importance of this issue.

Mr. HARYCKI. We had 7 people bonding.

Senator UDALL. The floor is yours.

**STATEMENT OF KEN HARYCKI, MAYOR,
CITY OF STILLWATER, MN**

Mayor HARYCKI. Thank you.

Chairman Udall, Ranking Member Paul, members of the committee. I'm Mayor Ken Harycki, co-chairman of the Crossing Coalition.

I'm here today because only Congress can untangle this catch-22 that Federal law has created and has stopped the long overdue bridge from being built.

First a little background. Downtown Stillwater's protected by the National Historic Register. The counties on both sides of the river are part of the Twin Cities' 3 million population metro area. The current lift bridge was built in 1931. By the 1960s it was apparent that demand was exceeding the design. It is also on the Historic Register. Now, unfortunately, it is dangerously outdated.

The lift bridge has a capacity of 11,000 cars per day, but currently it's overburdened by an average of 18,000 vehicles. In the summer it can jump to 25,000, all coming through downtown.

The roadway has an accident rate nearly twice the State average, and flooding and maintenance force the old bridge to close on a regular basis. This is a functionally obsolete, fractured critical bridge. A structural failure would result in collapse. The bridge's efficiency rating of 33 is lower than that of the 35W bridge before it collapsed in 2007, killing 13 and injuring 144.

It's been difficult to find a plan that's consistent with the 3 important Federal—and sometimes conflicting—Federal laws. We believe the river is an important natural resource protected by the Wild and Scenic Rivers Act. We want to continue to protect the river and to protect the historic sites. But we also need a safe crossing.

Our project was developed through a ground-breaking environmental mediation process led by the Udall Institute. If I may, perhaps it's not an accident that this committee is being shared by Senator Udall.

In order to make sure that all ideas were considered, the Udall Institute brought together 27 stakeholder groups. Staff by a team of professionals, the group met for 3 years. It's valuable to note that the National Park Service was an important part of this process. This diverse group considered numerous ideas and locations for a new crossing. We even looked at tunneling.

The stakeholders needed to protect the river and to respect the history of the region, all while making sure the natural area has a transportation facility that's capable of meeting current and future needs. The result was a package that balances the 3 Federal laws. All but one of the groups involved supported the plan, and we received a Record of Decision.

Our vision is for more than a bridge. We'll be making significant park improvements and environmental remediation. The project will preserve the historic bridge, converting it to a key element of a bike and pedestrian trail, giving people new and exciting ways to enjoy the river valley and the national park.

Among other environmental improvements, the new bridge will reduce phosphorous pollution by 20 percent. Finally, note the bridge location. We think it's better to building the new crossing within the industrial part of the river, next to a power plant, a sewage plant, and a marina. This portion of the river is surely not scenic and not wild. It is the correct location for the bridge.

Now, after the latest lawsuit, the Park Service has determined that the Wild and Scenic Rivers Act does not allow them to grant permit for any new construction. This is an important part—point. The NPS has not just blocked this bridge. It has rejected any new construction in a Wild and Scenic Riverway. Only Congress has the authority to grant an exemption.

This leads me to address the so-called Sensible Bridge plan that has been reintroduced. This plan is a modified version of a plan studied and rejected by the community stakeholder group. The plan is neither sensible, nor realistic. In fact, it's unbuildable.

It proposes a 3-lane weight-restricted, diagonal, visually dominating bridge directly in front of the Stillwater historic district, obliterating the scenic values of the Wild and Scenic St. Croix. It will be functionally obsolete upon opening.

Besides its ascetic fatal flaws, it has dramatic negative and disqualifying environmental and historic property impacts. The cost of this plan is irresponsibly presented as a fact, but unlike the Udall community-endorsed plan, it has not been subject to analysis by bridge engineers. Governor Dayton said it best earlier this year: Proposing a new plan at this stage is just, quote, disingenuous.

Returning now to a conceptual design stage would delay the project for a decade or longer. The longer we wait, the more expensive the solution will be, and the greater risk that something tragic could happen. Living in Minnesota after the 35W bridge collapse, we're especially sensitive about our bridges. We're especially pleased to say that this support has bridged political divides. The Governors of both Minnesota and Wisconsin, both representatives

to Congress and your Senate colleagues and our author, Senator Klobuchar, was joined by Senators Frank and Kohl, and Johnson.

We believe that the support we have created—we believe, with that support, we have a project and legislation that works within the procedural confines of the Wild and Scenic Rivers Act in a limited way. It's now up to you to help us untangle this catch-22 that Federal law created, and help us move forward.

I thank you for your time.

[The prepared statement of Mayor Harycki follows:]

PREPARED STATEMENT OF KEN HARYCKI, MAYOR, CITY OF STILLWATER, MN

Chairman Udall, ranking member Paul, and members of the committee.

My name is Ken Harycki. I am the Mayor of Stillwater, Minnesota, and also co-chairman of the Coalition for the St. Croix River Crossing, a two-state regional community organization that has been formed to advocate for the new bridge project.

My hometown is a beautiful and historic city located on the St. Croix River, which creates the border between Minnesota and Wisconsin. It is acknowledged as the birthplace of Minnesota and our downtown is protected by the National Register of Historic Places. The counties on both sides of the river are part of the Minneapolis-St. Paul metropolitan area, with a population of 3.2 million.

Since even before 1848, when Wisconsin was admitted by Congress into the Union, communities on both sides of the river have been connected by a river crossing at Stillwater. In 1931, 80 years ago, a lift bridge was built across the river as our communities grew. This bridge, still in operation, is also on the National Register of Historic Places.

Through the 1940's and 50's the bridge was able to handle the demands of people who needed to cross between our communities, but in the 1960's it became apparent that demand was exceeding this design.

Now, in 2011 our bridge is dangerously outdated.

The lift bridge was designed to handle a capacity of 11,200 cars per day, but today it is overburdened by an average of 18,400 vehicles daily. In the summer, traffic can jump to over 25,000 cars a day, all of it funneling through the narrow main street and 90 degree turns of our historic downtown.

The road that leads up to the bridge has a traffic accident rate that is nearly twice the state average for comparable roadways.

Cars idle for hours on both sides waiting to cross the bridge, creating pollution and making it challenging for residents and visitors to navigate Stillwater's historic downtown.

Too many years and too much traffic have taken a toll on the bridge. Flooding and maintenance force the bridge to close on a regular basis, sending tens of thousands of cars and trucks elsewhere.

This is a functionally-obsolete, fracture-critical bridge. A structural failure would result in collapse. The bridge's sufficiency rating of 33 is lower than that of the I-35W Bridge before it collapsed in 2007, killing 13 people and injuring 144.

As you can see from the handout that we've provided to the committee, it has been difficult to find the right plan that is consistent with three important federal laws.

- Section 7 of the Wild and Scenic Rivers Act;
- Section 4 of the Transportation Act of 1996; and
- Section 106 of the National Historic Preservation Act.

In particular, the St. Croix River is an important natural resource that is recognized and protected by the Wild and Scenic Rivers Act. Area residents support this designation and want to continue to protect the river from over-development. We support protecting historic sites throughout the region. But we still need a safe, reliable crossing.

The project that we are asking the Congress to permit to go forward was developed through an unprecedented environmental mediation process that was administered by the Udall Institute for Environmental Conflict Resolution.

To make sure every possible idea for a new bridge was considered, the Udall Institute brought together 27 different stakeholder organizations. They are listed in your materials, and also on the poster board behind us. The group met in Stillwater City Hall at least monthly for three years.

The Stakeholder Group, staffed by a team of engineering, environmental and design professionals, worked together to study a multitude of options, designs and fea-

tures. These organizations represented the community, state and federal regulatory agencies, environmental organizations, historic preservation interests, economic development interests, and local governments from both sides of the river.

The National Park Service was a very important part of this exhaustive planning process.

This diverse group looked at every possible idea and location for a new crossing. We even looked at tunneling under the river. Your handout includes a map of the dozen or so routes that were reviewed as part of the Stakeholder process.

The Stakeholders considered ways to protect the river, to make this national resource more accessible to people, and respect the history of Stillwater and the region—all while making sure the metro area has a transportation facility that is capable of meeting current and future needs.

The result was a plan that balances the three laws. All but one of the groups involved supported the plan. We received a Record of Decision (the second we had received) that validated the work we did and the final result.

Our plan and the community's vision are for more than just a new bridge. We'll be using federal and state highway funds to make significant park improvements and environmental remediations as part of the project.

The project will preserve the historic bridge by converting it into the key element of a new bicycle and pedestrian loop trail along and above the river, giving people a new and exciting way to access and enjoy the river valley and this national park.

Bluff lands on both sides of the river where the present-day roadway is located will be restored.

The pilings and the riverfront for the old coal barge terminal in front of the power plant will be removed.

The new bridge will also decrease the amount of phosphorous pollution entering the river by 20 percent—the number one goal of the St. Croix River Basin Team. The new crossing will also reduce the dangerous levels of traffic and automotive pollution from our small, historic downtown area.

And finally, the bridge design and location. As you can see from our posters, the bridge is gorgeous. It's a low profile cable stay design that has been built in only two other locations in North America. The Stakeholders wanted a "signature bridge" that is worthy of the St. Croix Valley. We believe it will become as iconic as the Lift Bridge.

Also, note the location. We think it's appropriate to build the new crossing within the industrial part of the riverway, next to a power plant, a sewage treatment plant and a marina. This portion of the river is assuredly not wild, and not historic like downtown Stillwater. It is the correct location for the crossing.

Now, after the latest lawsuit the National Park Service has determined that the Wild and Scenic Rivers Act does not allow them to grant a permit for any new construction in a designated riverway. This is an important point: the NPS has not just blocked this bridge; it has rejected any new construction in a Wild and Scenic Riverway. Only Congress has the authority to grant an exemption, as spelled out in the Wild and Scenic Rivers Act.

This leads me to address the so-called "sensible bridge" plan that has been recently reintroduced. This plan is a modified version of a plan that was studied and rejected by the Community Stakeholder group, described as alternative D in the 2006 Supplemental Environmental Impact Statement.

This plan is neither sensible nor even realistic. It would build a diagonal, visually dominating and intrusive bridge directly in front of the Stillwater historic district, obliterating the scenic values of the Wild and Scenic St. Croix River. To top it off it will be functionally obsolete upon opening.

It proposes a three-lane weight-restricted bridge with no connecting road improvements. It will not be able to carry the current traffic at opening, much less the traffic projected for the coming decades.

Besides its aesthetic fatal flaws it has dramatically negative and disqualifying environmental and historic property impacts. Alternative D was shown to destroy 9 acres of park property, carve out at least 20 times the cubic yardage of bluffs, 760,000 cubic yards, and require over 4,000 feet of retaining wall, 2000 feet at 25 ft high.

The cost of this plan is irresponsibly presented as fact, but unlike the Udall/community endorsed plan, it has not been subjected to analysis by bridge engineers. When studied as Alternative D in the SEIS it came in at only about 10% less than the chosen alternative.

Gov. Dayton said earlier this year that proposing a new plan at this stage is just, quote, "disingenuous." Returning now to the conceptual design stage would delay this project for conceivably another decade and maybe longer. And the longer we wait, the more expensive the solution will get and the greater the risk that some-

thing tragic could happen. Living in Minnesota, after the I35W bridge collapse, we are especially sensitive about our bridges.

While support for the project is not universal, as with all large public projects, there is strikingly broad and deep public support for this new bridge. That support is reflected by the majority of elected local and state officials.

And we are especially pleased to say that throughout the decades this support has bridged political divides. Now is no different, with the Governors in Minnesota and Wisconsin, both representatives to Congress, and your Senate colleagues; our author, Senator Klobuchar, who is joined by Senator Franken, Senator Kohl and Senator Johnson.

I assure you that the people who live and work in the St. Croix River Valley have done everything possible to create the best plan for the entire region. We care deeply about the river that unites our communities.

Together, with the help of federal and state officials, we have created a project that

- Meets current and future traffic demands
- Protects the historic lift bridge and historic sites throughout the region.
- Respects the river and its scenic beauty
- And works within the procedural confines of the Wild and Scenic Rivers Act in a limited and project-specific way.

It's now up to you to take action and help us resolve this matter. I thank you for your time and again ask for your help and support.

Senator UDALL. Thank you, Mayor Harycki.

We've been joined by Roger Tomten.

I hope I've pronounced your name at least close to properly. We want to welcome you. You're a resident and a business owner in Stillwater, Minnesota, and we're pleased your here. We're eager to hear your testimony. The floor is yours.

STATEMENT OF ROGER L. TOMTEN, RESIDENT AND BUSINESS OWNER, STILLWATER, MN

Mr. TOMTEN. Thank you, Mr. Chairman.

Thank you, Senator Franken, and members of the subcommittee.

For the record, I am Roger Tomten. I'm a 21-year-old resident and business owner in Stillwater, Minnesota.

I appreciate the opportunity to testify on behalf of a growing number of Stillwater and Minnesota residents who support a new bridge across the St. Croix River between Minnesota and Wisconsin, but not the enormous freeway-style bridge prescribed in S. 1134.

Candidly, I am humbled they are supporting a bridge design that I and 2 other St. Croix Valley architects have proposed. Our design was presented for the first time just 2 weeks ago, and its sensible size, scale and cost are resonating with fiscal conservatives and environmental advocates alike, and among Stillwater residents, too.

Mr. Chairman, the National Park Service has approved construction projects in Wild and Scenic Riverways. But the so-called extradosed bridge recommended by this bill has rightly been deemed incompatible with the Wild and Scenic St. Croix River. This bill, put simply, neuters the 40-year protections embodied in the Wild and Scenic Rivers Act. Vice President Mondale, one of the act's original authors, shares a similar assessment in his submitted testimony.

The mayor and other say they will build this bridge alongside a coal-fired power plant. They fail to state the fact that this power plant was the very reason for the Wild and Scenic Rivers Act. No laws existed to stop this intrusion on the beautiful St. Croix River,

and Senators Mondale and Gaylord Nelson wanted to be sure such an intrusion would never, ever happen again. Congress agreed.

The bridge prescribed in this bill is such an intrusion. It is enormous—160 feet from river to deck, 60-foot towers above the deck, 4 lanes, and travel speeds of 65 miles an hour. It will cost nearly \$700 million—nearly \$700 million when Congress is fiercely debating how to curtail our Nation's spending, and coming just weeks after Minnesota's State Government ended the 20-day shutdown over a \$5 billion State budget deficit.

This bill effectively would green-light construction on the most expensive bridge in Minnesota history, costing more than 2 and a half times the I-35 bridge that collapsed in 2007; yet, it would carry a fraction of the traffic. Advocates of this boondoggle give little regard to Minnesota's crumbling infrastructure. Our dwindling finances are struggling to repair the estimated 1,170 bridges deemed structurally deficient. We have 13 rural counties, where 15 to 25 percent of the bridges are structurally deficient.

With all due respect to the Mayor, he and other proponents of S. 1134 say that every possible idea was studied in the mediation process held from 2003 to 2006. I participated in that mediation process, and I can assure you, only high-speed, freeway-style solutions were analyzed. Slower 40-mile-an-hour designs were not studied. Smaller scale bridges were not studied. These are the cornerstones of the Sensible Stillwater Bridge design that we propose.

The historic lift bridge built in 1931 has been good for the city of Stillwater. Over the years, the bridge has become the symbol of the city—an icon, bringing thousands of National Park visitors into our community. There is no reason the Sensible Stillwater Bridge couldn't become another icon for the city of Stillwater.

The prospect of cars bypassing downtown a mile down river on a new freeway-style bridge is a scary one. We think it will permanently alter the economic vitality of our historic commercial core, to say nothing of the beauty and character of the St. Croix River.

The thought of foregoing the protections of the Wild and Scenic Rivers Act to benefit roughly 9,000 daily commuters is wrong; and to move this boondoggle bridge forward when our Nation is locked in a debate over spending, and Minnesota is coping with the effects of closing a \$5 billion budget deficit makes no sense.

My community of Stillwater needs a new bridge to replace the historic lift bridge. But the bridge prescribed in this bill is not the answer. It is too much bridge, at too high a price, for my State, for my community, and for the St. Croix Wild and Scenic Riverway.

Thank you very much, Mr. Chairman.

[The prepared statement of Mr. Tomten follows:]

PREPARED STATEMENT OF ROGER L. TOMTEN, RESIDENT AND BUSINESS OWNER,
STILLWATER, MN

Mr. Chairman, Ranking Member Paul, and members of the Subcommittee, for the record I am Roger Tomten, a resident and business owner in Stillwater, Minnesota. I appreciate the opportunity to testify on behalf of a growing number of Stillwater and Minnesota residents who support a new bridge across the St. Croix River between Minnesota and Wisconsin, but NOT the freeway style bridge prescribed in S. 1134.

Mr. Chairman, I understand that the bill you see here has cosponsors from both states and both parties and appears to have widespread support, but there is great controversy over this bill's recommended bridge design that reaches beyond Min-

nesota and Wisconsin. The bridge in this bill will forever change the character of Stillwater, Minnesota and the St. Croix National Scenic Riverway, the national park it is neighbor to. Just as troubling is the bill's methodology—the unprecedented exemption for a transportation project of this size and scale—opens the door for other incompatible development projects over America's Wild and Scenic Rivers. This bill put simply, neuters the 40-year protections embodied in the Wild and Scenic Rivers Act.

The bridge prescribed in this bill will cost nearly \$700 million at a time when Congress is fiercely debating our nation's spending and less than two weeks after the government of Minnesota resolved a lengthy shutdown over a five billion dollar state budget deficit. It would be the most expensive bridge in Minnesota history, costing more than two and a half times the \$265 million I-35 bridge that collapsed in 2007. Yet it would carry less than 30 percent of the traffic the I-35 bridge carries.

While advocates of this Bridge over the St. Croix lobby Congress and Minnesota officials to green light the \$690 million project, the state's bridge repair fund is struggling to repair or replace the estimated 1,170 bridges deemed structurally deficient. No doubt Minnesota's infrastructure crisis exemplifies our nation's infrastructure crisis.

The bridge prescribed in this bill is a 65-mile an hour, four-lane, freeway style bridge that was designed when the price of gasoline was less than two dollars a gallon. The enormous scale of this bridge was based on mid 1990s growth projections for new housing development—primarily in Wisconsin. That growth has slowed to a crawl, as it has throughout the country. And now the freeway bridge called for in S. 1134 would carry about 9,000 commuters daily, when there is already an eight-lane interstate bridge located just seven miles south.

The historic lift bridge, built in 1931, has been good for the city of Stillwater, but it is in need of repair as it simply cannot handle the traffic today. Over the years the bridge has become the symbol of the city, bringing thousands of national park visitors into the town. These visitors have significantly boosted the economy in our small downtown area. The way the bridge prescribed in this bill is designed—going from blufftop to blufftop, about a mile south of our downtown core—it will be very difficult for travelers to find their way into a downtown Stillwater business. Instead, cars will go whizzing past downtown on a new freeway-style bridge and permanently altering the economic vitality of our historic commercial core.

There is an alternative, more sensible bridge design that is gaining growing support among Stillwater and Minnesota residents, with national park supporters, and transportation and taxpayer advocates who see it as a pragmatic and sensible option to the Boondoggle of a Bridge in this legislation. Our Sensible Stillwater bridge would cost less than \$300 million, be more respectful of the St. Croix River it graces, and continue to bring scores of visitors to downtown Stillwater, while managing traffic flow and easing congestion for commuters. Construction of this bridge could be completed in the same timeframe as the big freeway-style bridge. Speeds on the Sensible Stillwater bridge would be limited to 40 miles per hour, reducing noise and vibration in the river valley, so that the valley will retain the serene character that it is known for.

The Lower St. Croix River, where the city of Stillwater is located, has been protected as part of the St. Croix National Scenic Riverway in the National Park System since 1972. Congress voted to protect the Lower St. Croix after Northern States Power built a coal-burning power plant on the river's edge. Industrialization along the St. Croix south of Stillwater had to stop. And Congress stopped it with the Wild and Scenic designation.

I understand that proponents of the mega-bridge point to the coal-fired plant as justification for their bluff-top to bluff-top bridge. Such an explanation completely defies the primary reason why the St. Croix became a federally protected river—To prevent more eyesores like the King Power Plant that scar the inherent beauty of the St. Croix.

Action by environmental visionaries like Walter Mondale and Gaylord Nelson prevented any additional industrialization. And the unsightliness and noise and pollution that came along with it. The Wild and Scenic River Act protected the St Croix River Valley for boating, canoeing, fishing, hiking, birdwatching. And just simply enjoying the scenery and solitude. And for nearly 40 years, those protections have held firm.

Proponents of S.1134 indicate that all alternatives were studied in the mediation process held from 2003-2006. As a stakeholder in that mediation process, I can assure you, this was not the case. Only high-speed freeway-style solutions were analyzed. Our Sensible Stillwater Bridge proposal establishes a slower design speed, builds a smaller bridge lower to the water, eliminates the commuter traffic from downtown Stillwater and meets the traffic needs of the area all for less than half

the price. This is backed up by fact that several other members of the mediation process, the St. Croix River Association and the Minnesota Center for Environmental Advocacy have dropped their support for the bridge proposed in S.1134, and now support our Sensible Stillwater Bridge.

The bridge prescribed in S.1134 headlined a feature story on out-of-control spending in the July 19, 2011 front page section of the New York Times: “. . . local officials and members of Congress have pushed for a new four-lane bridge over the St. Croix River that was co-sponsored by Representatives Michele Bachmann and Sean Duffy. . . Opponents labeled the bridge an earmark, but they defend the spending by arguing that it was not an earmark. The legislation calls only for a bridge to be built.”

The thought of forgoing the protection of the Wild and Scenic River Act to benefit roughly 9,000 daily commuters is wrong. And to move this mega-bridge plan forward when our nation is locked in debate over spending and the state of Minnesota is coping with a \$5 billion budget deficit makes no sense. The community of Stillwater needs a new bridge to replace the historic lift bridge, but not the one prescribed in this bill.

It is too much bridge at too high a cost for my state and my community.

Senator UDALL. Thank you, Mr. Tomten.

Let me turn to Mr. Hession, who's here to testify on S. 1063, as I understand it.

**STATEMENT OF JACK HESSION, MEMBER, EXECUTIVE
COMMITTEE, ALASKA CHAPTER, SIERRA CLUB**

Mr. HESSION. Yes, sir. Thank you, Mr. Chairman, and Senator Franken, for inviting me to present the views of the Sierra Club here this afternoon.

My name is Jack Hession. I'm a member of the Executive Committee of the Alaska Chapter of the Sierra Club, and I am familiar with all of the areas within the scope of this bill.

While we support traditional HunaTlingit gull egg gathering, we oppose S. 1068 because it would open Glacier Bay National Park to this subsistence practice.

The park is a world-famous wildlife sanctuary—one of 4 national parks in Alaska closed to consumption of wildlife, including to subsistence. It's almost entirely a wilderness national park, and it even has 5 saltwater wilderness areas. It's also an internationally significant natural area and wildlife sanctuary. It's a World Heritage Site, and part of an international biosphere reserve with Wrangell-St. Elias National Park and 2 adjacent Canadian Parks—Kluane National Park and Tatshenshini-Alsek Provincial Park.

According to the National Park Service in its LEIS that the committee has before it, the collection of glaucous-winged gull eggs by members of the HunaTlingit tribe would reduce the number of fledglings of these gulls by an estimated 22 percent. There is also a potential adverse spillover effect of the bill if it is approved: If Glacier Bay is open to egg collecting, Alaska native corporations and village corporations living near Katmai, Denali and Kenai Fjords National Parks—these are the 3 other sanctuaries in the system in Alaska—might ask this subcommittee for the same privilege.

As an alternative to this bill, we suggest that the subcommittee encourage the HunaTlingit to gather gull eggs at a half dozen of the tribe's traditional bird egg collecting sites located just outside the park. Attached to my statement is a list of these traditional sites, documented at a National Park Service study of traditional

HunaTlingit bird egg collecting within the tribe's traditional territory.

Use of these non-park sites by the HunaTlingit would preserve a valuable cultural resource—a goal the Sierra Club fully supports—and, at the same time, maintain the integrity of the park.

In other words, Mr. Chairman, and in conclusion, this bill is not necessary.

Thank you.

[The prepared statement of Mr. Hession follows:]

PREPARED STATEMENT OF JACK HESSION, MEMBER, EXECUTIVE COMMITTEE, ALASKA CHAPTER, SIERRA CLUB, ON S. 1063

Sierra Club is a national environmental organization with chapters in every state. Achieving maximum protection and proper management of the national parks, including Glacier Bay National Park and Preserve (Glacier Bay), has long been a high priority for our organization.

For example, during Congress's consideration of the Mining in the Parks Act of 1976, we urged members of Congress to include Glacier Bay National Monument (now a national park and preserve or NPP) and the former Mt. McKinley National Park (now Denali NPP) in the list of national park system units to be closed to new mining claims. In a strong show of support for these two magnificent units, Congress rebuffed the mining industry's attempt to keep them open to new claims.

Our primary legislative goal during the 1970's was passage of the Alaska National Interest Lands Conservation Act of 1980, the single largest public land conservation act in the history of this nation. Among its other accomplishments, the Act expanded and re-designated the former Glacier Bay National Monument as a national park/preserve, and gave wilderness system status to almost the entire terrestrial portion and five saltwater areas, the latter unique in the Alaska system.

During the 1990's Congress, at the urging of the Sierra Club and other environmental organizations, blocked attempts by the Alaska congressional delegation and the State of Alaska to open the park to subsistence practices by local rural residents.

S. 1063

The Sierra Club strongly opposes S.1063 because it would open Glacier Bay National Park to the consumptive use of a wildlife species, specifically, the gathering of glaucous-winged gull eggs by the Huna Tlingit Tribe of Alaska Natives. The park is closed to the consumptive use of wildlife, including subsistence practices.

Opening the park would harm the gull population, be in derogation of park purposes and values, and potentially lead to proposals for the subsistence taking of other wildlife in the park, in three other national parks in Alaska, and in national parks in other states. The Huna Tlingit advocate opening the park to subsistence hunting for seals and mountain goats, as well as to gull egg collecting.

Opening the park to egg gathering conflicts with Congress's historic policy prohibiting human predation on wildlife in national parks. A recent expression of this policy is found in the Tabitha Shoshone Homeland Act of 2000 involving Death Valley National Park. In Sec. 4(e)(3), Resource Use by the Tribe, Congress specified that "In the special areas any use of park resources by the tribe for traditional purposes, practices, and activities shall not include the taking of wildlife and shall not be in derogation of purposes and values for which the park was established" (emphasis added).

Opening the park to egg gathering also conflicts with Congress's intent in ANILCA that Glacier Bay National Park and other national parks in Alaska serve as wildlife sanctuaries. These parks ". . .are intended to be large sanctuaries where fish and wildlife may roam freely, develop their social structures and evolve over long periods of time as nearly as possible, without the changes that extensive human activity would cause." Senate Report 96-413 p. 137. Reducing Glaucous-winged fledglings in the park by an estimated 22 percent, as is anticipated under the agency's proposal, is an extensive human activity clearly contrary to Congress's intent.

Opening the park to egg collecting is in conflict with the National Park Service Organic Act of 1916, which requires the Secretary of the Interior to ". . .promote and regulate the use of Federal areas known as national parks. . .to conserve the scenery and the natural and historic objects and the wildlife therein and to provide

for the enjoyment of the same in such a manner and by such means as will leave them unimpaired for the enjoyment of future generations.” (Emphasis added.)

Under this standard national parks are closed to the consumptive use of wildlife, unless exceptions to the rule are made by Congress, because consumptive use impairs that wildlife by definition. In terms of the Organic Act, then, whether a species within a national park can be maintained on a sustained yield basis—the “biological sustainability” test of P.L. 106-455—or not is irrelevant. Sustained yield of park wildlife is a wildlife management goal that has no basis in federal law and policy governing national parks.

As discussed below, there are traditional glaucous-winged gull egg gathering sites near but outside the park within Huna Tlingit traditional territory. The availability of these sites means that Congress and the public do not have to choose, as the Park Service suggests, between opening the park to gull egg gathering and denying the Huna Tlingit the opportunity to maintain their culturally valuable practice of subsistence gull egg gathering

Glacier Bay National Park

In addition to its national significance, Glacier Bay is recognized as a globally important wildlife sanctuary and natural area. It is a World Heritage Site and the primary coastal component of an International Biosphere Reserve with the contiguous Wrangell-St. Elias National Park, Kluane National Park of the Yukon Territory, and Tatshenshini-Alsek Provincial Park of British Columbia. Glacier Bay provides a sanctuary and feeding grounds for endangered humpback whales and threatened Steller sea lions.

When the congressionally ordered phase-out of commercial fishing in Glacier Bay proper is complete, the park will contain one of the largest, perhaps the largest, marine protected area in the northern hemisphere. This will fulfill major scientific and sanctuary purposes of the park.

The park’s submerged lands and waters, including the saltwater areas, are federally owned. This gives the National Park Service (NPS) exclusive jurisdiction, freeing it from problems and disputes that can arise in other park system units in Alaska where the traditionally hostile State of Alaska owns the submerged lands and can pursue uses incompatible with park purposes and values.

Similarly, the terrestrial portion of the park is not encumbered by extensive private or state-owned properties, aside from the University of Alaska’s large undeveloped mining claim that is probably trading stock at best. With its sister sanctuaries Katmai NPP and Denali NPP, the park is one of the most pristine parks in the national park system.

Origin of the current controversy

A technical paper prepared for the park by four academic anthropologists describes the origin of the current issue:

In the mid-1990’s cultural resource management personnel at the Park invited a group of Huna elders to a workshop on traditional ecological knowledge attended by representatives of the Hoonah community, the Alaska Department of Fish and Game, the National Park Service, and professional anthropologists who had worked in Hoonah. The original intent was to discuss possible collaboration on a project to gather and document Tlingit knowledge of cultural and natural resources to be used in Park management. The Huna diverted the conference proceedings when they realized they were being asked to share their knowledge without being promised anything in return. In exchange for their cooperation, they demanded that the Park restore limited harvest rights for three key subsistence foods, in order of priority: seagull eggs, seals, and mountain goats. Park officials agreed to work cooperatively with them toward a resolution of these issues.¹ (Emphasis added. The remainder of this paragraph describes the subsequent ethnographic and biological studies.)

This willingness of park officials to work “toward a resolution of these issues” led to the enactment of P.L. 106-455, the Glacier Bay Resources Management Act of November 2000. Sponsored by former Alaska senators Frank Murkowski and Ted Stevens, it directed the Secretary to study the “sea gulls” in the park “. . . to assess whether sea gull eggs can be collected on a limited basis without impairing the biological sustainability of the sea gull population.” If the Secretary “. . . determines

¹Hunn, E.S, Johnson, D.R., Russell, P.M., Thornton, T.F., “The Huna Tlingit People’s Traditional Use of Gull Eggs and the Establishment of Glacier Bay National Park,” Technical Report NPS D-121, National Park Service, 2003, p. 4.

that limited collection of sea gull eggs can occur without impairing the biological sustainability of the sea gull population in the park, the Secretary shall submit recommendations for legislation to the [Senate and House Committees].”

The NPS’s subsequent study of a glaucous-winged gull colony on South Marble Island in the park found that an egg collecting party could take every egg out of every nest in two separate visits. It was assumed that the gulls would resume egg laying once the egg collections were over. Based on a mathematical model and subsistence egg collecting elsewhere in Alaska, the study estimated that the egg sweeps on the island would result in a 22 percent reduction in the number of glaucous-winged gull fledglings in the park, and therefore that the biological sustainability of the gull population in the park would not be impaired.

Accordingly, the NPS recommended in its Legislative EIS and its July 28, 2011 testimony before the Subcommittee that Congress open the park to Huna Tlingit egg gathering. The proposed action/preferred alternative of the LEIS that would be implemented if S. 1063 is approved would “. . . authorize the collecting of glaucous-winged gull eggs by Huna Tlingit tribal members at several locations within the park on two separate dates.”

Park Service refuses to consider an alternative to opening the park

As part of the study called for in P.L. 106-455, park managers funded research into traditional Huna Tlingit bird egg use within the tribe’s traditional territory. Glaucous-winged gull colonies were inventoried and described within and without the park. Six traditional glaucous-winged gull egg collecting sites were located outside the park in the Icy Strait-Cross Sound area.

The availability of these non-park sites presented the NPS with an obvious alternative to opening the park to this subsistence practice. But rather than analyze this alternative in its LEIS, the agency merely acknowledged that traditional collecting sites are found “. . . on National Forest Lands in Icy Strait and Cross Sound, including Middle Pass Rock near the Inian Islands, Table Rock in Cross Sound, and other traditional locations on the coast of Yakobi Island.”²

The NPS dismissed LEIS consideration of the non-park alternative with this argument: “Although permanent residents of Hoonah are authorized to harvest glaucous-winged gull eggs on islands outside [of the park] in Icy Strait and Cross Sound, these nesting sites are virtually inaccessible on most days due to ocean swells and tidal currents. Moreover, such sites were never favored by the Huna Tlingit and do not fulfill the traditional practice of harvesting eggs within the homeland of Glacier Bay.”

However, evidence in technical reports³ funded by the agency refutes the agency’s argument, “A Study of Traditional Use of Birds’ Eggs by the Huna Tlingit,” (2003), and “The Huna Tlingit People’s Traditional Use of Gull Eggs and the Establishment of Glacier Bay National Park” (2002).

NPS claim: “These [non-park] nesting sites are virtually inaccessible on most days due to ocean swells and tidal currents.” The 2002 report notes that:

Huna Tlingit gull egg harvests fit into the local pattern of seasonal harvests. Gull eggs were taken during a brief window of opportunity between mid-May and mid-June, during the initial egg-laying phase at the gull colonies. The timing of these harvests was critical. Given the right synchronization of egg laying in the gull colonies (described in more detail below), optimal harvests with maximum numbers of fresh eggs were possible only for a very limited time. Gull egg trips heralded the arrival of good travel weather and release from the period of late winter and early spring food shortage. For Huna people, it was a particularly exciting time, especially for children, who participated actively in the gull egg harvests. (Emphasis added.)

²This quotation is taken from a U.S. Fish and Wildlife Service regulation [50 CFR Part 100.3] governing subsistence gull egg collecting by the villagers of Hoonah that shows the non-park alternative to be in place:

Current U.S. Fish and Wildlife Service regulations allow residents of Hoonah to gather glaucous winged gull eggs on National Forest lands in Icy Strait and Cross Sound, including Middle Pass Rock near the Inian Islands, Table Rock in Cross Sound, and other traditional locations on the coast of Yakobi Island between May 15 and June 30. The land and waters of Glacier Bay National Park remain closed to all subsistence harvesting.

³Hunn et al., previously cited, and Hunn, E.S., Johnson, D.R., Russell, P.N., Thornton, T.F., A Study of Traditional Use of Birds’ Eggs by the Huna Tlingit, Technical Report NPS/ccsouw/nrtr-2002-02 NPS D-113, National Park Service, 2002.

The six non-park sites, each named by the Huna Tlingit, are traditional egg collecting sites. This alone indicates their accessibility. And as noted above, these sites were visited by Huna Tlingit egg gathering parties during the “good travel weather,” a period associated with calm seas of the late spring-early summer.

Ocean swells and tidal currents in this area are well-known, but the fact that the sites are traditional Huna Tlingit gull egg gathering sites suggests that the swells and currents were not in the past and are not now a deterrent to tribal members intent on collecting gull and other bird eggs. Huna Tlingit villages, settlements, and forts were located throughout the Cross Sound-Icy Strait area in the past, indicating extensive travel in the region. Prior to the introduction of motorized boats, the Huna Tlingit used their large ocean-going dugout canoes for travel throughout the region. Today the villagers use motorized boats.

In addition, the community of Elfin Cove in Cross Sound, a noted sport-fishing center, and the commercial fishing community of Pelican in Lisianski Inlet off Cross Sound testify to the extensive boat traffic in the area.

NPS claim: That the Huna Tlingit “never favored” the six non-park sites. No evidence is cited in support of this assertion, but it is at least an admission that eggs were gathered at these sites. During the Little Ice Age, the six sites may well have been favored. As unglaciated sites in the Icy Strait-Cross Sound-Outer Coast area they were among the only sites available for egg collecting. When Captain George Vancouver sailed by the mouth of Glacier Bay proper the fiord was still filled with ice.

NPS claim: That the six non-park sites “do not fulfill the traditional practice of harvesting eggs within the homeland of Glacier Bay.” True, traditional egg collecting sites outside the park obviously cannot fulfill the traditional pre-park practice of collecting eggs within the park. But the non-park sites do fulfill the traditional practice of collecting glaucous-winged gull eggs in the tribe’s traditional territory—its homeland—outside the park, and in the case of George Island and Middle Pass Rock, the gathering of black-legged kittiwake eggs as well.

The 2002 report documents 11 traditional, active glaucous-winged egg collecting sites in the Cross Sound/Outer Coast area, five within and six outside the park.⁴ The six active non-park sites in the Cross Sound-Yakobi Island area are:

- Inian Islands: Middle Pass Rock; small island in the W part of the middle passage in the Indian Islands in Cross Sound; about 70 km NW of Hoonah; Lugheiyá? ‘Nose’ (check location); medium productivity for eggs [SF, MM, PL, MI]; associated with commercial fishing in Inian Island (now closed); difficult to access due to strong tides and big swells; considered dangerous; usually only men harvest (Ken Grant; Johanna Dybdahl).
- George Islands, outside Elfin Cove; at the mouth of Port Althorp in Cross Sound; about 76 km NW of Hoonah; Khushnaaxh’ (“Tumbling Water Shelter”); medium productivity for eggs [SF, MM, TA, BH, PL, MI]; Huna Tlingits that harvested at Middle Pass Rock often harvested here as well; associated with commercial fishing activities in Cross Sound and the outer coast.
- Table Rock (aka “Bird Rock”); just S of Three Hill Island, near Point Lucan in Cross Sound; about 80 km W of Hoonah; Taweik’ (“Coming Up Over It”); medium productivity for eggs [SF, BF, MI]; this site is still used by some Natives in Pelican, but is not considered very accessible by Huna Natives; site was used in the past when fishing in the Inian Islands.
- Point Lucan and Column Point, rock; halfway between Point Lucan and Column Point off Althorp Peninsula, Cross Sound; about 85 km W of Hoonah; Lix’ Xagu (“Broken Rock Sandbar”) (check location); productivity for eggs uncertain [SF, BF, MM, TA, BH, PL, MI]; location needs to be checked.
- Surge Bay rocks; at the mouth of Surge Bay on the outside of Yakobi Island near the southwest entrance to Cross Sound; about 110 km W of Hoonah; Tsaa Aayi (“Seal Country”) (check location); productivity of eggs uncertain [SF, BF, MM, TA, BH, PL, MI]; not commonly used; Surge Bay is a former village site (Frank See).
- Yakobi Rock; just west of Yakobi Island at the SW entrance to Cross Sound; about 105 km W of Hoonah; Yeiya (“On the face of Yei”) (Yakobi Island?) me-

⁴Two other collecting sites in the park in this area are inactive “non-seagull egg” collecting sites. There are also three, possibly four (the text has three, the map four) other non-seagull gull collecting sites in eastern Icy Strait near Hoonah, one of which is active.

In addition, the U.S. Fish and Wildlife Service’s North Pacific Seabird Database, an online source the DLEIS authors apparently overlooked, locates two “seabird colonies” on islands just off the northwest entrance to Frederick Sound near Hoonah, as well as one closer to Hoonah, one at the west entrance to Lisianski Strait between Yakobi and Chichagof Islands, and one near Pt. Couverden. The active/inactive status of the colonies is not disclosed.

dium productivity for eggs [SF, BF, MM, TA, BH, PL, MI]; this site is considered to be productive but not very accessible due to its distance from Hoonah and exposure to waves and ocean swells; it was used occasionally in the past when commercial fishing activities brought Hoonah to the outer coast in spring. (Emphases and parenthetical remarks in original.)

Distances from Hoonah to the three most productive sites in Glacier Bay proper and from Hoonah to the six non-park sites are estimated in the 2000 report cited above. Three of the non-park sites are as close as or closer to Hoonah than the three park sites the NPS has selected for the proposed egg gathering:

Park sites in Glacier Bay proper and estimated distance in kilometers from Hoonah		Non-park sites and estimated distance in kilometers from Hoonah	
South Marble Island	80	Middle Passage Rock, Inian Islands	70
Lone Island	95	George Islands	75
Geike Rock	90	Table Rock	80
		Pt. Lucan/Column Pt., rock	85
		Yakobi Rock	105
		Surge Bay Rock	110

A Park Service demonstration project

Shortly after passage of P.L. 106-455, the act authorizing the gull study, park managers invited a party of Huna Tlingit tribal members from Hoonah on an egg collecting trip to Middle Passage Rock, one of the non-park sites. Agency assistance was “in the form of consultation throughout the permitting process, and vessel and safety support.” Glaucous-winged gull eggs were gathered. In 2002, the managers arranged for a private charter boat to take the villagers to Middle Pass Rock where eggs were again gathered.

Park staff did not investigate the other five non-park sites for purposes of the LEIS. An alternative calling for Park Service facilitation of Huna Tlingit egg gathering outside the park modeled on the agency’s successful demonstration project was rejected on the grounds that “this alternative, while reasonable and feasible, falls outside the scope of this LEIS, as Congress, through Section 4 of P.L.106-455, directed the NPS to assess whether “sea gull eggs can be collected in Glacier Bay National Park without impairing the biological sustainability of the gull population of the park.” (Emphasis added.)

However, the National Environmental Policy Act requires federal agencies to consider all reasonable and feasible alternatives, and there is no indication that in enacting P.L. 106-455 Congress intended to limit the consideration of reasonable and feasible alternatives to just those selected by the NPS.

Conclusion and recommendation

The Park Service’s proposal, which is now before the Congress in S. 1063, is an unprecedented, startling, and deeply disappointing development—the Park Service itself is determined to open the park to the extraction of a wildlife species the agency is charged by Congress to protect.

Its proposal is unprecedented in that this is apparently the first such instance of the agency asking Congress to open a national park to the consumption of wildlife for subsistence or any other purpose. Previous attempts to extract resources from Glacier Bay have come from private interests and their allies. At those times, park managers have joined with citizen supporters to defend the park.

The Park Service has apparently given no thought to the possible repercussions of their proposal. As noted above, the Huna Tlingit seek seal hunting and mountain goat hunting privileges in the park, and perhaps other subsistence practices, in addition to access for glaucous-winged gull egg gathering. Enactment of S. 1063 could invite legislative proposals for allowing these additional subsistence practices.

If Congress opens the park to egg collecting, its action could also encourage Alaska Natives living near Katmai NP, old Mt. McKinley NP within Denali NPP, and Kenai Fjords NP to ask Congress to extend this subsistence practice to these wildlife sanctuaries. Native Americans in other states will also be interested in how Congress resolves the egg gathering issue in Glacier Bay National Park. If the gathering is approved, Native American tribes might ask Congress to authorize the same or similar practice in national parks near them.

Sierra Club recommends that the Subcommittee take no further action on S. 1063. Thank you for considering our views.

Senator UDALL. Thank you, Mr. Hession.

Mr. Hession, let me follow up with you with my first question. I will recognize myself for 5 minutes.

It appears in this case that the Park Service and the bill sponsors are trying to balance 2 areas of concern: On one hand, the protection of a national park and its native wildlife, and on the other, the cultural traditions of a native community.

According to the Park Service's testimony, they believe that a limited collection of gull eggs can be undertaken without threatening the parks' gull population. If their position's correct, and there will not be any detrimental effect on the park's gull population, why is it a problem if they try and, to accommodate the cultural practices of the HunaTlingit within the park?

Mr. HESSION. As I mentioned in my statement, Mr. Chairman, there is a detrimental effect. The gull population, the glaucous-winged gull population, would be hit with an impact of approximately 22 percent. That's an incompatible use in a national park, particularly in a park of this stature.

In addition, we are not, as I mentioned, we are not opposed to HunaTlingit traditional egg gathering. In fact, we support it. But, not within the park; particularly when there are these alternative sites that the Park Service itself has identified but has refused to consider.

We just suggest the subcommittee consider them and, in turn, encourage the HunaTlingit to utilize the instead of going into the park, which we see as completely unnecessary. In other words, it's a win-win situation, as they say nowadays.

Senator UDALL. Would you further explain the 22 percent? That applies to what?

Mr. HESSION. That applies to the entire park population. This proposal would allow 2 collecting trips to 5 sites a year. The idea is to go into, first, to South Marble Island, which is a very productive gull nesting site, and a haul out—major haul out for Steller sea lions. The idea is that the party of egg collectors would sweep across this island—I've been there. I've seen it. I've not been on it. The Park Service says you must maintain a suitable distance. But, sweep across it; take eggs out of every nest; then come back again on a second trip and do the same, in the hope, according to the Park Service, that this, that the gulls would relay a second series of clutches, and then everything would be OK. The problem is, they also concluded that you would have that better than one-fifth reduction in the number of fledglings in the park.

Senator UDALL. So, that's, that 22 is, to one-fifth less fledglings—

Mr. HESSION. Fledglings. Yes.

Senator UDALL. Thank you for testifying. Thank you for making the long journey here, to Washington, DC.

Let me turn to Mayor Harycki. You noted in your testimony that the proposed bridge was developed by various stakeholders through an environmental mediation process administered by the Udall Instructions for Environmental Conflict, and you also referred to the bridge proposal as a Udall Community Endorsed Plan. Now, I'm very familiar with the Udall Institute. It's a federally chartered institute. But it's my understanding that it serves only to facilitate discussion, and it doesn't actually endorse specific policy proposals.

So, I want to be clear here, because I, I want to be even-handed. The Udall Institute isn't advocating for or against any of the proposals related to the St. Croix River Crossing. Is that accurate?

Mayor HARYCKI. If I may, at the end of the process, the, all but one of the stakeholder groups did sign off on the plan that was developed through the process.

So, although it was specifically endorsed by the Udall Institute—

Senator UDALL. They convened the process and—

Mayor HARYCKI. Got us together, and—

Senator UDALL. Got everyone together.

Mayor HARYCKI.—got us to this point.

Senator UDALL. Yes. I think you can understand why I want to make that clear, because the whole—

Mayor HARYCKI. Definitely.

Senator UDALL [continuing]. Role in which the Udall Institute operates is to mediate, convene, and encourage the stakeholders to come up with their way forward, not a way forward that's dictated by the institute.

Mayor HARYCKI. Correct.

Senator UDALL. Clarify that for the record. Mr. Mayor, you stated that area residents support the designation and want to continue to protect their river from over development. But, what's the point of the Wild and Scenic River designation if the solution to development—conflict is to simply waive one of the key protections under the Wild and Scenic Rivers Act?

Mayor Harycki: I think the, you know, as I stated, everybody in our community views the St. Croix River as probably one of our greatest assets. I mean, we certainly appreciate having that river there. But, we also appreciate having a safe and reliable crossing. The important point is that any crossing will require the exemption. There's simply, you know, we're caught in a catch-22. We can't tear down the existing bridge, nor do we want to, because it's protected as a historic site. So, to build a bridge we require a congressional exemption. I mean, this is the process that was laid out in the law. We've spent 30 years as a community going down this process to get here.

Senator UDALL. I have a couple of additional questions for each of you, but I want to turn to Senator Franken, and in the next round I'll be able to ask my second round of questions.

So, Senator Franken.

Senator FRANKEN. Thank you, Mr. Chairman.

Thank, I want to thank all of the witnesses for being here.

Mr. Tomten, you're here representing a number of Minnesotans and folks from Stillwater who support a new bridge, but a smaller bridge than is currently being considered.

Given the past statements of the Park Service, that they couldn't approve any new construction, would you support a congressional exemption to the Wild and Scenic Rivers Act for a smaller bridge to be built?

Mr. TOMTEN. Yes. But I would also ask—there currently have been 5 bridges built in the St. Croix River, replaced, there's been new construction on 5 different crossings up and down the St. Croix River in the last 20 years. If no one has, I believe the person

from the Park Service indicated that they haven't turned down any, a proposal that they haven't analyzed, or, they haven't been able to report on a proposal that they haven't had before them.

So, if they haven't had a smaller, slower bridge put before them, how do we know that they would not approve a bridge that is in the central corridor? They have in the past stated that the central corridor is the location that is appropriate for a bridge crossing on the St. Croix River.

Senator FRANKEN. My understanding from talking to the Park Service in, the National Park Service, that, that's in, authorized, to take care of the St. Croix, is that no bridge there in that footprint, or near that footprint, would be, pass the 7(a) process.

So, I really, I believe that the smaller, slower bridge would also require an exemption, a congressional exemption. That is my understanding.

Mayor Harycki, in your testimony you mentioned the fact that the current lift bridge handles more traffic than it was built for 80 years ago. Can you describe a typical summer day in Stillwater, and how that affects bridge traffic?

Mayor HARYCKI. A typical summer day, and, really, a typical, you know, winter day, is, it's very beautiful town with an enormous traffic problem caused by an 80-year-old bridge. In fact, when you were—even though we didn't plan it that way, when you came to visit our community to look at the bridge situation yourself, you were delayed in the meeting by traffic. That is very—and it wasn't even the summer. That's a very typical situation.

We can have several, we can problem have over a mile of traffic backing up through town. It creates problems for the city, because people are going through local community streets trying to find ways around traffic.

So, a typical situation that we have is traffic delays; idling cars; the bridge has been hit numerous times by semi's trying to get across the river; they're trying to navigate a very—

Senator FRANKEN. Basically, we need a—the feeling is that, and I think Mr. Tomten would agree, that a new bridge is needed.

I'm sympathetic, as you know, Mr. Tomten, to the desire for a lower, slower bridge. But I'm also sympathetic with the Governor who is, has said that if we don't do this now, this is really, he doesn't want to see this reopened. His, the State, it's the State's, and Mn/DOT—that's the Minnesota Department of Transportation's—decision, and the Governor's decision, that they would like to see this, a bridge there, and that they are feeling if we reopen this process, we're not going to see one.

That is why I believe that we are going to need, no matter what we do, we're going to need an exemption to the Wild and Scenic Rivers Act, and that we need, Stillwater needs a bridge, and it needs it now, or, it needs it to start very soon.

But, I thank you for your testimony.

Mr. TOMTEN. If I could, Mr. Chairman? If I could respond to Senator Franken. Thank you.

Yes, Stillwater does need a new bridge. It's our feeling that with a smaller-scale bridge, because we've already studied such a large scope for this project, I mean, the scale of this bridge proposed is huge. The footprint is huge. The fact that our smaller bridge fits

so intimately within the large scope of the existing EIS, that we feel that it, a fairly quick order supplemental EIS can be handled in a fair amount of time, a short amount of time—not the 6 to 10 mediation years that everyone is concerned about, but rather, that we could turn around a supplement in 18 to 24 months. That, because of the smaller bridge, because of the quicker construction time, we can actually have a completed bridge at the same time-frame that we have under the big bridge proposal.

Senator FRANKEN. I understand, and I'm sympathetic to that. But, as the Governor has said, that, this is something that really needs to get started before September 30, I believe.

Is that right, Mr. Mayor?

Mayor HARYCKI. That is correct, Senator.

Senator FRANKEN. OK.

Thank you. Thank you all.

Senator UDALL. Thank you, Senator Franken.

Mr. Tomten, I think you were just speaking to the question I was going to ask, which was, the new bridge proposal, it appears to me, that you're advocating would then require new studies and evaluations; could take years; in the end the Park Service might oppose that bridge as well, so we're right back to our starting point.

If you didn't have a chance to fully answer that with Senator Franken, I'd certainly welcome your comments. Otherwise, for the record, I would ask you to submit your point of view on that question that I've just answered—I'm sorry. That I've asked, and I've asked you to answer.

Mr. TOMTEN. We feel that the timing can be brought about in, again, in a short period of time to do the environmental EIS on the project, and with the construction time being much shorter, we can actually have our bridge constructed at the same time as the bridge being proposed.

So, we don't feel the timeframe is as much an issue. We did go through the long mediation process, and—I did want to clarify one thing for the record, if I could, Mr. Chairman.

Senator UDALL. Please.

Mr. TOMTEN. During the mediation process, again, the only bridges that were ever studied were high speed freeway-style bridges. At the plea of several of the mediation teams that were, or, some of the stakeholders that were in the group, we were unable to convince Mn/DOT that a smaller, slower bridge be reviewed. So, Mn/DOT took upon, took their prerogative to limit it to high speed freeway-style bridges, large bridges.

Just to clarify for the public record, there actually were 2 of the stakeholder groups that did not sign on the mediation, not just one. It was our group—the Friends of the St. Croix—and the Sierra Club. Since then, 2 of the other stakeholder groups have now withdrawn their support for the large bridge project and are now supporting the smaller, slower, cheaper alternative, the Sensible Stillwater Bridge.

So, we feel we do have a lot of support. We feel that there is, you know, there's just kind of a growing frustration as to why slower and smaller bridges would not be analyzed answer studied. It's kind of strange to have to come all of the way to Washington to ask our own State Department of Transportation to look at a small-

er project that save \$400 million. But that's where I find myself today.

I'm certain that, with a statement like that, the question of capacity would come up, and so I'd just like to preclude that question by saying that our bridge, our bridge proposal offers 2 lanes of traffic westbound in the morning, 2 lanes of traffic eastbound in the afternoon. The large \$700 million bridge proposes 2 lanes of traffic eastward in the morning, 2 lanes of traffic westward in the afternoon. So, capacity-wise, it will be very close to what the current bridge proposal is in terms of capacity, but for less than half the price, saving \$400 million for the Federal Government and for the 2 States.

Mayor HARYCKI. Mr. Chairman—

Senator UDALL. Thank you, Mr. Tomten.

I'm going to turn to the Mayor—you both anticipated my question. Because when I read your testimony, there is a different point of view. I want to give each of you a chance to respond to, whatever length of time you'd like to respond.

Mayor, you referred to the Sensible Bridge alternative, and made the point that it had been studied and rejected. I'd, would now—

Mayor HARYCKI. If I may—

Senator UDALL [continuing]. Go to you to please respond.

Mayor HARYCKI. If I might. What we're asking for is, we're not asking for Congress to design a bridge for us. We have professionals both at Mn/DOT and WSDOT that are fully capable of designing the bridge for us, and they're professionals. They know what they're doing.

I would like to introduce a July 26, 2004, letter from the United States Department of the Interior that discusses the exemption process, and how any bridge being built would require an exemption. That's really what we're here for.

The good news that I—

Senator UDALL. Mayor, without objection, that will be included in the record. Please continue.

[The information referred to follows:]

DEPARTMENT OF THE INTERIOR,
NATIONAL PARK SERVICE,
St. Croix Falls, WI, July 26, 2004.

Ms. Cheryl Martin,
Environmental Engineer, Federal Highway Administration Galtier Plaza, 380 Jackson Street, Suite 500, St. Paul, MN.

DEAR MS. MARTIN:

This is in response to your letter of June 24, 2004, requesting that the National Park Service (NPS) review the alternatives under consideration for the St. Croix River Crossing Project (crossing project) and provide an indication of the viability of each alternative under Section 7(a) of the Wild and Scenic Rivers Act. The following comments are preliminary, based on currently available information about the crossing project. They are intended to provide planning assistance to the Federal Highway Administration (FHWA), but do not constitute the Section 7(a) evaluation of the crossing project.

WILD AND SCENIC RIVERS ACT

The Wild and Scenic Rivers Act (the Act) (Public Law 90-542) was passed by Congress in 1968. The Act established a method for providing Federal protection for certain of our country's remaining free-flowing rivers, preserving them and their immediate environments for the use and enjoyment of present and future generations. Section 1(b) of the Act contains the Congressional declaration of policy and states:

It is hereby declared to be the policy of the United States that certain selected rivers of the Nation which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values, shall be preserved in free-flowing condition, and that they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations.

The Lower St. Croix National Scenic Riverway (Riverway) was established under the Act for its outstandingly remarkable geologic, scenic, and recreation values.

Section 7(a) of the Act provides substantial protection to designated rivers. It states, in part, that:

no department or agency of the United States shall assist by loan, grant, license or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river was established as determined by the Secretary charged with its administration.

APPLICABLE POLICY POSITIONS

The NPS and the Minnesota and Wisconsin natural resource departments, which are partners in Lower St. Croix management, have long held a position of non-proliferation of crossings over the Riverway. The 2002 Cooperative Management Plan (CMP) for the Lower St. Croix, which was approved by all management partners, provides direction regarding the "non-proliferation" policy. It states that there will be no net increase in the number of transportation corridors. In general, transportation corridors are to be replaced in or adjacent to the existing corridor. Capacity within an existing transportation corridor may be increased by widening an existing bridge or by constructing a parallel structure.

The CMP does, however, provide some latitude for relocating transportation corridors if 1) the need for the project is clearly justified; 2) the project is consistent with state and regional transportation plans, 3) there is no feasible and prudent alternative to relocating the corridor, and 4) all built elements of the existing corridor are removed, and the corridor is restored to natural conditions. All proposed changes to river crossings or corridors require site specific environmental evaluations.

In the Final CMP Environmental Impact Analysis, it is stated that the questions of whether or not a new bridge at Stillwater is built and whether or not the lift bridge is replaced will both be addressed in a separate environmental statement. If it is determined that a new bridge is constructed, however, that project should still be developed to be in conformance with the overall management goals outlined in the CMP.

PAST SECTION 7(A) EVALUATIONS OF THE CROSSING PROJECT

The NPS has prepared Section 7(a) Evaluations for two previous crossing proposals; one in 1996 on the 1995 FEIS preferred alternative and one in 2000 for the bridge alternative developed through the 1998 process facilitated by former Minnesota transportation commissioner Richard Braun. While particulars of the crossings described for the 1996, 2000 and current projects vary, the outcomes of the two prior evaluations are generally applicable to the current effort.

The Section 7(a) Evaluation of the 1995 FEIS preferred alternative determined that the proposed bridge, as described at that time, would have a direct and adverse effect on the scenic and recreational values for which the Riverway was established. Factors that led to that determination were the impacts of the proposed bridge on the existing natural and historic scene and the recreational user's enjoyment of the same. The 1995 proposed bridge would have interrupted and obscured views upstream and downstream; introduced a new manmade development to the natural appearing Wisconsin bluff; and disrupted views of historic Stillwater. In addition, the NPS found that the adverse impacts were so severe that they could not be adequately mitigated with available strategies. In her April 1998 decision, U.S. District Judge Ann Montgomery determined that the bridge was a water resources project subject to review under Section 7(a) of the Act and that the NPS Section 7(a) determination was not arbitrary and capricious.

The Draft Section 7(a) Evaluation of the 1998 alternative also determined that the proposed bridge would have a direct and adverse effect on the scenic and recreational values for which the Riverway was established. Again, the factors that led to that determination were the impacts of the proposed bridge on the existing natural and historic scene. However, the evaluation also concluded that the direct and adverse effects could be adequately offset by any one of three mitigation packages

developed through an interagency effort. The mitigation packages included removing obstructions to flow, removing manmade visual intrusions to the natural and historic scene, restoring the Wisconsin bluff by removing pavement from the existing Wisconsin approach road, and providing funds to preserve natural and cultural resources and to protect the viewshed of the Riverway. The location of the 1998 alternative is the same as Alternative C of the current effort.

COMPARISON OF ALTERNATIVES

Based on the foregoing, there are several important factors to consider in determining the consistency of the crossing project with Section 7(a) of the Act. They include the apparent mass of structure, which is influenced by horizontal and vertical bridge elements as well as the alignment of the bridge to the river, and the resulting degree of impact to natural and historic scenes enjoyed by recreational users of the river. Effective strategies for reducing the impact of the proposed crossing would include using crossing locations, bridge alignments, and bridge types that minimize impacts to natural resources, including river bluffs and vegetation, and that minimize the apparent mass of the bridge and obstructions of important natural and historic scenes.

Alternative B-1 would use a new crossing corridor along a relatively industrially developed section of the Riverway. It would be placed on a mostly perpendicularly alignment to the river. In general, this more perpendicular crossing would be a foreground element in the view of passing boaters for a shorter period of time and obstruct views less than a more diagonal crossing in the same location (such as the 1995 FEIS preferred alternative). The bridge types under consideration for Alternative B-1 attempt to minimize apparent mass. Its location along a more industrially developed section of river on the Minnesota side may help reduce its impact on the historic scene of downtown Stillwater. An attempt to minimize the impact of a bridge on the natural-appearing Wisconsin bluff has been made by locating the abutment in a ravine. Impacts to the Wisconsin bluff could be further compensated by restoring the bluff along the existing approach road to the Lift Bridge and preserving the sparsely developed landscape on this side of the river. Bluff restoration and landscape preservation would also help meet CMP guidance regarding transportation corridors and land use. The CMP states that if a new transportation corridor is selected, the former should be restored to natural conditions. The CMP classifies land use in this portion of the river as "rural residential," which is defined as providing the sense of being on a river in a sparsely developed landscape.

The concrete arch bridge type for Alternative C has already been evaluated under Section 7(a). The evaluation concluded that it would have a direct and adverse effect on scenic and recreational values, but that those effects could be adequately offset by any one of three mitigation packages. If an adequate mitigation package can again be developed for this alternative, it would likely again be found to meet the requirements of Section 7(a).

Alternatives D and E would use a location near the existing Lift Bridge. This alternative attempts to minimize impacts by concentrating bridge structures in a more developed section of Riverway, incorporating traditional-style bridge designs, and using the existing Wisconsin approach road. To do so the bridge would be placed on a diagonal alignment to the river, multi-level entrance and exit ramps and a retaining wall would be required on the Stillwater riverfront, and the existing Wisconsin approach and the Wisconsin bluff road would be expanded. The NPS is concerned that in an attempt to place this crossing nearer to the existing crossing, the bridge, the necessary entrance and exit ramps, and the retaining wall may not only disrupt but obscure views of historic Stillwater and the Wisconsin bluff from important perspectives. We are also concerned that two bridges in such close proximity to one another, one on a perpendicular alignment, and one on a diagonal alignment may create more of a safety hazard for boaters.

The NPS believes that, like the 1998 proposal, any one of the alternatives currently under consideration would have a direct and adverse effect on the scenic and recreational values of the Riverway. However, each alternative also includes measures to minimize visual impacts that were not included in the 1995 FEIS preferred alternative. Therefore, based on the information provided thus far, the NPS believes that given appropriate design considerations coupled with a strong mitigation package, the impacts of any of the alternatives, with the possible exception of Alternatives D and E, could likely be adequately offset. It should be noted that the mitigation package must include removing vehicular traffic from the existing Lift Bridge. The Riverway managing agencies (NPS, MnDNR, WIDNR) position on this issue, as expressed in the CMP, is very clear-cut. There is to be no net increase in the number of transportation corridors crossing the Riverway.

INFORMATION NEEDS

The NPS recommends that additional analysis be conducted on the crossing alternatives to determine the scenes impacted by the various bridge locations. The visualization sequence of the 1998 proposal, as seen from a boater's perspective, was very useful in facilitating its review under Section 7(a). A viewshed analysis of each alternative should also be conducted to determine the distances from which each bridge would be visible, particularly from the water surface. To assess impacts to free-flow, additional information will also be needed. Section 10.3.2.4 states that there will be no change in flooding, change in river profile, or increase in the 100-year to 500-year floodplain elevations, but provides no supporting analysis. The NPS will also require the same information as outlined in our June 22, 1999, letter to Adam Josephson, Minnesota Department of Transportation, to complete a Section 7(a) evaluation of the preferred alternative.

CONCLUSION

We believe that the alternatives under review with the possible exceptions of D and E, should be able to sustain Section 7(a) review if the following conditions are met: 1) our aforementioned concerns, especially those regarding bridge design, are adequately addressed; 2) an effective mitigation strategy is developed; and 3) close consultation between the transportation agencies, Minnesota and Wisconsin Departments of Natural Resources, National Park Service and others continues. Should a new bridge be constructed, conversion of the lift bridge to a pedestrian/bike crossing until such time as it may be removed would satisfy the spirit of the CMP's guidance of non-proliferation of crossings.

These comments have been provided as early technical assistance, based on currently available information, and do not necessarily indicate the NPS response to future environmental documents prepared in association with the project. The NPS has a continuing interest in working with the FHWA to ensure that the resource values of the St. Croix National Scenic Riverway are protected. A full evaluation under Section 7(a) will be completed after a preferred alternative is selected, all necessary data is available, and the NPS has had adequate time to carefully evaluate its impacts and the effectiveness of the mitigation items currently under development.

Sincerely,

THOMAS A. BRADLEY,
Superintendent.

Mayor HARYCKI. Thank you.

The good news is that, you know, really, we've moved as a community from the discussion 15 years ago, do we need a bridge or don't we need a bridge, to saying, you know, both of us are saying we do need a bridge. That's really a key element. You know, the community acknowledges that a bridge needs to be built. What we're asking for is for Congress to grant us the ability to build the bridge.

Mn/DOT has studied it. There are 2, 4-lane highways at each end of that bridge with freeway-style, freeway speeds on it. I believe, although I was not part of that process that preceded me, I believe that, you know, it would be irresponsible to take traffic from 55 miles an hour and build a bottleneck at 40 miles an hour. That's, you know, ultimately why I think the lower speeds were not looked at.

Senator UDALL. Thank you, Mr. Mayor.

Mr. Tomten, did you want to respond? Then if the Mayor wants to respond. Then I probably will include what—

Mr. TOMTEN. I would agree we do—

Senator UDALL. I want the record to show what each of you bring as a point of view.

Mr. TOMTEN. We do both agree, we do need a new bridge. It's a matter of how big. Unfortunately, our State Department of Transportation has only given the public one option—a freeway style

bridge, and up to this point, no bridge. No bridge, or a freeway style bridge. We would like to propose an alternative in the middle that would save \$400 million, and still pull all of the traffic out of downtown. It would still meet the capacity needs now and in the future for the freeway systems that are already built in place.

In fact, our proposal utilizes much more of the existing infrastructure already in place that handles that traffic than the new proposal does. The new proposal basically redesigns several inter-sections that we feel are not necessary. So, we can save a ton of money in doing that.

But what we would ask, all we're trying to ask is for the Governor and for the Department of Transportation to look at our alternative. What we'd ask of this committee is that you would ask the National Park Service to take a look at our proposal alongside the large bridge proposal and see which one is preferred, and which one really follows the spirit and intent of the Wild and Scenic Rivers Act.

Senator UDALL. Mayor Harycki.

Mayor HARYCKI. We've gone down that path, and we've put 3 hard years into looking at options. I really think at this point to build what would be a functionally obsolete bridge that would not meet future demands would be irresponsible. So, we've, you know, we've looked at, I think, about 12 different crossings, and we kept coming back to the one—and the other point is, the diagonal bridge that's being presented—if you'd put up the picture.

The diagonal bridge that's being proposed would just obliterate the view from downtown Stillwater. We have a very picturesque—we actually own the land in Wisconsin, so part of Stillwater is in Wisconsin. We own the parkland there. This is a view from our downtown with the existing lift bridge on the left side. What we'd be looking at from our main park and from many of our residences' backyards would be a 40- to 50-foot tall bridge that would span the river. All you'd be seeing is bridges and the river. Whereas, the, I think we have a further view. Did we bring that picture with us? No, we didn't. We have a further view that, you know, it would push it down a mile, and it would be out of the view shot.

So, I mean, if the Scenic River Act is trying to protect the views, I mean, this is what we're trying to protect against.

Mr. TOMTEN. Mr. Chairman, if I could. Once again, to clarify it for the record, our Sensible Stillwater Bridge proposal has not been studied by the mitigation group. The bridge proposal that the Mayor is showing you and is referring to in his testimony was an alternative brought to the mediation by Mn/DOT called Alternate D. Alternate D is not our bridge. Our bridge is a smaller bridge. Our bridge is a lower bridge, and has not been studied by this mediation group.

So, any of these statements about, our bridge is more impactful to the environment, that's wrong, because our bridge hasn't been studied. Any statements that our bridge would, really, be an eyesore from the Lowell Park in Stillwater I think are wrong, because, again, our bridge has not been studied. It needs to be brought forward.

All we're asking this committee is to ask the Park Service, with the, after a request to the, from the Minnesota Department of

Transportation, to compare the 2 proposals side-by-side and see which one meets the spirit and intent of the National Wild and Scenic Rivers Act.

Senator UDALL. Thank you again. I'm going to bring the hearing to a close.

There are no further questions today, but we will keep the record open for members of the committee to submit additional questions. Those of you on the panel are certainly welcome to submit additional statements for the record.

I want to thank you for the tone in which we've conducted this hearing.

I want to also thank the Minnesota Senators—Senator Franken, Senator Klobuchar, who's still here, for their attention and involvement.

With that, this subcommittee's adjourned.

[Whereupon, at 3:55 p.m., the hearing was adjourned.]

APPENDIXES

APPENDIX I

Responses to Additional Questions

RESPONSES OF JOEL HOLTROP TO QUESTIONS FROM SENATOR WYDEN

S. 764

Question 1. Earlier this month, a Forest Service employee in Oregon was quoted in the Curry Coastal Pilot saying that the paperwork for finally withdrawing the Chetco is “sitting on the desk of the director of the BLM in Washington, DC”. Is that the case?

Answer. The Forest Service defers to the BLM to answer this question.

Question 2. Can you give us an update on why this administrative withdrawal is taking so long?

Answer. The application to withdraw 5,610 acres of National Forest System lands along the Chetco Wild and Scenic River was originally submitted to the BLM in the fall of 2010. However, at that time the Forest Service was in the midst of changing the protocol for developing maps and the legal boundary description needed to be verified before the package could be finalized. The notice of application for withdrawal and public meeting was published on August 1, 2011, a few days after the Subcommittee hearing. The lands will be temporarily segregated from location and entry under the United States mining laws for up to 2 years.

Question 3. The Oregon delegation has asked, on multiple occasions over the last decade, that the Forest Service and BLM protect areas not covered by this bill in Southwest Oregon. What can you tell me about your agency’s position on the Rough and Ready Creek and Baldface Creek watersheds?

Answer. There are currently many mining claims in the areas of interest and a withdrawal would have little impact as to whether mining activities would continue. The Forest also believes that it can adequately protect these watersheds through administration and enforcement of current available laws and regulations. If these lands were withdrawn from mineral entry, there would be an impact to the agency’s workload. For example, the agency would need to perform a number of validity exams. Given that a withdrawal of this area would not have the desired effect of limiting mining, the agency feels its resources are better utilized focusing on administration of ongoing operations.

Question 4. Is there anything that really prevents the Forest Service from acting without legislation?

Answer. The Forest Service has the option to proceed with an administrative withdrawal and conduct an environmental analysis. The area could not be withdrawn to protect the area from future mining claims while the analysis proceeded since it was already withdrawn once for this purpose. If the analysis resulted in a withdrawal, it would have little effect on current mining, as described in #2 above. A proposed legislative withdrawal would allow the agency to commence a withdrawal in aid of legislation, as is the case with the Chetco Wild and Scenic River withdrawal.

Question 5. Is it the Forest Service’s position that we have to introduce legislation before a withdrawal of these areas would go forward?

Answer. The Forest Service continues to review its options. However, as stated in answer to the previous questions, given that a withdrawal in this area would have little effect on existing mining claims, the Forest Service believes its resources are better utilized by focusing on administration of current mining activities.

Question 6. I understand that validity exams are costly for the Forest Service. Is there ways that Congress could help the Forest Service lower the cost of a validity exam, much like the language used in the mineral withdrawals for the Smith River National Recreation Area?

Answer. Within the Smith River NRA the operator of a mining claim located prior to the withdrawal is required to submit specific information to the authorized officer showing there is a discovery of a valuable mineral deposit, facilitating this process. The authorized officer has been given the authority to determine if there is enough evidence for the Forest Service to verify the discovery with a validity examination, or to contact BLM and initiate a contest action against the mining claim. The decision to initiate contest is not subject to further agency or Department of Agriculture review or administrative appeal.

Under a traditional withdrawal, any claim located prior to the date of the withdrawal requires a valid existing rights determination through a validity examination. This is usually initiated when the operator submits a proposed Plan of Operations. If there are no proposed mining activities on the claim there is no requirement to verify a discovery and

the claim may stay in the withdrawn area. The authorized officer does not have the authority to determine if there is a discovery or initiate a mineral contest action without a validity examination. A valid existing right must be completed by a certified mineral examiner and if it is determined there is not a discovery a contest will then be initiated.

Under the Smith River process the Forest Service is only required to perform validity examinations on mining claims that have been identified by the authorized officer as needing verification of a discovery. Depending on the deposit and operation, a validity examination to determine a valid existing right, can cost the government tens of thousands of dollars, not including the legal aspect of the contest hearing. This process will not reduce the cost of the validity examination but it may reduce the number of validity examinations needed.

RESPONSES OF PEGGY O'DELL TO QUESTIONS FROM SENATOR UDALL

S. 1063

Question 1. The National Park Service completed an environmental impact statement in 2010 on the issue of allowing for the limited collection of gull eggs in Glacier Bay National Park. However S. 1036 doesn't link the authority to allow egg collecting in the park to the preferred alternative of the EIS. Would it make sense to tie the legislative authority to the findings and criteria in the EIS and record of decision?

Answer. The harvest provisions in S. 1063—which limit collection by members of the Hoonah Indian Association to not more than twice each calendar year at up to 5 locations—are taken directly from the EIS/Record of Decision. Thus, the link to the EIS and ROD is evident in the language of the proposed legislation.

S. 1134

Question 1. I understand that the National Park Service manages approximately 40 rivers which are components of the National Wild and Scenic Rivers System. Has the Park Service ever approved construction of a bridge over any of those rivers subsequent to their designation as a wild and scenic river? If yes, please identify the specific rivers and bridges where construction was approved.

Answer. The NPS is responsible for determining whether a proposed water resources project would have a direct and adverse effect on the water quality, free-flowing condition, and outstandingly remarkable values for which a river was designated. The NPS considers the impacts of each bridge project individually to assess the effect a given project will have on the specific values for which a river was designated.

The NPS has reviewed proposals for the construction of bridges over wild and scenic rivers and has determined in several instances that the bridge would not have a direct and adverse impact on the values for which the river was included in the National Wild and Scenic River System. The vast majority of these bridges are replacements (including removal) of an existing bridge that resulted in the improvement of river values. Identified below are the rivers with bridge projects that NPS found did not have a direct and adverse effect on the river, along with the number of bridges for each river.

Allagash, ME—1 bridge
Big & Little Darby Creek, OH—3 bridges
Eel River, CA—2 bridges
Farmington, CT—1 bridge
Flathead, MT—2 bridges
Great Egg Harbor, NJ—5 bridges
Lamprey, NH—4 bridges
Little Miami River, OH—2 bridges
Lower Delaware, DE—2 bridges
Lower St. Croix, MN/WI—2 bridges
Missouri River, NE/SD—2 bridges
Musconetcong, NJ—1 bridge
Namekagon, WI—8 bridges
Niobrara, NE—2 bridges
Obed River, TN—1 bridge
St. Croix, MN/WI—4 bridges
Sudbury, Assabet & Concord, MA—6 bridges
Upper Delaware, NY—1 bridge
Westfield, MA—6 bridges
White Clay Creek, DE—2 bridges

APPENDIX II

Additional Material Submitted for the Record

[Due to the large amount of materials received, only a representative sample of statements follow. Additional documents and statements have been retained in sub-committee files.]

STATEMENT OF EMILY JONES, SENIOR PROGRAM MANAGER, SOUTHEAST REGION,
NATIONAL PARKS CONSERVATION ASSOCIATION, ON S. 265

I write to submit my written statement in strong support of S. 265, the Champion Hill, Port Gibson and Raymond Battlefields Addition Act, introduced by Senators Cochran and Wicker, which would authorize the National Park Service to acquire approximately 10,000 acres of historic battlefield sites significant to the Vicksburg Campaign for addition to Vicksburg National Military Park.

The State of Mississippi, Friends of Raymond, and Civil War Trust hold 1,050 acres of this land, and have conservation easements on an additional 1,171 acres. They have expressed strong interest in this land becoming part of the National Park, and in donating their interests. The Champion Hill, Port Gibson and Raymond Battlefields Addition Act is a most timely opportunity to protect hallowed ground in the Vicksburg Campaign as the nation commemorates the sesquicentennial of the Civil War.

Port Gibson and Raymond are identified as Priority I landscapes by the Civil War Sites Advisory Commission (CWSAC)'s State of Mississippi report on the Nation's Civil War Battlefields. The Commission, established by Congress in 1991, first published its Report on the Nation's Civil War Battlefields in 1993. Both Port Gibson and Raymond retain a significant percentage of their integrity, as identified in the 1993 CWSAC Report and the October 2010 update.

Champion Hill, a Priority III landscape, is one of the most intact battlefields in Mississippi. Champion Hill and Port Gibson are designated National Historic Landmarks and Raymond is listed on the National Register of Historic Places. Threats to Port Gibson include the proposed widening of US Highway 61 which could threaten the eastern half of the battlefield. Commercial development along State Highway 18, which bisects the battlefield, could pose a threat to the Raymond Battlefield. As stated in the CWSAC report, "with the exception of resources protected within the boundaries of Vicksburg National Military Park, most of the Vicksburg battlefield landscape has been destroyed by modern development." According to the Civil War Trust, we are losing one acre of hallowed ground every hour of every day to sprawl in rural towns and urban suburbs.

In addition to the historic integrity and military significance of these battlefields to the Vicksburg Campaign, the protection of these lands as part of the national park is of economic importance to the rural community of Raymond. On April 5, 2011, I had the honor of touring Raymond Battlefield and Champion Hill with Brigadier General Parker Hills (Ret.) to learn more about the proposed sites for addition to Vicksburg National Military Park. I also met with Mayor Isla Tullos who showed me the town's new Visitor Center, located appropriately in the same building as the Chamber of Commerce. She was hopeful about the tourism potential of the upcoming Civil War Sesquicentennial and saw a tremendous opportunity for Raymond to build business based on the historic character of the town by attracting visitors interested in learning more about the battle and the people of Raymond during those days leading up to the Siege of Vicksburg.

The Mayor of Raymond has every reason to be optimistic about the economic future of her rural community if this legislation is passed. On average, national parks generate \$4.00 in value for every tax dollar invested in them. They support \$13.3 billion in private sector activity and provide jobs to 267,000 people across America. If Raymond Battlefield is added to Vicksburg National Military Park, local busi-

nesses would certainly benefit as Raymond is positioned to receive nearly 1 million visitors a year.

After visiting Raymond Battlefield and Champion Hill with General Hills, I was very eager to learn more about the events leading up to the Siege of Vicksburg, General Pemberton's surrender, and the impact these events had in connection with Gettysburg and the outcome of the war. I was hooked on Civil War history in Mississippi having been to that place where history happened. I even made a personal connection through the National Park Service's Civil War Soldiers and Sailors system where I learned about an ancestor who fought at Chickasaw Bayou, Big Black River Bridge, and Vicksburg. My curiosity had been sparked by a story I'd heard from the Battle of Raymond. The story was of Irish immigrants from St. Louis, 'the son's of Ireland', fighting under the Confederate leadership of Colonel McGavock, a past mayor of Nashville, Tennessee. Imagine the anguish of Confederate and Union troops as they met in battle with flags emblazoned with golden harps, the symbol of Ireland.

Ensuring today's and tomorrow's National Park visitors can learn from the places where history happened is a key objective for NPCA during the Civil War's 150th Anniversary years 2011-2015. Beyond military tactics and the personalities of famous fascinating generals, NPCA seeks to shed light on the causes and consequences of the Civil War as well as upon the acts of heroism on both sides of the conflict.

I appreciate the opportunity to present this statement on behalf of the National Parks Conservation Association. Our mission is to preserve and protect America's National Parks for future generations. Since 1919, NPCA has been the leading voice of the American people working to protect our national parks and historic landmarks from Yellowstone to Gettysburg. Our 350,000 members across the country, including the 1,373 members in the State of Mississippi, are everyday Americans who want to preserve our land and historical sites for our children and grandchildren.

CIVIL WAR TRUST,
Washington, DC, July 27, 2011.

Hon. MARK UDALL,
Chairman, Subcommittee on National Parks, Senate Energy and Natural Resources Committee, 304 Senate Dirksen Office Building, Washington, DC.

DEAR CHAIRMAN UDALL, RANKING MEMBER PAUL AND MEMBERS OF THE SUBCOMMITTEE:

On behalf of the national nonprofit Civil War Trust, we are writing in strong support of S. 265, the Champion Hill, Port Gibson, and Raymond Battlefields Addition Act. This legislation would authorize a boundary adjustment to the Vicksburg National Military Park in the State of Mississippi to include lands at the Champion Hill, Port Gibson and Raymond Battlefields, three battles associated with Major General Ulysses S. Grant's Operations against Vicksburg in 1863.

Today the National Park Service interprets and protects 1,800 acres in Mississippi that commemorate the campaign, siege, and defense of Vicksburg. The inclusion of the Champion Hill, Port Gibson and Raymond battlefields in the Park's authorized boundary will create opportunities for visitors to access these significant Civil War landscapes and resources allowing the Park to convey a more comprehensive Civil War story.

In the spring of 1863, Grant, with orders to eliminate the Confederate resistance in the Mississippi Valley, launched his march on Vicksburg. Along the way, Grant's forces engaged and defeated Confederate forces at Port Gibson, Raymond, and Champion Hill. On July 4, 1863, Confederate Lieutenant General John C. Pemberton, surrendered the city of Vicksburg after prolonged siege operations. This was the culmination of one of the most brilliant military campaigns of the war. With the loss of Pemberton's army and the vital stronghold on the Mississippi, the Confederacy was effectively split in half. Grant's successes in the West boosted his reputation, leading ultimately to his appointment as General-in-Chief of the Union armies.

It is worth noting that all three battlefields, along with the Vicksburg Battlefield, were recognized as nationally significant historic resources in a 1993 Congressional study on the status of the nation's Civil War battlefields conducted by the Civil War Sites Advisory Commission. In addition, Champion Hill and Port Gibson are designated National Historic Landmarks and Raymond is listed on the National Register of Historic Places.

The Civil War Trust has preserved more than 30,000 acres of hallowed ground throughout the United States, including more than 3,300 acres of battlefield lands

in Mississippi. We are in a race against time to protect these historically-significant battlefield lands for future generations because about 30 acres of hallowed ground is lost each day to development.

In conclusion, we applaud Senators Thad Cochran and Roger Wicker for their leadership on this important piece of legislation. The Civil War Trust fully supports the passage of S. 265 to modify the boundary of the Vicksburg National Military Park. With the Civil War's sesquicentennial anniversary in full swing, Congressional approval and enactment of this boundary expansion legislation during the 112th Congress would appropriately commemorate this chapter of America's history.

Thank you for your consideration of this important piece of legislation.

Sincerely yours,

JOHN L. NAU, III,
Chairman Emeritus.
JIM LIGHTHIZER,
President.

DEPARTMENT OF THE INTERIOR,
NATIONAL PARK SERVICE,
Washington, DC, August 2, 2011.

Hon. JEFF BINGAMAN,
*Chairman, Committee on Energy and Natural Resources, U.S. Senate, 304 Dirksen
Senate Office Building, Washington, DC.*

DEAR MR. CHAIRMAN:

I am pleased to report to you the findings of the National Capital Memorial Advisory Commission (Commission) which met on June 23, 2011, to review S. 253 and S. 883, two bills now under consideration by your Committee. The Commission was established under the Commemorative Works Act of 1986 (40 U.S.C. 89, et. seq.). This letter is intended to fulfill the requirements of Section 8903(d) of that Act, which states that the Congress shall solicit the views of the Commission in considering legislation authorizing commemorative works within the District of Columbia and its environs.

(b) S. 253, a bill to establish a World War I National Memorial Commission and reestablish the District of Columbia World War Memorial as the National World War I Memorial.

The Commission considered testimony from Congressman Ted Poe, Edwin Fountain, Director, World War I Memorial Foundation, Joseph Grano, President of the Rhodes Tavern-D.C. Heritage Society, Nelson Rimensnyder, Historian of the Association of the Oldest Inhabitants of the District of Columbia, and William Brown, President of the Association of the Oldest Inhabitants of the District of Columbia.

The Commission recognized that the District of Columbia World War Memorial has a unique significance to the citizens of the District of Columbia and recommends that this memorial not be reestablished as a national memorial. The Commission noted that memorials can achieve prominence and high visitation without being located directly on the Mall, and recognized that the Memorial to General Pershing and the fighting forces in World War I was authorized by the Congress and built by the American Battle Monuments Commission on Pennsylvania Avenue as the national memorial to World War I. The Commission discussed Mr. Grano's and Mr. Rimensnyder's recommendations that the site, design, and national character of this memorial could better support the enhancements intended by S. 253. The Commission concluded that enhancements intended to provide a greater commemoration of World War I may be better suited at the National World War I Memorial in Pershing Park, but cautioned that the modification of the existing memorial in Pershing Park was not within the scope of S. 253 and should not be explored or recommended within the scope of the Commission's evaluation of S. 253.

S. 883, a bill to authorize the National Mall Liberty Fund D.C. to establish a memorial on Federal land in the District of Columbia to honor free persons and slaves who fought for independence, liberty, and justice for all during the American Revolution.

The Commission considered testimony provided by Senator Joseph Lieberman, sponsor of S. 883, and Maurice Barboza, founder of the National Mall Liberty Fund D.C.

The Commission noted that S. 883 would direct that the memorial be located within Area I without benefit of public participation or the participation of the Sec-

retary of the Interior, both of which were actions that cannot be sanctioned under the Commemorative Works Act. This direction contradicts the site approval authority provided to the Secretary, the National Capital Planning Commission (NCPC) and the Commission of Fine Arts (CFA) under the Commemorative Works Act.

The Commission recommends its support for S. 883, provided that it is brought into conformance with the Commemorative Works Act by deleting the word “pre-eminent” in Section 1, and the reference to Area I in Section 2(A)(i). Should the Congress enact this proposal into law and the National Mall Liberty Fund DC seek Area 1 designation, the Commission would welcome the opportunity to assist the Secretary of the Interior in considering the request, pursuant to Section 8908(b)(1) of the Commemorative Works Act.

I would be pleased to answer any questions or to provide further information if you so desire.

Sincerely,

PETER MAY, CHAIRMAN.

National Capital Memorial Commission.

STATEMENT OF JIM STRATTON, ALASKA REGIONAL DIRECTOR, NATIONAL PARKS
CONSERVATION ASSOCIATION, ON S. 1063

The National Parks Conservation Association (NPCA) works to protect, preserve, and enhance America’s national parks for present and future generations. On behalf of NPCA’s 335,000 members, and especially the national parks in Alaska, we appreciate the opportunity to submit these comments for the record.

The National Parks Conservation Association supports S. 1063, a bill to authorize the Secretary of the Interior to allow the collection of glaucous-winged gull eggs in Glacier Bay National Park by members of the Hoonah Indian Association. This bill will help connect the Huna Tlingit to their ancestral homeland. Gathering gull eggs is a traditional practice that enhances physical, cultural and spiritual well being. NPCA understands these values and is supportive so long as egg collecting is done in a manner that does not significantly impact the natural resources of Glacier Bay.

While NPCA is concerned that egg harvest could impact the gull population, we are reasonably confident that collection can be done with minimal effects. Glacier Bay contains a healthy population of glaucous-winged gulls, and if gathered at the right time of year, most gulls will lay a second clutch of eggs. Many years of studies have been conducted and they conclude that egg harvest can occur with only minor impacts.

Also important is that no other park resources are adversely impacted by the egg collecting. Of special concern are Steller sea lions and other nesting sea birds. The primary location where egg collecting will occur is South Marble Island, which contains the largest sea lion rookery in Glacier Bay proper. Most sea lions in Glacier Bay belong to the eastern stock which was listed as “threatened” in 1990, and some also belong to the western stock, listed as “endangered” in 1997. Many other birds (such as terns, kittiwakes, oystercatchers, puffins and cormorants) nest in the same locations as gulls. However with careful collecting techniques (as outlined in the May 2010 environmental impact statement) we believe gathering can occur with minimal disturbance to sea lions and other nesting sea birds.

Key to the success of authorizing the Huna Tlingit to collect eggs in one of our country’s premier national parks is creation of careful collection methods followed by diligent monitoring. It is important that the National Park Service sets dates, locations, group size, and other conditions to ensure collecting is done in a manner that least impacts gulls, other sea birds, Steller sea lions and other park resources. Equally important is that monitoring occurs to ensure no unforeseen consequences occur. Because the National Park Service will prepare an annual harvest plan and follow up with monitoring, we are confident the Huna Tlingit can return to this cultural tradition while park resources continue to be protected for future generations.

In summary, NPCA supports this legislation for the following reasons:

- Gathering gull eggs in Glacier Bay enhances important traditional cultural ties for the Huna Tlingit
- Glaucous-winged gulls are common in the park
- If gathered at the right time, most gulls relay their eggs
- Studies have determined the overall population of gulls will not be impacted by carefully conducted egg collection
- A harvest plan will be developed annually to set conditions to minimize impacts
- Monitoring will ensure no long term impacts take place to gulls, other sea birds, Steller sea lions or other park resources
- If unacceptable impacts do occur, egg collection methods will be adjusted

Thank you for the opportunity to comment.

STATEMENT OF BARBARA ULLIAN, ON S. 764

Thank you for the opportunity to submit a personal statement in support of the Chetco River Protection Act, S.764, and for holding a hearing for it on July 28th, 2011. I'd also like to thank Senators Ron Wyden and Jeff Merkley for introducing the legislation and Congressman Peter DeFazio for introducing it in the House of Representatives. My name is Barbara Ullian. I've lived and worked in Southwest Oregon since 1947. Over the years I've photographed, rafted and grown to love and know the wild rivers and watersheds of what has become known as the Wild Rivers Coast.

SUMMARY

A plan to mine about 20 miles of the National Wild and Scenic Chetco River was submitted to the Rogue River-Siskiyou National Forest in 2008. The instream mining proposal threatens the river and the nationally outstanding values that Congress sought to protect in 1988, when it added the Chetco to the National Wild and Scenic River System. The Siskiyou National Forest's 1993 Management Plan for the Wild and Scenic Chetco River recommends that Congress upgrade the classification of a two-mile river segment, between Boulder Creek and Mislatah Creek, from "Scenic" to "Wild." "Wild" River segments are automatically withdrawn from operation of the mining laws under the Wild and Scenic Rivers Act. However, the recommendation, along with a second classification change, was never forwarded to Congress. The "Scenic River Area" of the Chetco was also recommended for withdrawal but the Forest Supervisor chose not to pursue the withdrawal because the area had low mineral potential and at the time a low probability that the existing mining claims would be developed into mining operations. Forest Supervisor rejected the mineral withdrawal in 1993 because there was no threat of mining. The Chetco River Protection Act is based on the Forest Service's recommendations that have undergone public review and comment as per the National Environmental Protection Act.

LOCATION

The National Wild & Scenic Chetco River is one of three Congressionally designated Wild and Scenic Rivers that flow through an approximately 400,000 acre complex of designated Wilderness and adjacent inventoried roadless areas known as the Kalmiopsis Wildlands. It lies between lies between the National Wild and Scenic Illinois River and the National Wild and Scenic Smith River. The Chetco River flows undammed from its headwaters to the Pacific Ocean at Brookings, Oregon. It's entirely in Curry County.

THE NEW MINING THREAT

With the rise in the price of gold and the advent of so-called recreational gold mining, the low mineral potential of the Chetco no longer protected it from mining. The primary threat lies in 8 plans to mine about 20 miles of the Wild and Scenic Chetco River submitted to the Rogue River-Siskiyou National Forest beginning in 2008.¹ The mining is on existing claims. It begins deep inside the Kalmiopsis Wilderness, continues down the "Wild" segment to where the Chetco River leaves the Wilderness and then down the "Scenic" and "Recreational" segments almost to the Forest Boundary. Additional mining claims were located in 2009 through 2010. Some may be located over the top of existing claims.

WHY GREATER PROTECTION IS NEEDED

The Forest Service's position regarding the mining proposed for the Chetco River is that, "absent an official mineral withdrawal, [they] cannot prohibit location,

¹The proposed mining is mostly instream with suction dredges. The dredges float on pontoons over the water. Powered by gasoline engines, they suck up the streambed like a giant vacuum. The bed material is run through a sluice and deposited behind the dredge in unconsolidated tailings piles. The size and amount of streambed material that can be processed is determined by size of the intake nozzle and engine of the dredge. Volkswagen engines can be used. Fuels are often stored along stream banks and dredges refueled over the water.

entry, or any other operation under the mining law” and that mining can occur whether or not claims are valid.²

The mining plans for the Wild and Scenic Chetco River includes using a variety of different sized gasoline-powered suction dredges (which harm streambeds) and “highbankers,”³ (which harms riparian areas along the streams). Proposed access in Wilderness and Wild River Areas includes the use of helicopters.

THE FOREST SERVICE’S RECOMMENDATION TO CONGRESS

The Forest Supervisor’s 1993 Decision for the Chetco’s Wild & Scenic Management Plan includes the following direction:⁴

The Forest Service is recommending to Congress that the Wild segment be extended approximately 2 miles downstream from the existing designation at Boulder Creek to the confluence of Mislatah Creek. This 2 mile addition shall be managed as Wild until Congress acts on the Forest Service recommendation.⁵

The Forest Service is recommending to Congress that the Scenic segment be extended approximately 1.5 miles downstream from the existing designation at the Steel Bridge to the confluence of Eagle Creek. This 1.5 mile addition [to the Scenic segment of the Chetco] shall be managed as Scenic until Congress acts on the Forest Service recommendation.

The Chetco Wild & Scenic Management Plan Environmental Assessment also recommended that the “Scenic” segment of the river be withdrawn from future mineral entry.⁶ The Forest Supervisor chose not to pursue recommended withdrawal stating:

. . . it would be impractical to recommend mineral withdrawal on an area that has low mineral potential and low probability of existing claims being developed into mining operations.⁷

However, on the recommendation of the Forest Service, the Department of Interior has proposed withdrawing about 17 miles of the Chetco River, outside the Kalmiopsis Wilderness, for five years, through the authority granted the Secretary of Interior in the Federal Land Management and Policy Act. The Federal Register Notice beginning the temporary segregation of the river from the Mining Law was published on August 1, 2011, a little more than a year after the Forest Service announced it would recommend a five year withdrawal to the Bureau of Land Management for the purposes of aiding Congress in their consideration of the Chetco River Protection Act.

HOW S.764 WOULD HELP PROTECT AND ENHANCE THE OUTSTANDINGLY REMARKABLE VALUES OF THE CHETCO RIVER

The Wild & Scenic Rivers Act (WSRA) requires that designated rivers be administered in such a manner as to protect and enhance the values which caused it to be included in the Wild & Scenic River System.⁸ The guidelines for the designation and management of National Wild & Scenic Rivers, issued by the Secretaries of Interior and Agriculture in 1982, confirm that the Act codifies a nondegradation and enhancement policy regardless of river classification.⁹

²Rogue River-Siskiyou National Forest’s June 17, 2008 response to Chetco River Mining and Exploration’s (CRME) notice of intent to mine 19 miles of the National Wild and Scenic Chetco River outside the Kalmiopsis Wilderness.

³A highbanker is gold mining equipment that employs (usually) a gasoline powered pump to force water through a sluice box to separate gold from soil taken from riparian areas and uplands.

⁴USDA Forest Service, 1993. Decision Notice and Finding of No Significant Impact, Chetco Wild and Scenic River Management Plan Environmental Assessment, Forest Plan Amendment No. 6, Curry County, Oregon, Siskiyou National Forest, Chetco Ranger District, pp. 40-41.

⁵The Forest Supervisor’s Decision states: “My selection of Alternative II will initiate a recommendation from the Forest Service to Congress that the Wild segment end at Mislatah Creek. This is an extension of the original Congressional designation by two miles. This is my preference because the two mile segment of river from Boulder Creek to Mislatah Creek is remote and accessible only by trail; is entirely free of impoundments, diversions, or other alteration; and has high water quality and shorelines which are essentially primitive. All these criteria meet the definition of a Wild River segment. A similar statement is made in the Decision regarding the extension of the Scenic segment.”

⁶USDA Forest Service 1993. Environmental Assessment for the Chetco Wild and Scenic River Management Plan, USDA Forest Service Siskiyou National Forest, p. 17.

⁷Ibid. 43.

⁸16 USC § 1281 (a).

⁹47 Fed. Reg. 39454 (Sept. 7, 1982).

While the “protect and enhance” standard applies equally to river segments classified as “Scenic” or “Recreation,” only a river segment classified as “Wild” is automatically withdrawn (upon Congressional designation) from all forms of mineral development (subject to valid existing rights).¹⁰ To fulfill the nondegradation mandate of the WSRA, the areas of the National Wild & Scenic Chetco River, classified as “Scenic” and “Recreational” should also be withdrawn from operation of the Mining Law.¹¹

There is precedent for this. Congress, in designating other additions to the National Wild and Scenic Rivers System, has seen fit to include specific language, amending the WSRA, that also withdraws designated stream segments classified as “Scenic” and “Recreational.”¹²

When a river area is withdrawn from mineral entry, no new mining claims can be located within it and existing claims can be exploited/mined only if the claim is found to be valid. A valid claim is one on which the discovery of a valuable mineral deposit can be demonstrated on the date of withdrawal and one which meets all requirements of the law at the time of the hearing.¹³ The claimant cannot conduct mining activities to make a discovery after the date of withdrawal.¹⁴

Validity is determined through a process that includes mineral examination in the field, a mineral report and recommendation on whether the claim is valid or not. If the claim is found not to be valid, a claim contest proceeding is initiated in accordance with due process. Existing claims found to be invalid are terminated, no mining can occur and no new mining claims can be filed in the area.¹⁵

Claim validity is determined by the ability of the claimant to show a profit can be made after accounting for all costs, including compliance with federal and state laws (including the nondegradation standard of the WSRA).¹⁶ Mining in areas which require helicopter access (Wilderness and “Wild” river segments) will also result in high mining costs and this can affect claim validity.

The result of the requirement to determine whether an existing mining claim is valid could be that no mining occurs, thereby protecting the “outstandingly remarkable values” for which the stream segment was included in the National Wild & Scenic Rivers System.¹⁷

Another result, if a few of the claims are valid, will be less extensive mining than had the valid existing rights determination not been done. Additionally, in some cases, such as Rock Mesa in the Three Sisters Wilderness (1983) and Taggart’s Bar in the Kalmiopsis Wilderness (1999)¹⁸, Congress has appropriated money from the Land and Water Conservation Fund to buyout the valid claims and protect the area from mining. Absent an official mineral withdrawal, the Forest Service’s policy is that they have no authority to prohibit location, entry, or any other operation under the Mining Law.¹⁹

¹⁰ 16 USC § 1280 (a)(iii).

¹¹ Terry S. Maley, in “Mineral Law” (Sixth Edition, p. 91) defines “withdrawal” as “. . . withholding an area of Federal land from settlement, sale, location, or entry under some or all of the general land laws, for the purpose of limiting activities under those laws in order to maintain other public values in the area or reserving the area for a particular public purpose or program.”

¹² 16 USC §1274(a)(62)(B)(ii) (Merced River, CA) and 16 USC §1274(a)(109) (East Fork Jemez River, NM).

¹³ *Id.* at p. 106.

¹⁴ *Id.* at p. 109.

¹⁵ *Id.* at p. 107.

¹⁶ Great Basin Mine Watch, 147 IBLA 248,256 (1998).

¹⁷ While mineral withdrawal is a clumsy method to protect nonmineral values from mining activity, its all there currently is on National Forest lands. This is because Congress has failed to provide meaningful reform of the 136 year old Mining Law and second, because of the timidity of the Forest Service in challenging mining operations. While the 1872 Mining Law grants a claimant the right to mine public lands, this right is strictly derivative of the “discovery of a valuable mineral deposit.” However, the Forest Service’s policy is to simply assume the right to mine exists, unless an area is withdrawn from mineral entry. It’s withdrawal that triggers examination of claim validity. For a discussion on this see John D. Leshy, “The Mining Law: A Study in Perpetual Motion,” Resources for the Future 1987.

¹⁸ During the process of the buyout of the patented Chetco River claim at Taggart’s Bar in 1999, the owner of the claim agreed to terminate all the additional existing mining claims he held in the Kalmiopsis Wilderness. These existing claims spanned over 2,000 acres, mostly along the National Wild & Scenic Chetco River. Because the Kalmiopsis Wilderness is withdrawn from mineral entry, no new claims can be filed and no mining can occur on the 2,000 acre or the Chetco River claim.

¹⁹ Rogue River-Siskiyou National Forest’s June 17, 2008 response to Chetco River Mining and Exploration’s notice of intent to mine outside the Kalmiopsis Wilderness.

WHY THE STREAM BEDS AND BANKS OF WORLD CLASS SALMON AND STEELHEAD RIVERS SHOULD NOT BE MINED

The bed of a river is not the lifeless assortment of rock and gravel that proponents of suction dredge mining would have you believe. Rather, streambeds are complex and sensitive ecosystems—essential to the health of the river and for native fish reproduction. Suction dredge mining in wild salmon and steelhead habitat is like using a bulldozer to rearrange a hospital's maternity wing.

Salmon and steelhead return from their long journey at sea to spawn in the vicinity of where they themselves were born. They select relatively flat, stable areas of the stream to lay their eggs. These high-value reaches are limited in number and extent within a river system. Exacting conditions are required for successful reproduction. The spawning gravels must be the right size for the female to dig her nest with her tail. The nests are called redds. The surrounding streambed must be stable. Movement of the streambed during high flows, even some distance from the redd, will destroy the redd and smother or crush the developing eggs and alevins (tiny hatchlings) or cause them to be washed out of the shelter of the redds.

The eggs hatch in one to three months. The alevins remain in the gravels for one to five months more. The flow of water within the redd must be enough to provide adequate oxygen to the eggs and alevins but not so high as to wash them from the protection of their nursery. Emergence and survival are also dependent on suitable water temperatures.

The stability and structure of a stream's bed comes about through a process occurring over numerous seasons of high flows. The different sized bed material—rock, gravel and fines—is sorted by the river's hydraulics into stable configurations with an armoring layer. Unfortunately, high-value, low gradient spawning reaches also attract miners because it's where gold often settles out between the bed rock and streambed gravels. The mining destroys the stream's armoring layer and the order and stability crucial to naturally reproducing fish. Directly or indirectly, the mining can be deadly to salmonids and other aquatic species.

Preserving relatively pristine fresh water refugia—such as the National Wild and Scenic Chetco River—is essential to assuring the survival of declining wild salmon, steelhead and cutthroat trout populations in this era of deteriorating ocean conditions and global climate change. Thank you for this opportunity to provide a statement in support of S.764.

STATEMENT OF MICHAEL DOMBECK, ON S. 764

Thank you for the opportunity to submit testimony in support of S. 764, the Chetco River Protection Act. I served as chief of the U.S. Forest Service and director of the Bureau of Land Management (BLM). I have professional expertise in watershed restoration, fisheries and ecosystem management. I'm a former fishing guide, and still an avid hunter and fisherman.

I'm pleased to write on behalf of this legislation and the exceptional river it seeks to provide greater protection for. S. 764 is based on recommendations made by local Forest Service managers through a public National Environmental Policy Act process. Senator Wyden, Senator Merkley and Congressman DeFazio are to be commended for taking it to the next step, adapting the recommendations to the current situation and introducing legislation. In the interim, to preserve the status quo while Congress considers the bill, the Department of Interior, Bureau of Land Management has proposed withdrawing the Scenic and Recreational segments of the Chetco River on the recommendation of the Forest Service, the land managing agency.

The Chetco River is one of those priceless national assets that protected will only grow in importance to the local community and as a part of the natural heritage of all Americans. It flows, without the impediment of dams, from its headwaters in Wilderness through the Rogue River-Siskiyou National Forest to the Pacific Ocean. It's famous for its large salmon and steelhead, some of the largest in Oregon, with reports of Chinook salmon weighing over 60 pounds.

The high percentage of National Forest and Wilderness lands in its watershed, populations of native, naturally reproducing salmon, steelhead and cutthroat trout and its free flowing state presents opportunities for the Chetco to serve as a wild salmon refuge—rare in the lower 48 states. Yet the heart of all this, the river itself, is threatened by proposals to mine almost half its length using gasoline powered suction dredges for a period of 10 years. The impacts are likely to be profound on water quality, recreation opportunities, and the salmon resources.

Jack Ward Thomas, my predecessor at the Forest Service, is often quoted as saying "not only are ecosystems more complex than we think, they are more complex

than we can think.” As a fisheries biologist and ecosystem manager, I believe this especially applies to stream ecosystems. As someone who has spent a lifetime observing rivers—often hip deep in their rushing waters, with a fishing rod in hand, studying their flow, insect hatches and finned inhabitants—I know it to be true.

The only peer reviewed review of the effects of suction dredge mining on streams urges caution saying, “fisheries managers would be prudent to suspect dredging is harmful to aquatic resources.”¹ The National Wild and Scenic Chetco River (or any other Wild and Scenic River or river with nationally outstanding fisheries, water quality and other values) is simply not the place for instream mining, which will add stressors and impacts to an ecosystem already having to adapt to increasingly rapid changes and instability in climate and ocean conditions.

In 2008, I testified before the Senate Energy and Natural Resources Committee on reform of the Mining Law of 1872. I was asked to comment on five very important questions about the types of environmental reforms needed to modernize this law. Two of these are relevant to the issues facing the Chetco River today. Currently professional land managers that work for the Forest Service and BLM believe that the 1872 Mining Law makes hard rock mining the dominant use of public lands. So Forest Service managers, charged with “protecting and enhancing” the outstandingly remarkable values of the Chetco River, under the National Wild and Scenic Rivers Act, are caught between the Mining Law and Congress’ mandate to preserve the Chetco’s exceptional water quality, fisheries and recreation values (the opportunity to catch large salmon and steelhead in a natural setting).

In that testimony, I wrote that mining reform legislation needs to “reaffirm the doctrine of multiple-use and recognize the inherent value of public lands for other important uses and values, including hunting and fishing opportunities and fish and wildlife habitat” and that “special places with important fish and wildlife and water values out to be placed off-limits to mining entirely.” One of the most important tools for achieving this is for “agency managers [to] be given the discretion to make logical decisions based on land health about where to mine and where not to mine.” However, we’re not talking about Mining Law reform here but about site specific legislation needed—in the absence of reform—to best protect and enhance the values which Congress sought to preserve when it added 44.5 miles of the Chetco River to the National Wild and Scenic River System in 1988.

S. 764 may not be perfect in achieving this mandate because its withdrawal provisions are “subject to valid existing rights.” If the holders of existing mining claims demonstrate that there’s a discovery of a valuable mineral deposit within the confines of each claim—in other words that there’s a valid existing right to mine under the 1872 Mining Law—then under current agency policy, land managers have no authority of deny the mining. However without withdrawal, the managing agency simply assumes that the mining claims are valid under law. This makes mining the dominant use, even though the 1872 Mining Law may not apply. This is not acceptable for a national wild and scenic river like the Chetco. So until there’s meaningful reform of the Mining Law, S. 764 will at least require that there’s a valid right under the Mining Law before mining can commence and it will prevent the location of new mining claims.

Under the 1872 Mining Law, any gold found in the Wild and Scenic Chetco River belongs to the miner. Mine operators pay no royalties for the gold or other valuable mineral found on the public’s lands. In Oregon, unpatented mining claims are not taxable property.² In fact, the proposed mining of the Chetco would be subsidized by the taxpayer. For example in 2010, the Rogue River-Siskiyou National Forest estimated that it would cost about \$800,000 to process seven of the plans submitted to mine the river.

Finally, while I’m a biologist and former professor living in Wisconsin, the connectivity of the internet has allowed me to virtually experience the Chetco River through the adventures of five young people who epitomize what President Obama seeks achieve in his America’s Great Outdoor policy. In June, four kayakers packed their boats and gear 8 grueling miles and two days into the Chetco River canyon, deep in the Kalmiopsis Wilderness, to run both Wilderness reaches and almost equally wild segments of the river subject to the Chetco River Protection Act—bringing back photographs and video for the rest of us. They said they wanted “to raise

¹Bret C. Harvey & Thomas E. Lisle, “Effects of Suction Dredging on Streams: A Review and an Evaluation Strategy,” in *Fisheries*, Vol. 23, Issue 8, 1998—http://www.tandfonline.com/doi/abs/10.1577/1548-8446_percent281998_percent29023_percent3C0008_percent3AEOSDOS_percent3E2.0.CO_percent3B2

²<http://www.leg.state.or.us/ors/307.html>

awareness about how rare and special this river is.”³ Then in a solo, also one-of-a-kind journey, a local Brookings, Oregon man packed a small raft and supplies for 10 days into the very headwaters of the Chetco and ran the river’s entire 50 mile length to the Pacific. When asked why he did it, he said the Kalmiopsis Wilderness which the Chetco passes through is “a vast and rich natural area that belongs to all of us—the source of the river that gives life to the area we call home.”⁴ A float of the Recreational section of the Chetco in drift boats—captured in a video sponsored by local businesses, individuals and the Chetco Watershed Council—shows a tamer but equally beautiful side of the river and some of the reasons its so important to the local community.⁵

The National Wild and Scenic Chetco River, its Wilderness watershed and its Scenic and Recreational sections embody the priceless legacy of America’s great outdoors on many levels. It deserves the highest level of protection we can give it. Thank you for the opportunity to add my support to the Chetco River Protection Act.

TROUT UNLIMITED,
August 4, 2011.

Trout Unlimited is the largest coldwater fisheries conservation group in the United States with over 140,000 members nationally and 2,500 in Oregon who volunteer their time to help protect, reconnect and restore the habitat so crucial to our trout, salmon and steelhead populations.

We write today to support S. 764, The Chetco River Protection Act of 2011, a bill recently reintroduced from previous efforts in 2008, to amend the Wild and Scenic Rivers Act to make technical corrections to the segment designations for the Chetco River, Oregon and to protect it and its prized fishery from in-stream mining—an activity that provides little economic value to surrounding communities but can severely harm salmon and steelhead fisheries. As avid anglers, maintaining healthy runs of the Chetco’s runs of salmon and steelhead is of utmost importance to us as well as our children and grandchildren.

The Chetco River was added to the National Wild and Scenic River System in 1988, in recognition of its outstanding water quality, superb fishery and tremendous angling opportunities for salmon and steelhead. The Chetco River is free flowing from its headwaters in the Kalmiopsis Wilderness to the Pacific Ocean. Of the 44.5 miles that were designated in the Oregon Omnibus Wild and Scenic Rivers Act, 25.5 miles were classified as “Wild,” 8 miles as “Scenic,” and 11 miles as “Recreational.”

Only Wild-classified segments of a Wild and Scenic River are withdrawn from mineral entry under the Wild and Scenic Rivers Act of 1968. The result is that no new mining claims may be filed and only valid existing claims may be mined in Wild river segments.

The “Scenic” and “Recreational” classifications of the Chetco River remain open to the filing of new claims and mining on claims that may not be valid because these river areas are not “withdrawn” from mineral entry. Unfortunately outdated mining statutes leave land managers little option but to withdraw an area from mining if they wish to protect its fish, wildlife, and water values. Recently, a plan was submitted to the Rogue River-Siskiyou National Forest by Chetco River Mining & Exploration, LLC to establish a large-scale instream suction dredge mine on approximately 24 miles of the river. This mining threatens the river, its prized fishery and the outstanding values that Congress sought to protect in 1988.

In 1993, the Forest Service partially addressed this problem when it made the decision to recommend to Congress a technical correction to the Wild and Scenic Rivers Act. The agency recommended upgrading the classification of 2 miles of the Chetco River from “Scenic” to “Wild.” The classification change would withdraw two miles of river, currently classified as “Scenic,” from mineral entry, allowing mining only on valid existing claims. The Forest Service also recommended that 1.5 miles of the “Recreational” segment be upgraded to “Scenic.” However, the recommendations were never forwarded to Congress.

In the same year, the Siskiyou National Forest Supervisor turned down a staff recommendation to administratively withdraw the “Scenic” segment of the Chetco

³Medford Mail Tribune, “Clearer than crystal: Local men carry kayaks though hardscrabble wilderness to ride the rarely seen upper Chetco River,” July 22, 2011—<http://www.mailtribune.com/apps/pbcs.dll/article?AID=/20110722/LIFE/107220301>

⁴Curry Coastal Pilot, “Chetco River: From headwaters to the sea,” August 2, 2011—<http://www.currypilot.com/20110802118255/News/Local-News/Chetco-River-From-headwaters-to-the-sea>

⁵Floating the Chetco—<http://www.vimeo.com/24964697>

River from mineral entry. He justified rejecting this part of the Chetco's Wild and Scenic River management plan by noting there was a low probability of existing claims being developed. With current gold prices in the vicinity of \$1,500 per ounce, the low possibility of developing mining claims has become a high probability, as evidenced by the new suction dredging proposal mentioned above.

This is not the first time the Chetco River has been threatened by mining. In 1999, a bipartisan effort led by Senator Smith, with the support from Senator Wyden and Congressman DeFazio, prevented a mining proposal from moving forward in the Kalmiopsis Wilderness through the appropriation of funds to purchase 145 acres, which had recently been patented (for \$2.50 per acre) under provisions of the 1872 Mining Law. The 145-acre proposed mining site, along the Chetco, was returned to the Kalmiopsis Wilderness. In addition, 2,100 acres of unpatented Kalmiopsis Wilderness mining claims were relinquished by the claim holder. Both of these measures have benefited the public.

Until Congress comprehensively reforms the 1872 Mining Law, current and future threats facing the Chetco River will continue. Supporting S.764—The Chetco River Protection Act of 2011 is the action needed to protect the important values that we cherish in this river and we applaud you for introducing it.

On behalf of our organization and chapters and future generations of anglers, we thank you for your leadership and attention on this issue. We look forward to working with your office to ensure passage.

Sincerely,

Mike Beagle, *Sportsmen's Conservation Project-Trout Unlimited*; Drew Irby, Chair, *California Council-Trout Unlimited*; Tom Wolf, Chair, *Oregon Council-Trout Unlimited*; Dick Hollenbeck, President, *Clackamas Chapter-Trout Unlimited*; Karl Mueller, President, *McKenzie-Upper Willamette Chapter-Trout Unlimited*; Alan Moore, President, *Pacific Salmon and Steelhead Office-Trout Unlimited*; Mike Gentry, President, *Tualatin Valley Chapter-Trout Unlimited*; Carl Page, President, *Wild Rivers Chapter-Trout Unlimited*.

July 26, 2011.

Hon. MARK UDALL,
SH-317 Hart Office Building, Washington, DC.

DEAR CHAIRMAN UDALL:

I write to express strong concern over legislation pending in the U.S. House (H.R. 850) and the U.S. Senate (S. 1134) that would allow a fiscally-irresponsible and environmentally-damaging \$700 million "mega-bridge" to be constructed over the St. Croix River between Minnesota and Wisconsin—a segment of the river currently protected under the National Wild and Scenic Rivers System. A new bridge is needed to replace the obsolete lift bridge in Stillwater, Minnesota. However, more fiscally and environmentally responsible design alternatives are available. I urge you to give careful consideration to legislation that will allow construction of a bridge that is considered by many Minnesotans to be a boondoggle.

This is a local issue with national consequences. While the language in H.R. 850 and S. 1134 is not identical, these bills would produce the same result. Both bills endorse and allow construction of a massive bridge design rejected by the National Park Service as having a "direct and adverse effect on the designated river." Because the proposed St. Croix bridge design is so intrusive, passage of either bill would set a dangerously low standard for exclusions to Wild and Scenic Rivers Act protections that threatens every mile of every protected river in this national system.

In addition, I strongly oppose the proposed St. Croix River mega-bridge out of concern for my constituents. I represent the communities with the most to lose from the current freeway-style bridge design. If the traffic projections being used to justify this mega-bridge are accurate, tens of thousands more cars and semi-trucks will spill into the Minnesota Highway 36 corridor and worsen traffic congestion for Oakdale, North St. Paul, Maplewood, Little Canada, and Roseville—all communities in my congressional district in which traffic levels are presently "at capacity." Despite the extraordinary \$700 million cost of the mega-bridge, none of these funds are available to build overpasses, add lanes, or otherwise mitigate the guaranteed traffic mess in these Minnesota Highway 36 communities.

If this mega-bridge over the St. Croix is constructed, it will be a monument to fiscal irresponsibility. At a total cost of nearly \$700 million, the proposed St. Croix mega-bridge project will be at least 250 percent more expensive than the most expensive bridge ever built in Minnesota. Following the tragic Minneapolis bridge col-

lapse in August 2006, the replacement I-35W Bridge over the Mississippi River in Minneapolis was built for \$260 million—a modest cost compared to this mega-bridge.

Here are other key facts highlighting the fiscal irrationality of the mega-bridge proposed in H.R. 850 and S. 1134:

- Despite costing nearly 3 times more than the I-35W Bridge in Minneapolis, the mega-bridge would serve 127,000 fewer vehicles per day (I-35W Bridge: 145,000 ADT/St. Croix Bridge: 18,400 ADT);
- The four-lane, freeway-style, \$700 million bridge described in H.R. 850 and S. 1134 would connect a town of 17,970 people (Stillwater, MN) to a village of 400 people (Houlton, WI).
- Only six miles from the proposed site of the \$700 million mega-bridge is the Interstate-94 St. Croix River Bridge connecting Minnesota and Wisconsin, serving more than 80,000 vehicles per day;
- The population growth assumptions used to justify the huge cost and size of the bridge in H.R. 850 and S. 1134 are based on 2005 data that does not account for the subsequent housing market collapse and skyrocketing gas prices—the foreclosure rate in the Wisconsin County adjacent to the proposed mega-bridge is the highest in that state.

The Wild and Scenic Rivers Act is not a barrier to progress in the St. Croix River valley. In reality, the Act is the last protection for taxpayers against an irresponsible and over-sized boondoggle. I urge you to oppose H.R. 850 and S. 1134 if either bill comes before your committee for a vote. Feel free to contact me or my staff Peter Frosch (peter.frosch@mail.house.gov; 202-225-6631) for more information.

Sincerely,

BETTY MCCOLLUM,
Member of Congress.

ATTACHMENT

CONGRESSWOMAN BETTY MCCOLLUM

TESTIMONY IN OPPOSITION TO H.R. 850

U.S. HOUSE NATURAL RESOURCES COMMITTEE SUBCOMMITTEE ON NATIONAL PARKS,
FORESTS AND PUBLIC LANDS

MAY 4, 2011

Chairman Bishop, Ranking Member Grijalva, Members of the Subcommittee:

Minnesota residents deserve a replacement for the existing, outdated lift bridge over the St. Croix River connecting Stillwater, MN to western Wisconsin. I strongly support a fiscally responsible, appropriately-scaled transportation solution for the St. Croix River crossing in Stillwater. There is consensus that a new bridge is needed. However, there is intense debate and controversy over the specific design and overall cost of the proposed replacement bridge that H.R. 850 would permit. Therefore, this legislation can only be described as a stalking horse for an excessively expensive mega-bridge to be built only six miles from the existing eight lane Interstate-94 St. Croix River crossing.

While this debate is new to most Members of Congress, it is a debate that I have been involved in throughout my twenty-five year career in public service. In fact, the St. Croix crossing has been discussed locally for thirty years. During that period, numerous bridge replacement proposals have come and gone. Be assured, passage of H.R. 850 will not end debate or controversy over this proposed St. Croix crossing.

Irrespective of the bridge proposal in question, this Committee should reject H.R. 850 as an unprecedented assault on one of the most successful laws to protect America's natural treasures. The Wild and Scenic Rivers Act preserves the nation's finest rivers for future generations. The Act protects 11,000 miles of 166 rivers in 38 states and the Commonwealth of Puerto Rico. Inclusion in this system is a highly selective distinction: protected rivers amount to one quarter of one percent of America's rivers. The St. Croix is the only river in Minnesota protected under the Wild and Scenic Rivers Act and gained this protection only after enormous effort from leaders such as former-U.S. Senator and Vice-President Walter Mondale.

Since the Act was passed in 1968, only extremely rare modifications have been granted by Congress. Passage of H.R. 850 would set a new, dangerously low standard for granting exemptions to the Wild and Scenic River Act that threatens every mile of every protected river in this national system.

The legislation under review today capriciously ignores the legacy of stewardship that millions of Americans enjoy today because of the law. H.R. 850 uses only 41 words to end over 40 years of federal protection for the St. Croix River. Regretfully, the effect of this legislation would be far less economical than its language. This legislation would “deem” a \$700 million bridge over the St. Croix River to be consistent with the Wild and Scenic Rivers Act. But in October 2010, after careful review, the National Park Service determined this specific bridge proposal was not consistent with the Act. H.R. 850 simply disregards the Park Service finding and states fiction as fact.

If Congress were to take the extraordinary step of granting an exemption to the Wild and Scenic River Act, the bridge proposed in H.R. 850 is not deserving of the precedent. This \$700 million bridge proposal is excessively expensive and would likely impose huge unfunded costs on the communities I represent.

Following the 2007 collapse of the Interstate 35 Bridge over the Mississippi River in Minneapolis, a new state-of-the-art bridge was constructed in record time for \$260 million (this figure includes a \$27 million contractor bonus for early completion). The bridge H.R. 850 enables to be built would cost taxpayers nearly three times as much the Interstate 35W Bridge, but serve only a fraction of the traffic. (Currently, around 18,000 vehicles cross the St. Croix River in Stillwater each day.) In this time of record deficits at the federal, state and local level, elected leaders must carefully consider the value of every investment. The bridge in H.R. 850 fails every common-sense test of taxpayer value.

Closer inspection of the proposed St. Croix Bridge reveals the true costs of the project may be much higher. There has been little attention paid to the traffic congestion that a new interstate-style bridge in Stillwater would add to the State Highway 36 corridor, including the cities of Oakdale, Maplewood, Mahtomedi, Roseville and North St. Paul. If there is enough traffic projected to justify building a bridge that costs nearly three times as much as the new Interstate 35W Bridge in Minneapolis then the communities along State Highway 36 should expect to be overrun with thousands more semi-trucks, buses, and daily commuters. Expanding State Highway 36 to accommodate an interstate-style bridge in Stillwater could raise the true cost of the mega-bridge project close to one billion dollars. Local elected officials from communities along State Highway 36 are raising concerns over the unfunded costs that H.R. 850 could impose on their taxpayers.

The full cost of the bridge proposed in H.R. 850 is unknown and the value of this public investment is deeply in doubt. Thankfully, the Wild and Scenic Rivers Act is forcing a closer review of this proposal. The Act is safeguarding the environmental integrity of the St. Croix River and also protecting taxpayers from wasteful government spending. Granting an exemption to the Wild and Scenic River Act would be nothing short of fiscally reckless and a violation of the principle of local control.

It is possible to build a new bridge that meets the requirements of the Wild and Scenic Rivers Act, solves the long-standing transportation problem in Stillwater, and guarantees state and federal taxpayers a responsible return on their investment. I strongly support construction of a bridge that satisfies these reasonable expectations. My experience—and plain Minnesota common sense—suggests the fastest path to a new bridge is the path of consensus and fiscal responsibility. The Interstate-35W Bridge over the Mississippi River in Minneapolis is proof that Minnesota can build a new bridge in record time when there’s community consensus around a sensible plan. An affordable St. Croix bridge could be designed and constructed long before the Interstate style bridge proposal and offer taxpayers much greater value.

I strongly urge Members of this Committee to support fiscal responsibility and environmental protection and oppose H.R. 850.

STATEMENT OF HON. SCOTT WALKER, GOVERNOR, STATE OF WISCONSIN, ON S. 1134

Chairman Udall, Ranking Member Paul and members of the Subcommittee, thank you for the opportunity to submit testimony in support of S. 1134, St. Croix River Crossing Project Authorization Act.

A new bridge between Minnesota and Wisconsin over the St. Croix River is a priority for our region. Since 1980, both states have worked closely with multiple stakeholders, state and federal agencies, and have had extensive public involvement to find solutions to address the many challenges facing this project. Undoubtedly, replacing the eighty-year-old, two-lane Stillwater Lift Bridge is a project with significant, national interest. It is absolutely imperative for Congress to act to allow for the construction of a new bridge.

As you know, most government services in Minnesota were recently shutdown during their budget crisis. However, the Stillwater Lift Bridge was deemed a critical service during this shutdown and remained operational as a matter of public health and safety. The Minnesota and Wisconsin state governments both recognize the importance of this bridge and the need for a replacement, and I am respectfully asking your subcommittee to do the same.

S. 1134 was introduced by Wisconsin Senators Herb Kohl and Ron Johnson, and Minnesota Senators Amy Klobuchar and Al Franken, as bipartisan legislation to help more quickly facilitate the St. Croix River Crossing project; I am kindly requesting that the Subcommittee on National Parks act soon in order for a new crossing to be constructed.

After decades of raising and lowering the bridge to allow boats to travel the St. Croix River, the existing Lift Bridge has surpassed its useful life and faces structural, operational and maintenance issues.

Traffic has continued to increase in the region. Congestion on both sides of the bridge—in Stillwater, Minnesota and Houlton, Wisconsin—frequently occurs as vehicles must wait for the bridge to lower before resuming movement to their destination. The existing bridge is located in a constrained local street network in downtown Stillwater and has topographic constraints on the Wisconsin-side due to the river bluffs. This creates severe limitations necessary to improve the safety and approaches of the existing Lift Bridge, resulting in the need for our states to study alternative bridge locations.

I strongly support Senate bill S. 1134 as the best opportunity to achieve the required project authorization that will allow the construction of a new bridge over the St. Croix River.

This bipartisan legislation deems the St. Croix River Crossing project compliant with the National Wild and Scenic Rivers Act, which will allow the project to move forward as was agreed to in the 2006 Memorandum of Understanding (MOU). The MOU includes a rigorous mitigation package for identified impacts of the project.

The measures, which were included in the 2006 MOU, help to balance natural resource protections with the transportation needs necessary to replace the bridge. While the National Park Service (NPS) agreed to the project proposal and proposed mitigation measures in 2005, the U.S. District Court of Minnesota issued a ruling in 2010, vacating their findings.

Since then, the NPS's new evaluation of the project indicated the proposed project's direct and adverse impacts on the riverway, which is nationally designated under the Wild and Scenic Rivers Act, could not allow the project to be constructed. This revised finding halted further progress on the project, and will continue to be a barrier, unless there is Congressional action.

The National Wild and Scenic Rivers Act has a provision that allows Congress to make an exemption from the Act and recommend a project's authorization. This bill would provide that needed exemption to allow our important project to move forward.

Subjecting this project to years of more study, review and redesign will only result in added construction costs and further delays to the much needed construction of a replacement bridge. Additionally, money allotted to a new bridge by Minnesota will be reallocated if Congress does not act before September 30, so time is of the essence.

Chairman Udall, Ranking Member Paul, and Subcommittee Members, I respectfully request your support of this bill. If I can assist you or provide more information, please do not hesitate to contact me. Thank you for the opportunity to provide testimony on behalf of the State of Wisconsin.

STATE OF MINNESOTA,
OFFICE OF THE GOVERNOR,
Saint Paul, MN, July 21, 2011.

Hon. JEFF BINGAMAN,
703 Hart Senate Office Building, U.S. Senate, Washington, DC.

DEAR SENATOR BINGAMAN:

Thank you for hearing Senator Klobuchar's bill to enact the necessary federal legislation to permit the St. Croix River Crossing Project to be constructed. This vitally important highway connection between Minnesota and Wisconsin will greatly improve mobility for the citizens of both states and will also alleviate severe traffic problems in downtown Stillwater.

The current lift bridge crosses the St. Croix River at Stillwater. The connection to the bridge in Minnesota is the historic main street of Stillwater and is frequently

very congested due to the volume of traffic and the periodic raising of the bridge. The existing bridge was built in 1931 and is in poor structural condition.

For decades, stakeholders have been working to balance transportation, historical preservation, and environmental concerns in a project design. The result of that effort is a proposed four-lane bridge that will provide additional capacity and connect expressways on both sides of the river.

Again, thank you for hearing Senator Klobuchar's bill. I urge you and your colleagues to support it and move it quickly through the process so work on this important project can resume as quickly as possible.

Sincerely

MARK DAYTON,
Governor.

July 13, 2011.

Hon. JEFF BINGAMAN,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

Hon. LISA MURKOWSKI,
Ranking Member, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR SENATORS BINGAMAN AND MURKOWSKI:

The organizations signing this letter represent millions of Americans committed to protecting our nation's lands, wildlife, and water as places that Congress set aside for the enjoyment and recreation of all. We are writing to express our strong opposition to S. 1134, a bill that overrides the Wild and Scenic Rivers Act and authorizes the construction of a costly, freeway-style bridge over and through the St. Croix National Scenic Riverway.

If enacted, S. 1134 will not only result in the construction of a bridge that will harm a unit of the National Park System, the St. Croix River, it will set a dangerous precedent for all Wild and Scenic Rivers under pressure from harmful development. In its more than 40-year history, the Wild and Scenic Rivers Act has never been waived for a transportation project or for any project of this magnitude. The St. Croix River begins in northwest Wisconsin and flows south, forming the border of Minnesota and Wisconsin and joining the Mississippi River southeast of the Twin Cities.

The St. Croix National Scenic Riverway was established in 1968 as one of the eight original Wild and Scenic Rivers and the lower section was designated four years later. The only Wild and Scenic river in Minnesota, the St. Croix provides a unique wilderness-like experience for outdoor recreation near a growing metropolitan area.

In late 2010, the National Park Service, the official steward of the St. Croix River, determined that the bridge that will be built if S. 1134 is passed would create a "direct and adverse effect on the values for which the riverway was established."

In addition to the terrible precedent of allowing enormous construction projects over a Wild and Scenic River, the bridge being proposed will cost Minnesota, Wisconsin, and the American taxpayer close to \$700 million to build. This \$700 million bridge would serve only 18,000 cars a day between Stillwater, Minnesota and Houlton, Wisconsin, with a population of 400. In contrast, the collapsed I-35W bridge in Minneapolis was rebuilt and completed in 2008 at a cost of only \$234 million, and it is handling 145,000 vehicles a day. This proposed bridge would be the most costly bridge ever built in the history of the state of Minnesota.

We recognize the need for a new crossing at the St. Croix National Scenic Riverway as the bridge currently serving the community of Stillwater is outdated and in need of repair, and we support a more sensible, smaller, and less-costly solution.

We understand that the Committee may schedule a legislative hearing on S. 1134 soon. We prefer the Committee not consider this bill, but if the hearing is to be held, then we request to appear as witnesses to provide testimony on how the proposed

bridge sets a terrible precedent for undermining the Wild and Scenic Rivers Act and in these tight fiscal times simply does not make sense.

Sincerely,

BILL LEE, CHIEF OPERATING OFFICER.

American Rivers.

ANNA AURILIO, DIRECTOR, WASHINGTON OFFICE,

Environment America.

TOM KIERNAN, PRESIDENT,

National Parks Conservation Association.

DEBBIE SEASE, NATIONAL CAMPAIGN DIRECTOR,

Sierra Club.

BILL MEADOWS, PRESIDENT,

The Wilderness Society.

STATEMENT OF THE SIERRA CLUB, ON S. 1134

The Sierra Club North Star Chapter appreciates the opportunity to share our grave concerns regarding S. 1134. This legislation, by exempting the current proposed freeway-style bridge from federal review, would set a troubling national precedent, gut the Wild and Scenic Rivers Act, and cause irreversible damage to the Lower St. Croix National Scenic Riverway.

The Sierra Club is the world's oldest and largest grassroots environmental organization. Our 1.4 million members and supporters, in 65 chapters and over 400 local groups nationwide, possess the unique ability to empower people and influence public policy through community activism, public education, outreach and litigation. The Sierra Club's North Star Chapter is the leading grassroots voice working to preserve and protect Minnesota's environment since its inception in 1968. We do this by involving and cultivating volunteer leadership to act through environmental advocacy and outdoor exploration.

The Lower St. Croix, which extends 52 miles on the border of Minnesota and Wisconsin, is a regional and national treasure, widely recognized for its pristine natural character and scenic qualities. The river passes through diverse landscapes including a deep, narrow gorge and broad valleys lined with wooded bluffs. The Lower St. Croix is also considered to be a biodiversity "hot spot," with many rare or unique habitats located along the river. Because of its outstandingly remarkable scenic and recreational values, it was added to the Wild and Scenic Rivers System by Congress in 1972.

The proposal to build a blufftop-to-blufftop, \$690 million bridge that would pierce the heart of the St. Croix poses a serious threat to these values. For this reason, the National Park Service determined in October 2010 that the proposal could not be approved. The Sierra Club believes that a new design with growing community support offers a solution that is responsive to residents' needs and fiscal realities while honoring the river's protected status. It would utilize a smaller, three-lane bridge, and rise 100 feet closer to the water than the current proposed design. A reversible lane would accommodate peak travel demand.

Contrary to the claims of supporters of the freeway style superbridge, this new design, which would balance community needs, federal protections and the unique character and value of the St. Croix, is so different from any of the officially evaluated, rejected alternatives that it can only be described as new and unevaluated. We specifically and strongly reject the falsehood put forth by Riverway opponents that this alternative is similar to any previously evaluated bridge. It has never been evaluated by the Minnesota Department of Transportation, the lead agency on the project, or by the National Park Service.

We have analyzed the new proposal and believe it is a balanced and reasonable compromise, consistent with community needs, federal protections and preserving the character of the river.

The Sierra Club is aware that the National Park Service has stated that they may find any bridge not at the exact location of the current Lift Bridge in violation of the Wild and Scenic Rivers Act. We do not take lightly our decision to support the Sensible Stillwater Bridge Coalition design. While we categorically oppose the current proposed freeway-style bridge, we believe that the new proposal could be compatible with the Riverway.

It is also a much less costly approach. With a \$5 billion state deficit, the savings from the smaller proposal will also free up needed funds to address urgent transportation and repair needs in our region.

We urge you to oppose the legislation before you, and uphold federal protections that safeguard 11,000 miles of 166 Wild and Scenic Rivers across the U.S.

Thank you for consideration of our perspective.

STATEMENT OF MATT KRAMER, PRESIDENT OF THE SAINT PAUL AREA CHAMBER OF COMMERCE, ON S. 1134

Chairman Udall, ranking member Paul, and members of the committee:

My name is Matt Kramer. I am the president of the Saint Paul Area Chamber of Commerce. The chamber represents businesses and organizations in the Saint Paul and east metro region that includes the St. Croix River Valley. We have been a supporter of the decades-long effort to build a new St. Croix River Crossing and have previously submitted comments as part of the Environmental Impact Statement related to the project planning process. We strongly support this project and urge your support of S1134, which will allow this project to finally move forward.

Our members strongly believe that reliable, adequate and accessible transportation is one of the most important resources needed to foster a thriving business marketplace. The Minneapolis-Saint Paul metropolitan area has grown to now include 13 counties; including Pierce and St. Croix counties in Wisconsin. Our regional challenge is to make strategic investments in the transportation system that not only meet the needs of the 3 million people who already live and work in this vibrant metro area, but can also handle the future demand as we continue to grow.

Minneapolis and Saint Paul must do everything possible to maintain and enhance a competitive and thriving business environment that will help us keep the businesses and jobs already here as well as attract new companies and employees. We work with private and public sectors to not only comprehensively plan and review projects, but also to make sure there are resources in place to build and maintain our roads, bridges, and public transportation system.

We have been actively engaged in a number of important and regionally significant transportation initiatives. The chamber helped create, fund and manage the Central Corridor Partnership, a public-private partnership that played a key role in advocating for the Central Corridor Light Rail Transit Line that is now under construction. Our members contributed significant resources to fund outreach work that helped make sure this project became a reality. We are also actively engaged in the campaign to secure passage of an amendment to Minnesota's constitution that would dedicate a portion of motor vehicle excise tax revenues to fund road and transit projects.

We understand that leadership requires actively engaging in and bringing resources to a partnership to produce results. The Central Corridor, the motor vehicle sales tax, and the proposed bridge project are examples of people working together for the larger vision of the community.

For decades St. Croix River Valley residents and the entire east metro region have been trying to solve a decades-long transportation problem that just keeps getting worse. The 80-year-old Stillwater Lift Bridge was originally designed to handle 11,200 cars per day, but today it is overburdened by an average of 18,400 vehicles daily. Companies throughout the east metro region depend on employees and businesses on both sides of the St. Croix River. In addition to pressuring companies and residents, the growing traffic bottleneck is also putting additional strain on the existing Interstate 94 bridge.

Residents, elected officials, engineers, and environmental advocates thoroughly studied a dozen different plans before determining that the St. Croix River Crossing was the best plan for the region. The new bridge will solve transportation problems now and in the future as our region continues to experience widespread growth. It will make sure the investment today will benefit the community years into the future. What we need now is your help and immediate action on this matter.

I strongly encourage you to approve S1134 and allow this project to move forward. The plan is ready, and we need this crucial transportation corridor.

STATEMENT OF HARRY MELANDER, PRESIDENT, MINNESOTA BUILDING AND CONSTRUCTION TRADES COUNCIL, ST. PAUL, MN, ON S. 1134

Chairman Udall, Ranking Member Paul, and Members of the Committee. I'm Harry Melander, President of the Minnesota Building and Construction Trades Council. Our organization represents more than 50,000 trades people who live and work in Minnesota and Western Wisconsin.

Unions construction workers in Minnesota and Wisconsin are very aware of the river crossing project. The inadequacy of the existing 1931 Stillwater Lift Bridge is

well known to all who live in the Minneapolis-St. Paul metropolitan area, and a replacement bridge has been thoroughly discussed in St. Croix Valley communities for several decades.

We note for the committee that 28 Stakeholders representing federal and state regulatory agencies, local governments and environmental and historic preservation interests met during three years of mediation to discuss and develop a bridge plan. The group intentionally chose a very unique cable stay bridge design for this project. The new bridge would feature open support piers and cable stays that allow for a slimmer bridge deck, with the overall goal of making the bridge less obtrusive to its surroundings. It is a beautiful, uncommon design, and this would be only the third one of this style built in all of North America.

As part of this project the Stillwater Lift Bridge, protected on the National Register of Historic Places, will be retired from service as an automobile bridge. After a complete restoration, the lift bridge will become the signature component of a new walking and biking loop trail, meandering through natural and historic sites in both Stillwater and Wisconsin. The plan to construct new park and trail resources as part of the overall project will improve public access to the river. Already tens of thousands of people each year enjoy the historic charm and scenic beauty of downtown Stillwater and other sites in the St. Croix Valley region. These elements will add to the public's enjoyment of the riverway.

The project has been thoroughly researched and carefully developed over the past two decades. The overall plan provides balance between the need to protect the scenic values of the river and improve opportunities for public recreation, the need to preserve the region's many historic sites, and the need to improve traffic safety and meet transportation needs for the region.

The bridge design that has been selected will be more challenging to construct than a typical box girder freeway bridge. It is an important river crossing, with unique design elements that respect its natural surroundings. It will be constructed in and among sites that have great historical value for the people of two states. Our workers will use all of their talent and skill as tradespeople, and they will remember their work on this project for their entire careers.

A commitment to full funding from Minnesota and Wisconsin means that the project does not require further appropriation from the Congress. We only need Congressional permission to build the bridge, and then we can get to work.

Recent economic conditions have fallen heavily on the men and women who work in the construction trades in Minnesota, and so this project could not come along at a better time. Over one-quarter of Minnesota's unemployed workers are construction workers. Sadly, our state ranks third-highest in the nation for the percentage of construction jobs lost in the past year.

The Minnesota Department of Transportation indicates that as many as 3,000 jobs per year will be created as a result of this project over the three years it will take to build it. This construction can provide an economic shot in the arm to many families at a time when it is most needed.

Chairman Udall, Ranking Member Paul, and Committee Members, we hope you will act favorably on S1134 as soon as possible. The men and women of the Minnesota construction trades are up to the challenge of building this legacy project.

Thank you.