

Executive Summary Backgrounder

No. 2080
October 23, 2007



Published by The Heritage Foundation

National Heritage Areas: Costly Economic Development Schemes that Threaten Property Rights

Cheryl Chumley and Ronald D. Utt, Ph.D.

The U.S. House of Representatives is considering the Celebrating America's Heritage Act (H.R. 1483) as amended by Representative Raul Grijalva (D-AZ). The bill would expand the cost and scope of federally sanctioned and federally financed economic development entities known as National Heritage Areas (NHAs).

Although there is no specific provision in federal law that defines or authorizes the existence of such entities, Congress has been authorizing their "designation" on a case-by-case basis since 1984. There are now 37 NHAs operating throughout the United States.

H.R. 1483 would add an additional six NHAs to the fold, expand the boundaries of three that are now in operation, and increase by 50 percent the amount of federal funds available to NHAs by way of the National Park Service (NPS) budget.

If enacted, H.R. 1483 will cost federal taxpayers an additional \$135 million. However, as reported by the Government Accountability Office (GAO), NPS funding accounts for only a fraction of the total federal funding received by NHAs every year. In fact, non-NPS funds amount to nearly 70 percent of the costs associated with the NHAs. If this pattern of broad public subsidies continues, H.R. 1483 would lead to an additional \$270 million in NHA spending by federal, state, local, and not-for-profit entities.

The process of identifying NHAs is highly dubious. An NHA-eligible region is defined by the National Park Service as "a place designated by the

U.S. Congress where natural, cultural, historic and recreational resources combine to form a cohesive, nationally-distinctive landscape...[to] tell nationally important stories about our nation." Nearly any parcel of land or long-standing structure could be touted as an intricate part of someone's history, thereby opening the door to all sorts of opportunities for subsidies from the state, local, and federal governments.

One of the most controversial aspects of H.R. 1483 is the establishment of the Journey Through Hallowed Ground NHA, which would span significant portions of Pennsylvania, Maryland, and Virginia. This effort is sponsored and promoted mainly by two factions: Virginia-based environmental groups with a long history of opposition to most residential and commercial development in the region and wealthy estate owners who would benefit from the cachet and exclusivity that the designation might bring. The opposition includes local property owners and a large minority in Congress.

Chief among the opponents' concerns is the likely impact on the rights of property owners in the region. The sponsors and would-be managers of the

This paper, in its entirety, can be found at:
www.heritage.org/Research/SmartGrowth/bg2080.cfm

Produced by the Thomas A. Roe Institute
for Economic Policy Studies

Published by The Heritage Foundation
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Journey Through Hallowed Ground NHA have a long history of restricting the rights of property owners to develop their land. For the most part, these efforts aim to preserve the rural charm of the region, which would benefit wealthy estate owners.

As research into some of the 37 existing NHAs reveals, other NHAs have used their federally acquired authority to impose restrictive zoning requirements on the region's property owners to limit development and/or to force it into directions agreeable to those who guide the management of the NHA. In a recent case in Arizona, some property owners were so concerned with the intentions of an NHA established in their region that they persuaded a majority of the United States Congress to amend the authorizing legislation to reduce the land area comprising the NHA.

Of the many problems associated with NHAs, three should be the most compelling for Congress:

1. NHAs divert NPS resources from the agency's core responsibilities,
2. Federal costs for NHAs are increasing at a rapid rate, and
3. NHAs threaten private property rights.

Rather than pursue a costly expansion of federal involvement in local affairs, Congress should not create any more NHAs and should move the existing NHAs toward financial independence. Specifically, Congress should limit existing NHAs to their initial federal funding caps and enforce the statutory requirement that they become financially self-sufficient within 15 years. Congress should also encourage local communities to establish their own heritage-based tourist and economic development programs that are independent of federal oversight and funding.

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Background

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The U.S. House of Representatives is considering the Celebrating America's Heritage Act (H.R. 1483) as amended by Representative Raul Grijalva (D-AZ). This bill would expand the cost and scope of federally sanctioned and federally financed economic development entities known as National Heritage Areas (NHAs).

Although there is no specific provision in federal law that defines or authorizes the existence of such entities, Congress has been authorizing their "designation" on a case-by-case basis since 1984. There are now 37 NHAs operating throughout the United States. H.R. 1483 would add an additional six NHAs to the fold, expand the boundaries of three that are now in operation, and increase by 50 percent the amount of federal funds available to them.

If enacted, H.R. 1483 will cost taxpayers an additional \$135 million, jeopardize the property rights of private individuals in the area, distract the National Park Service (NPS) staff from its core mission, and do little more than benefit a small number of businesses within the boundaries of NHAs. Rather than pursuing a costly expansion of federal involvement in local affairs, Congress should not create any more NHAs and should limit existing NHAs to their initial federal funding caps, moving them to financial independence.

What Is a National Heritage Area?

Because there is no federal statute to authorize their existence, Congress has created NHAs on an ad hoc basis, and each differs slightly from the others. However, every NHA receives federal funding

Talking Points

- H.R. 1483, a bill to create and expand nine National Heritage Areas, would increase the federal government's involvement in select local development projects at an additional cost of \$135 million from the National Park Service.
- Past patterns of spending indicate that the new Heritage Areas would require considerably more funding from other federal departments, state and local governments, and earmarks.
- Although Heritage Areas are expected to become financially independent within 15 years, none have done so, and all continue to receive federal subsidies.
- A growing body of evidence indicates that some Heritage Areas threaten the property rights of land owners within the areas' boundaries.
- Because Heritage Areas are under the supervision of the National Park Service, they divert NPS personnel and resources from their core responsibility of maintaining the nation's parks and historic assets.

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from the NPS and has an ongoing relationship with that agency's staff in terms of management and operation.

According to a recent report by the Congressional Research Service (CRS), Congress has designated NHAs to:

recognize and assist efforts to protect, commemorate, and promote natural, cultural, historic, and recreational resources that form distinctive landscapes...[and has] established heritage areas for lands that are regarded as distinctive because of their resources, their built environment, and the culture and history associated with these areas and their residents. A principal distinction of these areas is an emphasis on the interaction of people and their environment. Heritage areas seek to tell the story of the people, over time, where the landscape helped shaped the traditions of the residents. In a majority of cases, NHAs now have, or have had, a fundamental economic activity as their foundation, such as agriculture, water transportation, or industrial development.¹

NPS records indicate that NHAs are growing in popularity. In 2003, heritage area formal partnerships were solidified among 996 government and non-government entities; a year later, that figure had jumped to 1,274. Total funding for the NPS Heritage Partnership Program (encompassing federal, state, local, and private sources) grew from \$60 million in 2003 to nearly \$84 million in 2004.²

The process of forming an NHA begins simply enough, with an individual or group identifying a property they perceive as historically significant.

But the program's standard is nebulous, defined as "a place designated by the United States Congress where natural, cultural, historic and recreational resources combine to form a cohesive, nationally-distinctive landscape...[to] tell nationally important stories about our nation."³

The road toward NHA designation is littered with opportunities; almost any parcel of land or long-standing structure could be touted as an intricate part of someone's history. Moreover, congressional designation is not always needed. Louisiana, Pennsylvania, Utah, New York, and Maryland have state heritage programs, "and there are hundreds of locally defined grassroots heritage area initiatives," according to the NPS.⁴

However, federal designation does open the door to greater funding opportunities. To reach this goal, NHA hopefuls face four critical steps: (1) complete a feasibility study; (2) involve the public in this study; (3) show that residents, as well as key government, business, nonprofit, and private-sector entities, support the NHA designation and are willing to participate in the management planning process; and (4) propose or establish the management body for the NHA.⁵

"The management entity," the NPS reports, is "outlined in designation legislation" and "may be a state or local agency, a federal commission, or a private nonprofit corporation. The management entity is empowered to create a management plan for the heritage area, and is authorized to receive federal funds on the area's behalf."⁶

The NPS further stipulates that the management entity may not regulate land use or buy property using federal dollars. Nonetheless, this is where

1. Carol Hardy Vincent and David L. Whiteman, "Heritage Areas: Background, Proposals and Current Issues," Congressional Research Service *Report for Congress*, Updated July 30, 2007, p. 1.
2. National Park Service, National Heritage Areas, *A View of the National Heritage Areas in 2003*, at www.nps.gov/history/heritageareas/INFO/indic2003.pdf (October 2007), and *A View of the National Heritage Areas in 2004*, at www.nps.gov/history/heritageareas/INFO/indic2004.pdf (October 2007).
3. National Park Service, National Heritage Areas, "What Is a National Heritage Area?" at www.nps.gov/history/heritageareas/FAQ/INDEX.HTM (October 2007).
4. *Ibid.*
5. National Park Service, National Heritage Areas, *Critical Steps and Criteria for Becoming a National Heritage Area*, www.nps.gov/history/heritageareas/REP/criteria.pdf (October 2007).
6. National Park Service, "What Is a National Heritage Area?"

infringements on private property rights begin to gather steam, say NHA opponents. One concern is that the NPS is not as behind-the-scenes with its influence as it claims.

The management plans for the NHAs are formed through the collaborative efforts of a variety of government and non-governmental sources, from the NPS to the local government to the environmental activist and community business leader. The Secretary of the Interior has the final say on whether the plan is acceptable or not, and the NPS helps applicants to get this approval.

“After a heritage area is designated by Congress, National Park Service staff are enlisted as partners with local community activists in planning and implementing heritage area activities,” reads the Frequently Asked Questions page on the NPS Web site for NHAs. “NPS enters into a cooperative agreement with the local parties. The compact is a statement of assent to mutually shared goals, and also serves as the legal vehicle through which federal funds can be passed to non-governmental management entities.” Of notable importance is that NPS involvement “is always advisory,” the agency claims. “It neither makes nor carries out management decisions.”⁷

NHAs generally do not involve federal acquisition or direct control of the land within the NHA’s boundaries. The management entity responsible for overseeing the NHA is generally local in nature and may consist of private citizens, not-for profits, and representatives from state or local government. The management entity works in partnership with the NPS, which in turn has the responsibility for approving the entity’s plan for the NHA and for overseeing its implementation and the expenditure of the annual federal subsidy.

Rising Concerns Over NHAs

Although other NHAs have generated controversy, the most contentious has been the Journey Through Hallowed Ground NHA, which would

span significant portions of Pennsylvania, Maryland, and Virginia. Legislation (H.R. 319) to create and subsidize the NHA was introduced in the 109th and 110th Congresses⁸ and has since been integrated into H.R. 1483.⁹

This effort is sponsored and promoted by two factions: Virginia-based environmental groups with a long history of opposition to most residential and commercial development in the region and wealthy estate owners who would benefit from the cachet, exclusivity, and federal subsidies that an NHS designation would bestow. The opposition includes local property owners and a significant minority in Congress.

There are three key reasons why Congress should not create any new NHAs and why existing NHAs should become financially independent of the federal government, as their enabling legislation requires.

- **NHAs divert NPS resources from core responsibilities.** NPS advocates and staff have long complained about the limited resources that Congress provides in comparison to its extensive responsibilities.

Both the Government Accountability Office (GAO) and the Congressional Research Service estimate that the cost of NPS’s maintenance backlog exceeds several billion dollars and is rising despite increased annual appropriations. Park attendance has been in decline in recent years, and camping in the parks has plunged, perhaps in part because of the functional obsolescence of campground facilities. Given the extensive staff responsibilities that the growing number of NHAs will entail, fulfillment of core NPS responsibilities will suffer even more.

- **Federal costs for NHAs are increasing at a rapid rate.** H.R. 1483 would add \$135 million to the cost of the program—on top of the federal funds already authorized for existing NHAs. The legislation would increase the 15-year authoriza-

7. *Ibid.*, p. 2.

8. See Ronald D. Utt, “Another Federal Assault on Property Rights: The Journey Through Hallowed Ground National Heritage Area Act,” Heritage Foundation *Background* No. 2025, April 16, 2007, at www.heritage.org/Research/SmartGrowth/bg2025.cfm.

9. H.R. 1483 was reported out of the House Natural Resources Committee on September 26, 2007, by a vote of 23 to 12.

tion amount for every new NHA from \$10 million to \$15 million and would extend federal funding for nine NHAs that are nearing their mandated financial independence date. Not a single NHA has become financially independent within the timeframe allotted, and all have had their federal funding extended.

- **NHAs threaten private property rights.** On the surface, most of the legislation designating an NHA, and the subsequent management plans that guide them, include explicit provisions prohibiting the NPS or the management entity from using eminent domain to acquire property. They also prohibit the use of federal funds to acquire private property by way of a voluntary transaction with a willing seller.

Nonetheless, NHAs pose a threat to private property rights through the exercise of restrictive zoning that may severely limit the extent to which property owners can develop or use their property. Termed “regulatory takings,” such zoning abuses are the most common form of property rights abuse today.¹⁰ They are also the most pernicious because they do not require any compensation to owners whose property values are reduced by the new zoning.

While NHA defenders are quick to point out that neither the NPS nor the management entity are empowered to zone or take property, many NHAs encourage participating local governments to adopt land use practices consistent with the management plan. As will be discussed later, there are a number of instances where

more restrictive zoning practices followed on the heels of an NHA designation.

Diverting Resources from Core NPS Responsibilities

Although funding increases for the National Park Service have kept up with inflation, the NPS struggles to fulfill its core mission of operating and protecting the 321 parks and historic sites that are currently under its responsibility. Reflective of its struggle is that park attendance has declined over the past several years while tourism nationwide has boomed. According to NPS congressional testimony in April 2006, “The peak year for visitation to the National Park System during the past ten years was 1999, when 287 million visits were recorded. When we look at the decade long trend of visitation to the National Park System, however, the overall trend line is flat.”¹¹ Use of park campgrounds and lodges has fared even worse: “the number of overnight stays in national parks has decreased every year for the past ten years.”¹²

At the same time, ample evidence suggests that the Interior Department’s stewardship over the natural and built assets under its control has been deficient. The maintenance backlog has grown significantly over the past decade or so. In 2003, the GAO estimated that the cost of addressing Interior’s deferred maintenance backlog was between \$8.1 billion and \$11.4 billion.¹³ By 2006, that estimate had risen to between \$9.6 billion and \$17.3 billion,¹⁴ of which \$3 billion was attributable to buildings and other structures for the NPS. That \$3

10. The U.S. General Accounting (now Government Accountability) Office reported in 2003 that of the 44 regulatory takings lawsuits against the agencies of the federal government (including Interior) that were settled between 2000 and 2002, 14 resulted in cash awards totaling \$36.5 million to property owners. See U.S. General Accounting Office, *Regulatory Takings: Agency Compliance with Executive Order on Government Actions Affecting Private Property Use* (Abstract), GAO-04-120T, October 16, 2003.
11. Statement of Marcia Blaszk, Regional Director, Alaska Region, National Park Service, Department of the Interior, before the Subcommittee on National Parks, House Committee on Resources, on “Trends in Visitation to the National Park System,” April 6, 2006, p. 1.
12. *Ibid.*, p. 4.
13. U.S. General Accounting Office, *Major Management Challenges and Program Risks: Department of Interior* (Abstract), GAO-03-104, January 1, 2003.
14. Robin M. Nazzaro, Director, Natural Resources and Environment, U.S. Government Accountability Office, “Department of the Interior: Major Management Challenges,” testimony before the Committee on Natural Resources, House of Representatives, GAO-07-502T, February 16, 2007, p. 15.

billion “does not include other assets such as national landmarks and monuments.”¹⁵

With Interior’s management of its assets getting worse, it seems shortsighted for Congress to task the NPS and its limited staff with the additional time-consuming duties associated with oversight of 37 (43 under this legislation) NHAs whose benefits are mostly local and whose purpose is largely commercial. While both congressional staff and NPS have insisted that the management responsibilities associated with NHAs are quite limited, a recent CRS report suggests otherwise.¹⁶

The NPS assists communities interested in attaining the Federal NHA designation by helping them craft a regional vision for heritage preservation and development. The agency also provides a variety of types of assistance to areas once designated—administrative, financial, policy, technical, and public information. The NPS seeks to serve as a catalyst by offering assistance to designated heritage areas only for a limited number of years....¹⁷

Once a heritage area is designated by Congress, the NPS typically enters into a cooperative agreement, or *compact*, with the designated management entity, often comprised of local activists, to help plan and organize the area. The compact outlines the goals for the heritage area and defines the roles and contributions of the NPS and other partners, typically setting out the parameters of the NPS technical assistance....

At congressional direction, the NPS also prepares studies as to whether areas are suitable for designating as NHAs. The NPS often tes-

tifies before Congress on the results of these studies. The studies typically address a variety of the topics, including whether an area has resources reflecting aspects of American heritage that are worthy of recognition, conservation and continued use. They usually discuss whether an area would benefit from being managed through a public-private partnership, and if there is a community of residents, businesses, nonprofit organizations, and state and local agencies that would work to support a heritage area.¹⁸

As is apparent from both the GAO and CRS reports, the NPS has failed to fulfill its core mission, and the expanding number of NHAs represents a significant drain on NPS staff and financial resources. Considering the many economic development programs scattered throughout the federal government,¹⁹ perhaps one solution is to transfer responsibility for NHAs to the Economic Development Administration at the Department of Commerce. This would give the NPS a chance to improve its management performance in its traditional areas of responsibility.

Rapidly Rising Federal Costs for NHAs

H.R. 1483 would significantly increase both the total cost and the per-area cost associated with the NHA program. The bill would increase the 15-year federal commitment for every new NHA from \$10 million to \$15 million and would extend federal support to nine existing NHAs that are now approaching the end of their initial 15-year time horizon. H.R. 1483 would commit the Department of the Interior to spending \$135 million on these new commitments alone.

15. U.S. Government Accountability Office, *Federal Real Property: Progress Made Toward Addressing Problems, but Underlying Obstacles Continue to Hamper Reform*, GAO-07-349, April 2007, p. 26.

16. Vincent and Whiteman, “Heritage Areas,” p. 8.

17. While the legislation creating a Heritage area limits federal financial support to no more than 15 years under the assumption that the area would become financially self sufficient, in fact every area that has reached the 15-year mark has requested a continuation of taxpayer support and the Congress has extended it.

18. Vincent and Whiteman, “Heritage Areas,” p. 8.

19. A July 1995 GAO report (GAO/RCED-95-251R) listed 342 economic development programs, which are referenced in Brian Riedl, “How to Get Federal Spending Under Control,” Heritage Foundation *Background* No. 1733, March 10, 2004, at www.heritage.org/Research/Budget/bg1733.cfm.

However, NPS funding accounted for only about 30.8 percent of NHA funding from fiscal years 1999 to 2002, according to a GAO report.²⁰ Total spending on NHAs amounted to \$310 million, of which only \$95 million was from the NPS.

NHAs have succeeded in securing additional taxpayer funding through a number of channels: the Departments of Agriculture, Commerce, Education, Housing and Urban Development, and Transportation; the Environmental Protection Agency, Army Corps of Engineers, National Endowment for the Arts, and Amtrak; other federal earmarks; and state and local governments.

Reflective of the absence of any meaningful spending control over these areas is the proposed Journey Through Hallowed Ground NHA. This proposed NHA was authorized to receive a congressional earmark of \$1 million in August 2005 from the Department of Transportation despite the fact that it had not yet been authorized by Congress. In effect, Congress has been spending money on an NHA that does not yet exist. As a result of the 50 percent increase in funding that H.R. 1483 proposes, the new NHAs it creates, and the funding extensions provided nine others, future NHA spending is set to soar.

The NHA Threat to Private Property Rights

Over the past several years, critics have argued that NHAs contribute to a diminution in the rights of private property owners, in large part because the NPS sometimes requires that local governments in the area adopt land-use practices that are consistent with the goals of the NHA. In response, proponents usually say that most management agreements include protections for private property owners. However, these protections often limit only the NPS or the management entity, not the local governments working in cooperation with the NHA.

Nonetheless, government reports from 2004 and 2007 analyzing the NPS program insist that not one private property owner has complained about any infringement upon his or her property rights.

“National heritage areas do not appear to have directly affected the rights of property owners,” reads a March 2004 GAO study. “[H]eritage area officials, Park Service headquarters and regional staff, and representatives of national property rights groups who we contacted were unable to provide us with any examples of a heritage area directly affecting—positively or negatively—private property use.”²¹

Note that the GAO’s survey was limited to “national groups” and apparently did not include a survey of individual property owners in the more than three dozen NHAs already in existence. A CRS report updated in July 2007 summarized the background and ongoing debate and legislation surrounding NHAs and referenced this same GAO report and assertion without offering evidence to the contrary.²²

So why do private property rights groups continue to express concern about this aspect of NHA declarations? Certainly, there has not yet been a case of an irate homeowner issuing a public rant decrying the loss of residence and land as a direct result of a congressional declaration of an NHA—at least, not to a level noisy enough to reach the ears of property rights advocates, the GAO, or the CRS. If such a smoking gun existed, NHA opponents surely would have roused troops and rode a wave of righteous dissent all the way through Congress to the White House.

At the same time, plenty of those who support these land tags, from the NPS to small-town environmental activists, insist that NHAs are honorary titles only, affixed solely for the purposes of raising public awareness on the historical significance of particular parcels of property and driving tourism into the area. Even the enabling legislation to create NHAs stipu-

20. Barry T. Hill, Director, Natural Resources and Environment, U.S. General Accounting Office, “National Park Service: A More Systematic Process for Establishing National Heritage Areas and Actions to Improve Their Accountability Are Needed,” testimony before the Committee on Energy and Natural Resources, U.S. Senate, GAO-04-593T, March 30, 2004, p. 9.

21. *Ibid.*

22. Vincent and Whiteman, “Heritage Areas,” p. 1.

lates the need to protect private property rights and includes the clearest of language upholding them—a point that is mentioned time and again by those who support the federal designation.

H.R. 3335, a bill introduced in August 2007 to establish the South Park National Heritage Area in Colorado, is quite specific in its stated regard for private property rights:

No privately owned property shall be preserved or promoted under the management plan for the Heritage Area until the owner of that private property has been notified in writing by the management entity and given written consent to the management entity for such preservation or promotion.²³

The bill further allows that “any owner of private property included within the boundary of the Heritage Area shall have their property immediately removed from the boundary by submitting a written request to the management entity.”²⁴

Likewise, H.R. 1625, legislation to establish the Abraham Lincoln National Heritage Area, introduced in March 2007, aims at protecting numerous properties spanning several counties in Central Illinois, claiming that “Nothing in this act shall be construed to require the owner of any private property located within the boundaries of the Heritage Area to participate in or be associated with the Heritage Area.”²⁵ H.R. 1625 also contains the following language:

Nothing in this act shall grant any power of zoning or land use to the management entity.... Nothing in this act abridges the rights of any person with regards to private property; affects the authority of the state or local government regarding private prop-

erty; or imposes any additional burden on any property owner.²⁶

At least half of the estimated 20 bills introduced in the House and Senate during the 110th Congress to establish NHAs, corridors, partnerships, or routes, or to commission studies, contain similar provisions protecting private property, including water rights. The half that do not would seem to be sure-fire fodder for private property rights groups.

But even with the bills including seemingly irrefutable protections for property owners, the debate and controversy over NHA declarations continues. A case in point is a 2007 letter sent by the National Center for Public Policy Research to congressional leaders and pertinent committee members. With 110 signatures from across the nation, the letter seeks a halt to further creation of NHAs:

National heritage areas are the Kelo decision and earmarks rolled into one. National heritage areas are preservation zones where land use and property rights can be restricted. They give the National Park Service and preservation interest groups (many with histories of hostility toward property rights) substantial influence by giving them the authority to create land use “management plans” and then the authority to disburse federal money to local governments to promote their plans.²⁷

However, the NPS contends on its Web site that “A National Heritage Area is not a unit of the National Park Service, nor is any land owned or managed by the National Park Service.” It further contends that Heritage Areas “offer a collaborative approach to conservation that does not compromise traditional local control.”²⁸

23. South Park National Heritage Act (Introduced in House), 110th Congress, August 2, 2007, at <http://thomas.loc.gov/cgi-bin/query/D?c110:1:./temp/~c110YzDYve> (October 2007).

24. *Ibid.*

25. Abraham Lincoln National Heritage Area Act (Introduced in House), 110th Congress, March 21, 2007, at <http://thomas.loc.gov/cgi-bin/query/z?c110:H.R.1625> (October 2007).

26. *Ibid.*

27. National Center for Public Policy Research, “Coalition Letter Detailing Risks of National Heritage Area Designation,” September 4, 2007, www.nationalcenter.org/NHACoalitionLetter0907.pdf (October 2007).

28. National Park Service, “What Is a National Heritage Area?”

Meanwhile, the Center for Desert Archaeology, a nonprofit private group that promotes historical conservation in the Southwest, is even more forthright in its assessment of NHAs. “Designation [of an NHA] does not involve additional Federal regulation,” reads the group’s Web site. “One of the big questions people have about National Heritage Areas is, ‘Do they affect private property rights or public land use?’ The answer is No.”²⁹

So, which side is right?

The answer is critical. The CRS suggests that the issue is hardly on the wane, noting that “The many bills introduced in the 110th Congress to designate heritage areas or study lands for heritage status indicate a continued high level of congressional interest in NHAs.”³⁰

Technically, supporters of NHAs may be correct. The NPS cannot wag a pointed finger in the face of management entity officials and direct or order any action, but it *can*, in its advisory role, offer suggestions on the best way to pursue to receive federal funding. And what cash-starved bureaucracy wouldn’t listen? What follows is a brief review of several NHAs in which questionable property rights practices have been implemented.

Wheeling National Heritage Area

The management plan for the Wheeling National Heritage Area in West Virginia was updated in 2004 with NPS officials providing “assistance, guidance, review and key inputs,” according to the plan’s executive summary.³¹ Some of that guidance has entailed the push for new regulation and land-use provisions. For instance, chapter five of the Wheeling National Heritage Area Corporation’s management plan suggests creation of a local historic

ordinance that would help implement zoning in line with the group’s revitalization efforts.³² It also argues that acquiring property “on a willing buyer/willing seller basis” could improve landscapes deemed historically significant.³³

Perhaps underscoring the importance of NPS cooperation, chapter six of the plan observes, “Of course, major funding to support the activities of WNHAC and the recommendations of this plan will be coming from the National Park Service, the longest-term partner and supporter of WNHAC.”³⁴ The carrot-and-stick authority of the NPS goes deeper, though. Beginning in 2000, when the NHA was congressionally declared, the WNHAC entered a financial bargain that put it in the position of actively seeking more partners and, in so doing, riding a long-term cycle of dependence on the federal authorities, including the NPS:

With the establishment of the NHA in 2000, WNHAC is now obliged to match federal funds with at least 25 percent non-federal funds and is limited in the amount of total funding it is now eligible to receive...to a total of \$10 million through 2015. These limitations require WNHAC to adopt a different and more aggressive approach to finding support for projects and partnering. WNHAC needs to evolve into a more entrepreneurial organization....³⁵

With other NHAs, the NPS role is even more direct and in line with typical park projects.

Blackstone River Valley National Heritage Corridor

In 1986, Congress designated the Blackstone River Valley as a National Heritage Corridor. A “cor-

29. Center for Desert Archaeology, “Public Land Use and Property Rights in National Heritage Areas,” at www.cdarc.org/pages/national_heritage/nha_property_rights.php (October 2007).

30. Vincent and Whiteman, “Heritage Areas,” p. 1.

31. Wheeling National Heritage Area Corporation, “Management Plan for the Wheeling National Heritage Area,” Executive Summary, May 2004, on National Park Service, National Heritage Area Management Plans and Studies, Web site, at www.wheelingheritage.org/pdf_docs/Executive_Summary.pdf (October 2007).

32. *Ibid.*, Chapter Five, p. 79.

33. *Ibid.*, p. 72.

34. *Ibid.*, Chapter Six, p. 103.

35. *Ibid.*, Executive Summary, p. 9.

ridor” is no different from an “area,” according to Eleanor Mahoney, program assistant for the NPS–NHA office in Washington, D.C. “They’re all under the NHA umbrella,” she said in a brief telephone interview. “In the early days, it was called a corridor because the landscape maybe ran along a river, for example. But it’s the same program.”³⁶

The Blackstone Heritage Area spans 46 miles through Massachusetts and Rhode Island and is overseen by a 19-member federal management authority, the Blackstone River Valley NHC Commission. Members of this board are appointed by the governors of Massachusetts and Rhode Island and confirmed by the Secretary of the Interior, according to the Blackstone River Valley NHC Commission’s Web site. The commission “consists of representatives from the National Park Service, state and local governments, and valley-wide interests, and oversees the corridor’s operations.”³⁷

That last point is most crucial. This 19-member board, which includes NPS officials, is tasked with ultimate oversight of the corridor’s lands; but how can that be if the role of NPS with NHAs is advisory only? The answer is that the Blackstone NHC tag goes against the stated role of NHAs as put forth on the NPS Web site: “A National Heritage Area is not a unit of the National Park Service, nor is any land owned or managed by the National Park Service.”³⁸

Perhaps NPS insistence that it is only an advisor should be amended to specify, “except in cases where it’s different.” That is the case with the Blackstone corridor, where Congress purposely placed the area under NPS control—though casual observers of NHA policy probably never noticed. According to the commission’s Web site:

Congress established the National Heritage Corridor as an affiliated area of the National

Park System to make the NPS tradition of management of cultural and natural resources available to the Blackstone River Valley. National Park Service professionals make up the corridor staff...and carry out work as directed by the commission.³⁹

The point is significant, considering the influence that the Blackstone NHC Commission and its accompanying NPS staffers hold over local land-use planning. In “Appendix B: Natural Resources Inventory and Assessment” of the Blackstone NHC Commission’s 10-year plan, stated goals include developing “strategies for protection, restoration, management, or acquisition” of heritage corridor properties and providing “a framework for local and regional decision-making.”⁴⁰

That framework can get quite specific. The 10-year plan evaluated 70 sites and offered a wide range of suggestions, including working with a Lincoln, Rhode Island, quarry business to cease operation and preserve the site and ensuring that a sanitary landfill proposed for Douglas State Forest never sees the light of day. In the Douglas vicinity, the plan also expressed a need for “responsible development...[using] a scale of buildings that respects community character.” In Cumberland and Lincoln, meanwhile, the call is for “the town of Cumberland to build public support for development strategies” mandating that 50 percent of the land remain open space.⁴¹

In neither of these cases did the NHA (or National Heritage Corridor) legislation bring direct impact or regulation onto private properties. What *did* ensue were ongoing oversight efforts by NPS and partnering groups—both government and non-profit or private—to control land-use planning in the designated areas so that the aesthetics would not

36. Based on telephone interview with Eleanor Mahoney, Program Assistant, National Park Service, National Heritage Area program, September 2007.

37. Blackstone River Valley National Heritage Corridor Commission, “The Next Ten Years,” on National Park Service, National Heritage Area Management Plans and Studies, Web site, at www.nps.gov/archive/blac/who/who-we-are.html (October 2007).

38. National Park Service, “What Is a National Heritage Area?”

39. Blackstone River Valley National Heritage Corridor Commission, “The Next Ten Years.”

40. *Ibid.*, “Appendix B: Natural Resources Inventory and Assessment,” at www.nps.gov/archive/blac/who/content/10%20yr%20plan%20pdfs/10%20yrsappendix%20B.pdf (October 2007), p. 50.

41. *Ibid.*, pp. 51–54.

violate the perceived historical vision of the management entities and to keep funding flowing from federal and private sources. Zoning, it would seem, is the means of choice toward these ends; the beauty of such regulation is that it comes locally and leaves the hands of NPS officials or other involved federal regulatory agencies clean.

Essex NHA and Erie Canalway National Heritage Corridor

Even the most cursory glance at the various heritage areas' management plans will provide insight into the type of land-use planning that is suggested to carry out the written conservation goals of the management entities. The question is twofold: Do suggested courses of action result in private property infringements, as claimed by those who opposed heritage area designations, and what is the true extent of NPS involvement—advisory or final arbiter of land use? As mentioned previously, the Wheeling National Heritage Area Commission suggests that the creation of local historic ordinances could significantly aid its preservation goals.

The Essex National Heritage Area, meanwhile, which spans 500 square miles in eastern Massachusetts, is composed of thousands of individual historic sites. One 24-mile route that is part of this NHA uses a federal scenic byway designation as a means of preserving its heritage designation properties.

The National Scenic Byways Program is a project of the Federal Highway Administration and Department of Transportation. Acceptance into the program requires rigid adherence to “intrinsic quality” standards of the roadway.⁴² In other words, as the program's Web site makes clear, land-use planning cannot violate the federally defined intrinsic qualities of the area's existing natural, recreational, archeological, cultural, historic, and scenic scopes.⁴³ In the case of a farmer wanting to sell his scenic byway

property and profit from a mass condominium development, it would seem that the federal designation might prevent it from happening.

A look at the management plans of other heritage areas reveals that it is another federal agency, the NPS, that seemingly holds the final say. The summary management plan for the Erie Canalway National Heritage Corridor, a 524-mile area that winds through New York and touches upon 234 municipalities, recommends that the commission for the heritage area “coordinate existing planning and economic development programs” of the various towns to bring them into line with preservation goals.⁴⁴ Though not explicitly stated, the means of accomplishing this goal is local regulation, also known as zoning. Chapter nine of the full management plan suggests that the NPS could help designate Certified Local Governments to carry out certain heritage area goals.⁴⁵

Of greater significance to those with concerns about the mixing of private property rights and NPS oversight is the following quote from the Erie management plan:

An ongoing working relationship between the [managing entity] Commission and the National Park Service is vital to a successful implementation program. While National Heritage Areas and Corridors are not traditional National Park System units, the NPS is the administrative sponsor and conduit for federal funding and technical assistance for the development and implementation of the preservation and management plan.⁴⁶

All along, the NPS has maintained a key leadership role in the Erie heritage planning process: “Throughout the preparation of the plan, the NPS has provided a full-time executive director and professional staff, as well as administrative support, to

42. The National Scenic Byways Program was established in 1991 with defined standards for inclusion of roads. “Intrinsic Qualities” are defined on the official National Scenic Byways Web site, at www.bywaysonline.org/program/iq.html (October 2007).

43. *Ibid.*, pp. 1–2.

44. Erie Canalway National Heritage Corridor Commission, “A Preservation and Management Plan for the Future,” Summary, p. 24, at www.eriecanalway.org/docs/Book_3-EBook.pdf (October 2007).

45. *Ibid.*, Chapter Nine, p. 19, at www.eriecanalway.org/docs/14-9_Implementation_Final.pdf.

46. *Ibid.*, p. 18.

help lay the planning foundation for achieving the commission's vision and goals."⁴⁷

It really doesn't get any clearer than that. Still, it does not directly prove that NHA designation diminishes or threatens private property rights, but the suggested courses of action, as put forth in the management plans required as part of NHA designation and subsequent oversight, do in fact compromise the ability of property owners to use land as they see fit. It is one thing to opt out of the NHA declaration, which is allowed in the accompanying legislation and regulation, but it is another thing entirely to try to opt out of ordinances and laws created by the local government at the recommendation of the NPS or the management entity.

Journey Through Hallowed Ground NHA

Within the text of the feasibility study for the Journey Through Hallowed Ground National Heritage Area—a 175-mile path that runs from Gettysburg, Pennsylvania, to Charlottesville, Virginia—are several outright references to land-use practices that would need to change in order to comply with stated goals of the historic preservation effort. Of special concern, according to chapter six of this study, is transportation planning, which needs to “employ context sensitive design and protect efficient, safe and enjoyable travel through the corridor.” The preferred means to this end is to support a National Scenic Byway tag.⁴⁸

Farmland, in particular, is a threatened resource throughout the Journey Through Hallowed Ground. There are many opportunities to further protect these resources through conservation easements, Rural Historic District designations, Agricultural and Forestal districts, and private and public easement and land acquisition.⁴⁹

With the exception of easements (voluntary contracts whereby a landowner trades development rights to an easement holder for cash), those tags and designations are fancy terms for zoning. Telephone and e-mail correspondence with a land-use attorney who practices in many of the areas targeted by supporters of the Journey Through Hallowed Ground NHA indicate that restrictions against private property and business owners would only grow tighter in the aftermath of congressional designation.⁵⁰

Merle Fallon is a land-use attorney who practices in several Virginia counties, which include Fauquier, Madison, Culpeper, and Orange. His office is located in the heart of Fauquier County. “If the [JTHG] National Heritage Area was approved, I think that local anti-growth groups would jump on that as an excuse to create a whole other layer of approvals,” said Fallon, “and it's damn near impossible to get approved now.”

Take his own experience setting up shop, for example. “I have an office with five large windows in it...with some panes of glass that are more than 90 years old,” he said in a telephone interview, adding that part of his building was erected in 1840 and part in 1916. “I cannot put storm windows on them. I can't do anything to the outside without Architectural Review Board permission because it's located in the central business area of the [zoned] historic district.”

Just erecting a business sign was a headache, Fallon said, as it spanned a three-or-four month permitting period that included input from architectural review officials who found the proposed piece of board a few inches larger than desired. “What happens is you set up a committee to preserve an architectural area and you appoint well-meaning citizens to this board who then substitute their judgments in place of the landowners’.

47. *Ibid.*

48. National Park Service, Journey Through Hallowed Ground, National Heritage Area feasibility study, Chapters 4–7, esp. Chapter Six, “Application of Interim National Heritage Area Criteria,” at www.hallowedground.org/pdfs/feasibility-4-7.pdf (October 2007), p. 69.

49. *Ibid.*, p. 54.

50. Fallon, Myers & Marshall, LLP, is located at 110 Main Street, Warrenton, Virginia 20186. Telephone interviews with land-use attorney Merle Fallon were conducted on two separate occasions in September 2007, and follow-up e-mails were sent in October 2007. E-mail correspondence is on file with the authors and is available for review by request.

That's government imposing its will upon private property owners."

Fallon said that developer clients have suffered similarly under historic preservation regulations and efforts. One 2,500-unit, 1,000-acre development in Frederick County, Virginia, for example, hit a three-month delay during construction because of historical issues that were set in motion by the state historic officer:

The state historic officer...required that we go back and get the county and local historic group to sign off on the mitigation we were doing on the site, which was adjacent to a battlefield site. The historic comment is required by the Clean Water Act, which gives the Corps of Engineers its wetland permitting authority.

Problems result when the federal or state authorities misinterpret the requirement for commenting and instead use their involvement to mandate that "the [historic] groups be in agreement with what the developer is requesting," Fallon wrote. "Hence, the groups are starting to extort consideration, usually in the form of some type of project enhancement."

In the case of this Frederick County project, the developer ultimately "agreed to construct a guided trail with a specific number of historic signs overlooking the battlefield," Fallon wrote, but the price for this adjustment was hefty. The delay to the developer while this forced commenting period commenced hit "tens of thousands of dollars."

Another example of land use driven by a historical group is a Fauquier County project for the south side of Route 29. The project was subject to the intense scrutiny of a local citizens' battlefield group whose members tried to capitalize on a potential NPS reclassification of the property—to designate parts of it as historically significant—by asking for a \$100,000 donation from the developer in return for project assistance, Fallon said. In early October, the

state evidently put a halt to that "donation" request; according to Fallon, battlefield citizen group members were informed by state historic authorities that such pleas for money amounted to "pure extortion" and would not be tolerated.

Fallon's observations and experiences are important in that they help explain what can happen to property rights as a result of regulations aimed at preserving history—which are just the type of recommendations that follow on the heels of NHA designation and management planning. An obvious means is to create a historic overlay or historic district zoning ordinance, as favored in Warrenton and as recommended by the Wheeling National Heritage Area Commission for its West Virginia land planning. Fauquier County, one site of the proposed Journey Through Hallowed Ground preservation area, breaks with its Warrenton city counterparts by so far disdaining a historic district zone in the county.

"The county's zoning ordinance has contained a provision for the creation of Historic District Overlay Zones for more than the 18 years I have been with the county," said Fauquier County Administrator Paul McCulla in an e-mail. "During that time, while many areas of the county have received historic designations, no county historic districts have been created under the county's zoning ordinance."⁵¹

All that could change, however, depending on the will of the next Board of Supervisors, and the NHA designation for the Journey Through Hallowed Ground might be just the push that is needed. After all, historic zoning designations nationwide are common—not to mention intrusive.

In Fargo, North Dakota, for example, "properties in a historic overlay district must undergo additional review prior to receiving a building permit if the permit involves exterior work," according to the city's Web site.⁵² In Fairfax County, Virginia, the zoning ordinance section pertaining to historic preservation allows for the Architectural Review Board to oversee any landowner plans to alter the

51. Paul McCulla is the Fauquier County Administrator, 10 Hotel Street, Warrenton, Virginia 20186. September 2007 e-mail correspondence pertaining to the county's zoning ordinance and historic overlay districts is on file with the authors and is available for review by request.

52. City of Fargo, North Dakota, "I Own Property in a Historic Overlay District in Fargo—How Will Historic Zoning Affect Me?" at www.ci.fargo.nd.us/attachments/5c900840-aeb9-4846-a62d-f3a28ce29d0b/Owning_HOdist.pdf (October 2007).

“existing conditions in the district,” including location of buildings, streets, and parking areas; landscaping changes; signage; roofing and siding materials and colors; and “any change to the visual character” of the property, “including views to and from” that property.⁵³

In Tempe, Arizona, the historic overlay districts are overseen by the Tempe Historic Preservation Office or the Tempe Historic Preservation Commission, and regulations on property owners are similarly far-reaching. In addition to mandating standards on the building materials used in these districts, as well as the “orientation and relative position of buildings,” the design guidelines monitor “specific aspects such as roof forms, textures, color theme, character of signage, window and door types, and other details relative to architectural and landscape styles significant to the district,” according to the city’s Zoning and Development Code.⁵⁴

In Tennessee, meanwhile, where the entire state is a declared NHA, land-use planning in historic zoning districts comes right from the NPS.⁵⁵ “By state law,” the Web site for Nashville’s Historical Commission reads, “design guidelines for historic zoning districts must be in accordance with the Secretary of Interior’s Standards for Treatment of Historic Properties—standards developed by the National Park Service and used by private and public preservation organizations throughout the country.”⁵⁶

Yuma Crossing NHA

It is not as if NHAs have never been subject to citizen outrage. In an October 2006 presentation at the 10th Annual National Conference on Private Property Rights hosted by the Property Rights Foundation of America, Inc., Peyton Knight, direc-

tor of environmental and regulatory affairs at the National Center for Public Policy Research, relayed how improper notification of heritage area boundaries caught an Arizona citizenry off-guard:

The reason that the citizens of Yuma were surprised is because citizens never find out about Heritage Area designations until they actually happen. One of the crumbs that property rights advocates have been trying to get in these Heritage Area bills...is just to allow for property owners to be properly notified when a pending designation is before Congress.⁵⁷

With the Yuma Crossing National Heritage Area, outrage from residents over the boundaries of this land-use declaration and the uncertainties about property rights generated a loud enough cry that Congress took notice. In 2005, the then-chairman of the House Resources Committee, former Representative Richard Pombo (R-CA), issued this critical statement of the Yuma heritage area in the form of a report attached to a bill adjusting the NHA boundaries:

When the Yuma Crossing Heritage Area was authorized in 2000, the public in Yuma County did not understand the scope of the project and was surprised by the size of the designation. Concerns were raised by citizens about the size of the designation and the potential for additional federal oversight. The fear of adverse impacts on private property rights were realized when local government agencies began to use the immense heritage area boundary to determine zoning restrictions.⁵⁸

53. Fairfax County, Virginia, zoning ordinance, Section 7-204, “Administration of Historic Overlay District Regulations,” pp. 10–15, at www.fairfaxcounty.gov/dpz/zoningordinance/articles/art07.pdf (October 2007).

54. City of Tempe, Arizona, Zoning and Development Code, as amended August, 17, 2006, Part Five, “Overlay Zoning Districts,” Section 5-103, “General Regulations,” p. 13, at www.tempe.gov/zoning/ZDCCode/ZDCpart5.pdf (October 2007).

55. National Park Service, National Heritage Areas, illustrative map of NHAs around the nation, at www.nps.gov/history/heritageareas/VST/INDEX.HTM (October 2007).

56. Metropolitan Government of Nashville and Davidson County, Tennessee, Web site, “Districts,” pp. 1–2.

57. Peyton Knight, Director of Environmental and Regulatory Affairs, National Center for Public Policy Research, “National Heritage Areas—An Appearance of Innocence,” speech presented at Tenth Annual National Conference on Property Rights, Property Rights Foundation of America, Albany, New York, October 14, 2006, p. 4, at <http://prfamerica.org/speeches/10th/NatlHeritageAreas-AppearInnocent.html> (October 2007).

If lessons are to be learned from the past, the Yuma issue would certainly lend credence to the claim that heritage areas do indeed lead to restrictive land-use regulations, at least at the local level where opt-outs are not possible. Add to this regulation the potential for NHA commissions to push for more regulation—albeit in a cooperative and friendly partnership manner—and the fact that heritage area standards and guiding rules are ever-changing, and the state of private property rights is inarguably shaky. Only the most ideologically driven heritage area advocate could argue otherwise.

From National to International: Are Property Rights Guaranteed?

Following on the heels of the 2004 GAO report, which suggested that more accountability and more federal definition of what constitutes an NHA is needed, Congress has responded with legislation advocating the same. S. 278, for instance, would “establish a program and criteria for National Heritage Areas” as well as set forth “requirements for National Heritage Area management plans.” Introduced by Senator Thomas Craig (R-WY) in January 2007, the bill was placed on the legislative calendar for review in September.⁵⁹

Nor is the GAO the only federal entity calling for NHA reform. The Office of Management and Budget reported in 2005 that the program “lacks a systematic process to identify and designate NHAs” and also lacks “national performance measures” that can be used to “hold management entities accountable for the use of federal funds.”⁶⁰

Meanwhile, the role of the NPS continues to morph and grow, although its influence is some-

times disguised and hidden. According to a September 2007 report on NHAs from the Department of Agriculture’s Forest Service:

Although NPS continues to serve as the agency housing NHA funds, its role diversifies to reflect the needs of individual NHAs. For example, in areas where public mistrust of federal programs is prevalent, the NHA and NPS did not play up their relationship to the local community.⁶¹

It’s no wonder suspicions still permeate NHA discussions. And if that admission is not enough to give fodder to those who question the feasibility of maintaining a simultaneous system of NHA management planning and private property rights, then consider this scenario, which takes the entire debate from the realm of national to international policy.

At present, the United States is home to 20 declared World Heritage Areas, including Yellowstone National Park, the Statue of Liberty, and Everglades National Park.⁶² The difference between world and national heritage areas is in the oversight; listed World Heritage properties are bound by United Nations treaty to uphold certain land-use plans.

The United States ratified this Convention Concerning the Protection of the World Cultural and Natural Heritage on December 7, 1973, and since has been compelled by international agreement to “take the appropriate legal, scientific, technical, administrative and financial measures necessary for the identification, protection, conservation, presentation and rehabilitation” of the declared areas.⁶³ The 16-page document defines in detail what steps participating nations need to take in order to com-

58. Report 109-294 attached to H.R. 326, Representative Richard Pombo, Committee on Resources, U.S. House of Representatives, 109th Cong., p. 2, at www.congress.gov/cgi-bin/cpquery/T?&report=hr294&bdname=109 (October 2007).

59. S. 278, the National Heritage Area Partnership Act, introduced January 12, 2007, was placed on the calendar for review on Sept. 17, 2007.

60. ExpectMore.gov, program assessment, “National Park Service—Heritage Partnership,” assessment year 2005, at www.whitehouse.gov/omb/expectmore/summary/10003717.2005.html (October 2007).

61. Susan Martin-Williams and Steven Selin, United States Department of Agriculture, Forest Service, “National Heritage Areas: Examining Organizational Development and the Role of the National Park Service as Federal Partner,” GTR–NRS–P–14, as relayed in *Proceedings of the 2006 Northeastern Recreation Research Symposium*, Section 3.2b, “As NHA Organizational Development Evolves, So Does the Role of the NPS,” pp. 372–373, www.nrs.fs.fed.us/pubs/gtr/gtr_nrs-p-14/49-martin-williams-p-14.pdf (October 2007).

62. National Park Service, World Heritage Area Web site, at www.nps.gov/history/worldheritage/list.htm (October 2007).

ply with the international preservation goals, but of particular importance is whether properties that are designated as NHAs are placed on the fast track toward World Heritage Area declaration.

Stephen Morris, chief of the NPS Office of International Affairs, World Heritage division, said in a telephone voice mail that national listing does not naturally lead to international listing. Furthermore, he said that no NHA property is jointly labeled a WHA.⁶⁴

But Dr. Mechtild Rössler, chief of the United Nations Educational, Scientific and Cultural Organization for Europe and North America, said by e-mail that “sites to be nominated for World Heritage listing should have national protection” and “often national parks [declaration]. For cultural heritage, it is not always easy—considering living cities and large scale landscapes—and depends on the national legislation in force.”⁶⁵

While no NHA has yet become a WHA, NHAs are now looking beyond U.S. borders to establish relationships with foreign entities. A memorandum of understanding between the Alliance of National Heritage Areas—a membership organization for all congressionally declared NHAs—and the Fédération de Parcs Naturels Régionaux, a “system of 45 regional nature parks in France,” was agreed to on June 19, 2007.⁶⁶ According to the NPS, “The agree-

ment outlines the common activities and goals of the two organizations, in an effort to promote mutual understanding as well as the sharing of best practices and technical expertise across international boundaries.”⁶⁷

This sounds about as comforting as the tendency of some U.S. Supreme Court justices to look to international law in deciding American cases.

Conclusion

H.R. 1483 would deepen the federal government’s involvement in select local economic development initiatives at considerable cost to taxpayers and at the expense of the core mission of the NPS, whose faltering stewardship over the nation’s most precious natural and historical places leaves much to be desired. Of potentially greater concern is the growing role for NHAs in interfering with the property rights of private citizens. This Congress should reject approaches that designate new NHAs or expand existing ones. If H.R. 1483 is passed, the President should veto it.

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63. United Nations Educational, Scientific and Cultural Organization, Convention Concerning the Protection of the World Cultural and Natural Heritage, Article Five, Clause d, at <http://whc.unesco.org/en/conventiontext/> (October 2007).

64. The National Park Service’s Office of International Affairs is located at 1201 Eye Street, NW, Suite 550A, Washington, DC, 20240. In September 2007, Stephen Morris, chief of this office, left a voice mail message in response to an author’s question about the likelihood of NHAs becoming fast-tracked toward World Heritage listing. Morris answered in the negative and also said that no NHAs in the United States are simultaneously listed as World Heritage Areas.

65. Ms. Mechtild Rössler (profiled at http://portal.unesco.org/en/ev.php-URL_ID=30791&URL_DO=DO_TOPIC&URL_SECTION=201.html) addressed this issue in response to a September 2007 e-mail question about the likelihood of NHAs in America becoming fast-tracked toward listing as a World Heritage Area. Ms. Rössler’s e-mail response is on file with the authors and available for review upon request.

66. National Park Service, National Heritage Areas, “Alliance of National Heritage Areas Signs Memorandum of Understanding with French Federal of Regional Nature Parks,” at www.nps.gov/history/heritageareas/French%20Visit.pdf (October 2007).

67. *Ibid.*, pp. 1–2.