

**H.R. 1776, “CLEAR CREEK NATIONAL  
RECREATION AREA AND CONSERVATION  
ACT”; H.R. 2175, “WORLD WAR II MEMO-  
RIAL PRAYER ACT OF 2013”; H.R. 2489,  
“OREGON CAVES REVITALIZATION ACT  
OF 2013”; AND H.R. 3806, “GREAT SMOKY  
MOUNTAINS NATIONAL PARK AGREE-  
MENT ACT OF 2013”**

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## **LEGISLATIVE HEARING**

BEFORE THE

SUBCOMMITTEE ON PUBLIC LANDS  
AND ENVIRONMENTAL REGULATION

OF THE

COMMITTEE ON NATURAL RESOURCES  
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

SECOND SESSION

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Tuesday, May 20, 2014

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LEGISLATIVE HEARING ON H.R. 1776, TO ESTABLISH THE CLEAR CREEK NATIONAL RECREATION AREA IN SAN BENITO AND FRESNO COUNTIES, TO DESIGNATE THE JOAQUIN ROCKS WILDERNESS IN SUCH COUNTIES, TO DESIGNATE ADDITIONAL COMPONENTS OF THE NATIONAL WILD AND SCENIC RIVERS SYSTEM, AND FOR OTHER PURPOSES, "CLEAR CREEK NATIONAL RECREATION AREA AND CONSERVATION ACT"; H.R. 2175, TO DIRECT THE SECRETARY OF THE INTERIOR TO INSTALL IN THE AREA OF THE WORLD WAR II MEMORIAL IN THE DISTRICT OF COLUMBIA A SUITABLE PLAQUE OR AN INSCRIPTION WITH THE WORDS THAT PRESIDENT FRANKLIN D. ROOSEVELT PRAYED WITH THE UNITED STATES ON JUNE 6, 1944, THE MORNING OF D-DAY, "WORLD WAR II MEMORIAL PRAYER ACT OF 2013"; H.R. 2489, TO MODIFY THE BOUNDARY OF THE OREGON CAVES NATIONAL MONUMENT, AND FOR OTHER PURPOSES, "OREGON CAVES REVITALIZATION ACT OF 2013"; AND H.R. 3806, TO AUTHORIZE PAYMENT OF FUNDS IN ACCORDANCE WITH THE AGREEMENT ENTERED INTO BY THE TENNESSEE VALLEY AUTHORITY, THE STATE OF NORTH CAROLINA, SWAIN COUNTY, NORTH CAROLINA, AND THE UNITED STATES DEPARTMENT OF THE INTERIOR, "GREAT SMOKY MOUNTAINS NATIONAL PARK AGREEMENT ACT OF 2013"

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**Tuesday, May 20, 2014**  
**U.S. House of Representatives**  
**Subcommittee on Public Lands and Environmental Regulation**  
**Committee on Natural Resources**  
**Washington, DC**

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The subcommittee met, pursuant to notice, at 9:38 a.m., in room 1324, Longworth House Office Building, Hon. Rob Bishop [Chairman of the Subcommittee] presiding.

Present: Representatives Bishop, Tipton, LaMalfa; Grijalva, Garcia, and DeFazio.

Also Present: Representative Johnson of Ohio.

Mr. BISHOP. This hearing will come to order. The Chair notes the presence of a quorum. Under the rules, the opening statements are limited to the Chairman and Ranking Member. However, I ask unanimous consent to include any other Members' opening statements in the hearing record if submitted to the clerk by the close of business today.

[No response.]

Mr. BISHOP. Hearing no objections, that is so ordered. I want to thank you and welcome you to this particular hearing. We are talking about four specific bills. Actually, this was going to be a longer hearing with more bills. However, we had problems with Members and with witnesses who were not able to be here. So we will talk about H.R. 1776—nice number—H.R. 2175, H.R. 2489, H.R. 3806.

With that, I am going to waive any opening statement. Mr. Grijalva, do you wish to make an opening statement?

Mr. GRIJALVA. Mr. Chairman, let me just enter my statement into the record. But at this point I would like to yield the balance of my time to Ranking Member DeFazio for his legislation, legislation that—the Oregon Caves Revitalization Act, a top priority for the Member and the constituents he serves.

With that, I would yield my time to the Ranking Member.

Mr. BISHOP. OK. Actually, if you want to go now, you are the next one on the docket, anyway, so we will just assume that statements have been made. I appreciate all that.

Mr. GRIJALVA. Thank you——

[The prepared statement of Mr. Grijalva follows:]

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

Thank you, Mr. Chairman.

I welcome the opportunity to hear from members and the administration on these four important bills.

First, I would like to welcome our distinguished Full Committee Ranking Member, Mr. DeFazio to the subcommittee. I hope that today's hearing will be the first step in passing his bill, the Oregon Caves Revitalization Act. A bill that has been a top-priority for the Ranking Member and his constituents for many years.

I also would like to welcome my colleague from California, Mr. Farr to the subcommittee. I would like to commend Congressman Farr for his tireless efforts to move his legislation forward.

The bipartisan Clear Creek National Recreational Area and Conservation Act brings a broad-coalition of stakeholders together on one bill. Everybody from OHV users, conservationists, hunters, hikers and many others. I am especially pleased to see that a popular area known as the Joaquin Rocks would be permanently protected as Wilderness in this bill.

Finally, I hope that today's hearing will give us an opportunity to discuss the merits of installing a plaque at the World War II Memorial with a prayer that President Franklin Roosevelt recited to the Nation shortly after the D-Day invasion began. The Allied invasion on D-Day involved tens of thousands of servicemen many of whom never returned from battle. President Franklin Roosevelt spoke to the American people on June 6, 1944 to comfort and offer prayer to those anxiously awaiting news of the invasion. I believe it was admirable of President Roosevelt to speak directly to the American people and offer prayer, however, I do have concerns about whether having a prayer installed at the World War II Memorial would go against one of the countries founding principles, the separation between church and State. Also would this alienate some veterans who sacrificed their lives for this country but may not have shared the same religious beliefs as President Roosevelt or others?

I look forward to the opportunity to hear from today's witnesses and ask questions.

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Mr. BISHOP. We are going to turn to the first panel of witnesses. We have a couple here: Mr. DeFazio, who does have a bill, as well as Mr. Johnson is here and former Senator Allard is here with us on the first panel. We are going to add Mr. Farr, Mr. Meadows, and former Representative Shuler here when they arrive. So we will proceed on with that.

Mr. DeFazio, if you would like to go first to recognize your bill, which has a number, and it is there somewhere, and I am sure it is wonderful.

Mr. DEFAZIO. Yes, it is. You will like it, Mr. Chairman.

Mr. BISHOP. You are recognized.

**STATEMENT OF THE HON. PETER A. DEFazio, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OREGON**

Mr. DEFazio. Thank you, Mr. Chairman. Oregon Caves Revitalization Act, it was actually—President Roosevelt first proposed the Oregon Caves as a monument. It was actually not designated until the Taft administration, and by then they had shrunk the size from 2,500 to 400 acres. The Park Service proposed as early as 1939 to expand the monument, and they proposed it again in 1949 and 1999 for a couple of reasons.

One is we now understand the extent of the caves, we understand the watershed that feeds the unique River Styx, which I invite people to visit. It is the only underground wild and scenic river that we have, and it is also a really great point we can crawl—you can put on a wetsuit and crawl up inside, that is really also very special. I haven't done that part.

And it has a unique, absolutely unique, chateau. If you go to visit, it is kind of like going back—they put in cable, but some people came and stole all the cable. But now they have gotten a radio telephone, that is it. It is a pretty isolated area. When you walk in the lobby, there is actually a point where a stream runs through the chateau, which is sided by a cedar bark, which is extraordinary, built in the 1930s. So it is an amazing, amazing place to visit.

And we need to both preserve it for future generations, and potentially increase visitation in a very, very depressed area. We have an incredible range of support for this project, and I would submit some 30 letters from the local community and the counties in that area, if I could, to the record, in support of this.

The Forest Service has no position on this issue. The Park Service is advocating for it. The major issue in contention is getting some fuel reduction work done. The Forest Service hasn't had the budget to do that, and that is critical to the watershed of the caves, because this is a dry, hot part of Oregon—yes, we have those in the summer, anyway—and we are very worried about the threat of fire there. The Park Service has committed to going ahead with the needed fuel reduction work, should the management pass to them.

So, we think that this would both benefit the area in terms of reducing fire risk, it would certainly benefit the caves, the water quality, the visitor experience, and give an opportunity for some recreational experience, in terms of hiking, which really doesn't exist on the 450-acre monument, and the Park Service and the Forest Service hasn't really developed trails into that area.

So, with that, Mr. Chairman, I thank the committee for hearing this bill, and I hope that the committee views it favorable.

Mr. BISHOP. Thank you. And any written statement you have will be added to the record.

[The prepared statement of Mr. DeFazio follows:]

PREPARED STATEMENT OF THE HON. PETER A. DEFazio, A REPRESENTATIVE IN  
CONGRESS FROM THE STATE OF OREGON

Thank you, Chairman, for holding this legislative hearing and for including H.R. 2486, the Oregon Caves Revitalization Act. This is important legislation to my district and State.

The Oregon Caves, often called the "Marble Halls of Oregon," is a spectacular place. The caves are located deep inside the Siskiyou Mountains and were created

over thousands of years as rainwater from the ancient forests above dissolved the surrounding marble and created one of the world's few marble caves. The complex hydrology and geology found at Oregon Caves makes it home to some of the rarest plants and animals found on the planet.

President Howard Taft protected Oregon Caves as a 480-acre national monument in 1909—using the authorities of the Antiquities Act. At the time, many believed the designation was too small because they rightly assumed the central cave was part of a much larger cave system. In fact, the initial proposed withdrawal by the Secretary of the Interior in 1909 was for more than 2,500 acres.

Expanding the Oregon Caves National Monument to include the nearby caves and the surface streams—that impact the hydrology of the caves and provide drinking water for thousands of visitors every year—has been attempted numerous times since. National Park system staff proposed expansion in 1939—75 years ago this year. Expansion was proposed again in 1949. Most recently in 1999 the National Park Service finalized a general management plan that called for expanding the monument boundaries to include nearby caves, the surface streams, and parts of the surrounding watershed to safeguard this incredibly unique natural treasure.

The monument is visited by more than 80,000 people per year—creating jobs, supporting local businesses, and serving as an economic engine in rural Josephine County and the town of Cave Junction. The monument also includes a Chateau, opened in 1934, a six-story hotel with 23 rooms that features local art work, produce, meats, wines, and an Oregon-must: local microbrews. A recent survey by the Park Service found that visitors would come more often and stay longer—meaning spend more money in the local community—if recreational opportunities around the caves were expanded.

Mr. Chairman, I have been working on an expansion of the Oregon Caves National Monument for three Congresses and through a lot of hard work and collaboration with local stakeholders and agencies, the Oregon Delegation has produced a good bill.

When the bill was first introduced in the 111th Congress, then-Oregon Senator Gordon Smith raised concerns about how the bill would impact the Park Service's ability to conduct much needed fuel reduction work within the expanded boundary. I shared these concerns and we added language to direct the Park Service to revise the fire management plan for the Monument and to carry out hazardous fuel management activities as soon as possible.

When we heard concerns from local recreational groups about hunting and fishing access, we added a specific section clarifying that the Secretary “shall permit hunting, fishing, and trapping on land and water within the National Preserve . . .” In fact, the expanded monument area would technically be designated as a “preserve” for that very reason.

I have worked with the Forest Service at every level—national, regional, and local to clarify that this bill isn't about taking land from one Federal agency and giving to another. It's about rationalizing the management for the unique Oregon caves system, expanding recreation and tourism opportunities, and designating the first subterranean Wild and Scenic River—the River Styx.

I also worked with the Forest Service on language to ensure that all existing Forest Service contracts within the proposed expansion area are preserved and executed through their completion, and we worked with the city of Cave Junction to carve out 4 acres for their water treatment plant.

This bill is long overdue—having been introduced in multiple congresses, having received multiple congressional hearings, and having now passed out of the Senate Energy and Natural Resources Committee unanimously and without amendment. I am hopeful that we can quickly move forward to mark this bill up and move it to the Floor of the House.

Mr. Chairman, I also ask for unanimous consent that 40 letters of support for this legislation, most of which are from small business owners in Cave Junction and Josephine County, be included in the official record.

Finally, I would like to welcome my colleague Congressman Sam Farr to the Natural Resources Committee to testify on his bill, the Clear Creek National Recreation Area and Conservation Act. It's my understanding that this bill has been a little controversial, but I am no stranger to controversy when it comes to building a broad coalition of stakeholders to accomplish something important for my district. I applaud him on his efforts and look forward to hearing from Congressman Farr and the rest our witnesses on today's bills.

Mr. BISHOP. I also have a letter from the National Cattlemen's Beef Association, the Oregon's Cattlemen's Association, and the Public Lands Council that will be added to the record, as well.

[The letter submitted by Mr. Bishop for the record follows:]

LETTER SUBMITTED FOR THE RECORD ON H.R. 2489

MAY 19, 2014.

Hon. ROB BISHOP, *Chairman,*  
*House Subcommittee on Public Lands,*  
*Washington, DC 20515.*

Hon. RAÚL GRIJALVA, *Ranking Member,*  
*House Subcommittee on Public Lands,*  
*Washington, DC 20515.*

Re: Livestock Industry Opposition to the Oregon Caves Revitalization Act of 2013  
(H.R. 2489)

DEAR CHAIRMAN BISHOP, RANKING MEMBER GRIJALVA AND MEMBERS OF THE COMMITTEE:

The Public Lands Council (PLC), the National Cattlemen's Beef Association (NCBA) and Oregon Cattlemen's Association (OCA) oppose the Oregon Caves Revitalization Act of 2013 (H.R. 2489) as written. PLC is the only national organization dedicated solely to representing the roughly 22,000 ranchers who operate on Federal lands. NCBA is the beef industry's largest and oldest national marketing and trade association, representing American cattlemen and women who provide much of the Nation's supply of food and own or manage a large portion of America's private property. OCA is a grassroots membership driven organization established in 1913; representing Oregon's second largest agricultural commodity, cattle and calves, and beef producers who manage a majority of the State's 16.5 million acres of farm land.

The Oregon Caves Revitalization Act of 2013, sponsored by Representatives Peter DeFazio (D-Ore), Earl Blumenauer (D-Ore), Kurt Schrader (D-Ore) and Suzanne Bonamici (D-Ore) seeks to add approximately 4,070 acres of land surrounding the Oregon Caves National Monument to the existing designated monument area with the stated goal being "to enhance the protection of the resources associated with the Monument" and "to increase public recreation opportunities." This expansion would only further restrict multiple uses in the surrounding area, causing added economic harm to communities in Oregon. Our industry supports the continued multiple use management of our Nation's public lands and generally opposes special designations which pick winners and losers on who can access resources on the those lands.

In addition to expanding the monument, PLC, NCBA and OCA strongly oppose the provision which seeks to limit and potentially ultimately retire livestock grazing on the monument. On its face this bill seeks to "grandfather in" existing grazing practices. However, the trend over time is undeniable: grazing numbers are reduced either by direct agency decisions, or because the cost of doing business in the designated area simply becomes prohibitive. The same is true for "voluntary" grazing lease or permit relinquishment. Too often, ranchers feel that they have no choice but to "voluntarily" relinquish their grazing permits due to pressure from radical environmental groups, or rising and prohibitive costs to operating on public land within a specially designated area. This is concerning considering that 40 percent of the Nation's cattle, and 50 percent of the Nation's sheep herds spend some time on public lands. The diminished presence of ranchers and livestock on the range contributes to the degradation of range health on Federal lands, and encourages the ex-urban development of the associated private lands. PLC, NCBA and OCA oppose permanent retirement of grazing permits.

Section 5(b) of H.R. 2489 states that the Secretary concerned "shall revise the fire management plan for the Monument to include the National Preserve and, in accordance with the revised plan, carry out hazardous fuel management activities within the boundaries of the National Monument and Preserve." PLC, NCBA and OCA contend that livestock grazing is the most efficient and cost effective method of fine fuels reduction on the range, and should therefore be used as a preferred fire prevention tool on public lands—not diminished as this bill would no doubt lead to.

We appreciate the opportunity to provide input on behalf of our members—the Nation's food and fiber producers. While we recognize the need to make boundary

adjustments on Federal lands we strongly oppose permanent retirement of grazing permits and request the provision allowing for this be removed before the bill is moved out of committee. We urge members of the committee to support ranching families and to oppose the grazing retirement language included in H.R. 2489.

Sincerely,

PUBLIC LANDS COUNCIL  
NATIONAL CATTLEMEN'S BEEF ASSOCIATION  
OREGON CATTLEMEN'S ASSOCIATION

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Mr. BISHOP. With that, we appreciate it. Let me turn now to Congressman Johnson, who has with us here number H.R. 2175, the World War II Memorial Prayer Act. I will give you 5 minutes to present that bill to us, if you would.

**STATEMENT OF THE HON. BILL JOHNSON, A  
REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO**

Mr. JOHNSON. Well, thank you, Chairman Bishop and Ranking Member Grijalva, for having this hearing on this legislation that I introduced, H.R. 2175, the World War II Memorial Prayer Act. This legislation very simply directs the Secretary of the Interior to install at the World War II Memorial a suitable plaque or an inscription with the words that President Franklin Roosevelt prayed with our Nation on the morning of the D-Day invasion. This prayer, entitled, "Let Our Hearts Be Stout," gave solace, comfort, and strength to our Nation and to our brave warriors, as we fought against tyranny and oppression.

The World War II Memorial was built to honor the 16 million who served in the armed forces of the United States during that great conflict, and the more than 400,000 who died during the war. Prior to introducing the legislation in 2011, I spoke to many World War II veterans in Ohio, and asked them if they thought putting this prayer on the memorial would be appropriate. The answer was a resounding, "Yes."

It seems to me that if the remaining veterans of World War II are supportive of the prayer being added, we, as a country, should honor their request. But you don't have to take my word for it, because 2 years ago this subcommittee was honored to have a constituent of mine, Poppy Fowler, testify in favor of this legislation. Poppy is now 90 years old, and served 3 years, 10 days, 1 hour, and 10 minutes, according to his clock, in the U.S. Navy during World War II. He flew 35 missions in Air Group 15 on SB2C Helldivers, as both a rear gunner and photographer.

I had the pleasure of escorting Poppy on an honor flight trip to visit the World War II Memorial, and we became friends. Here is a brief excerpt of Poppy's testimony at the hearing, and I quote: "I feel with no doubt that it would be appropriate that this prayer be inscribed in some manner at the World War II Memorial. Those reading this prayer will be able to recall the sacrifices made by our military, also those on the homefront. This prayer came at a perilous time, yet it was answered in victory at a dear cost of lives. Today, this prayer can pertain to any military action, and under present circumstances it is also appropriate."

So, I don't think that anyone in this body could be more succinct and articulate than Mr. Fowler. Like Poppy, I have no doubt that

the prayer should be included among the tributes to the Greatest Generation memorialized on the National Mall.

The majority of our colleagues also agreed with Poppy that this prayer should be included on the memorial, because on January 24, 2012, the legislation here at the House passed, by a vote of 386 to 26. Despite the best efforts of Senator Rob Portman, the legislation never made it to the Senate Floor for a vote. Senator Portman has reintroduced the legislation with bipartisan support from Senator Landrieu. And hopefully, this is the year that we are able to get the legislation through both chambers of Congress and to the President's desk.

It is vitally important that we move this legislation as quickly as possible, because time is of the essence. As some of you may know, there is estimated to be just over 1.5 million World War II veterans still living. And, furthermore, it is estimated that roughly 600 World War II vets are dying every day.

In other words, each week that goes by that we do not pass this legislation into law, another 4,000 World War II vets will have passed away without seeing this prayer added to the memorial.

So, again, I sincerely thank the Chairman for having this important hearing, and getting one step closer to getting this prayer placed on the memorial.

And with that, Mr. Chairman, I yield back the balance of my time.

Mr. BISHOP. Thank you. Appreciate that, Mr. Johnson. And you are invited to stay with us. Actually, we are going to have testimony, I think, very quickly about your bill, if you would like to join us on the dais.

Senator Allard—and I don't mean to insult you by calling you "Senator," but you are on the good side here. I am going to do an audible here. The bill you are about to discuss, the two Members, the two Members who will be talking about it, are scheduled to arrive around 10:00.

Mr. ALLARD. I see.

Mr. BISHOP. If you have a busy schedule, we will take your testimony now. If you would like to wait and do it at the same time they do, I will postpone it until then.

Mr. ALLARD. As long as I get out in plenty of time before noon, there is not a problem. I do have a meeting at noon.

Mr. BISHOP. All right. If we are not done by noon—

Mr. ALLARD. Thank you. Thank you, Mr. Chairman. Appreciate it.

Mr. BISHOP [continuing]. We all turn back to glass slippers.

Mr. ALLARD. Thank you.

Mr. BISHOP. So let me ask you just to stay there for a minute, and then invite from the Interior Department Mr. Bruce Sheaffer up to one of the microphones.

And I am going to mess up your name, I apologize. Is it Lenise Lago?

Ms. LAGO. Yes.

Mr. BISHOP. I didn't mess it up? I will try and do that better next time. Ask you to come up here.

And, Mr. Johnson, if you would like to stay, they are going to be testifying about your bill. So I don't know what your schedule is——

Mr. JOHNSON. I have another hearing, Mr. Chairman. I have to run——

Mr. BISHOP. I know. This is personal. You are going to leave anyway, right?

[Laughter.]

Mr. BISHOP. Thank you. I appreciate you being here.

What I would ask you to do, then, start with Mr. Sheaffer. I think you are testifying to—on both bills, right, on the part of the Park Service? If you would just speak to the DeFazio bill and the Johnson bill only; you do not need to use the full time, but we will be talking about the other bills later.

**STATEMENT OF BRUCE SHEAFFER, COMPTROLLER,  
NATIONAL PARK SERVICE, U.S. DEPARTMENT OF THE INTERIOR**

Mr. SHEAFFER. All right, Mr. Chairman. I will have a statement for the record, which I believe you already have. I will read a summary of those—on those two provisions.

The first, the 2175, World War II Memorial. H.R. 2175 directs the Secretary of the Interior to install in the area of the World War II Memorial a suitable plaque or an inscription with the words that President Roosevelt prayed with the citizens of the United States on June 6, 1944, the morning of D-Day.

The Department appreciates the importance of faith in the lives of Americans across the country, the leadership of President Roosevelt, and the courage and sacrifices of Americans during World War II and today. The World War II Memorial recognizes a period of unprecedented national unity during the defining moment of the 20th century, and is devoted to the service, commitment, and shared sacrifice of Americans. The Department supports the continued application of the Commemorative Works Act, which states that the Secretary of the Interior shall design, procure, prepare, install the plaque or inscription, adhering to the important design review process in public consultation.

We look forward to working with the Commission of Fine Arts and National Capital Planning Commission in designating an appropriate inscription and logistical plaque location, should this legislation be enacted.

Regarding H.R. 2489, the Oregon Revitalization Act, H.R. 2489 would adjust the boundary of Oregon Caves National Monument to include the addition of approximately 4,000 acres to enhance the protection of resources associated with the monument, and to increase quality recreation opportunities. The lands that would be added are currently managed by the U.S. Forest Service, as part of the Rogue River-Siskiyou National Forest. The Department supports H.R. 2489, which is consistent with the general management plan for the Park.

The bill contains a number of provisions related to the transfer of land from the Forest Service to the Park Service. These concern fire management, hunting, fishing, and grazing. We would like the

opportunity to work with committee, the sponsor, Forest Service, and the Bureau of Land Management on grazing provisions.

The bill would also designate the subterranean segment of Cave Creek as a scenic river under the Wild and Scenic Rivers Act, and it would authorize a study of several other river segments for wild and scenic river designation.

[The prepared statement of Mr. Sheaffer on H.R. 2175 and H.R. 2489 follows:]

PREPARED STATEMENT OF BRUCE SHEAFFER, COMPTROLLER, NATIONAL PARK SERVICE, U.S. DEPARTMENT OF THE INTERIOR ON H.R. 2175 AND H.R. 2489

ON H.R. 2175, "WORLD WAR II MEMORIAL PRAYER ACT OF 2013"

Mr. Chairman, thank you for the opportunity to appear before your committee to present the views of the Department of the Interior on H.R. 2175, a bill which directs the Secretary of the Interior to install in the area of the World War II Memorial in the District of Columbia a suitable plaque or an inscription with the words that President Franklin Delano Roosevelt prayed with the United States on June 6, 1944, the morning of D-Day.

The Department appreciates the importance of faith in the lives of Americans across this country, the leadership of President Roosevelt, and the courage and sacrifices of Americans during World War II and today. The World War II Memorial recognizes a period of unprecedented national unity during the defining moment of the twentieth century, and is devoted to the service, commitment, and shared sacrifice of Americans.

H.R. 2175 proposes adding a commemorative work in the area of the existing World War II Memorial. We support the continued application of the Commemorative Works Act (CWA). Section 2 of this bill states that the Secretary of the Interior shall design, procure, prepare, and install the plaque or inscription, thus allowing the NPS to determine the placement and design of the plaque. However, section 3 of the bill requires a different method of designing and locating the plaque or inscription than is provided in the CWA. The CWA process incorporates important design reviews and public consultation. We support retaining the CWA as the vehicle for siting and designing this plaque or inscription.

The World War II Memorial was authorized on May 23, 1993, by Public Law 103-32. In 1994, Congress approved its placement in the area containing the National Mall through Public Law 103-422. Its location at the site of the Rainbow Pool was approved in 1995 by the NPS on behalf of the Secretary of the Interior, the Commission of Fine Arts (CFA), and the National Capital Planning Commission (NCPC). In July 1997, the CFA and the NCPC reaffirmed prior approvals of the Rainbow Pool site in recognition of the significance of World War II as the single-most defining event of the 20th Century for Americans and the world. Even so, there were challenges to the establishment of this memorial. The design we see today was painstakingly arrived upon after years of public deliberations and spirited public debate.

The National Capital Memorial Advisory Commission (NCMAC) reviewed a proposal similar to the one before the committee today at its meeting on September 14, 2011, and determined that no additional elements should be inserted into this carefully designed Memorial. The American Battle Monuments Commission (ABMC), charged by the Congress in Public Law 103-32 to design and build the World War II Memorial, is represented on the NCMAC, and thus concurred with that determination.

If directed by Congress pursuant to this legislation, the NPS will work to find an appropriate location for the plaque in accordance with the CWA process, as directed in section 3 of this legislation.

That concludes our prepared testimony on H.R. 2175, and we would be happy to answer any questions you may have.

ON H.R. 2489, "OREGON CAVES REVITALIZATION ACT OF 2013"

Mr. Chairman and members of the committee, thank you for the opportunity to present the views of the Department of the Interior on H.R. 2489, a bill to modify the boundary of the Oregon Caves National Monument, and for other purposes.

The Department supports H.R. 2489, which is consistent with the General Management Plan (GMP) for the park.

H.R. 2489 would adjust the boundary of Oregon Caves National Monument to include the addition of approximately 4,070 acres to enhance the protection of resources associated with the monument and to increase quality recreation opportunities. The lands that would be added are currently managed by the U.S. Forest Service (USFS) as part of the Rogue River-Siskiyou National Forest.

H.R. 2489 directs the Secretary to revise the fire management plan for the Monument to include transferred lands and carry out hazardous fuel management activities under that plan. Existing Forest Service stewardship or service contracts would continue to completion under the authority of the Secretary of Agriculture.

The bill would authorize the Secretary to permit hunting and fishing within the Preserve. It also provides flexibility in managing the resources within the preserve by allowing the Secretary, in consultation with the Oregon Department of Fish and Wildlife, to limit hunting and fishing in designated zones and over certain time periods. Based on information collected during the public participation process for the GMP, we would prefer to terminate hunting within the preserve after 5 years with the acreage being converted to national monument status. Of the 892 comments received on the plan, only 8, less than 1 percent, expressed concern about the loss of hunting should the added acres be designated as part of the national monument.

H.R. 2489 would authorize the Secretary to allow grazing to continue within the Preserve at a level not greater than authorized under existing permits or leases at enactment. It would also direct the Secretary to accept voluntary donation of a grazing lease or permit for the Big Grayback Grazing Allotment (managed by the USFS) and the Billy Mountain Grazing Allotment (managed by the Bureau of Land Management) and terminate the donated lease or permit and ensure a permanent end to grazing on the land covered by the permit or lease. Claim to any range improvements on those lands would be waived. It is our understanding that the same individual runs livestock on both the Big Grayback and Billy Mountain Allotments. We would like the opportunity to work with the committee and sponsor on minor modifications to these grazing provisions.

This bill would also designate the subterranean segment of Cave Creek, known as the River Styx, as a scenic river under the Wild and Scenic Rivers Act. Additionally, the bill would authorize a study of segments of Cave Creek, Lake Creek, No Name Creek, Panther Creek and Upper Cave Creek—all within the Monument and Preserve—under the Wild and Scenic Rivers Act.

In 1907, the Secretary of the Interior withdrew approximately 2,560 acres for the purposes of establishing a national monument. The 1909 Presidential proclamation establishing Oregon Caves National Monument included only 480 acres. The monument was managed by the USFS until its administration was transferred to the National Park Service (NPS) in 1933. The remaining withdrawal outside of the monument is administered by the USFS as part of the Rogue River-Siskiyou National Forest. H.R. 2489 would mirror the 1907 withdrawal and adds some additional lands to conform the monument boundary to the watershed.

The explorer Joaquin Miller extolled “The Wondrous marble halls of Oregon!” when speaking about the newly proclaimed Oregon Caves National Monument in 1909. Oregon Caves is one of the few marble caves in the country that is accessible to the public. This park, tucked up in the winding roads of southern Oregon, is known for its remoteness, the cave majesty and unusual biota. The stream flowing from the cave entrance is a tributary to a watershed that empties into the Pacific Ocean. This is the only cave in the national park system with an unobstructed link to the ocean.

The caves are nationally significant and a favorite visit for school kids and travelers alike. They remain alive and healthy because of the watershed above them. The park recognized this when developing the 1998 GMP and accompanying Environmental Impact Statement. The plan recommended the inclusion of the watershed into the park to provide for better cave protection and to protect the surface and subsurface hydrology and the public water supply.

If H.R. 2489 were enacted, there would be no acquisition costs associated with the boundary expansion and we estimate NPS’s management, administrative, interpretive, resource protection, and maintenance costs to be approximately \$400,000 to \$550,000 annually. The NPS has been coordinating with the USFS on new signage along the Caves Highway; on the operation of the Illinois Valley Visitor Center in Cave Junction; and on the annual agreement for wildland fire suppression and dispatch services at the Monument.

Mr. Chairman, this concludes my statement on H.R. 2489. I would be happy to answer any questions that you may have.

Mr. BISHOP. Thank you. Now, Ms. Lago, I understand you are only talking about 2489, right?

Ms. LAGO. That is correct.

Mr. BISHOP. Does any—I don't have any questions. Let me address simply to Mr. Johnson's bill, 2175, about the World War II Memorial Prayer Act. Do you have any questions on that particular Act? I don't. Mr.——

Mr. GRIJALVA. And that is the memorial?

Mr. BISHOP. Yes, the memorial.

Mr. GRIJALVA. Yes. If I——

Mr. BISHOP. Mr. Sheaffer?

Mr. GRIJALVA. Yes.

Mr. BISHOP. You are recognized.

Mr. GRIJALVA. Thank you. Mr. Sheaffer, one of the questions that was forwarded to our office—let me just—would installing a prayer at the World War II Memorial set any precedent? Have there been other efforts to do that? And are you aware of any other religious—any other religion to install plaques or inscriptions on memorials, that you know of?

Mr. SHEAFFER. On the first question, this is very similar, if not identical, to the Bob Dole plaque that had been installed at the direction of Congress at the World War II Memorial. So it is clearly not a precedent-setting event here.

Regarding religious inscriptions, there are numerous religious inscriptions on memorials, and even in Washington, DC. So that is not precedent-setting, either.

Mr. GRIJALVA. It was raised as a separation issue in a communication we received. What you just stated there, in terms of it is not a precedent and here are other examples, if you could forward that to the committee, that would be very useful information, in terms of attempting to deal with that question.

Mr. SHEAFFER. We would be happy to, Mr. Grijalva.

Mr. GRIJALVA. Thank you.

Mr. BISHOP. Anything else?

Mr. GRIJALVA. No.

Mr. BISHOP. All right, thank you.

Then, Ms. Lago, we will ask for your testimony on 2489 on behalf of the Forest Service.

**STATEMENT OF LENISE LAGO, DEPUTY CHIEF OF BUSINESS OPERATIONS, U.S. FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE**

Ms. LAGO. Yes, sir. Thank you, Mr. Chairman, Mr. Ranking Member. In light of my colleague's testimony on H.R. 2489, I would just like to point out a couple of issues of importance to the Forest Service.

The first is that I would note that the bill provides for continuation for contracts that are already underway on the Forest Service-managed portion of the proposed monument. In addition to service and stewardship contracts, which are called out in the language, I would like to point out we have a watershed improvement contract work underway. We would just like the understanding and the flexibility to continue with more than just stewardship and

service contracts. Be happy to work with either the committee or the Park Service on tightening that up.

In addition, we think there could be some improvements in the proposed boundary to better meet administrative needs between Forest Service and Park Service, squaring off corners, tying to natural features on the landscape. Again, we would be happy to work with the committee, the Park Service, on that.

And finally, we would like to include in the bill language that the bill becomes self-executing upon enactment. We think that would greatly speed up the transfer between the two agencies and make it administratively easier to move forward. Thank you.

[The prepared statement of Ms. Lago follows:]

PREPARED STATEMENT OF LENISE LAGO, DEPUTY CHIEF, BUSINESS OPERATIONS, U.S. FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE ON H.R. 2489

Mr. Chairman, Ranking Member, and members of the subcommittee, thank you for the opportunity to provide the Administration's views on H.R. 2489, the Oregon Caves Revitalization Act of 2013.

H.R. 2489 would modify the boundary of the Oregon Caves National Monument, managed by the National Park Service (NPS), to include approximately 4,070 acres of land currently managed by the Rogue River-Siskiyou National Forest (Forest). The Monument would be designated as the Oregon Caves National Monument and Preserve, with the Preserve being comprised of the lands previously managed by the Forest. The bill would allow for termination of grazing use on a Forest Service-managed grazing allotment, a portion of which would be located within the Preserve. The bill would also designate a river segment as part of the National Wild and Scenic Rivers System.

*Ongoing Forest Activities that may be impacted by a transfer of jurisdiction include:*

1. The Sucker Creek Legacy Roads environmental assessment, which is scheduled to be completed in this fiscal year. Implementation of this project, as proposed, would restore and maintain approximately 13 miles of National Forest System roads and decommission 2 miles within the Preserve.
2. The Pepperbuck Thinning and Fuel Reduction project, in cooperation with the non-profit organization Lomakatsi Restoration, would be entirely within the Preserve. In addition to hazardous fuels treatments, the project includes in-progress commercial and pre-commercial thinning in Late Successional Reserves (LSRs) stands. It would be desirable for these projects to continue.

*Other impacts of a transfer of jurisdiction may include:*

- The USFS Cave Creek Campground would be located in the proposed transfer.
- The Forest has completed Wild and Scenic Rivers eligibility studies for the tributaries of the Illinois River and other rivers. Cave Creek is within the current boundaries of the Monument. Lake Creek and No Name Creek in the proposed expansion were also included in the eligibility studies. Any needed Eligibility studies and subsequent Suitability analysis requirements would transfer to the Preserve.

*Relinquishment and Retirement of Grazing Permit*

Grazing on the portion of the approximately 26,750-acre Big Gray back Grazing Allotment (BGGA), located in Josephine and Jackson counties, which would be in the Preserve, could continue at the current level and would be managed under laws applicable to the NPS.

Section 6 would direct the Secretary concerned to accept any voluntary relinquishment of a grazing permit by the permit holder for grazing on the Forest Service managed BGGA, and if such a relinquishment is received, to end grazing on that area. Under H.R. 2489 only a small portion of the BGGA would become part of the Preserve, but the legislation would potentially end grazing on the large part of the BGGA located outside the Preserve if the grazing permittee relinquishes the grazing permit. We look forward to working with the committee to address grazing management issues.

*Conclusion*

The expansion boundary, as currently proposed, could be adjusted in places so that the new boundary better facilitated future management by both Agencies. This adjustment will require further discussion between the Forest Service and NPS. We also would recommend that the bill be modified to be self-executing.

Coordination will continue as we move forward to ensure that the best and most efficient resource management is accomplished. I would be pleased to answer any questions you may have.

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Mr. BISHOP. All right, let me ask for questions on the DeFazio bill, 2489, specifically to that. Mr. Tipton, you have questions on that one? Mr. Grijalva, do you have questions on that one? Let me ask a couple if I could, here, just to satisfy.

Ms. Lago, did the Forest Service provide any input in the most recent National Park Service Oregon Caves management plan?

Ms. LAGO. The plan from 1990, we submitted comments. We didn't work side by side with the Park Service. But in the ensuing—the last several years we have worked very closely with the Park Service on joint issues: fuels management projects, fire protection, signage for the local community, and things like that.

Mr. BISHOP. Does that include the overall management plan, though?

Ms. LAGO. Not the management plan specifically. No, sir.

Mr. BISHOP. All right. In your testimony you wrote, "The expansion boundary is currently proposed, could be adjusted in places so the new boundary better facilitated future management by both agencies. This adjustment will require further discussion between the Forest Service and NPS." This proposal has been around for a number of years. When do you expect these further discussions to continue with the Park Service? And how receptive has the Park Service been to your input?

Well, let's just do the first question. When do you expect, actually, these discussions to conclude, then?

Ms. LAGO. So folks in the region and on the forest—in other words, the local Forest Service folks—have developed some alternatives to the current proposed monument boundary. They include sticking with natural features of the landscape. There is an old fence line. We are just suggesting that it would make it easier to survey. And because it would be easier to survey, it would be easier to post, and just be easier for folks to know when they are on what side of the boundary if we made some of these adjustments.

Mr. BISHOP. Thank you. Mr. Sheaffer, let me do a couple for you.

How would the Park Service approach to fire management be different from the Forest Service approach?

Mr. SHEAFFER. I believe what we would do—and I can't tell you that it is different from what they have done, because I know there have been discussions on the ground. But, clearly, there would be a fuels management plan put in place immediately to mitigate fire impacts in the area. That has been a—what I thought was a fairly clear distinction in the way we were approaching it. But I don't know for a fact that they are not amenable to that sort of approach.

Mr. BISHOP. All right. Can you explain the danger that would be posed to the caves if continued Forest Service management?

Mr. SHEAFFER. I think it is best described that our concerns would be—our primary mission there would be to ensure the watershed preservation of the cave. I am not suggesting that they aren't sharing that concern right now, but that clearly is a primary mission of the Park Service. And all of the activities that are allowed now at whatever levels would be reviewed to ensure that they could or should continue in the areas they are in, to ensure the preservation of the cave resource.

Mr. BISHOP. Ms. Lago, does the Forest Service take that into consideration right now? The watershed.

Ms. LAGO. Oh, yes, we do.

Mr. BISHOP. Mr. Sheaffer, why are you going to terminate hunting on the proposed monument expansion?

Mr. SHEAFFER. I think the bill allows for hunting to continue. The thought would be that there may be some areas where hunting is currently allowed that should be restricted. Actually, in the public input that we got in the general management plan preparation, hunting was not necessarily an activity that there was a great deal of enthusiasm for. So we would have to revisit all of those issues, and are committed to doing so, if this bill is enacted, to see where it would be best allowed, and had least impact on the cave resources.

Mr. BISHOP. So is—what you are telling me is your preference is to terminate, even though it is not allowed in the—even though it is not mandated in the legislation?

Mr. SHEAFFER. I think it might be too early to say that, definitively. But I believe that the people on the ground would say there are some areas where it would be preferred to be phased out, yes.

Mr. BISHOP. But your testimony clearly says that is your preferred option.

Mr. SHEAFFER. It does.

Mr. BISHOP. Even though your verbal statement does not.

Mr. SHEAFFER. That is correct. I suppose that, in that regard, I am qualifying it a bit. But, yes, I think it is the preferred action of the people on the ground.

But they also are committed to going through a public process before any final decisions are made.

Mr. BISHOP. Well, not if we pass it first, you won't. But I appreciate that.

I don't have any other questions. Mr. Tipton.

Mr. TIPTON. Thank you, Mr. Chairman. Just want to get a little clarity on the hunting. Is hunting currently allowed?

Ms. LAGO. Yes, it is—

Mr. TIPTON. Hunting? Is that currently allowed in this area?

Ms. LAGO. It is, outside the cave monument boundary, yes.

Mr. TIPTON. OK. And when we are talking about some of the public comment, I was just trying to follow up on what I think I was hearing, that there wasn't a lot of public interest in that, in terms of some of the comment period. If it is already allowed, why would they comment? Wouldn't they assume that they could continue to hunt?

Mr. SHEAFFER. No. I think probably that was—public comments are open and received, and that was one of the topics that they, the public, addressed. And again, this is a plan done back in 1998.

So the comments received then were not overwhelmingly in favor of hunting at all. In fact, there was a very limited number of people who were concerned with hunting continuing there.

Mr. TIPTON. OK. Thank you, Mr. Chairman.

Mr. BISHOP. Thank you. I appreciate that. I do see a couple of—I was waiting for Congressman Farr to be here, as well. He has not yet shown up.

So, Mr. Allard, I am not going to let you wait any longer from here. We are going to take testimony, your testimony, on 1776.

Could I ask the two witnesses if they would exchange for just a second here? Mr. Meadows and former Congressman Shuler—sorry. See how quickly you forget here? Let me ask you if you would come to the podium first. And, Mr. Allard, we will take your testimony on 1776. Then I will hear from Mr. Meadows on 3806, and Mr. Shuler on 3806, and then we will add the witnesses from the Park Service and the Interior Department—no, you are good. You are done, aren't you?

Ms. LAGO. Probably.

Mr. BISHOP. Yes. You can stay as long as you want to, but you don't have to.

We will invite the Interior Department, as well as some other witnesses, back up here to talk about these two bills.

So, Senator Allard, can I have you go ahead of Representative Farr and talk about this particular piece of legislation?

**STATEMENT OF WAYNE ALLARD, VICE PRESIDENT FOR  
GOVERNMENT RELATIONS, AMERICAN MOTORCYCLIST  
ASSOCIATION**

Mr. ALLARD. Thank you, Mr. Chairman, and good morning. Good morning, Ranking Member Grijalva, and distinguished members of the committee. Thank you for inviting me to testify today in support of H.R. 1776, the Clear Creek National Recreation Area and Conservation Act.

The Clear Creek Management Area, which I will refer to in my testimony as the CCMA, is of vital importance to the off-highway vehicle community in the West. The 75,000 acres of the CCMA have been ranked as one of the top 10 places to ride by Dirt Rider Magazine, the most popular motorcycle magazine of its type, and formerly hosted the Quicksilver Enduro, a nationally recognized event, for over 30 years, from 1983 until 2007. The event was designated the National Enduro by the American Motorcyclist Association.

As you are aware, this bill would create the country's first national OHV, or off-highway vehicle area, guaranteeing future access for off-highway vehicle enthusiasts who visit central California to ride in the management area. Representative Paul Cook's bill, H.R. 1676, would also create a similar national OHV area to guarantee permanent access to Johnson Valley in Southern California.

If the bill is not passed, the Bureau of Land Management's Record of Decision issued in February of this year will stand. Under the current Record of Decision, the Serpentine Area of Critical and Environmental Concern, which I am referring to as the ACEC, would be closed to all off-highway vehicles, and be open only to street-legal, registered vehicles for 5 days per year.

The result of this closure would severely limit OHV access in the entire management area in several important ways.

First, many staging areas are located in the Serpentine ACEC because it is one of the largest open areas that can accommodate riders. There are on-highway vehicles and OHVs, which generally require trailers and trucks to transport. As a result, under the current management plan, OHV enthusiasts are able to camp at the Jade Mill Campsite, which resides in the Serpentine ACEC, but are unable to use the campsite as a staging area, since no OHVs are permitted on trails or roads within the Serpentine ACEC.

Second, and perhaps more importantly, the Serpentine area sits in the middle of the management area. Many trails run through the Serpentine area, and restricting access would fragment or eliminate many of these historically used OHV routes.

Third, under the current RoD, visitors take part in motorized recreation, are allowed to enter the CCMA only 5 days per year, while non-motorized visitors can enter 12 days. Thus, riders are limited to potentially less than two weekends of visitation. This is an especially difficult pill to swallow, not only because it is discriminatory, but also because many riders travel long distances and arrive late on Friday and leave on Sunday.

Finally, the RoD has the potential to limit the total overall number of visitors. It gives the BLM State director the ability to limit the total number of daily visitors to the area. Thus, with the administrative swipe of a pen, access can be denied to one of the best places to ride in the country.

Representative Farr's H.R. 1776 would fix all of these shortcomings. Reverting to the 2005 Clear Creek Management Area Travel Management Plan would still close some historical OHV trails. It would still establish a designated system of trails in the CCMA. However, the 2005 plan would ensure access to a network of routes 218 miles long, according to the 2005 plan. The routes would offer a variety of course combinations that can be varied from year to year. Competitive events would be allowed to return to the CCMA.

Importantly, the Serpentine ACEC would remain open to OHVs. This would allow riders to use the Jade Mill Campsite as a staging area, and access longer and more challenging trails directly from camp. Additionally, it would relieve other trails from the possibility of over-use.

The largest change from the 2005 plan is that the BLM would be required to charge fees to access the area. These fees would be used to maintain and improve the Clear Creek Management Area. By creating a special account for the fees, H.R. 1776 ensures the fees will be used at the recreation area for needed maintenance and enhancement, and not in projects across the country. Even in 2005, the BLM recognized the areas for OHV recreation, even as the popularity of OHV riding has increased.

I hope we can move this legislation, so that the 50,000 riders that enjoyed the Clear Creek Management Area in 2003 can do so again in 2014.

Thank you, Mr. Chairman, for your time. I look forward to answering any questions that you may have.

[The prepared statement of Mr. Allard follows:]

PREPARED STATEMENT OF WAYNE ALLARD, AMERICAN MOTORCYCLIST ASSOCIATION  
ON H.R. 1776

Chairman Bishop, Ranking Member Grijalva and distinguished members of the committee, thank you for inviting me to testify today in support of H.R. 1776, the Clear Creek National Recreation Area and Conservation Act.

The Clear Creek Management Area (CCMA) is of vital importance to the off-highway-vehicle community in the West. The 75,000 acres of the CCMA have been ranked as one of the top 10 places to ride by *Dirt Rider* magazine—the most popular motorcycle magazine of its type—and formerly hosted the Quicksilver Enduro, a nationally recognized event for over 30 years. From 1983 until 2007, the event was designated a National Enduro by the AMA.

As you are aware, this bill would create the country's first national OHV area, guaranteeing future access for off-highway-vehicle enthusiasts who visit central California to ride in the management area. Rep. Paul Cook's bill, H.R. 1676, would also create a similar national OHV area to guarantee permanent access to Johnson Valley in southern California.

If this bill is not passed, the Bureau of Land Management's Record of Decision, issued in February of this year, will stand.

Under the current record of decision, the Serpentine Area of Critical Environmental Concern (ACEC), would be closed to all off-highway-vehicles and be open only to street legal, registered vehicles for 5 days per year.

The result of this closure would severely limit OHV access in the entire management area in several important ways.

First, many staging areas are located in the Serpentine ACEC, because it is one of the largest open areas that can accommodate riders, their on-highway vehicles and OHVs—which generally require trailers and trucks to transport. As a result, under the current management plan, OHV enthusiasts are able to camp at the Jade Mill campsite, which resides in the Serpentine ACEC, but are unable to use the campsite as a staging area, since no OHVs are permitted on trails or roads within the Serpentine ACEC.

Second, and perhaps more importantly, the Serpentine area sits in the middle of the management area. Many trails run through the Serpentine area, and restricting access would fragment or eliminate many of these historically used OHV routes.

Third, under the current ROD, visitors taking part in motorized recreation are allowed to enter the CCMA only 5 days per year, while non-motorized visitors can enter 12 days.

Thus, riders are limited to potentially less than two weekends of visitation. This is an especially difficult pill to swallow not only because it is discriminatory, but also because many riders travel long distances and arrive late on Friday and leave on Sunday.

Finally, the ROD has the potential to limit the total overall number of visitors. It gives the BLM State director the ability to limit the total number of daily visitors to the area. Thus, with the administrative swipe of a pen, access can be denied to one of the best places to ride in the country.

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However, the 2005 plan would ensure access to a network of routes 218 miles long. According to the 2005 plan, the routes "would offer a variety of course combinations that can be varied from year to year."

Competitive events would be allowed to return to the CCMA.

Importantly, the Serpentine ACEC would remain open to OHVs.

This would allow riders to use the Jade Mill campsite as a staging area and access longer and more challenging trails directly from camp. Additionally, it would relieve other trails from the possibility of over use.

The largest change from the 2005 plan is that the BLM would be required to charge fees to access the area. These fees would be used to maintain and improve the Clear Creek Management area. By creating a special account for the fees, H.R. 1776 ensures the fees will be used at the recreation area for needed maintenance and enhancement and not on projects across the country.

Even in 2005, the BLM recognized that areas for OHV recreation were decreasing—even as the popularity of OHV riding has increased.

I hope we can move this legislation, so that the 50,000 riders that enjoyed the Clear Creek Management Area in 2003 can do so again in 2014.

Thank you for your time and I look forward to answering any questions you may have.

Mr. BISHOP. OK. Senator Allard, we have kept you here a while. And we have not talked about H.R. 3806 yet. Let me see if there are any questions specifically for Senator Allard first. Then, if you would like to stay, you are welcome to stay and participate. But if you need to go, you need to go.

Mr. ALLARD. Thank you, Mr. Chairman.

Mr. BISHOP. Mr. Tipton, do you have any specific questions on this bill for Senator Allard? Mr. Grijalva?

Mr. GRIJALVA. Yes. If I may, Senator Allard, you, along with others, the sponsor of the legislation, Mr. Farr, have questioned the whole rationale for the closure, and have said that EPA—that the EPA risk assessment is overblown. Could you elaborate on the specifics of that risk assessment? In particular, where the EPA went wrong with the science? The issue being that naturally occurring asbestos in the area and some of the conclusions as to the risk to health, to public health.

And, with that, if you wouldn't mind, Senator?

Mr. ALLARD. Well, it was in 2008 the Environmental Protection Agency put asbestos levels at unacceptably—an unacceptable use range. However, the off-highway motor vehicle recreation division of the California State Parks conducted a study focusing specifically on motorcycle recreation, which found that the levels of asbestos are substantially lower than the Occupational Health and Safety Administration's daily permissible exposure limit, and the amount of ambient asbestos in the California study during periods of off-highway motorcycle riding was 20 times lower than the EPA's estimate. This is lower than what the World Health Organization considers acceptable.

The risk from asbestos in the CCMA is equivalent to smoking less than one cigarette per year, I am told. In fact, the EPA study found that all-terrain vehicles cause 3 percent more dust. However, under the current plan, ATVs are still allowed in the Serpentine ACEC, as opposed to motorcycles.

There is also a study that I have. If the committee does not have that study, I would be glad to put it forward so it could be included as part of the record.

Mr. BISHOP. OK. Make sure the committee gets a copy of that. It will be included as part of the record.

Mr. ALLARD. I will, Mr. Chairman.

Mr. BISHOP. Mr. LaMalfa, do you have—

Mr. ALLARD. And the title of the study is, "Preliminary Analysis of the Asbestos Exposures Associated with Motorcycle Riding and Hiking in the Clear Creek Management Area at San Benito County, California".

Mr. BISHOP. Thank you.

Mr. ALLARD. Thank you.

Mr. BISHOP. Mr. LaMalfa, do you have questions for this witness? All right.

I do have just one simple one for you. And I appreciate the fact that this bill has been worked by local interest groups on the local level. It does create a definitive wilderness area, and it allows for off-road vehicle. Would you be opposed to strengthening that language, which would mandate and control the off-road vehicle levels, so it wouldn't be changed administratively in the future?

Mr. ALLARD. Well, we would appreciate any effort to make sure that the off-highway vehicle opportunities remain as described in the bill. And——

Mr. BISHOP. So you would——

Mr. ALLARD. Whatever you——

Mr. BISHOP. I tried to strengthen that language?

Mr. ALLARD. Well, if we can strengthen it, yes.

Mr. BISHOP. All right.

Mr. ALLARD. Absolutely.

Mr. BISHOP. Thank you. I appreciate that. Senator, with that, we conclude the questioning for you. If you would like to stay here, we would be happy to have you. If you have other obligations, I recognize that at the same time.

Mr. ALLARD. I do have other obligations, and I thank the Chairman for his consideration.

Mr. BISHOP. Thank you for being here.

Mr. ALLARD. Thank you.

Mr. BISHOP. Representative Meadows, Representative Shuler, we appreciate you being here. We have not talked about H.R. 3806. You have the opportunity of presenting it fresh to us.

Representative Meadows, you are recognized first to talk about your bill.

Mr. MEADOWS. Thank you, Mr. Chairman, and I am prepared to testify. I would ask, if it meets with the Chair's approval, to allow the distinguished gentleman from—the previous Member, Mr. Shuler, to testify first, to give a context of this, and then I would follow up. It is certainly up to the Chair.

Mr. BISHOP. I will be more than happy to do that. It is good—Representative Shuler, it is good to have you back here. You are a former member of this committee?

Mr. SHULER. Yes, I was.

Mr. BISHOP. And you haven't noticed this, but if you look directly at the room, I've got you on the proper side of this room right now.

Mr. SHULER. Many times you tried. Sometimes it worked.

Mr. BISHOP. All right. Let's turn to you for the first 5 minutes to introduce the bill.

#### **STATEMENT OF HEATH SHULER, ASHEVILLE, NORTH CAROLINA**

Mr. SHULER. Thank you, Mr. Chairman, Ranking Member Grijalva, and members of the subcommittee. Thank you for the opportunity for me to share my thoughts on the importance of Congressman Meadows' legislation, H.R. 3806, the Great Smoky Mountains National Park Agreement of 2013.

I want to tell a story about a small community in the mountains of North Carolina, the Appalachian region. Swain County, less than 10,000 people live in the community. Talking about dedication for the 1943 agreement to build the Lake Fontana. It was their dedication to help supply energy sources to the eastern part of Tennessee to be able to help build military planes for World War II. It was that dedication that they gave up their land, they gave up their homesites, their schools, their businesses, and left the gravesites of their loved ones behind.

With an agreement of North Carolina, TVA, Swain County, and the Department of the Interior, they flooded the land and created Fontana Lake Reservoir. Fontana Dam is still one of the largest dams east of the Mississippi, supplying energy for the TVA. When these individuals left the community, and traveled, and dispersed elsewhere, they were given an agreement that they would have a road built to replace NC-288 so they could go revisit the homesites and gravesites of their loved ones. That agreement was supposed to build this some 35-mile road into the Great Smoky Mountain National Park. That agreement still today has a community divided, whether or not we should pay for a settlement, or to build this road.

Up until 2001, the appropriations triggered the National Environmental Policy Act, analyzing several options, including the completion of this road—an estimated \$700 million—or cutting through the pristine Great Smoky Mountain National Park, or a monetary settlement. The National Park Service published a final environmental impact statement on October 2, 2007, which said that it would advocate a financial settlement in lieu of the construction of the road.

A Record of Decision followed shortly, calling the monetary settlement to Swain County of \$52 million as the National Park Service agency preferred alternative. With the support of both North Carolina and the Tennessee delegations, we secured \$12.8 million, a partial settlement for the North Shore Road agreement in the Fiscal Year 2010 through the Department of Defense Appropriations Act.

On February 10, a signed ceremony attended by Secretary Salazar, four parties agreed to the settlement, calling for a \$52 million settlement to Swain County, to be paid out over a period of years, and this trust that Swain County gave, once again, to the Federal Government into keeping up their end of the bargain. But yet we find ourselves still asking for the remaining balance of the \$52 million.

I want to give you the statement that Secretary Salazar gave during this ceremony in Swain County. “It is not often that we can end the 67-year controversy with the stroke of a pen, but that is exactly what we are doing. The Federal Government is providing a fair settlement to the people of Swain County, while ensuring the protection of the Great Smoky Mountain National Park.” And a further press release that they gave says, “Secretary Salazar noted that the settlement is good for the people of Swain County because it generates much-needed revenue.”

And not only was this reservoir Fontana Lake taken, but it folded in the Great Smoky Mountain National Park, so it leaves that county with 83 percent federally owned land. So we have a low tax base. Again, Swain County was—there was an authorization in the Appropriations Act of 2012 for \$4 million. And, through a technicality, that money is still sitting there today, has not been released to Swain County.

I commend now my congressman, Mark Meadows, for his continued effort and his work and his dedication to the people of Swain County and to the people of that region, to be able to give back to that community. They have honored their agreement, and it is time

for the Federal Government to continue to honor its agreement and pay the money that is so needed for a community in Swain County.

Mr. Chairman, I yield back, and I thank you for the opportunity for you and the Ranking Member Grijalva for allowing me to be here and testify and ask for your consideration and movement of this legislation.

[The prepared statement of Mr. Shuler follows:]

PREPARED STATEMENT OF THE HONORABLE HEATH SHULER, MEMBER OF CONGRESS,  
JANUARY 3, 2007–JANUARY 3, 2013, NORTH CAROLINA'S ELEVENTH CONGRESSIONAL  
DISTRICT

H.R. 3806, THE GREAT SMOKY MOUNTAINS NATIONAL PARK AGREEMENT ACT OF  
2013

Chairman Bishop, Ranking Member Grijalva and members of the subcommittee, thank you for the opportunity to share with you my thoughts on the importance of Congressman Meadows's legislation, H.R. 3806, the Great Smoky Mountains National Park Agreement Act of 2013.

I had the honor and privilege of serving North Carolina's Eleventh Congressional District from January 3, 2007, through January 3, 2013. The District includes Swain County, where I grew up and the subject of Congressman Meadows's legislation.

During my 6 years in office there was one local issue that rankled my constituents more than any other—the Federal Government's broken promise dating back to the "1943 Agreement" between Swain County, the U.S. Department of Interior, the State of North Carolina, and the Tennessee Valley Authority (TVA).

As the Federal Government geared-up World War II efforts, a dedicated power source was needed to supply facilities in eastern Tennessee that were building military planes. The Federal Government approached Swain County, North Carolina, with a plan to build Fontana Dam and Reservoir. The four aforementioned entities entered into what is known as the "1943 Agreement," which allowed the creation of the dam with the promise that a new road to replace the flooded 34-mile stretch of NC-288 would be built along the north shore of the new lake.

The original road was a critical lifeline to people in the area. It connected Bryson City, the county seat, to Tennessee, and was marked by churches, homes, family businesses, schools, and farms. Most of these Appalachian treasures disappeared under the rising water of the Fontana Lake and what wasn't submerged was folded into the Federal Government's control of the Great Smoky Mountains National Park. In fact, the Federal Government now owns 83 percent of Swain County's land.

In the 1960s, the National Park Service (NPS) constructed approximately 7 miles of the road before abandoning the effort due to environmental impacts and engineering problems. No further Federal funding was received for the road until a 2001 appropriation triggered a National Environmental Policy Act analysis of several options, including either the completion of the road, estimated at \$700 million and cutting through pristine areas of the Great Smoky Mountains National Park, or a monetary settlement. The January 2006 Draft Environmental Impact Statement (DEIS) that followed stated that the Environmentally Preferred Alternative was to resolve the 1943 Agreement through payment of a monetary settlement, valued at \$52 million, in lieu of any further construction. Over 76,000 comments were received, the vast majority in opposition to construction of the road. The Park Service published its Final Environmental Impact Statement (FEIS) on October 2, 2007, which said it would advocate for a financial settlement in lieu of constructing a road. A Record of Decision (ROD) followed shortly thereafter officially calling for a monetary settlement to Swain County as the National Park Service's Agency Preferred Alternative.

With the support of both the North Carolina and Tennessee Congressional Delegations, I secured a \$12.8 million partial settlement for the North Shore Road Agreement in the Fiscal Year 2010 Department of Defense Appropriations Act.

In a February 2010 signing ceremony attended by former Secretary of the Interior Ken Salazar, the four parties signed a new binding agreement that called for a \$52 million settlement (including the \$12.8 million partial settlement) to be paid to Swain County over a period of years in a special trust established for the County. Secretary Salazar stated,

"It is not often one can end a 67-year-old controversy with a stroke of a pen, but that is exactly what we are doing. The Federal Government is providing

a fair settlement to the people of Swain County while ensuring the protection of Great Smoky Mountain National Park.”

The Park Service’s accompanying release continued:

“[Secretary] Salazar noted that the settlement is good for the people of Swain County because it generates much needed revenue; good for the department, because it protects the one of America’s most treasured parks; and good for the American taxpayers, since building the road would have cost several times more than the settlement.”

Congress committed another \$4 million toward the settlement in the Consolidated Appropriations Act of 2012, but NPS has to date refused to release the funds over what is at best a technicality. It claims it does not have proper authorization because the bill text does not refer to the County or the 2010 Agreement. However, the conference report included a prioritized project list, specifying \$4 million for the North Shore Road settlement agreement, making congressional intent clear. Further, the Administration also included \$4 million for the “North Shore Road Monetary Settlement” in its Fiscal Year 2012 Budget request.

Congressman Meadows’s legislation, H.R. 3806, gives the National Park Service the explicit authorization it says it requires to release the funds. More importantly, H.R. 3806 has the power to end decades of distrust and cynicism between the people of Swain County and the Federal Government.

I thank Congressman Meadows for his dedication to this issue and I thank the subcommittee for the opportunity to testify before you today.

I respectfully urge the subcommittee to approve the bill and expedite its consideration before the House. Thank you.

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Mr. BISHOP. Thank you. I appreciate that, appreciate you being here, and I will tag-team back to Representative Meadows.

**STATEMENT OF THE HON. MARK MEADOWS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH CAROLINA**

Mr. MEADOWS. Thank you, Mr. Chairman. To follow up, I want to thank Congressman Heath Shuler for not giving up.

On January 2, when he was leaving office, his staff diligently was working to try to correct an injustice. And where is the injustice? Four million dollars was appropriated, and has sat there, and sits there, and sits there, and is yet to be paid to the people of Swain County. And we have worked diligently for the last 14 months, trying to make sure that this money gets released.

We have a GAO report. Mr. Chairman, I would ask that we submit this GAO report for the record.

Mr. BISHOP. So ordered.

Mr. MEADOWS. This GAO report shows that, indeed, under their guidelines, that it is certainly within the rights of the Department of the Interior to release these funds, and to actually pay on this commitment. And yet, in talking to the comptroller, he has indicated that, without an Act of Congress, that this money is going to continue to sit there.

Now, to put this in context, the original obligation to build this road was estimated to be \$700 million. And yet, the settlement was just a fraction of that. Yet, Swain County has gotten just a fraction of that.

So, I would like to offer two other pieces of information for the record. One is the press release that Congressman Heath Shuler mentioned, which Secretary Salazar announces the settlement on the North Shore Road. And the other is the memo of under-

standing, which has all the appropriate parties, where they had signed on to this particular agreement. Thank you, Mr. Chairman.

To go on further, the residents of Swain County, in the heat of the battle of World War II, did like most Americans did. They sacrificed. They said, "Sure, we are willing to be part of a greater effort," to make sure that this was identified, and the land was given up. And yet, some 83 percent of their land is now on Federal lands. Their unemployment still hovers above 10 percent. And all they are wanting is for the American government, the Federal Government, to do what they said they would do.

Going back to 1943, that obligation of building a road was never committed. Now, in 2010, an agreement was reached, a settlement of some \$52 million, a part of which has been paid. But then we had another \$4 million appropriated, and yet it continues to sit there. It is our understanding that H.R. 3806, being the authorization to release those funds, is what is now being required. We humbly ask for the consideration of this committee to approve this, so that we can get the payment given to the residents of Swain County, and that justice and fairness can once again prevail.

And I stand ready for any questions, Mr. Chairman.

[The information submitted for the record by Mr. Meadows follows:]

#### LETTER SUBMITTED FROM GAO

GAO,  
U.S. GOVERNMENT ACCOUNTABILITY OFFICE,  
WASHINGTON, DC 20548  
FEBRUARY 14, 2013.

Timothy E. Murphy  
Assistant Solicitor—General Legal Services  
Office of the Solicitor  
Department of the Interior  
Washington, DC 20240

Subject: Department of the Interior—Availability of Funds for Payment to Swain County, North Carolina

Dear Mr. Murphy:

This responds to your December 21, 2012 letter regarding GAO's opinion, B-323699, Dec. 5, 2012. This opinion addressed the Department of the Interior's (DOI) use of the National Park Service's (Park Service) fiscal year 2012 construction appropriation<sup>1</sup> to make a payment to Swain County, North Carolina pursuant to the Memorandum of Agreement Relating to Non-Construction of North Shore Road entered into in February 2010 (2010 Agreement). We concluded that although DOI has no obligation under the 2010 Agreement to make the payment, DOI may, in its discretion, elect to make a payment from an appropriation available for that purpose. You have indicated that DOI is considering making a payment to Swain County from the Park Service's 2012 Construction appropriation.

In addition to providing legal decisions and opinions on appropriations law issues, GAO, because of its expertise and competence in this area of law, will provide informal technical assistance to agency officers and employees on appropriations law matters that may arise in agency operations.<sup>2</sup> See GAO, *Procedures and Practices for Legal Decisions and Opinions*, GAO-06-1064SP (Washington, DC: Sept. 2006),

<sup>1</sup> Consolidated Appropriation Act, 2012, Pub. L. No. 112-74, div. E, title I, 125 Stat. 786, 991-92 (Dec. 23, 2011).

<sup>2</sup> In providing informal technical assistance, GAO is not executing its statutory authorities to issue appropriations law decisions and opinions. Consequently, GAO's informal technical assistance may not be characterized as a legal decision, opinion, or conclusion of the Comptroller General.

at 10. In that vein, I am happy to offer you my informal observations on your proposal based on the information set out in your letter.

As we stated in our 2012 opinion, the limitation on the government's contractual liability in the 2010 Agreement does not, by itself, render a lump sum appropriation unavailable to pay the claim settled in the Agreement. The limitation serves the government's interest, and the discretion to waive the application of the limitation is committed to the government. An agency generally has discretion to decide how to carry out the objects for which a lump sum appropriation is made. So long as DOI determines that a payment to Swain County falls within the scope of the Park Service's 2012 Construction appropriation, we have no objection to the use of the appropriation to make the payment you described in your letter.

I trust you will find this information useful. If you would like to discuss this matter further, please feel free to contact me at (202) 512-2853 or Omyra M. Ramsingh, Assistant General Counsel for Appropriations Law, at (202) 512-6152.

Sincerely,

EDDA EMMANUELLI PEREZ,  
*Managing Associate General Counsel.*

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#### PRESS RELEASE

- Trail Advisory

Several trails in the park are temporarily closed. Please check the "Backcountry Facilities" section of the Temporary Road and Facilities Closures page for further details. More (<http://www.nps.gov/grsm/planyourvisit/temproadclose.htm>)

### **Secretary Salazar Announces Settlement on North Shore Road**

Date: February 6, 2010

Contact: Bob Miller, (865) 436-1207

Interior Secretary Ken Salazar announced today that a settlement has been reached in a dispute begun in 1943 over a proposed 34-mile stretch of road through Great Smoky Mountains National Park. Under the terms of the agreement signed today by the Department of the Interior, Swain County, North Carolina, and Tennessee Valley Authority (TVA), the Department of the Interior will pay up to \$52 million into a trust fund established for the County.

"It is not often one can end a 67-year-old controversy with a stroke of a pen, but that is exactly what we are doing," Salazar said. "The Federal government is providing a fair settlement to the people of Swain County while ensuring the protection of Great Smoky Mountain National Park."

Salazar noted that the settlement is good for the people of Swain County because it generates much needed revenue; good for the department, because it protects the one of America's most treasured parks; and good for the American taxpayers, since building the road would have cost several times more than the settlement.

National Park Service Director Jon Jarvis expressed strong support for the action that was accomplished without any impact on the Park Service's budget. Congressman Heath Shuler (D-NC) also commended the Obama administration for their leadership. "This settlement will bring much-needed resources to Swain County for decades to come," said Shuler. "The interest on these funds alone will greatly increase Swain's annual budget and will help the commissioners in their efforts to create jobs, invest in Swain County schools, and improve the county's infrastructure."

In 1943, the Department of the Interior, the State of North Carolina, Swain County North Carolina, and the TVA signed an agreement to provide for replacement of a 34-mile stretch of NC288 flooded during construction of the Fontana Dam and Reservoir. Completion of an alternate road was contingent upon Congressional funding.

In the 1960s, the National Park Service constructed approximately 7 miles of the road before abandoning the effort due to environmental impacts and engineering problems.

Congress appropriated additional funds in 2001, triggering a National Environmental Policy Act analysis of several options including completion of the road or a monetary settlement. The Draft Environmental Impact Statement (DEIS), released in January 2006, stated that the Environmentally Preferred Alternative was to resolve the 1943 Agreement through payment of a monetary settlement in lieu of any further construction. Over 76,000 comments were received on the DEIS with the vast majority received via emails and faxes generated by conservation groups opposed to the road. Public meetings to develop the Final Environmental Impact Statement (FEIS) began in February 2003. On October 2, 2007, the Park Service published the FEIS, which identified the monetary settlement as the preferred alternative. The Park Service issued a Record of Decision (ROD) on April 8, 2008, selecting the monetary settlement to Swain County as the National Park Service's Agency Preferred Alternative.

Since the beginning of the EIS process two of the four parties to the 1943 Agreement—the Swain County Commission and the Governor of North Carolina—expressed support for a monetary settlement in lieu of the road. TVA agreed that the NPS identified the correct Environmentally Preferred Alternative but did not support any agency alternative.

(<http://www.doi.gov/>)

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## MEMORANDUM OF AGREEMENT

### I. INTRODUCTION

This agreement is made and entered into by and between TENNESSEE VALLEY AUTHORITY (“TVA”), a federal agency and corporation created by an act of Congress, the STATE OF NORTH CAROLINA (“North Carolina”), acting by and through its Governor, SWAIN COUNTY, NORTH CAROLINA (“Swain County”), a political subdivision of the State of North Carolina acting by and through the Board of Commissioners for the County of Swain; and the UNITED STATES DEPARTMENT OF THE INTERIOR (“DOI”), acting by and through the Secretary of the Interior (“Secretary”).

### II. RECITALS

- A. The parties entered into a prior agreement dated 30 July 1943 (the “1943 Agreement”) concerning the construction of Fontana Dam and related matters.
- B. As set forth under the provisions of the 1943 Agreement, the TVA acquired approximately 44,000 acres of land and transferred the same to the Department of the Interior for inclusion in the Great Smoky Mountains National Park and paid the State of North Carolina, in trust for Swain County, \$400,000.00 to be used for the payment of the principal on outstanding county road bonds. Therefore, the parties recognize that TVA has fulfilled all of its obligations under the 1943 Agreement and undertakes no further obligations herein.
- C. North Carolina and Swain County have discharged their obligations under the 1943 Agreement.
- D. Swain County disputes whether the Department of the Interior has performed its obligations under the 1943 Agreement relating to the construction of the “North Shore Road.”
- E. Pursuant to the 1943 Agreement, the Department of the Interior committed “as soon as funds are made available for that purpose by Congress” to “construct or cause to be constructed” a road, commonly referenced as the “North Shore Road,” from the eastern boundary of the Great Smoky Mountains National Park to a point on the Fontana Dam Access Road.
- F. Construction of the “North Shore Road” has not been completed.
- G. Pursuant to the National Environmental Policy Act and other laws, the National Park Service (NPS), a bureau of the Department of the Interior, prepared an Environmental Impact Statement (EIS) evaluating alternatives for the North Shore Road with its stated purpose being to “discharge and satisfy any obligations on the part of the United States that presently exist as the result of the 1943 Agreement.” The EIS evaluated a range of alternatives to fulfilling that purpose including renewing construction of the North Shore Road and entering into a monetary settlement of the 1943 Agreement with Swain County.

- H. NPS approved a decision to “implement the Monetary Settlement Alternative” and to “convene a meeting of the signatories” to the 1943 Agreement on December 28, 2007.
- I. Section 1007 of the “Department of Defense Appropriations Act, 2010” P.L. 111–118 (December 19, 2009), expressly authorized the Secretary to make certain payments to Swain County in connection with the non-construction of the North Shore Road:
  - (1) Section 1007 authorized the Secretary to make a payment of four million dollars (\$4,000,000.00) to Swain County, North Carolina upon the enactment of the Act;
  - (2) Section 1007 authorized the Secretary to make an additional payment of eight million, eight hundred thousand dollars (\$8,800,000.00) to Swain County, North Carolina subject to the Department of the Interior, Swain County, the State of North Carolina, and TVA entering into an agreement that supersedes the agreement of July 30, 1943. By the instant agreement (“2010 Agreement”) the parties intend to settle any and all claims under the 1943 Agreement, and to extinguish and supersede the 1943 Agreement in its entirety.

### III. TERMS AND CONDITIONS

The parties hereby agree as follows:

1. The 1943 Agreement is hereby extinguished and superseded and shall be of no further effect.
2. The United States Department of the Interior shall pay or cause to be paid to or on behalf of Swain County (as hereinafter provided) as follows:
  - a. Eight million, eight hundred thousand dollars (\$8,800,000.00) within ten (10) business days after the “Obligation Date” which is one hundred twenty (120) calendar days after the execution of the 2010 Agreement by the last signatory hereto, as expressly authorized by Section 1007 of the “Department of Defense Appropriations Act, 2010”;
  - b. Such additional sums, not to exceed thirty-nine million, two hundred thousand dollars (\$39,200,000.00), as are hereafter appropriated by Act of Congress for the express purpose of effectuating the 2010 Agreement relating to the non-construction of the North Shore Road on or before December 31, 2020.
3. All payments to or on behalf of Swain County shall be held, managed and disbursed by the Treasurer of the State of North Carolina pursuant to the terms of Session Law 2008–13 enacted by the General Assembly of North Carolina and signed into law on 25 June 2008.
4. The full payment of such sums as have been and are hereafter appropriated by Act of Congress for the express purpose of effectuating the 2010 Agreement relating to the non-construction of the North Shore Road, as referenced in Paragraph 2, subject to the terms and conditions set forth herein, shall constitute full and complete settlement of all claims of Swain County, and all persons and entities claiming by, through or under Swain County against the United States of America, the Department of the Interior, North Carolina or TVA arising out of the 2010 Agreement and the 1943 Agreement. The parties agree that TVA has fulfilled its obligations and therefore has settled and disposed of all claims and demands which North Carolina and Swain County may have against TVA by reason of the flooding of North Carolina State Highway 288 and the construction, operation, and maintenance of Fontana Dam and Reservoir.
5. This Agreement is enforceable only by the parties. This Agreement is binding upon the parties, by and through their officials, agents, employees, and successors. No person or entity is intended to be a third party beneficiary of the provisions of this Agreement for purposes of any civil, criminal, or administrative action, and, accordingly, no person or entity may assert any claim or right as a beneficiary or protected class under this Agreement in any civil, criminal, or administrative action.
6. This agreement may be executed in duplicate copies, each of which shall be considered an original.

IN WITNESS WHEREOF the parties hereto have caused this agreement to be executed by their proper representatives thereunto duly authorized as of the date first above set forth.

TENNESSEE VALLEY AUTHORITY

Tennessee Valley  
Authority  
Seal Affixed

By: Anda A. Ray  
Anda A. Ray  
Tennessee Valley Authority

Date: 02-05-10

Attest: Charlene L. Evans  
Assistant Secretary

STATE OF NORTH CAROLINA

The Great Seal of the  
State of North Carolina  
Affixed

By: Ben Pender  
State of North Carolina

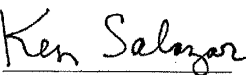
Date: 02-04-10

SWAIN COUNTY, NORTH CAROLINA  
By the Board of Commissioners  
For the County of Swain

Swain County, North Carolina  
Seal Affixed


By:  Date: 2-26-10  
Chairman

UNITED STATES DEPARTMENT OF  
THE INTERIOR

By:  Date: FEB 04 2010  
Secretary

\*\*\*\*\*

Witnessed:

 Date: 2/6/10  
United States Representative  
11<sup>th</sup> District, North Carolina

Mr. BISHOP. Thank you. I appreciate your testimony. Are there any questions for these two witnesses? Mr. LaMalfa, Mr. Grijalva?

Mr. GRIJALVA. Nothing—not any questions in particular, just a—welcome, my friend, Mr. Shuler, and the sponsor of the legislation. It is something that, when you were here, we thought we took care of, and long overdue, and good to see you again.

Mr. BISHOP. OK. We thank you for your testimony. We are now going to invite some others to testify about this bill and the one Mr. Allard was talking about. You are invited to join us here and stay for questioning, if you would like to. I don't know what your schedule is. No one has ever taken me up on that option of actually staying here. I am getting used to being rejected. It is up to you. But notice that you are welcome to stay here. If you have other obligations, I recognize that, as well.

Mr. MEADOWS. Thank you, Mr. Chairman. Thank you for your leadership. I actually have another hearing where I need to go to right now.

Mr. SHULER. Thank you, Mr. Chairman.

Mr. BISHOP. Heard that one before.

Let me invite then, with appreciations, let me invite back Mr. Carl Rountree from the National Landscape Conservation System, who will talk about H.R. 1776. Bruce Sheaffer, from the National Park Service, will talk about H.R. 3806, and Mr. Steve—is not here. OK. Who—I am sorry.

Well, Mr. Koretoff, we will take your written testimony. Apparently you had plane problems and are not here right now.

So, I will ask those two, if you will come back up, testify about these two bills. Let's start with H.R. 3806, if we could, and that is Mr. Sheaffer.

Mr. SHEAFFER. H.R. 3806, Great Smoky Mountain National Park Agreement Act, would provide the Park Service the authority to expend \$4 million to make a payment to Swain County, North Carolina. This legislation is necessary, because the Park Service currently has no authority to make this payment, which stems from a 2010 Memorandum of Agreement with Swain County, the Department, and TVA.

The 2010 agreement provided for monetary payments subject to appropriations to settle an issue dating back to 1943 regarding the construction of a road along the North Shore in Fontana Lake, as former Congressman Shuler mentioned. Although the National Park Service had statutory authority to make previous payments to the county—that was the \$12.8 million that they mentioned—there is no statutory authority to make the \$4 million payment, what was requested in the 2012 appropriations. This bill would provide the necessary authority.

We support the passage of this bill.

Mr. BISHOP. Thank you. I appreciate that. Any questions for Mr. Sheaffer on this? Mr. LaMalfa, Mr. Grijalva?

I have no questions on this particular legislation, either, which means if you would like to stay, you can. If you need to—everyone else is leaving, you might as well.

Mr. SHEAFFER. I would set a precedent if I stayed, I guess.

[The prepared statement of Mr. Sheaffer on H.R. 3806 follows:]

PREPARED STATEMENT OF BRUCE SHEAFFER, COMPTROLLER, NATIONAL PARK SERVICE, U.S. DEPARTMENT OF THE INTERIOR ON H.R. 3806

ON H.R. 3806, "GREAT SMOKY MOUNTAINS NATIONAL PARK AGREEMENT ACT OF 2013"

Mr. Chairman and members of the subcommittee, thank you for the opportunity to present the views of the Department of the Interior on H.R. 3806, a bill to authorize payment of funds in accordance with the agreement entered into by the Tennessee Valley Authority, the State of North Carolina, Swain County, North Carolina, and the U.S. Department of the Interior.

The Department supports H.R. 3806. This bill would provide the National Park Service the authority to expend \$4 million appropriated to the National Park Service in the Consolidated Appropriations Act, 2012 (Public Law 112-74) to make a payment to Swain County, North Carolina. This legislation is necessary because the National Park Service currently has no authority to make this payment, which stems from a 2010 commitment to the county.

In February 2010, then-Secretary of the Interior Ken Salazar signed a Memorandum of Agreement with the Swain County, the State of North Carolina, and the Tennessee Valley Authority that provided for the Federal Government to make monetary payments not to exceed a total of \$52 million, subject to appropriations, to Swain County to settle an issue dating to a 1943 agreement that provided that the Department would build a road along the North Shore of Fontana Lake in Great Smoky Mountains National Park. The 2010 Memorandum of Agreement provided

for the monetary settlement in lieu of road construction as the rugged terrain, higher construction costs and severe environmental impacts make constructing the road an untenable option.

In Fiscal Year 2010, two payments totaling \$12.8 million were provided to Swain County. These funds were derived from prior-year appropriations, and directed to Swain County in the Department of Defense Appropriations Act of 2010 (P.L. 111-118), which included explicit authority for the Secretary of the Interior to make those payments to Swain County for non-construction of the road. After that amount was paid, up to \$39.2 million of the \$52 million stated in the Memorandum of Agreement remained.

The Consolidated Appropriations Act, 2012 (P.L. 112-74) contained \$4 million in the National Park Service construction account that potentially could have been used as payment for a portion of the remaining \$39.2 million to Swain County, and in fact had been proposed for that purpose in the President's Fiscal Year 2012 budget. However, unlike the previous amounts appropriated, there was no statutory provision in P.L. 112-74 to spend the funds for Swain County, and there was no other statutory authority for that payment to be made. Enactment of H.R. 3806 would provide the authority that is needed for the National Park Service to use those previously appropriated funds to make the \$4 million payment to the county.

Mr. Chairman, this concludes my statement on H.R. 3806. I would be pleased to answer any questions you or any members of the subcommittee may have.

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Mr. BISHOP. Thank you. All right, let me turn now to Mr. Rountree to talk about 1776 and other issues that may come up. You are recognized.

**STATEMENT OF CARL ROUNTREE, ASSISTANT DIRECTOR,  
NATIONAL LANDSCAPE CONSERVATION SYSTEM AND COM-  
MUNITY PARTNERSHIPS, BUREAU OF LAND MANAGEMENT,  
U.S. DEPARTMENT OF THE INTERIOR**

Mr. ROUNTREE. Thank you, Mr. Chairman. Mr. Chairman and members of the subcommittee, thank you for the opportunity to testify on H.R. 1776, the Clear Creek National Recreation Area and Conservation Act.

H.R. 1776 would establish the Clear Creek National Recreation Area in San Benito and Fresno Counties in California, designate the Joaquin Rocks Wilderness on public lands near the proposed recreation area, and designate seven stream segments within BLM's Clear Creek Management Area as wild and scenic rivers.

Lands within the Clear Creek Management Area present complex resource management and public health and safety issues. While we support the bill's proposed conservation designations, we cannot support provisions in the bill which would increase cancer risks to public land users and employees due to asbestos, a well-known carcinogen, within the Clear Creek Management Area's Serpentine Area of Critical Environmental Concern.

The Clear Creek Management Area is located in one of the largest naturally occurring asbestos deposits in the world. And until 1979, asbestos was mined in parts of the management area at a facility that is now a superfund site. Since the 1970s, Federal and State health agencies have expressed concerns about how recreational use in the management area by hikers, campers, hunters, rock collectors, and off-highway vehicle users disturbs soils containing asbestos, and creates the potential for exposure and inhalation to airborne asbestos-based dust, increasing human health risks.

Because of these concerns, a 30,000-acre Area of Critical Environment Concern of the Clear Creek Management Area has been designated as the Serpentine ACEC. In 2008, an EPA report concluded that asbestos exposure for many recreational activities in the ACEC may result in excess lifetime cancer risks. The study noted that children are at greater risk than adults, because they are exposed to these high levels of asbestos at an earlier age.

The study also showed that visiting the management area more than one day per year can put adults and children above the EPA's acceptable risk range for exposure to carcinogens and increased excess lifetime cancer risk from many typical Clear Creek Management Area recreational activities, including off-highway vehicle use and hiking.

Due to the identified health risks, the BLM strictly limits access to the Serpentine ACEC under the agency's Clear Creek Resource Management Plan, which was finalized in February 2014. Under the management plan the BLM will re-assess recreation opportunities and travel management decisions if significant new information becomes available on human health risks from exposure to airborne asbestos fibers in the Clear Creek Management Area.

In general, the Administration supports the promotion of responsible motorized and non-motorized recreation on public lands, including off-highway vehicle use in the Clear Creek Management Area. However, the National Recreation Area provisions are unclear as to whether the bill would result in increased motorized or other activities in the Serpentine ACEC and other parts of the Clear Creek Management Area. The BLM cannot support the provisions that could increase the risk of asbestos exposure to the public and its employees. And while the bill attempts to reduce BLM's liability for such exposure, the risk to the public health still remains.

H.R. 1776 would designate the 20,500-acre Joaquin Rocks Wilderness, and would add seven stream segments, totaling just 31 miles to the National Wild and Scenic Rivers system. The BLM supports these provisions.

Thank you for the opportunity to present testimony for H.R. 1776. I am happy to answer any questions you may have.

[The prepared statement of Mr. Rountree follows:]

PREPARED STATEMENT OF CARL ROUNTREE, ASSISTANT DIRECTOR, NATIONAL LANDSCAPE CONSERVATION SYSTEM & COMMUNITY PARTNERSHIPS, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR ON H.R. 1776

#### INTRODUCTION

Thank you for the opportunity to testify on behalf of the Department of the Interior (DOI) on H.R. 1776, which would establish the Clear Creek National Recreation Area in San Benito and Fresno Counties in California; designate the Joaquin Rocks Wilderness on public lands in San Benito and Fresno Counties; and designate seven stream segments within the Clear Creek Management Area (CCMA) as wild and scenic rivers. The BLM supports the conservation designations in the bill. While as written, the bill appears to expand recreational opportunities in the CCMA, the BLM has strong concerns regarding changes in management that could increase the exposure of public land users and employees to naturally occurring asbestos and expose the public to increased cancer risks described in an Environmental Protection Agency (EPA) study.

As a general policy, the Administration supports the goals of promoting responsible motorized and non-motorized recreation, including off-highway vehicle (OHV) use, while also protecting public safety, conservation, and other important uses of

public lands. However, the National Recreation Area provisions of the bill are unclear as to whether they would result in motorized or other activities in areas of the CCMA that are currently limited for health and safety reasons due to naturally occurring asbestos, a well-known carcinogen, in the area.

#### BACKGROUND

The BLM manages approximately 63,000 acres of public lands in the 75,000-acre CCMA in southern San Benito and western Fresno Counties, California. The CCMA offers a variety of settings and landforms that host many diverse natural and cultural resources, and offers recreation and other multiple-use opportunities, including grazing. The CCMA also contains a 30,000-acre area of serpentine rock containing naturally occurring asbestos. Until 1979, asbestos was mined in parts of the CCMA at the Atlas Asbestos Mine and mill, which is now a Superfund site.

Since the 1970s, Federal and State health agencies have expressed concerns about how recreational use in the CCMA by hikers, campers, hunters, botanists, rock collectors, and OHV users disturbs soils containing asbestos and creates the potential for exposure to and inhalation of airborne asbestos-laced dust, increasing the risk to human health. As a result of this concern as well as the presence of the San Benito evening primrose (a special status plant species), the BLM has designated this 30,000-acre area within the CCMA as the Serpentine Area of Critical Environmental Concern (Serpentine ACEC). ACEC designations highlight areas where special management attention is needed to protect and prevent irreparable damage to important historical, cultural, and scenic values, fish, or wildlife resources or other natural systems or processes; or to protect human life and safety from natural hazards.

Based on the concerns for the health of recreational visitors, the EPA initiated a risk assessment study in 2004 in connection with the clean-up of the Atlas Asbestos Mine Superfund Site, to evaluate visitors' exposure to airborne asbestos fibers in the CCMA. The EPA's Clear Creek Management Area Asbestos Exposure and Human Health Risk Assessment (completed in May 2008) concluded that asbestos exposure for many recreational activities in the ACEC may result in excess lifetime cancer risks. The study noted that children are at greater risk than adults because they are exposed to these high levels of asbestos at an earlier age. The study also showed that visiting the CCMA for a period of more than 1 day per year can put adults and children above the EPA's acceptable risk range for exposure to carcinogens and increase excess lifetime cancer risk from many typical CCMA recreational activities, including OHV use and hiking.

As a result of the EPA study, the BLM implemented a temporary closure of the Serpentine ACEC in May 2008 to all forms of entry and public use in order to protect public health and safety. The BLM collaborated with the EPA, stakeholders, and the public to incorporate the EPA's health risk information into land-use decisions for the CCMA. Through an extensive planning process, with full opportunity for public comment, the BLM determined that limiting an individual's time spent in the Serpentine ACEC is the most effective way to mitigate the health risks from asbestos exposure. Thus, the BLM limits high-risk activities within the Serpentine ACEC through its Clear Creek Resource Management Plan (RMP), which was finalized in February 12, 2014. Under the management plan, the BLM allows for a range of recreational uses and other activities in portions of the CCMA. It also limits the types of uses and places time restrictions during which an activity can take place within the Serpentine ACEC to minimize asbestos-related risk to public health and safety. Specifically, the RMP strictly limits vehicular and pedestrian access to the Serpentine ACEC. The BLM will reassess recreation opportunities and travel management decisions if significant new information becomes available concerning human health risks from exposure to airborne asbestos fibers in the CCMA.

#### H.R. 1776

As noted earlier, H.R. 1776 would establish the Clear Creek National Recreation Area in San Benito and Fresno Counties; designate public lands in San Benito and Fresno Counties as the Joaquin Rocks Wilderness in those counties; and designate segments of five creeks within the CCMA as wild and scenic rivers.

#### *Clear Creek National Recreation Area*

Section 3 of H.R. 1776 establishes the Clear Creek National Recreation Area, to be managed by the Secretary of the Interior, to promote motorized and non-motorized recreation, including OHV use, scenic touring, hunting and gem collecting. Under the bill, the Secretary would open the CCMA to the uses identified in the bill including motorized recreation, mountain biking, hiking, hunting and

camping. The bill provides direction for developing a comprehensive management plan that would provide for these activities.

As written, it is unclear whether the bill's provisions would result in increased activities in the Serpentine ACEC of the CCMA that are currently limited for health and safety reasons due to the risks from the carcinogen asbestos in the area. Public and employee health and safety has guided the BLM's approach in managing the area, and the agency opposes provisions that could increase the risk of exposure to asbestos and pose significant potential risks to the public and employees.

While section 4 of H.R. 1776 provides the BLM an exemption from responsibility for the public's exposure to asbestos while recreating at the CCMA pursuant to section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980 (42 U.S.C. 9605), the bill does not reduce risk to the public; it only attempts to reduce liability to the BLM. As determined by the EPA, the potential public health risks are high in the Serpentine ACEC of the CCMA. In addition, the BLM is required to meet Occupational Safety and Health Administration standards for employees working in a designated hazardous asbestos area within the Serpentine ACEC, as well as meet Federal, State, and local air and water quality regulations designed to protect public health and safety from uncontrolled releases of hazardous airborne pollutants.

#### *Joaquin Rocks Wilderness Area*

Section 5 of H.R. 1776 proposes to designate 20,500 acres of public land in Fresno and San Benito Counties as the Joaquin Rocks Wilderness. The core of this area—more than 7,000 acres—has already been designated for special protection by the BLM as an ACEC. The centerpiece of the proposed wilderness area is the three large sandstone monoliths, known locally as Las Tres Piedras, which tower 4,000 feet above the southern San Joaquin Valley. The rocks are home to a number of raptors, including the prairie falcon and the majestic California condor. Vernal Pools at the top of the rocks provide important seasonal habitat, and are also an important water source for wildlife in this arid region. Rock art sites throughout the proposed wilderness attest to earlier occupation and may even include ancient astronomical references. The BLM supports the wilderness designation in H.R. 1776, and would like the opportunity to work with the sponsor on minor boundary modifications and mapping issues.

#### *Wild & Scenic River Designations*

Section 6 of H.R. 1776 proposes to add seven stream segments totaling just over 31 miles to the National Wild and Scenic River System within Fresno and San Benito Counties. All seven rivers find their origin in the Mountains of Southern San Benito County in the Diablo Range and each represent distinct watersheds. The segments are all free flowing and contain outstandingly remarkable values as required by the National Wild and Scenic Rivers Act. The BLM supports these designations and would like to work with the sponsor to identify the most suitable classification for each of the seven segments.

#### CONCLUSION

The BLM appreciates the work by Congressman Farr on H.R. 1776. Lands in the CCMA present complex resource management and public health and safety issues. While we support the proposed conservation designations, we cannot support provisions in the bill that could increase the exposure of public land users and employees to naturally occurring asbestos. We would like to continue working with Congressman Farr and the committee to address future uses at the CCMA, including the growing and popular activity of responsible OHV use in California and across the West.

Thank you for the opportunity to testify. I would be glad to answer any questions.

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Mr. BISHOP. OK. Are there questions for Mr. Rountree? Mr. LaMalfa, do you have questions on this particular one? Mr. Grijalva?

Mr. GRIJALVA. Yes. Mr. Rountree, did the revised resource management plan which was recently finalized adequately include the input of OHV users? And have any of these OHV users come forward to say they have concerns about the asbestos which you just outlined?

Mr. ROUNTREE. Thank you, sir. I can't respond to your last question. Don't know whether or not they have, with respect to the risk posed by asbestos.

I will say that the resource management plan that was developed for the Clear Creek Management Area was done with a very extensive public involvement effort, including not only OHV enthusiasts, but other recreationists in the area. Also, in very close coordination with other Federal and State agencies, including both the OHV division and commission, as well as the California State Parks and Recreation Department.

Mr. GRIJALVA. How common is it for BLM to collaborate with EPA on land use decisions out West?

Mr. ROUNTREE. We will use the best available information for developing any kind of resource management plan for developing plans of action to govern our multiple use on public lands. EPA, we felt, was the most viable source. They spent 4 years studying this when they were examining the asbestos mine. And based on our conversations with them and others within State agencies, feel it is a very viable source of information for us to use in making these decisions.

Mr. GRIJALVA. We have had testimony that the findings are overblown, inconclusive, and, therefore—and are such low levels that it poses no risk to public health. EPA finds it differently. Your recommendation and your testimony finds it differently. I think that is a central question to this piece of legislation, and would ask that any additional information that might not be part of the record of your testimony regarding that specific issue be forwarded to the committee.

Mr. ROUNTREE. Absolutely. We will be happy to.

Mr. GRIJALVA. Thank you.

Mr. BISHOP. Thank you. I have a couple of questions. Also, we have just heard that one of the witnesses who was not here—his plane has arrived, he is in the building somewhere, and if Mr. Koretoff arrives we are going to ask him to come and actually give his testimony, as well.

Mr. Garcia, do you have any questions on this one?

Mr. Rountree, let me ask a couple of questions. Who did the study on the asbestos for you all?

Mr. ROUNTREE. It was the Environmental Protection Agency.

Mr. BISHOP. EPA. Do you have specific reference to the testimony that was given by Senator Allard that says that that study was exaggerated?

Mr. ROUNTREE. Yes, sir.

Mr. BISHOP. Have you seen Mr. Allard's study?

Mr. ROUNTREE. No, sir, I have not.

Mr. BISHOP. Do you have any comment about it?

Mr. ROUNTREE. Yes, sir. The IEFR report, as it is referred—I believe that is the report he may be citing in his testimony—was something that was considered by the Bureau of Land Management. In fact, the Bureau of Land Management, working with the California Parks and Recreation Division, as well as the OHV Department and the OHV Commission, discussed aspects of both the IEFR report, as well as the EPA report, and they found that, in terms of the values, the fact that Serpentine is found in this

area, the fact that asbestos is born in Serpentine, the reports are very similar. Where they differed were with respect to the risks.

Mr. BISHOP. So BLM did do some study about this, but you rejected those recognitions of what the risk value is?

Mr. ROUNTREE. We deferred to EPA.

Mr. BISHOP. That is sad. Look, I understand what asbestos means. I taught school for 30 years across from the boy's restroom. I understand what it means to be close to it, and how you can cover for that.

I have one request, though, is that would you—obviously, the agency—please provide for the committee a map that shows where all the current OHV recreation roads and trails are located within this management area?

Mr. ROUNTREE. Absolutely.

Mr. BISHOP. When can we get that?

Mr. ROUNTREE. We will do that within the next week, Mr. Chairman.

Mr. BISHOP. Thank you. Because that has not been provided. We haven't had a chance to look at that.

Mr. Rountree, it has been a while since you had joined us. I do have a question that, obviously—several years ago there was a treasured landscape proposal that went out as people were just thinking off the top of their heads. Unfortunately, tomorrow, it seems like one of those thoughts that was just off the top of their heads will come into fruition—at least according to the press reports. Talking about Organ Mountain.

Press stories indicate that the claims were made by the sponsors in the Senate, that they could somehow increase border security. There are WSAs that are down there that currently prohibit that kind of activity. Do you have some way to release the WSAs administratively in that area so the border can be better patrolled?

Mr. ROUNTREE. No, sir, we do not. But it will take an Act of Congress to do so.

Mr. BISHOP. So the press indications that claim that this announcement will increase that security, there is no way of actually implementing that?

Mr. ROUNTREE. I haven't read the proclamation, sir, so not sure exactly what they are saying.

I will say we found that in Arizona, where we do have a number of national conservation lands, that the efforts along the border have actually been enhanced because of the attention that has been focused in these areas. And the close working relationship that we have developed with Border Patrol, in terms of managing these areas for illegal immigration.

Mr. BISHOP. Has that improved since the CBO report came out?

Mr. ROUNTREE. I am not sure what the CBO report is. I am sorry.

Mr. BISHOP. We will come back to that, then.

Can you tell me the timeline on the activities leading to the pending Organ monument announcement? When did BLM start working on this potential designation?

Mr. ROUNTREE. BLM has not been working on a potential designation.

Mr. BISHOP. Even though it was part of the treasured landscapes proposal several years ago?

Mr. ROUNTREE. That is correct.

Mr. BISHOP. So you have done nothing specifically with the Administration on this?

Mr. ROUNTREE. No, sir.

Mr. BISHOP. Do you know of any special interest groups that have?

Mr. ROUNTREE. I don't know of any special interest groups. I will say that there have been people that have met with the Bureau of Land Management to express their concerns, also to express their support for this and other areas.

Mr. BISHOP. Was the congressman who represents this area and has introduced legislation to conserve the area kept informed on each of the steps along the way?

Mr. ROUNTREE. No, sir, not that I am aware.

Mr. BISHOP. So, if you haven't been consulted on the designation, how can the Administration be sure that all the issues that deal with 500,000 acres of BLM land have been reviewed and concerned, especially because the sponsors had specific provisions in there dealing with WSAs. They are obviously not going to be part of the announcement. They don't have the power to change that, administratively. How are those issues being addressed?

Mr. ROUNTREE. We have not seen a proclamation, Mr. Chairman. We will certainly work with the President once we have had a chance to review the proclamation, to work out whatever steps are necessary to—

Mr. BISHOP. With what authority?

Mr. ROUNTREE. The proclamation.

Mr. BISHOP. How can you work with the President to deal with things that can't be done without congressional authorization?

Mr. ROUNTREE. Well, we will do everything we can within our power, working within the wilderness study areas, to assure that we provide whatever resources we can to make that happen.

Mr. BISHOP. Wouldn't that have been better to be done in a public process, before the announcement is made, rather than a post-process?

Mr. ROUNTREE. Well, I can't second-guess the President, Mr. Chairman.

Mr. BISHOP. Why not? Everyone else does.

[Laughter.]

Mr. BISHOP. But, actually, you are not second-guessing it, because the Interior Department already came out with this brainstorming idea when you did the treasured landscapes.

So, you are telling me after the brainstorming went through nothing else was done to consider all these potential issues?

Mr. ROUNTREE. No, sir.

Mr. BISHOP. The Senate actually introduced a bill that contained probably areas that could be worked on to improve the process, to improve the safety on the border, and yet none of those are being considered, and the President hasn't gone through that, he hasn't talked to you, he hasn't talked to anyone else about it, he hasn't talked to the Representative who represents this particular area. We are just going to do it?

Mr. ROUNTREE. Has not talked to us. No, sir.

Mr. BISHOP. Maybe that is one of the reasons why we said there should be a change in process, so that these issues should be discussed ahead of time, not post-that time.

Have you had the opportunity of being with us since the last—I remember the last time we were here we asked you some questions about the wild land legislation. Have you been here since that time?

Mr. ROUNTREE. I have not.

Mr. BISHOP. OK. Mr. Grijalva, do you have any other questions you want of this witness?

Mr. GRIJALVA. No.

Mr. BISHOP. Come on. I gave you an opening.

[Laughter.]

Mr. GRIJALVA. No.

Mr. BISHOP. It is—no, I didn't mean to push you into it, it is OK.

Mr. GRIJALVA. No, I just want to thank him for his—

Mr. BISHOP. Appreciate you being here. We appreciate all—now, do we know where—all right. What we will do—and I hate to do this when somebody has traveled this way to give us testimony, and not being able to do that, but, Mr. LaMalfa, maybe you can help me out of this awkward situation.

Mr. LAMALFA. Well, I was kind of curious about this naturally occurring asbestos phenomenon. How much bearing does this have on not just this, but other land use decisions in other areas around—whether it is BLM or other Federal lands, what have you? Because I am curious. How much does this curtail activity, whether it is recreational, like we are talking about here, or other industry resource activities that would be going on?

Because, you know, again, it is a naturally occurring substance. And so how much of this goes on?

Mr. ROUNTREE. Well, in this particular situation or across all public lands? Is your question about this specific—

Mr. LAMALFA. Well, how much prohibition is there for the use of other public lands because of this? Is this a new thing, or is this—

Mr. ROUNTREE. This is a very unique occurrence. I think it is the largest serpentine deposit in the world, if I am not mistaken. So it is very rare. We have actually designated an Area of Critical Environmental Concern, which we do in our resource management planning, usually to protect cultural or native plant species and animal habitat. But we also do it in order to protect public health. And this is one of the few instances where we have done that.

Mr. LAMALFA. So is there a parts per million figure that this has to rise to? Or what is the criteria in establishing—

Mr. ROUNTREE. I would have to defer to EPA, but would be happy to give you that information, if you would like.

Mr. LAMALFA. Do you have it, then, or—

Mr. ROUNTREE. I do not. No, sir. But we can get it for you.

Mr. LAMALFA. EPA has these numbers.

Mr. ROUNTREE. Yes, sir.

Mr. LAMALFA. And how much time have they spent studying this zone, or others like it?

Mr. ROUNTREE. They studied this one for about 4 years. They started their efforts in 2004, and they completed it in 2008.

Mr. LAMALFA. What prompted the study?

Mr. ROUNTREE. The Atlas Mine site that was located within the Serpentine ACEC.

Mr. LAMALFA. How far away is it from the site we are talking about?

Mr. ROUNTREE. It is on the site.

Mr. LAMALFA. I mean as far as recreation activity would be going on.

Mr. ROUNTREE. Probably in and around the same area.

Mr. LAMALFA. OK. All right. Thank you, Mr. Chairman. I yield back.

Mr. BISHOP. Thank you. I appreciate that. And we stretched this long enough.

Mr. Koretoff—is that pronounced properly?

Mr. KORETOFF. Yes, sir. Thank you.

Mr. BISHOP. I appreciate you coming from California. The Ranking Member will understand. I understand you got held up in Dallas?

Mr. GRIJALVA. Yes, that was—

Mr. KORETOFF. Unfortunately, yes.

Mr. BISHOP. I think the Ranking Member was with you in Dallas, trying to get in here.

So, we apologize. I appreciate your patience and effort to actually make it here. You are the last witness we have. We are ready to have your testimony on H.R. 1776, please.

Mr. KORETOFF. Yes. I am going to go ahead and read from my written testimony.

Mr. BISHOP. Is your microphone on?

Mr. KORETOFF. Yes, sorry.

Mr. BISHOP. Yes, just pull it close to you.

Mr. KORETOFF. Us farm folks are used to yelling over the tractor.

#### **STATEMENT OF STEVE KORETOFF, CALIFORNIA TRAIL USERS ASSOCIATION**

Mr. KORETOFF. So, anyway, Mr. Chairman and members of the committee, I appreciate the opportunity to appear before you today to share my views, the views of the Friends of Clear Creek Management Area, and the views of other multiple-use interests about this bipartisan land use legislation. My name is Steve Koretoff, I am a native of Fresno County, located in the heart of the Central Valley. My family has been farming in this area going on five generations. I am the general manager for the family's organic almond packing facility. I currently reside in Fresno, California. I am a recreation and public land advocate who has championed responsible access to public lands for the last 10 years.

I served on the BLM Central California Resource Advisory Council, which brings diverse interest groups together to offer land management advice to BLM. In addition, I have served as the Chairman of the OHV Subcommittee to the RAC, and I am currently still the chairman. There is a little typo there. It says 2009 to 2013, and that is incorrect. It was 2006 to 2013. I have served

out a significant portion of one of my colleague's terms, and then two terms on top of that of my own.

So, I will proceed. Mr. Chairman, before getting into the substance of my concerns, I want to give the committee a quick overview of CCMA. In 2002, Dirt Rider Magazine listed Clear Creek as one of the top 10 OHV recreation sites in the country. It is located mostly in the southern San Benito County, and in the Coastal Mountain Range that separates the Salinas Valley from the Central Valley.

As this committee knows, the BLM functionally closed this 75,000-acre unit to all user groups in May 2008. Before the emergency closure, the unit was open for OHV use on approximately 242 miles of designated routes from October 16 to May 31. This unit also contains approximately 25 miles of county roads.

I have operated OHVs with family and friends, and club members in CCMA since the early 1990s. Many of our family and friends have been recreating in and around CCMA for over three generations. I consider many BLM employees on various units to be both personal friends and professional colleagues.

I, and others in the OHV community, additional stakeholders, and the San Benito County found ourselves in strong disagreement with the Hollister Field Office's initial decision to issue an emergency closure order in May 2008. I was actually notified of this on—leaving Washington, DC. I was here for some Ag-related business and kind of had a bomb dropped on me. I got a phone call from the Hollister Field Office and I was really surprised.

So I will continue. Issued an emergency closure order in May 2008 and its recent 2014 Record of Decision, which basically codifies that initial order and renders the unit functionally closed to OHV recreation.

I believe H.R. 1776 strikes the right balance between access and safety by relying on proven management as signs and public outreach currently being used by sister land management agencies to caution the recreation public about the life-threatening hazards of rock climbing, snow skiing, swimming, and boating.

Between 1981 and 2007, OHV recreationists through the California off-highway motor vehicle recreation grants program contributed approximately \$7 million dollars to CCMA for trail and facility construction, route maintenance, resource protection, and law enforcement. No doubt, during that time period, millions of dollars of appropriated funds has also been spent to manage multiple-use recreation on that unit.

I believe H.R. 1776 recognizes the investment of taxpayer dollars and users fees restoring OHV recreation on the unit using the NEPA-approved 2005 Clear Creek Management Area Travel Management Plan. I believe that H.R. 1776 recognizes that CCMA should be open for public use.

I urge Congress to support this bipartisan legislation that designates 70,000-acre CCMA as a national recreation area with OHV recreation and other multiple-use recreation activities codified and protected in statute, including the 242 miles of routes and 400 acres of open areas identified for motorized use in the 2005 CCMA Travel Management Plan.

On behalf of myself, the OHV community, and other access stakeholders, I thank the subcommittee for allowing me to testify on H.R. 1776. At this time, I would be happy to answer any questions.

[The prepared statement of Mr. Koretoff follows:]

PREPARED STATEMENT OF STEVE KORETOFF, CALIFORNIA TRAIL USERS ASSOCIATION

*Statement in support of legislation to designate certain lands in Central California as the Clear Creek National Recreation Area (H.R. 1776)*

Mr. Chairman and members of the committee, I appreciate the opportunity to appear before you today to share my views, the views of the Friends of the Clear Creek Management Area, and views of other multiple-use interests about this bipartisan land use legislation.

My name is Steve Koretoff. I am a native of Fresno County, located in the heart of the Central Valley of California. My family has been farming in this area going on five generations. I am the general manager for the family's organic almond packing facility. I currently reside with my family in Fresno, California. I am a recreation and public land advocate who has championed responsible access to public lands for the last 10 years.

I served on the BLM's Central California Resource Advisory County (2009–2013) which brings diverse interest groups together to offer land management advice to the BLM. In addition, I have served as Chairman of the OHV Sub-committee to the RAC.

Mr. Chairman, before getting into the substance of my concerns, I want to give the committee a quick overview of CCMA. In 2002, *Dirt Rider Magazine* listed Clear Creek as one of the top 10 OHV recreation sites in the country. It is located mostly in southern San Benito County in the Coastal Mountain Range that separates the Salinas Valley from the Central Valley. As this committee knows, the BLM functionally closed this 75,000 acre unit to all user groups in May 2008. Before the emergency closure, the unit was open for OHV use on approximately 242 miles of designated routes from October 16 to May 31. This unit also contains approximately 25 miles of county roads.

I have operated OHVs with family, friends, and club members in CCMA since the early 1990s. Many of our family and friends have been recreating in and around CCMA for three generations. I consider many BLM employees on various units to be both personal friends and professional colleagues.

I and others in the OHV community, additional stakeholders, and San Benito County found ourselves in strong disagreement with the Hollister Field Office's initial decision to issue an emergency closure order in May 2008 and its recent 2014 Record of Decision which basically codifies that initial order and renders the unit functionally closed to OHV recreation.

I believe H.R. 1776 strikes the right balance between access and safety by relying on proven management as signs and public outreach currently being used by sister land management agencies to caution the recreation public about the life threatening hazards of rock climbing, snow skiing, swimming, and boating.

Between 1981 and 2007, OHV recreationists through the California OHMVR grants program contributed approximately \$7 million dollars to CCMA for trail and facility construction, route maintenance, resource protection, and law enforcement. No doubt during that time period, millions of dollars of appropriated funds has also been spent to manage multiple-use recreation on that unit.

I believe H.R. 1776 recognizes that investment of taxpayer dollars and user fees by restoring OHV recreation on the unit using the NEPA approved 2005 CCMA Travel Management Plan.

I believe that H.R. 1776 recognizes that that CCMA should be open for public use.

I urge Congress to support this bipartisan legislation that designates the 70,000-acre CCMA as a National Recreation Area with OHV recreation and other multiple-use recreational activities codified and protected in statute including the 242 miles of routes and 400 acres of open areas identified for motorized use in the 2005 CCMA Travel Management Plan.

On behalf of myself, the OHV community, and other access stakeholders, I thank the subcommittee for allowing me to testify on H.R. 1776.

At this time, I would be happy to answer any questions.

Mr. BISHOP. Thank you. Mr. LaMalfa, do you have any questions for this witness?

Mr. LAMALFA. Yes, thank you. Well, we all know what a struggle it is to have off-road lands available to people in the hobby, in the sport. And so I am sure you run into a lot of that frustration, yes?

Mr. KORETOFF. Yes.

Mr. LAMALFA. Yes. Money that is promised to go toward that ends up going to something else.

Mr. KORETOFF. Yes.

Mr. LAMALFA. Goes to environmental concerns, or this or that. A lot of that we see, right?

Mr. KORETOFF. Yes.

Mr. LAMALFA. So, with this proposal here, for this particular area, you are hearing about how asbestos is going to harm everybody that uses that. I mean how do we deal with that?

And, by the way, I am on your side, conceptually, on this thing. But, you know, you are going to hear about how asbestos fibers are going to harm everyone. And so how do we answer that from your community side of it?

Mr. KORETOFF. We find it quite interesting that BLM is using OSHA standards for the employees. However, they are using a much more stringent EPA standard for the public, which is quite unusual. Normally, OSHA standard would be much—

Mr. LAMALFA. So an OSHA standard might be used for somebody that is working there every day, 8 hours a day, 10 hours a day, whatever, with forestry or mining or whatever industry they might be in. Someone who is there all the time, versus somebody who is there occasionally, recreating on a dirt bike or what have you for a few hours on a weekend, three or four weekends a year. Is that kind of what you are paralleling there, sir?

Mr. KORETOFF. Yes, I am paralleling the lack of exposure time by the recreational community, but also it seems that the public standard, or the risk analysis, is the public is being held to a much higher level. So, therefore, what EPA is stating is that the public, for whatever reason, cannot be exposed to the naturally—occurrences of asbestos minerals as the employees. And I find that a little perplexing.

I have done a considerable amount of research over the last 8 years. And the methodology that is used to determine the risk is considered very controversial. I can supply you gentlemen with some scientific analysis that states that EPA is over-estimating the risk by a substantial amount. And not only does it say that, but it states scientifically why they feel that way.

So, one of the issues that the public had—and primarily the off-road community—was asking where is the physical evidence to back up the EPA risk analysis. And there is none.

Mr. LAMALFA. OK. Thank you. I am sorry about the interruption there as we were—

Mr. KORETOFF. No, I understand. I came late—

Mr. LAMALFA [presiding]. Chairman Bishop did have another hearing, and so I had to take over for a moment. I will follow up here in a minute, but I would offer to Mr. Grijalva if you have any questions, sir.

Mr. GRIJALVA. Thank you, Mr. Chairman. No question for the witness that just provided the testimony. Thank you very much for making it, despite the wonderful stay in Dallas. Should compare notes.

Mr. KORETOFF. Dallas is a wonderful place, by the way, I just didn't want to get stuck there when I needed to be here.

Mr. GRIJALVA. Well, I——

Mr. KORETOFF. So no disrespect to the people of Texas or Dallas.

Mr. GRIJALVA. I won't go as far.

[Laughter.]

Mr. GRIJALVA. But anyway, I was going to—Mr. Rountree, to your knowledge, has this committee moved either the Senate or House proposal related to designating areas around Organ Mountain as a national monument?

Mr. ROUNTREE. I am sorry. I didn't understand your question, Mr. Grijalva.

Mr. GRIJALVA. There are proposals in the Senate and the House to designate areas around Organ Mountain as a monument, a legislative—have you seen——

Mr. ROUNTREE. The only thing I have seen has been the legislation that was introduced and that I testified on when I was before this committee last year.

Mr. GRIJALVA. Great. Do you—does the BLM have any authority to make a monument designation?

Mr. ROUNTREE. No, sir. Only Congress or the President.

Mr. GRIJALVA. Do you believe that the White House coordinated with the Department of the Interior to gather information related to this monument designation?

Mr. ROUNTREE. I would have to defer to the White House, Mr. Grijalva.

Mr. GRIJALVA. Thank you. With that, I have no further questions. And thank you.

Mr. LAMALFA. OK. Thank you again. So I say it properly, is it Koretoff?

Mr. KORETOFF. Yes.

Mr. LAMALFA. Koretoff. OK, thank you. Mr. Koretoff, do you feel that the OHV user comments were adequately considered in a decision like this?

Mr. KORETOFF. No.

Mr. LAMALFA. How long have you been recreating there yourself, have you and your family?

Mr. KORETOFF. I started recreating there in 1992.

Mr. LAMALFA. 1992. How do you feel?

Mr. KORETOFF. I feel pretty good.

Mr. LAMALFA. OK.

Mr. KORETOFF. Actually, I am a little bit depressed, because I can't ride on my favorite riding——

Mr. LAMALFA. Yes, yes, OK. Well, all right. Yearning to breathe free there.

So, to follow up on the previous thoughts—in your review, you think there is a double standard between EPA using one standard for off-roaders and OSHA has another for, say, professional industrial activity there. Right?

Mr. KORETOFF. Yes. It is a little bit confusing that BLM, for the Hollister Field Office staff, is using the OSHA guidelines. However, when it comes to the public, it is the EPA guidelines that are being used. So you don't have similarities in that.

One of the risk assessments is holding the public to a much higher standard and it is a much lower threshold.

Mr. LAMALFA. OK. Well, Mr. Rountree promised he would supply us some of the EPA information for me and maybe other members of the committee on how they got there. Do you think that will shed much light on why there are two different standards, Mr. Rountree?

Mr. ROUNTREE. I don't know, sir. I will say that if the committee is interested, we have very, very stringent standard operating procedures for our employees out on the Serpentine ACEC, and I would be happy to provide those to the committee to give them a little better understanding of the efforts we take to ensure the safety of our employees.

Mr. LAMALFA. Again, how many other areas do you know of around—do you know of other areas around the country where a naturally occurring asbestos phenomenon is causing people to not have access to lands?

Mr. ROUNTREE. No, sir, not to my knowledge.

Mr. LAMALFA. This is it.

Mr. ROUNTREE. This is it, mm-hmm.

Mr. LAMALFA. Do you see—

Mr. ROUNTREE. As far as the serpentine asbestos issue is concerned.

Mr. LAMALFA [continuing]. Do you see more on the horizon?

Mr. ROUNTREE. I—

Mr. LAMALFA. Is EPA studying more of this, or your Department studying more of this?

Mr. ROUNTREE. I have no idea. I would have to defer to EPA on that.

Mr. LAMALFA. OK. Would you get that in the information you are going to supply the committee, too, please?

Mr. ROUNTREE. Absolutely.

Mr. LAMALFA. OK. Well, sir, you came, again, a long way. You got held up in Dallas. I thought that just happened 150 years ago, but—would you have any more you would like to close with, since you did make the travel and the time here, on any area of this topic? I would like to offer that to you.

Mr. KORETOFF. Yes. If I may just very briefly, I appreciate the ability that I have had to work with the Hollister Field Office and the State office. I have also been very appreciative of the former directors in the past that have always been willing to meet with me when I come to Washington, DC. I was hoping that that would continue with the current director. But, unfortunately, I was unable to get him to respond to my emails or my phone calls.

In closing, what I would like to say is that San Benito County, which is the home of one of the largest asbestos mines in the western United States, just happens to have the third-lowest occurrence of asbestos-related disease in the whole State of California. This is why my colleagues and myself are a little bit perplexed. We see

that there are scientific experts that disagree with the EPA analysis. There is a lack of physical evidence. And our question is why.

So, in closing, we would like a few more answers on that. But, at the same time, I would also like to convey my interest in continuing to work with the agency in some way or shape or form, finding some way to move forward. It is my hope that the legislation will pass. But, at the same time, we want to continue having a good working relationship with the agency. And I would like to convey that to Mr. Rountree at this time.

And we, in the meantime, while we are waiting for that, it was voted unanimously by the Resource Advisory Council to BLM that areas outside of the ACEC, which is the Area of Critical Environmental Concern, which are not under the closure be made available to motorized recreation.

And a final comment is the Atlas superfund, that area is in a remote part of Clear Creek Management Area, and is completely fenced and closed. There is no access into the former mine area. I really thank you for this time and this opportunity to be here. It is truly an honor, and it has been a humbling experience. And I thank you.

Mr. LAMALFA. You are welcome. Mr. Grijalva?

Mr. GRIJALVA. No, I will just put it in writing. Thank you, Mr. Chairman.

Mr. LAMALFA. OK. All right. Thank you again for your travel, Mr. Rountree. We look for those answers from EPA and others related to that.

And, Mr. Koretoff, if you would like to submit to the committee some of your frustration with not getting your questions or your emails—response from agencies on that, direct them to us, please, to be able to look over and perhaps help you with that. OK?

Mr. KORETOFF. Yes.

Mr. LAMALFA. All right—

Mr. KORETOFF. Would it be acceptable for me to forward some of the scientific opinions and things that I have that I have based my opinion on?

Mr. LAMALFA. Of course. Please do.

Mr. KORETOFF. OK, thank you.

Mr. LAMALFA. OK. All right. With that, Members, we—no further questions or even committee members, thank you, the witnesses, again, for your travel. And I will ask that they respond in writing to all the questions submitted by subcommittee. There being no further business, without objection, the subcommittee stands adjourned.

[Whereupon, at 11:00 a.m., the subcommittee was adjourned.]

[ADDITIONAL MATERIALS SUBMITTED FOR THE RECORD]

PREPARED STATEMENT OF HON. SAM FARR, A REPRESENTATIVE IN CONGRESS FROM  
THE STATE OF CALIFORNIA

H.R. 1776, THE CLEAR CREEK NATIONAL RECREATION AREA  
AND CONSERVATION ACT

Mr. Chairman, members of the subcommittee, thank you for this opportunity to speak to you about H.R. 1776, the Clear Creek National Recreation Area and Conservation Act. I also want to thank our colleagues Mr. Valadao and Mr. Denham

for joining me as original cosponsors of this legislation, as well as, Mr. McClintock as a cosponsor. This bill truly represents a bipartisan collaboration and I am proud to have them join me in working to advance this modest bill.

H.R. 1776 protects and enhances in three ways the public's access to and enjoyment of some of the unique public lands managed by the Bureau of Land Management (BLM) in central California. First, the bill re-designates the Clear Creek Management Area (CCMA) as the Clear Creek National Recreation Area (CCNRA) and reopens it to off road vehicle (OHV) recreation. Second, the bill designates the adjacent Joaquin Rocks landscape as wilderness and finally designates five BLM identified streams in the area as National Wild & Scenic Rivers.

These actions together encapsulate the efforts of both the OHV community and California's wilderness advocates and ensures that this legislation has a broad base of support from the community and local electeds. I would now like to take the opportunity to describe these three facets of the bill in more detail.

#### CLEAR CREEK

The Clear Creek stream gives its name to approximately 65,000 acres of mountainous land managed by the BLM that lies in the Diablo Mountains between the coastal Salinas Valley and California's great inland Central Valley. Designated by the BLM as the CCMA, this area includes a significant concentration of serpentine rock at the surface which leaves many stretches of open barren slope ideally suited to OHV recreation. BLM recognized this and managed approximately 30,000 acres of the CCMA for public OHV recreational use. As OHV recreation grew in popularity through the 1960s, '70s, and '80s, Clear Creek became a haven for dirt bike enthusiasts and others drawn to its open spaces and challenging terrain. By 2005, annual use had grown to over 35,000 visitors, including hikers, campers, hunters, rock collectors, but primarily OHV users.

In 2008, the U.S. Environmental Protection Agency (EPA) released a study that concluded the naturally occurring asbestos prevalent in the CCMA's serpentine soils posed an unacceptable cancer risk to members of the public, especially OHV users, recreating within its boundaries. People familiar with the CCMA area had long understood that its serpentine rock contained uncommon concentrations of asbestos. Indeed, throughout the 1960s and '70s, the Atlas Asbestos Company operated an asbestos mine in the CCMA. In 1984, the BLM designated approximately 31,000 acres within the CCMA that had the highest concentrations of serpentine soils as the Clear Creek Serpentine Area of Critical Environmental Concern (ACEC).

In the years leading up to 2008, BLM increasingly had taken measures to minimize the recreating public's asbestos exposure. However, until the EPA's report, the BLM lacked any clear quantification of the risks associated with OHV use. With those risk numbers at hand, BLM leadership felt that it could no longer permit the OHV and other uses that it had up to that point. So on May 1, 2008, BLM issues a temporary closure order for the CCMA and initiated the National Environmental Policy Act (NEPA) process to reach a decision on a long term plan. In February of this year, the BLM completed that process with the release of its final Record of Decision for the CCMA. That decision allows limited public access to but makes permanent the 2008 ban on OHV use within the CCMA.

The 2008 closure sparked an intense outcry from the OHV community. Obviously, people resented losing access to one of the premier OHV locations in the western United States and one at which many of them had been riding at for years. The surrounding communities felt the loss of visitor income when people stopped traveling to Clear Creek. BLM's public meeting on the subject of the closure regularly drew hundreds of people. Many argued that the EPA's study over sampled the amount of asbestos an OHV user would typically be exposed to riding at Clear Creek. In 2011, the State of California Department of Parks and Recreation's Off-Highway Motor Vehicle Recreation Commission even sponsored an alternative analysis of EPA's data that concluded the health risk to OHV use in the CCMA was far less than that identified by EPA.

H.R. 1776 stands for the proposition that the Americans ought to have a greater degree of freedom in judging the risks that they can accept while recreating on our public lands. I have no doubt that riding a motorcycle at Clear Creek is risky and that riders face additional risks from asbestos exposure. And I do not question the good intentions of BLM's leadership in making the management decisions that they did in the face of the health risks outlined by EPA. It was an understandable reaction in today's risk adverse world. But should we banish all risk from public lands recreation? Hunting, skiing, rock climbing, mountaineering, diving, boating, surfing, kayaking, and any number of other outdoor sports pose risks. In some cases, people lose their lives or suffer serious injury while engaged in one of these recreational

activities. Provided the risk is not so overwhelming and the person recreating knows the nature and magnitude of the risk, the Federal Government ought not to substitute its own judgment in place of the individual knowingly taking on the risk.

H.R. 1776 establishes the CCMA as the Clear Creek National Recreation Area (CCNRA). It directs the BLM to reopen the CCNRA to OHV recreation. It provides for BLM to reuse its 2006 route plan developed prior to the 2008 shutdown on an interim basis while it develops a long term plan. Within these parameters, the bill provides BLM the broad discretion to implement measures to minimize the recreating public's exposure to asbestos. It also gives the BLM the authority to levy a recreational user fee and apply the proceeds to the management of OHV recreation at CCNRA and to contract with qualified State or local government agencies to manage all or a portion of the CCNRA's recreational activities. Finally, the bill requires an extensive public information effort to fully inform people recreating within the CCNRA of all known and suspected asbestos related health risks associated with recreation within the CCNRA.

#### JOAQUIN ROCKS WILDERNESS AND WILD AND SCENIC RIVERS DESIGNATION

Just to the east of the Clear Creek Management Area and wholly outside the traditional OHV riding areas lays a little known natural wonder called the Joaquin Rocks. H.R. 1776 would designate approximately 21,000 acres of this feature and the surrounding ridgeline as Federal wilderness all which is located entirely on Bureau of Land Management administered lands in the southern Diablo Range.

The area takes its name from the legendary Joaquin Murieta, believed by some to be a heroic figure in early California and an outlaw by others. The Joaquin Rocks are said to have provided a secluded hiding place for him and his band during the 1850s. The area also shows archeological evidence of past Native American occupation. Rising up over 4,000 feet from the valley floor, the striking Joaquin Rocks are the centerpiece of this remote area. These three scenic 250' tall monoliths are the eroded remnants of an ancient vaqueros sandstone formation.

The area features numerous rugged canyons. Oak woodlands cloak the numerous spur ridges that descend down to the valley. Vegetation in the area includes, blue oak, California juniper, grey pine, chaparral, and native grasslands. Due to the cooler climate provided by its elevation, the area delivers outstanding displays of native wildflowers well into summer. The steep cliffs of the Joaquin Rocks—and the numerous other towering sandstone formations found throughout the area—are host to species of falcons, hawks and owls. These formations could also provide potential nesting habitat for the California condor which has been reintroduced into the nearby Gavilan Range. One of the peaks of the Joaquin Rocks—La Centinela—hosts a unique vernal pool supporting fairy and tadpole shrimp.

H.R. 1776 also designates several streams outside the OHV riding area for National Wild and Scenic River Act protection. While the Clear Creek area receives very little rain, it boasts several year round and ephemeral streams. Its unique serpentine soils and unusual year-round flowing streams support numerous rare plants and sensitive wildlife species, while offering diverse outdoor recreation opportunities. As a result, the Bureau of Land Management (BLM) identified several streams in the area as eligible for National Wild & Scenic River protection. These include:

Larios Canyon—5.25 miles. Larios Canyon Creek possesses outstandingly remarkable historical and cultural values. Larios Canyon Creek also supports foothill yellow-legged frog (a BLM sensitive species), Idria short-tailed scorpion (a State-listed species at risk), and San Benito fritillary (a sensitive plant).

San Carlos Creek—5.51 miles. The East Fork supports several sensitive plants and its upper segment is located within the San Benito Mountain Research Natural Area and San Benito Wilderness Study Area.

Cantua Creek—7.68 miles. Cantua Creek supports several sensitive wildlife and plant species, including foothill yellow-legged frog, western pond turtle, two-striped gardner snake (a State species of special concern), and two sensitive plants—San Benito fritillary, and San Joaquin spearscale. It is also the second longest creek on public lands in the NRA.

Picacho Creek—2.65 miles. Picacho Creek possesses outstandingly remarkable recreational and ecological values. The creek supports foothill yellow-legged frog and two-striped gardner snake.

White Creek and Tributaries—10.11 miles. White Creek and its tributaries possess outstandingly remarkable historical and cultural values. The creek supports foothill yellow-legged frog and the San Benito evening primrose (a sensitive plant).

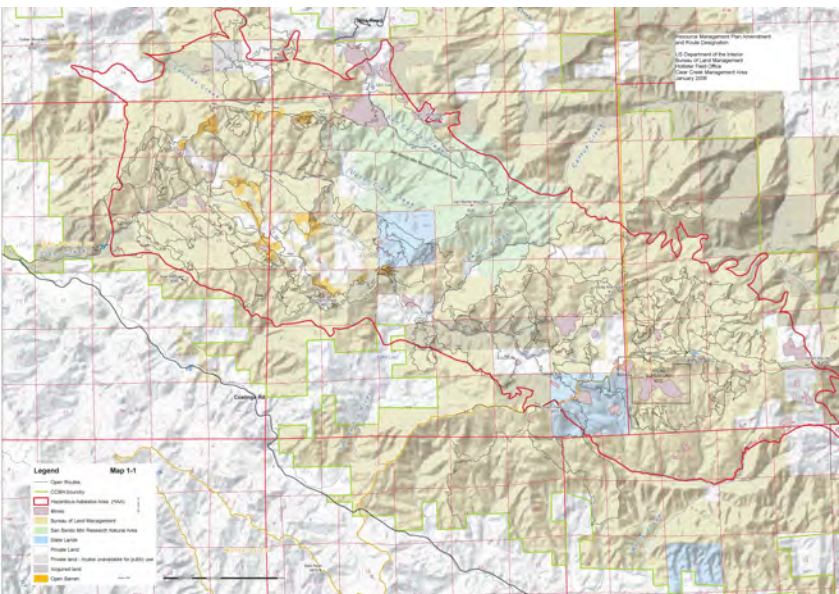
## CONCLUSION

Mr. Chairman, as the subcommittee moves forward to mark-up, I would like to request your assistance in making several changes to the bill. As with any piece of legislation, several suggested improvements have come to light since its introduction. Accordingly, I ask the subcommittee to accept the following amendments:

1. An updated date for the proposed Joaquin Rocks wilderness to accommodate a new map that reflects a revised wilderness boundary to accommodate a proposed OHV trail;
2. Additional language to remove the current wilderness study area status of the San Benito Mountain Wilderness Study Area; and
3. Additional language to clarify the bill's intention to maximize the feasible miles of OHV trail that the BLM would manage for OHV use within the boundaries of the newly designated Clear Creek national Recreation Area.

In closing Mr. Chairman, I want to recognize several people who have played an important role in shaping this legislation. Don Amador from the Blue Ribbon Coalition and Gordon Johnson from the California Wilderness Alliance are the odd couple of California public lands policy. Their collaboration provided the initial inspiration for this bill and helped resolve countless details over the course of its drafting. I also want to thank the BLM's local staff who has been extremely helpful and professional throughout this process. And finally I want to thank two constituents of mine who never let me forget how important Clear Creek was to them: Ed Tobin with the Salinas Ramblers Motorcycle Club is a tireless organizer who has kept the Clear Creek riding community focused on the public and political process; and Ron DeShazer, a forklift operator in Salinas and a long time Clear Creek rider, who has come to every one of my town hall meetings for the last 6 years to calmly ask for Congressional assistance to reopen Clear Creek to public OHV use.

MAP OF RESOURCE MANAGEMENT AMENDMENT AND ROUTE DESIGNATION SUBMITTED  
BY THE DEPARTMENT OF THE INTERIOR



## LETTERS SUBMITTED FOR THE RECORD OPPOSING H.R. 2175

ACLU,  
WASHINGTON, DC,  
MAY 19, 2014.

Hon. ROB BISHOP, *Chairman,*  
*House Subcommittee on Public Lands and Environmental Regulation,*  
*Washington, DC 20515.*

Hon. RAÚL GRIJALVA, *Ranking Member,*  
*House Subcommittee on Public Lands and Environmental Regulation,*  
*Washington, DC 20515.*

Re: ACLU Opposes H.R. 2175, World War II Memorial Prayer Act

DEAR CHAIRMAN BISHOP AND RANKING MEMBER GRIJALVA:

On behalf of the American Civil Liberties Union (ACLU), a non-partisan organization with more than a half million members, countless additional activists and supporters, and 53 affiliates nationwide dedicated to the principles of individual liberty and justice embodied in the U.S. Constitution, we write to express our opposition to H.R. 2175, which would require that an inscription of President Franklin D. Roosevelt's D-Day prayer be added to the WWII Memorial.

This bill would detract from the stated purpose of the memorial—national unity.<sup>1</sup> Memorials are designed to bring our country together in a unified reflection of our past. H.R. 2175, however, endorses the false notion that all veterans are honored by a war memorial that includes a prayer given from a specific religious viewpoint.

Our nation is, and always has been, extraordinarily religiously diverse; this is one of our nation's great strengths. Department of Defense reports show that nearly one-third of all current members of the U.S. Armed Forces identify as non-Christian.<sup>2</sup> Likewise, many of our veterans and citizens come from a variety of religious backgrounds, or have no religious belief. Instead of being something that unites us as we remember the sacrifice of those who served, the inclusion of a prayer on the memorial is divisive: It “sends a strong message of . . . exclusion” to those who do not share the same religious beliefs.<sup>3</sup> The First Amendment affords special protections to freedom of religion. Because of these protections, each of us is free to believe, or not believe, according to the dictates of our conscience. These beliefs are too precious to be used for political purposes, as this bill would do.

The memorial “we see today, [which] was painstakingly arrived upon after years of public deliberations and spirited public debate,”<sup>4</sup> properly honors those who served. The World War II Memorial Commission and the American Battle Monuments Commission (ABMC) carefully chose the inscriptions that are integral to the memorial, which include quotes spanning from the beginning of U.S. involvement in the war following the attacks on Pearl Harbor to the war's end, and already include a quote from D-Day and two quotes from President Roosevelt.<sup>5</sup> These commissions thoroughly deliberated which inscriptions to include, selecting quotations that honor those who served and commemorate the events of World War II.<sup>6</sup> Not

<sup>1</sup>American Battle Monuments Commission (AMBC), National WWII Memorial, Facts, <http://www.wwiimemorial.com/default.asp?page=facts.asp&subpage=intro> (“Above all, the memorial stands as an important symbol of American national unity, a timeless reminder of the moral strength and awesome power that can flow when a free people are at once united and bonded together in a common and just cause.”).

<sup>2</sup>Religious Diversity in the U.S. Military, Military Leadership Diversity Comm’n, Issue Paper No. 22 (June 2010).

<sup>3</sup>See, e.g., *Trunk and Jewish War Veterans v. city of San Diego*, 629 F.3d 1099, 1124–25 (9th Cir. 2011), *cert. denied*, 567 U.S. (2012).

<sup>4</sup>Legislative Hearing on Misc. Parks Bills Before the Subcomm. on National Parks of the S. Comm. on Energy and Natural Resources, 113th Cong. (2013) (Statement for the Record from Stephanie Toothman, Associate Director, Cultural Resources, Partnerships, and Science, National Park Service, U.S. Department of the Interior) available at <http://www.nps.gov/legal/testimony/113th/S.%201044%20WWII%20Memorial%20Prayer%20Plaque%207-31-13%20final.pdf>.

<sup>5</sup>AMBC, National WWII Memorial Inscriptions, <http://wwiimemorial.com/archives/factsheets/inscriptions.htm>.

<sup>6</sup>National Parks Service, World War II Memorial Inscription Controversy available at <http://www.nps.gov/wwii/photosmultimedia/upload/WWII%20Memorial%20Inscription%20Controversy%20web.pdf>. This is not the first time that religion has generated controversy regarding inscriptions on the WWII Memorial. After the World War II Memorial Commission and the ABMC selected quotations to inscribe in the memorial, there was a “maliciously generated and widely distributed notion” that the phrase “so help us God” was removed from the quote selected from President Roosevelt’s address before a joint ses-

surprisingly, the ABMC and National Capital Memorial Advisory Commission, which was designated by Congress to consult on the design of the Memorial, have stated that “no additional elements should be inserted into this carefully designed Memorial.”<sup>7</sup>

Not only does this bill set a precedent to authorize congressional second-guessing of the thorough, deliberative process required to establish memorials and tamper with memorials that were constructed and dedicated years ago, but it is also written to sidestep the Commemorative Works Act’s provisions.<sup>8</sup> It would either override the authority established under the Act to approve the World War II Memorial’s design by adding an additional element nearly a decade after the memorial was dedicated or, if the prayer inscription is to be considered a new memorial, it would circumvent the Act’s stipulation that new memorials not “interfere with, or encroach on, an existing commemorative work.”<sup>9</sup>

The assertion that the World War II Memorial needs to be improved to provide “historical context to [the] memorial” and add “another layer of commemoration”<sup>10</sup> is simply not the case.

Please contact Legislative Representative Ian Thompson at (202) 715-0837 or [ithompson@aclu.org](mailto:ithompson@aclu.org) if you would like to discuss the ACLU’s opposition to H.R. 2175.

Sincerely,

LAURA W. MURPHY,  
*Director, Washington Legislative Office.*  
IAN S. THOMPSON,  
*Legislative Representative.*

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AMERICANS UNITED FOR SEPARATION OF CHURCH AND STATE,  
WASHINGTON, DC,  
MAY 16, 2013.

Hon. ROB BISHOP, *Chairman,*  
*House Subcommittee on Public Lands and Environmental Regulation,*  
*Washington, DC 20515.*

Hon. RAÚL GRIJALVA, *Ranking Member,*  
*House Subcommittee on Public Lands and Environmental Regulation,*  
*Washington, DC 20515.*

Re: H.R. 2175, “The World War II Memorial Prayer Act of 2013”

DEAR CHAIRMAN BISHOP AND RANKING MEMBER GRIJALVA:

We are writing to voice our opposition to H.R. 2175, “The World War II Memorial Prayer Act of 2013,” which calls for the installation of a plaque or inscription with a prayer at the World War II Memorial in the District of Columbia. Inserting this prayer onto the Memorial would run contrary to the Memorial’s goal of uniting Americans and defy the designers’ judgments, which were “painstakingly arrived upon after years of public deliberations and spirited public debate.”<sup>1</sup> The Memorial, as designed, is purposely short on words in order to evoke a powerful message of unity. And, in contrast to some of the rhetoric that has accompanied this debate, the monument already acknowledges that faith was important to many soldiers dur-

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sion of Congress following the Pearl Harbor attacks. In fact that phrase was never part of the speech at all and was, therefore, not omitted from the quotation. *Id.*

<sup>7</sup> Senate Hearing, Statement for the Record from National Park Service.

<sup>8</sup> Commemorative Works Act, 40 U.S.C. § 8901 *et seq.*

<sup>9</sup> 40 U.S.C. §§ 8904–05; see also Senate Hearing, Statement for the Record from National Park Service.

<sup>10</sup> 158 Cong. Rec. S3748 (June 6, 2012) (floor statement of Sen. Portman).

<sup>1</sup> Hearing on H.R. 1980, H.R. 2070, H.R. 2621, and H.R. 3155 Before the Subcomm. on National Parks, Forests and Public Lands of the H. Comm. on Natural Resources, 112th Congress (2011) (testimony of Robert Abbey, Director of the Bureau of Land Management); see also Hearing on S. 1044 by the Subcomm. on National Parks S. Comm. on Natural Resources, 113th Congress (2013) (statement of Stephanie Toothman, Associate Director, Cultural Resources, Partnerships, and Science, National Park Service, Department of the Interior) (“Toothman testimony”).

ing the war.<sup>2</sup> There is no need to take extraordinary steps to reopen the design of the Memorial to add a prayer.

*Inserting This Prayer Contradicts the Main Message of the Memorial—Unity*

One of the main themes of the World War II Memorial is unity: “The memorial serves as a timeless reminder of the moral strength and the awesome power of a free people united in a common and just cause.”<sup>3</sup> Adding a prayer to the completed Memorial, however, does not serve this theme. Instead, it introduces an element to the design on which many Americans disagree—religion. America’s military, like the Nation itself, is extraordinarily religiously diverse. Our veterans, like our currently serving troops, come from many different religious traditions and some follow no spiritual path at all. Adding a prayer that represents some—but not all—veterans and members of the military defies the theme of unity and leaves many unrepresented.

*The Bill Defies the Judgments of the Monument’s Designers*

In adherence to the Commemorative Works Act (CWA), the original design process included “more than two dozen public reviews,” and “numerous informal design review sessions with members of the evaluation board and design competition jury.”<sup>4</sup> The monument’s designers called for “Fewer Words—Less Inscriptions,” and “decided to reduce the number of inscription locations from 25 to 20 and to emphasize evocative quotations from World War II participants—including Roosevelt, Truman, Marshall, Eisenhower, MacArthur, and Nimitz.”<sup>5</sup> But H.R. 2175 calls for yet another inscription, clearly running counter to this goal, design, and aesthetic.

Indeed, the National Capital Memorial Advisory Commission (NCMAC) “reviewed a proposal similar to the one before the committee today at its meeting on September 14, 2011, and determined that no additional elements should be inserted into this carefully designed memorial.”<sup>6</sup> The American Battle Monuments Commission (ABMC), which Congress charged with designing and building the World War II Memorial, agreed with this decision.<sup>7</sup>

H.R. 2175 appears to call for the design of the new inscription or plaque to go through the CWA process, but it actually “requires a different method of designing and locating the plaque or inscription than is provided in the CWA.”<sup>8</sup> Nonetheless, calling for the plaque to go through the CWA process does not undo the fact that the Memorial’s design is being reopened and altered, or that the painstaking decisions made in the original CWA process are being overruled. The bill dictates that a specific inscription be added. Even if the exact location and the font of the inscription will be reviewed under the CWA, it does not cure the fact that the insertion of the plaque violates the original design process and, at a minimum, the spirit of the CWA.

*Such Meddling With the Design of a Memorial Is Nearly Unprecedented*

Redesigning critical aspects of a Memorial more than a decade after its dedication is nearly unprecedented. Congress did add an inscription at the Lincoln Memorial to commemorate Martin Luther King Jr.’s “I Have a Dream Speech” and added a plaque near the visitor center of the World War II Memorial to thank Former Senator Bob Dole for his “tireless support of” the Memorial. But these plaques are wholly different. Neither the King nor the Dole plaque changed the content and message of the memorial to which they were added: they did not alter, remove, or add language, images, or emblems relating to the honoring of President Lincoln or World War II veterans. Neither second-guessed the designers, historians, architects, or public input regarding the best way to honor Lincoln or veterans at the memorials. Instead, they left the memorials intact.

The plaque added at the Lincoln Memorial merely commemorated that spot as the site for an important historical event. In just a few words, the inscription commemorated Martin Luther King, Jr.’s speech: the inscription includes the words “I HAVE

<sup>2</sup>The monument quotes Walter Lord: “Even against the greatest of odds, there is something in the Human Spirit—a magic blend of skill, faith, and valor—that can lift men from certain defeat to incredible victory.” Thomas B. Grooms, U.S. General Services Administration’s Design Excellence Program in the Office of the Chief Architect, *World War II Memorial Online Book* 97 (2004), [http://www.wwiimemorialfriends.org/images/docs/WWII\\_Memorial\\_Book\\_Completed.pdf](http://www.wwiimemorialfriends.org/images/docs/WWII_Memorial_Book_Completed.pdf) (emphasis added).

<sup>3</sup>*Id.* at 25.

<sup>4</sup>*Id.* at 65.

<sup>5</sup>*Id.* at 76, 79.

<sup>6</sup>Toothman testimony, *supra*, note 1.

<sup>7</sup>*Id.*

<sup>8</sup>*Id.*

A DREAM,” and acknowledges the speaker, the event, and the date. It does not add, detract, or change any aspects of the monument that reflect upon Lincoln.

The plaque honoring Bob Dole also does not change any reflections upon World War II. It was not even embedded into the World War II Memorial. Instead, it was placed at the Memorial’s visitor center, approximately 25 yards away from the World War II Memorial itself. Indeed, you must turn away from the Memorial to even see the plaque.

Inserting the prayer at the World War II Memorial, in contrast, would alter the content of the memorial and the message of the monument itself.

It is true that “each visitor views the memorial through their own experience, which sometimes results in their questioning aspects of the design.”<sup>9</sup> Since the Memorial’s dedication, soldiers have requested amendments to add the Battles of Cassino, Bougainville, and New Georgia; asked for changes to recognize the Canal Zone; and advocated for the inclusion of campaign ribbons.<sup>10</sup> These requests were denied.<sup>11</sup> Indeed, this questioning, no matter how heartfelt, should not reopen the design process. As explained in a letter written in 2006 by the American Battle Monuments Commission, “The government agencies for the design of the memorial . . . consider it complete, recognizing that the full story can never be captured in a memorial.”<sup>12</sup>

For all of the above reasons and more, we oppose the passage of H.R. 2175.

Sincerely,

MAGGIE GARRETT,  
*Legislative Director.*

MAY 16, 2013.

Hon. ROB BISHOP, *Chairman,*  
*House Subcommittee on Public Lands and Environmental Regulation,*  
*Washington, DC 20515.*

Hon. RAÚL GRIJALVA, *Ranking Member,*  
*House Subcommittee on Public Lands and Environmental Regulation,*  
*Washington, DC 20515.*

DEAR CHAIRMAN BISHOP AND RANKING MEMBER GRIJALVA:

We, the undersigned organizations, write to express our concerns about H.R. 2175, the “World War II Memorial Prayer Act of 2013.” This bill would require the Secretary of the Interior to add an inscription of President Franklin D. Roosevelt’s D-Day prayer to the WWII Memorial.

Religious freedom is a fundamental and defining feature of our national character. Given our robust, longstanding commitment to the freedom of religion and belief, it is no surprise that the United States is among the most religious, and religiously diverse, nations in the world. Our religious diversity is one of our Nation’s great strengths.

This bill, however, shows a lack of respect for this great diversity. It endorses the false notion that all veterans will be honored by a war memorial that includes a prayer that proponents characterize as reflecting our country’s “Judeo-Christian heritage and values.”<sup>1</sup> In fact, Department of Defense reports show that nearly one-third of all current members of the U.S. Armed Forces identify as non-Christian.<sup>2</sup> Likewise, many of our veterans and citizens come from a variety of religious back-

<sup>9</sup>Letters from Michael G. Conley, Director of Public Affairs, The American Battle Monuments Commission, Complaint letters to The American Battle Monuments Commission (ABMC) from the public and/or Members of Congress concerning battle monuments 3, [http://www.governmentattic.org/docs/ABMC\\_ComplaintLetters\\_2006-7.pdf](http://www.governmentattic.org/docs/ABMC_ComplaintLetters_2006-7.pdf).

<sup>10</sup>*Id.* at 4, 25, 39, 51–52.

<sup>11</sup>*Id.* at 3, 25, 38, 50, 71–73.

<sup>12</sup>*Id.* at 3.

<sup>1</sup>See Misc. National Parks Bills Hearing Before the Subcomm. on National Parks of the S. Comm. Energy & Natural Resources, 112th Cong. (2012) (Statement of Senator Rob Portman) available at <http://www.energy.senate.gov/public/index.cfm/hearings-and-business-meetings?ID=a64e4f88-18d3-4489-96a0-b1a89b2b51e6> (86:15).

<sup>2</sup>Religious Diversity in the U.S. Military, Military Leadership Diversity Comm’n, Issue Paper No. 22 (June 2010).

grounds, or have no religious belief; thus, it is inappropriate to honor the “power of prayer”<sup>3</sup> in a national memorial.

Memorials are designed to bring our country together in a unified reflection of our past. Indeed, the WWII Memorial’s stated purpose is national unity.<sup>4</sup> Instead of uniting us as we remember the sacrifice of those who served, the inclusion of this prayer on the memorial would be divisive: It would send a strong message to those who do not share the same religious beliefs expressed in this prayer that they are excluded and “not full members of the . . . community.”<sup>5</sup>

The memorial, as it currently stands, appropriately honors those who served and encompasses the entirety of the war. The World War II Memorial Commission and the American Battle Monuments Commission (ABMC) carefully chose the inscriptions already included on the memorial. The inscriptions contain quotes spanning from the beginning of U.S. involvement in the war following the attacks on Pearl Harbor to the war’s end, and already include a quote about D-Day and two quotes from President Roosevelt.<sup>6</sup> These commissions thoroughly deliberated which inscriptions to include, selecting quotations that honor those who served and commemorate the events of World War II.<sup>7</sup> As the National Park Service explained at the subcommittee hearing, “The design we see today was painstakingly arrived upon after years of public deliberations and spirited public debate.”<sup>8</sup> The ABMC and National Capital Memorial Advisory Commission, which was designated by Congress to consult on the design of the Memorial, have stated that “no additional elements should be inserted into this carefully designed Memorial.”<sup>9</sup>

The First Amendment affords special protections to freedom of religion. Because of these protections, each of us is free to believe, or not believe, according to the dictates of our conscience. The effect of this bill, however, is to co-opt religion for political purposes, which harms the beliefs of everyone.

Thank you for allowing us to share our concerns with H.R. 2175.

Sincerely,

AMERICAN CIVIL LIBERTIES UNION (ACLU)  
AMERICAN JEWISH COMMITTEE (AJC)  
AMERICANS UNITED FOR SEPARATION OF CHURCH AND STATE  
ANTI-DEFAMATION LEAGUE  
CENTER FOR INQUIRY  
HINDU AMERICAN FOUNDATION  
INTERFAITH ALLIANCE  
NATIONAL COUNCIL OF JEWISH WOMEN  
UNITED METHODIST CHURCH, GENERAL BOARD OF CHURCH AND SOCIETY

<sup>3</sup>Press Release, Sen. Rob Portman, Portman Renews Effort to Commemorate FDR’s D-Day Prayer with the Nation at the WWII Memorial (May 23, 2013), <http://www.portman.senate.gov/public/index.cfm/2013/5/portman-renews-effort-to-commemorate-fdr-s-d-day-prayer-with-the-nation-at-the-wwii-memorial>.

<sup>4</sup>American Battle Monuments Commission (AMBC), National WWII Memorial, Facts, <http://www.wwiimemorial.com/default.asp?page=facts.asp&subpage=intro> (“Above all, the memorial stands as an important symbol of American national unity, a timeless reminder of the moral strength and awesome power that can flow when a free people are at once united and bonded together in a common and just cause.”).

<sup>5</sup>*Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 309–10 (2000) (quoting *Lynch v. Donnelly*, 465, U.S. 668, 688 (O’Connor, J., concurring); see also, e.g., *Trunk and Jewish War Veterans v. City of San Diego*, 629 F.3d 1099, 1124–25 (9th Cir. 2011), cert. denied, 567 U.S. (2012).

<sup>6</sup>AMBC, National WWII Memorial Inscriptions, <http://www.wwiimemorial.com/archives/factsheets/inscriptions.htm>.

<sup>7</sup>National Parks Service, World War II Memorial Inscription Controversy, <http://www.nps.gov/wwii/photosmultimedia/upload/WWII%20Memorial%20Inscription%20Controversy%20web.pdf>.

<sup>8</sup>Legislative Hearing on Misc. Parks Bills Before the Subcomm. on National Parks of the S. Comm. on Energy and Natural Resources, 113th Cong. (2013) (Statement for the Record from Stephanie Toothman, Associate Director, Cultural Resources, Partnerships, and Science, National Park Service, U.S. Department of the Interior) available at <http://www.nps.gov/legal/testimony/113th/S.%201044%20WWII%20Memorial%20Prayer%20Plaque%207-31-13%20final.pdf>.

<sup>9</sup>*Id.*

[LIST OF DOCUMENTS SUBMITTED FOR THE RECORD RETAINED IN THE  
COMMITTEE'S OFFICIAL FILES]

—International Environmental Research Foundation, “Preliminary Analysis of the Asbestos Exposures Associated with Motorcycle Riding and Hiking in the Clear Creek Management Area (CCMA) San Benito County, California”, by Richard Wilson, John Kelse and GL Nord, RP Nolan and AM Langer, March 8, 2011, submitted by Wayne Allard

—Letters in support of H.R. 2489, “Oregon Caves Revitalization Act of 2013”, (total of 38) submitted by Rep. DeFazio:

**CAVE JUNCTION BUSINESSES**

- Cave Junction Family Medicine
- Oregon Caves Chevron
- Chiropractic Wellness Center LLC
- CJ Liquors
- Coffee Heaven
- Crossroads Animal Hospital
- Dennis Strayer, Ret. Federal Agency Visitor Center Manager
- Forest Edge Farms
- Illinois Valley Family Coalition
- Irene Guerrero-Acevedo, Farmers Insurance
- Judith Zulliger, Ret. Exec. Dir. Illinois Valley Family Resource Center
- Kaufman Wood Furniture
- Martell & Associates
- Northwest Hairlines
- Rachel Goodman, L.M.T.
- Renewable Energy Systems
- Rogue Natural Living
- Siskiyou Art
- Siskiyou Mountain Herbs
- Siskiyou Research Group
- Subway
- Suri Futures
- WaterCycle Inc

**GRANTS PASS BUSINESSES**

- Hair Art Thou
- Home Valley Bank
- The Kitchen Company
- Martin's Design & Print Studio

**KIRBY BUSINESSES**

- The Dovetail Joint
- Hampton's Rock Shop
- It's a Burl Gallery Woodyard Shop
- Yanase Jewelers

**SELMA BUSINESSES**

- Camp Forest
- Clear Creek Family Practice
- Dr. Dave Perry, retired professor of forest ecology

**OTHER**

- Steve Siewart, Horticultural Services (Ashland, OR)
- Bonanza Consulting (Bonanza, OR)
- Callahan Seeds (Central Point, OR)
- R.H. Ziller & Co. Inc (O'Brien, OR)

