

SR 56

EDT

Supplemental Testimony of Lee Stack on SR No. 56 and SCR No. 138

I am Lee Stack, the President of Chinatown Improvement District, a nonprofit corporation comprised of landowners and business owners in Honolulu's Chinatown. This testimony is submitted to supplement my testimony on SR 56 and SCR 138 submitted on March 22, 2010. I am writing to clarify our position on these resolutions and provide additional information supporting our position. We have polled our membership and surveyed other Chinatown land and business owners on S359 and H127, the companion U.S. Senate and House bills to establish a Hawaii National Capital Heritage Area. The majority of Chinatown's land owners and business owners knew little about this pending legislation. When the legislation and its ramifications were explained, the people who owned over one half of the private land in Chinatown requested that the Chinatown district be withdrawn from the proposed Heritage Area boundary map.

The Chinatown Improvement District would support SR 56 and SCR 138 with certain amendments. Of immediate concern in the proposed resolutions is the language in the last WHEREAS on page one and number (3) on page two: community concerns and issues need to be addressed PRIOR to the passage of national legislation---the management plan is started AFTER the passage of legislation. To suggest that any issues and concerns raised now will be swept under the rug and fixed later is a failure of honest process. Today, we are testifying to suggest that the Hawaii Legislature amend SR 56 and SCR 138 and either oppose the approval of S. 359 and H. 1297 or suggest alternatives to protect the private property interests and community rights of Chinatown land and business owners.

Our opposition is based on the increased regulatory burdens and potential loss of private property rights that will ultimately occur should the Hawaii National Capital Heritage Area bills pass, as well as the negative effects similar legislation has caused in other States. We have read about the experience of National Heritage Areas ("NHA") in other states, and have talked to people who have experienced similar legislation. We want to share their mana`o with you. Although we only speak for Honolulu's Chinatown, we are aware that as other affected Honolulu communities learn about this legislation, many of them share our opposition.

The Hawaii National Capital Heritage Area bills propose to designate a major portion of urban Honolulu (the 12th largest city in the U.S.) from Nuuanu Pali to the Ocean and from Kalihi Street on the Ewa side to Punahou Street on the Diamond Head side as the Hawaii Capital National Heritage Area.

Although an NHA is created and canceled by an act of Congress, the program is administered and funded by the National Park Service. In order to be eligible for funding a proposed NHA must complete four critical steps: (1) complete a feasibility study; (2) involve the public in the preparation of this study, (3) show that residents as well as government business, nonprofit and private sector entities support the NHA designation and are willing to participate in the management planning process, and (4) demonstrate widespread public support among heritage area residents for the proposed designation. Steps number two and four are required to take place *prior* to designation, not afterwards.

In Hawaii the Hawaii Capital Cultural Coalition (“HCCC”) has prepared a feasibility study a (made public in December 2008) and is proposed as the managing entity for the NHA. HCCC has worked on this initiative for the past six years, but has utterly failed to involve the public in its planning efforts or obtain widespread public support. To our knowledge, HCCC did not make a proposal to any Honolulu Neighborhood Board prior to 2009, after the legislation was introduced in the Congress. No Neighborhood Board has voted to support the proposal to date and the Liliha Neighborhood Board voted last April not to support the designation; resolutions or letters supporting designation were withdrawn from the Nuuanu and Kalihi-Palama neighborhood boards. As Papakolea, Tantalus, Nuuanu and affected communities learn of the proposal, residents, associations and property owners in these areas are requesting to be excluded from the boundary of the proposed NHA.

One of the first tasks, if legislation passes, is for the HCCC to sign a cooperative agreement with the National Park Service and prepare a management plan for the entire area¹. It will not be only a local plan because the National Park Service can ask for revisions and changes prior to signing it—a federal agency will have the final approval over the plan. The Secretary of the Interior will not sign the management plan document triggering the release of federal funds until certain requirements are met (such as NEPA and NHPA requirements). This plan will include an inventory of all sites and properties within the area related to stories and themes of the NHA, and recommendations about whether these sites should be *protected, enhanced, managed or developed* (S.359, Sec. 5(5)). Attachment A is a list of quotes taken from the HCCC’s December 2008 Feasibility Study mentioning inventories and documentation that could lead to more regulatory and legislative controls. So, a private, self selected group who is not elected by the community or answerable to the community will make recommendations about other people’s neighborhoods and properties to a federal agency.

Because one of the purposes of an NHA is preservation, at minimum an NHA will probably result in more design controls and an extra layer of permitting. At the most, recommendations and reviews by a private unelected group could lead to condemnation as in the case of Wheeling, W. VA where the Heritage Area managing entity recommended condemning 90% of downtown Wheeling for a Victorian themed outlet mall². Documentation, inventories and studies, could lead to amending planning documents and zoning—something that has been called for in other heritage areas such as in the Delaware-Lehigh plan (Attachment B). Rezoning and revisions in land planning are even called for explicitly in some Heritage Area documents and defined as ^{proposed} measures of success in Heritage Area program literature (Attachment B). In Hawaii, Act 228, requiring archival quality photos of 50 year old buildings be submitted prior to obtaining a demolition permit or a building permit, was repealed after less than a year because of public uproar—too costly, too burdensome and too broad. The people and groups who crafted and supported that bill are strong supporters of the Hawaii NHA and partners in the proposed managing entity. Was Act 228 a forerunner of things to come if the NHA legislation passes?

Through cooperative agreements and other mechanisms, local governments usually commit to support the management plans of National Heritage Areas in order to receive the federal funds. The fact that these funds could be cut off or reduced by the federal agency is a huge lure for local governments to follow the recommendations of the NHA management entity (as opposed to the recommendations of other non-profits or community groups in the area). The

recommendations of the HCCC will surely receive more consideration than those of other long-term elected community organizations with no pipeline to federal funds, no management plans, and no cooperative agreements in place.

So, certain groups will benefit from an NHA at the expense of property and business owners, homeowners, and community groups and stakeholders. The groups who will be the most affected by the establishment of an NHA probably know the least about it. It isn't just pork and free money.

Most of the areas and sites mentioned in the HCCC's December 2008 feasibility study already have protection measures in place. Chinatown, for example, has three layers of regulatory control. It is: (1) listed on the National Register of Historic Places as a Historic District; (2) listed on the Hawaii Register of Historic Places as a Historic District; and (3) a Honolulu special design district. Thus in order to renovate an existing building or construct a new building in Chinatown a property owner must comply with an additional permitting step and special design review, controls and requirements; these requirements range from specification of colors and materials to be used to selection of lighting, recession of doorways and other design features. It is hard to imagine that anyone whose property falls within a Heritage Area would also not be subject to such reviews and controls to ensure that alterations to their properties do not conflict with the recommendations of the management plan that will be in effect. This is exactly what happened in Yuma, AZ, where a farmer "went to build a new building on his property and was told that they could not issue a building permit until the county determined if the design of the building fit in the plan for the Heritage Area"³.

Chinatown is a place where many property owners also own their own businesses on site and have generational ties to the area; several prominent long-standing Asian businesses fall into this category. They are in a good position to weigh the benefits of an NHA (tourism and the prospect of more tourist revenue is touted as a big benefit of NHA designation) vs. the drawbacks. Given their request to withdraw Chinatown from the NHA boundary map, it seems that the prospect of more tourists does not outweigh property owners' concerns about more outside management plans, oversight, unaccountability, non-transparency and redevelopment.

The lack of safeguards in the NHA legislation is especially troubling. No conflict of interest provisions exist to ensure that parties to the managing entity will not later own, lease or develop properties about which they have made recommendations. Who are the HCCC's constituents? The only entity that they will be accountable to is the Secretary of the Interior for funding purposes. Where is the transparency? Minutes and decisions made at meetings of private groups are not published. One of the reasons that we are all here today is because legislators have constituents and are accountable to the community at large. Last year, we heard that the NHA legislation would pass in Congress by statehood day, then we learned that it would be heard in committee by the end of 2009. The fact that the HCCC has been continually pushing this legislation in spite of community opposition and non-support at the neighborhood board level is telling. The fact that the HCCC never went out to discuss the NHA at Neighborhood Boards before 2009 or involve the residents and community stakeholders in the feasibility study (as required) is also telling. They have been steadily working to advance their own interests with little regard for the interests and concerns of others. Maybe there was no perceived need to

consult with the community because they did not feel that they had to answer to them? Perhaps this is why, in Chinatown, non-profit associations who were part of the NHA planning process for years said nothing about it to stakeholders in the community. What happens if the legislation passes and they no longer need to demonstrate community support? How responsive will this unelected private group be then?

Resolution SR56 mentions outreach several times---outreach is *not* support. Even now hardly anyone even knows about this proposed legislation much less supports it. Outreach in and of itself can be problematic because people who are being told that it is a cultural grants program primarily to tell our stories or a virtual map for funding purposes or that it has nothing to do with land and buildings (all phrases used at Neighborhood board presentations) are probably not aware that an NHA might end up actually hurting them and others in the long run.

Chinatown has already been documented, studied and inventoried perhaps more than any other neighborhood in Honolulu as part of its prior National and State designation processes. There is no compelling reason to further document Chinatown as part of an NHA process. Two museums already exist in Chinatown and it is a vibrant tourist destination. That leaves the prospect of NHA designation as a vehicle for more outside oversight and redevelopment plans as happened in the case of Wheeling, W. VA. Like the approximately 40% of Chinatown now owned by the city, properties in Chinatown that are not for sale could be acquired for other purposes through “recommendations” and condemnation. While we have no objection to the use of Federal money to assist a clearly public purpose such as restoration of Iolani Palace, we strongly object to more urban renewal efforts in Chinatown where, like Wheeling, land acquisition could be pursued under the guise of historic preservation. Chinatown stakeholders also do not want outside groups planning Chinatown’s future. We note that in 2005, the U.S. Supreme Court held in *Kelo v. City of New London* held that taking private property for the purpose of economic development satisfies the “public use” requirement of the fifth amendment of the U.S. Constitution. Although some states have amended their state constitutions to prohibit states and cities from using eminent domain for this purpose, Hawaii is one of only seven states that have not imposed such limitations. Thus the City and County of Honolulu is free to condemn additional land in the name of economic development in furtherance of an NHA management plan.

The managing entity of the Wheeling Heritage Area was successful in convincing the City of Wheeling to condemn private property and existing businesses for a private redevelopment for economic development purposes (the Victorian themed outlet mall). This plan would have displaced approximately 200 businesses in Wheeling⁴. Property owners, citizens and taxpayers fought the case to the Supreme Court of West Virginia and won on appeal of a lower court ruling.

Chinatown does not need private property to be taken for yet another art museum in the area. If Chinatown needs a visitor’s center, there is plenty of space in City owned property. Chinatown’s continued economic vitality is due in large part to the diverse mix of public and private uses as well as diverse ethnic populations. Where else do you find art galleries coexisting with herb shops, ethnic grocery stores, garment factories and restaurants? It is a delicate balance that could easily be disrupted by well-intentioned efforts by outside groups *with*

little history or stake in the area. Well-intentioned prior urban development initiatives in Chinatown by prior city administrations resulted in a loss of some of the character and uniqueness of the area.

We recommend that the Hawaii Legislature amend SR 56 and SCR 138 by deleting paragraph (3) of the operative paragraph on page 2, and replacing it with the following amendments:

(3) the feasibility and desirability of reducing the area of the proposed NHA from its present size to the area immediately surrounding the capital or the Capitol district—that area bounded roughly by Richards and Queen Emma Streets to the West, Vineyard Boulevard to the North, Ward Avenue to the East and Nimitz Highway to the South. We believe this was the original footprint of the Hawaii Capital Cultural District before numerous expansion efforts.

We understand that one rationale for a large NHA footprint is to include cultural institutions such as the Honolulu Academy of Arts, the Bishop Museum as well as Queen Emma Summer Palace and Punchbowl within the boundaries of the NHA. There is nothing to prevent landmarks and sights outside of the boundaries of the NHA from participating as program partners in NHA programs—the HCCC even states this in their Feasibility Study (p. 215). Congress and the Legislature should consider the experience of the Yuma Crossing National Heritage Area in Yuma, Arizona. Congress originally designated a 22 square mile area of Yuma as an NHA. As local planning and zoning administrators started to interpret the implications of the NHA boundary in zoning regulations their decisions drew the ire of local property owners who were unaware that their communities had been “designated”. The County Board of Supervisors and the City of Yuma passed Resolutions instructing staff not to use the boundaries in the NHA in determining zoning issues. This solution was insufficient. The local community decided to reduce the scope of the NHA to what was originally proposed: a 4 square mile area of downtown Yuma and the Colorado River. Even with strong local support it took over 3 years for Congress to pass legislation changing the boundaries to the reduced area. The result is greater funding on a per acre basis for the portion of the City that remains within the NHA.

If the NHA legislation is approved in its present form it is conceivable that the City and County of Honolulu would be required to create a special design district comprised of the boundary of the NHA.

In 2010, newly designated NHAs are only receiving \$150,000 as opposed to the one million stipulated in the legislation (Attachment C). However, due to questions at the Federal level about the lack of key management controls in NHA programs as well as recommendations to refocus efforts on the core mission of the National Park Service, the Congressional Budget Office proposed eliminating funding for the NHA grant program in 2011(Attachment D); the Obama administration has proposed a 50% reduction in the current budget from eighteen million to nine million dollars (Attachment E).

Should the boundaries of the Honolulu NHA be reduced, efforts or funds could be focused on the publicly owned historic landmarks, including Washington Place, the Palace, the

Honolulu City Hall as well as private institutions that should be preserved: the Mission House Museum and Kawaiahao Church. Reduced NHA program funding could be concentrated in a smaller area while still allowing flexibility (through partnering mechanisms with other cultural institutions outside of the Capitol District) should funding someday be increased.

Since many of the landmarks within the Capitol District are publically owned, such a designation would not jeopardize the rights of thousands of residents, business owners, property owners and community stakeholders whose participation was not included in the feasibility study, who did not know about the NHA legislation before it was introduced in Congress, and who probably still aren't aware of it and the implications for them.

(4) The desirability of including mandatory notification and opt in/opt out provisions in the legislation in order to safeguard the rights of private property owners within the NHA.

The experience of the Northern Plains National Heritage Area surrounding Bismarck, North Dakota illustrates the danger of a hasty creation of an NHA without adequate public input. In March 2009, President Obama signed legislation creating the Northern Plains National Heritage Area, an 800 square mile portion of Central North Dakota that encompassed parts of 5 counties. The legislation was passed with little public involvement or support, without the knowledge of the residents of this area. The impact of the legislation was felt immediately. For instance a landowner in the NHA who had been offered a coal lease that would development of resources on his land had the lease withdrawn. As a result of the public outcry the Northern Plains National Heritage Area Act which had contained similar landowner protections as in the proposed Hawaii legislation was amended to provide additional landowner safeguards of mandatory landowner consent to inclusion in the NHA, as well as the opportunity for individual landowners to opt out of the NHA:

(g) Requirements for Inclusion and Removal of Property in Heritage Area.

(1) Private Property Inclusion. No privately owned property shall be included in the Heritage Area unless the owner of the private property provides to the management entity a written request for the inclusion.

(2) Property Removal.

(A) Private Property. At the request of an owner to private property included in the Heritage Area pursuant to paragraph(1), the private property shall be immediately withdrawn from the Heritage Area if the owner of the property provides to the management entity written notice requesti9ng removal.

(B) Public Property. On written notice from the appropriate State or local government entity, public property included in the Heritage Area shall be immediately withdrawn from the Heritage Area.

Inserting a similar provision in the Hawaii Capital NHA legislation would allow individual landowners the right to decline to have their property surveyed, studied or more importantly, considered for preservation or land acquisition. Also with reduction of the NHA area to Honolulu's Capitol District, notification and involvement of private owners, residents and community groups should be much more manageable and more easily accomplished.

We also suggest that a paragraph (C) be included to allow areas to withdraw from the proposed boundary map if the owners of a majority of the privately held land in the area wish to withdraw. This would mitigate the effect of zoning or district guidelines still affecting the interests of private property owners within an area.

(5) the feasibility of including a conflict of interest provision that would preclude the managing entity from purchasing or owning property within the NHA as well as leasing or developing properties about which the managing entity as made recommendations as to their protection, enhancement, management or development.

Experience in the Yuma Crossing Heritage Area as well as in other Heritage Areas throughout the country has shown the need to include a conflict of interest provision. The bill should be amended to preclude the management entity, HCCC, from acquiring or leasing land. The statement in the proposed bill that no federal funds obtained under the bill can be used to acquire land is misleading. This statement only applies to funds authorized by Congress for a Heritage Area. Any matching funds that are raised may be freely spent however the managing entity sees fit. Mainland NHAs on average receive \$8.00 in matching funds for every \$1.00 that is provided under the NHA enabling act. The majority of funds generated by a Heritage Area are eligible to purchase private property or issue conservation or historic easements. A more serious issue in the mainland has been the potential of a management entity of an NHA to acquire land then donate the land to the National Park Service. This happened with the Shenandoah Valley Battlefield Foundation. Although NHAs do not impose direct restrictions on property, Federal law grants the National Park Service the right to impose specific land use restrictions on properties adjacent to land acquired by or dedicated to the National Park Service.

A conflict of interest provision could help insure that decisions made do not primarily benefit the National Park Service, the HCCC, it's Board of Directors, or affiliates.

(6) Require the Hawaii Capital Cultural Coalition ("HCCC"), the local coordinating entity designated in the bills, report on its funding and financial plan for this effort.

(7) Any concerns or other issues raised during the outreach efforts and how these issues will be addressed in the legislation.

As mentioned previously, public and community concerns raised *after* legislation was introduced should be addressed *before* legislation passes not during some later planning process.

In closing, it has been over a year since legislation was introduced. Questions should have been answered, implications should have been revealed and discussed. It has been several years since the initiative was started and pursued. There was plenty of time and opportunities to consult with community stakeholders before 2009 when legislation was introduced.

I've heard lots of things about this legislation. First I heard, it's just a money grab for the arts groups—it's just pork. Research showed that not to be true—there are profound implications for stakeholders in the region. Then I heard, well, it's a LOT of money for the state of Hawaii. But, it turns out that there are relatively few federal funds available for this program. I've heard that it's a local plan coordinated by a non-profit coalition who will make recommendations to local government like any other non-profit, that they are just advisory in nature—but that's not true either. The plan must include certain things like NEPA and NHPA requirements before the Secretary of the Interior will even sign it; cooperative between the managing entity and the National Park Service and intergovernmental agreements between the Secretary of the Interior and other public entities mean that the recommendations of the HCCC will carry an inordinate amount of weight with local government. I've heard that they have no regulatory authority—but the quotes from their own study show that they hope their work will lead to more regulatory control. It has been a failure of honest process and a failure of honest dialogue.

In closing, S. 359 and H. 1297 should not be approved until adequate safeguards and measures are included to protect the *majority* of community stakeholders. Please amend SR 56 and SCR 138 and call for S. 359 and H. 1297 to be amended in order to insure the protection of your constituents. We strongly urge you to adopt in SR56 and SCR 138 the proposed amendments listed above—especially, Amendment No. 7. Amendment No. 7 would ensure that concerns and issues raised by constituents will be addressed IN the legislation and not afterwards—this is so important!

¹ Heritage Area Agreement Primer, "A cooperative agreement is different from a grant, because unlike a grant it requires substantial involvement on the part of the government in the cooperator's work", p. 4

² http://www.castlecoalition.org/index.php?option=com_content&task=view&id=466
(scroll down to the part on Wheeling)

³ Email from Harold Maxwell, 3/21/10.

⁴ http://www.be.wvu.edu/divecon/econ/sobel/UnleashingCapitalism/FinalChapters/Chapter7_booklayout_final.pdf
(page 106 of that chapter)

Attachment A

HCCC Feasibility Study Published 12/08

Mentions of Property Inventories, Documentation and/or More Legislative and Regulatory Controls

p. 67: "In addition to the further compilation of existing data, additional field surveys of the many residential and mixed-use areas within the proposed NHA will also be required. This will include individual evaluations of houses and small businesses in Palama, Liliha, Kaka'ako and especially Kalihi, all of which have many remaining examples of modest frame houses, buildings housing manufacturing and repair shops and simple concrete block and frame shops and mixed-use buildings."

p. 76: "The HCCC envisions an expansion of preservation awareness throughout the National Heritage Area, potential designation of residential and mixed use *areas* (ital.) either as State or National Register properties.."

p. 117-118: "An important benefit of heritage designation would be an enhancement of potential for resource protection. This includes the potential for further protective legislation and regulations of historic buildings, sites and other special areas through public and governmental controls and also the potential for further documentation..."

p. 151: "Additionally, further documentation of existing resources, including unrecorded historic residential areas in Liliha and Kalihi as well as individual buildings in the Kaka'ako and the Pi'ikoi Street area may result in additional designations and further protections."

p. 153: "[t]he proposed NHA includes many examples of undocumented vernacular and industrial buildings as well as many sites of traditional association and meaning for Native Hawaiians. Significant among the former are older plantation-style residences within Kalihi and Laliha (sic.) areas as well as industrial and residential sites within the Kaka'ako Special Design District and Iwilei area---all of which require further documentation as part of the process of future development of the NHA." [National Heritage Area]

p. 188: "Historic immigrant residential and commercial districts
Chinatown (listed and regulated)
Kalihi (not surveyed)
Palama (not surveyed)
Liliha (not surveyed)
Kapalama (not surveyed)
Kaka'ako (not surveyed)

Source: http://www.hawaiicapitalculture.org/nha-study/NHAS_BOOK_2-18-09.pdf

Municipal governments manage parks, cultural and natural areas, and run planning, conservation and recreation programs that make significant contributions to key Corridor goals. The Commission will support local governments' planning, land managing and program activities through information sharing, technical assistance and matching grants. In turn, local governments are asked to accept the Plan and its concepts through resolution, to collaborate in regional actions and to amend planning documents to reflect Corridor goals.



Delaware-Lehigh Corridor Management Action Plan, Executive Summary, p. ix.

Implementation and Management Responsibilities of Partners	
MUNICIPALITIES	<ul style="list-style-type: none"> Adopt the M.A.P and its concepts through resolution. Work with the Commission to understand the municipality's role in the Corridor and to identify specific actions to be undertaken. Designate a primary contact person for communications on implementation. Serve as a Partner in the Stewardship Compact. Provide advice to other municipalities on appropriate aspects of implementation. Amend comprehensive plans, recreation plans, subdivision ordinances, Act 537 water-quality plans, and zoning to reflect Corridor goals and guidelines. <p>(Note: These actions range from a minimum to a maximum level of participation, varying through time and according to the level of benefits to be returned to the municipality.)</p>
SCHOOL DISTRICTS	<ul style="list-style-type: none"> Emphasize Corridor interpretive themes and resources as opportunities arise in current curricula. Develop or participate in developing a special Corridor educational curriculum for all grade levels. Visit Corridor sites.
THE FIVE COUNTIES Luzerne Carbon Lehigh Northampton Bucks	<ul style="list-style-type: none"> Adopt the M.A.P and its concepts through resolution. Work with the Commission to understand the county's role in the Corridor and to identify the specifics which apply to each county. Designate a primary contact person for communications on implementation. Serve as Partner in the Stewardship Compact. Include county parks in the Corridor Interpretive Plan; participate in the Interpretive Compact. Provide advice to other counties or municipalities on appropriate aspects of implementation. Amend comprehensive plans, recreation plans, Act 157 storm water management plans, and other county plans to reflect Corridor goals and guidelines. Continue or initiate county historic resources surveys targeted to the Passage and Beaches. Target county funds for acquisition and/or development of key sites in the Passage. Enable county planning commissions to provide technical assistance in planning to all municipalities. Provide matching funds for mutual county/Corridor projects. Contribute to the Stewardship Compact through in-kind services and/or funding.



Delaware-Lehigh Corridor Management Action Plan, p. 240.

From National Heritage Areas Workshop Report, "Developing a Research Agenda", 2002

"Measurements of Success were Suggested:

...land use policy decisions, zoning law changes and decisions, and design of new construction could be used as measures of success."

NATIONAL
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PRESERVATION

and historic buildings, and if this could lead to any bias towards new construction. The Trust will be monitoring this closely.

House Appropriations Hearings Expose Shortfalls in Cultural Resource Management and Funding

Interior
Secretary Cites
Competing
Priorities as
Impeding
Progress on EIS
Review of Solar
Projects on BLM
Lands

The House Subcommittee on Interior, Environment and Related Agencies held its first set of hearings on the FY10 Interior Appropriations Bill this week, which included testimony from Interior Secretary Ken Salazar. Salazar was the main witness at the Wednesday hearing and fielded a number of questions about renewable energy and mining law reform. Salazar stated that he inherited over 200 applications for solar projects on Bureau of Land Management (BLM) lands which are "ready to go" but have not even had an Environmental Impact Statement (EIS) on 20 of the top projects they plan to fast track. Preservationists are concerned that the rush to fast track renewable energy projects like solar are also driving the urgency to expedite the siting of transmission corridors on public lands without proper environmental and cultural review. On mining reform, Salazar said he would support it and that there are many places where environmentalists and the mining industry are in agreement. However, Salazar expressed doubt that he would have time to bring the parties together on mining reform as his agenda with climate change, renewable energy, treasured landscapes and youth corps programs were keeping him preoccupied.

Heritage Areas,
Historic Parks,
Civil War
Battlefields and
other Cultural
Resources
Suffering from
Lack of Funding
and Poor
Management
within NPS

On Thursday, the subcommittee heard from National Park Service (NPS) Acting Director, Dan Wenk, who commented on issues that included cultural resource staff funding, heritage areas, and historic battlefields. Wenk noted that NPS is working on a response to a National Academy of Public Administration Report charge that NPS has been neglecting cultural resources, to which Wenk admitted that NPS has fallen short of the mark on cultural resource management. Wenk also discussed National Heritage Areas (NHAs) funding, which has received only level FY'09 funding (\$16 million) in the administration's FY10 budget, in spite of the addition of nine new heritage areas in a recently-passed omnibus public lands bill. Rep. John Olver (D-MA) also noted that heritage areas are supposed to receive \$10 million each to get them started and to build momentum for obtaining private funding. However, established NHAs are only receiving about \$350,000 and the newer units only \$150,000.

Rep. Tom Cole (R-OK) noted his love of historic parks and battlefields and expressed his concern about encroachment on these sites and asked if NPS if they had what they needed for land acquisition to protect these sites. Cole cited the example of the ongoing controversy with Wal-Mart over their planned development of a supercenter store within eyeshot of the Wilderness Civil War Battlefield in Orange County, Virginia. The National Trust is actively opposing the Wal-Mart development (for more information on the Trust's campaign to save the battlefield visit

300-15—Discretionary**Eliminate the National Park Service's Local Funding for Heritage Area Grants and Statutory Aid**

(Millions of dollars)	2010	2011	2012	2013	2014	Total	
						2010–2014	2010–2019
Change in Spending							
Budget authority	-22	-22	-22	-22	-23	-111	-229
Outlays	-18	-21	-22	-22	-23	-106	-224

300

Two National Park Service programs—National Heritage Area (NHA) grants and a statutory aid program—assist local organizations in establishing, preserving, or operating areas of natural, historical, cultural, or recreational importance. Locations designated as National Heritage Areas by the Congress are eligible for NHA grants; other local programs may be allocated statutory aid by specific authorization. Both programs support sites that are operated and managed by state or local agencies, nonprofit groups, or private partnerships. As of 2008, 40 sites had been designated National Heritage Areas, up from 27 in 2006; 13 sites or programs received statutory aid in 2008. For 2009, \$15.7 million has been appropriated for NHA, up from \$15.3 million in 2008. Funding for the Park Service's statutory aid program is \$5.6 million in 2009, up from \$5.3 million in 2008.

This option would eliminate both programs, with a resulting reduction in discretionary outlays of \$18 million in 2010 and of \$106 million over five years.

NHA grants are intended as seed money to help organizations become self-sustaining through the establishment of partnerships with state and local governments, nonprofit groups, and businesses that would fund the organizations' ongoing operations. The Park Service states that Heritage Areas should "tell nationally important stories... [and] provide outstanding opportunities for conservation. Where appropriate, they should also strengthen, complement, and support existing units of the National Park System." NHA grants are capped at \$1 million annually and may last up to 15 years (although the total cannot exceed \$10 million) for areas designated since 1996. Heritage Areas may receive other federal funding (primarily from the Department of Transportation for road and infrastructure improvements). By statute, half of the funding for each Heritage Area must come from nonfed-

eral sources. Statutory aid supports local efforts to establish, preserve, and operate other sites. Both programs are intended to extend the Park Service's mission of preserving nationally significant natural and historical resources without acquiring or managing those resources itself.

The previous Administration criticized the NHA grant program for its lack of demonstrated results and for not using a competitive process to award the grants. The Government Accountability Office (GAO) has stated that the Park Service lacks systematic processes for identifying qualified NHA sites and recommending them to the Congress for approval. According to GAO, the Park Service has not established "results-oriented performance goals and measures" in its oversight of heritage areas and has failed to track federal funding or determine the appropriateness of expenditures for the NHA program. (The Park Service maintains that it has not been funded to carry out those latter tasks.) GAO also contends that sunset provisions (which establish each grant's ending date) have been ignored. In a 2004 report, GAO noted that the Congress had extended all of the NHA grants that had reached their original sunset dates, and that those NHAs continue to receive funding under the originally enacted authorizations. Nine Heritage Areas designated in 1996 sought extensions in 2006.

One argument for eliminating the NHA grant program is that grant recipients have not become self-sufficient, as evidenced by the continued funding of Heritage Areas beyond their sunset dates. Property rights advocates also have voiced concern that the NHA program could be a way to exert federal influence over local zoning and land use planning. Moreover, the efforts funded by the NHA program and the statutory aid program are—in the words of the Park Service itself—"secondary to the primary mission of the National Park Service."

Attachment E

TERMINATIONS, REDUCTIONS, AND SAVINGS

85

REDUCTION: NATIONAL HERITAGE AREAS*Department of the Interior*

The Administration proposes to reduce grants to non-Federal National Heritage Areas (NHAs) so that the National Park Service can focus resources on managing national parks and other activities that most closely align with its core mission. State and local managers of NHAs continue to rely on Federal funding, contrary to the original intent that Federal grants would be time-limited and NHAs would become self-sufficient. The NHA program also lacks key management controls to determine whether Federal funds are well spent and used to accomplish national goals.

Funding Summary
(In millions of dollars)

	2010 Enacted	2011 Request	2011 Change from 2010
Budget Authority.....	18	9	-9

Justification

The Congress has authorized 49 National Heritage Areas (NHAs), including 30 since 2000. Local organizations administer NHAs to promote tourism and protect natural and cultural resources. The NPS Heritage Partnership program provides technical assistance and grants, authorized up to \$1 million annually for up to 10 to 15 years that serve as "seed money" to help NHA organizations become established. Since 1986, the Congress has appropriated more than \$150 million for NHA grants.

The Administration proposes to focus NHA grants on recently authorized areas and eliminate funds to those well-established recipients that have not worked to become self-sufficient. Since 1984 when the first NHA was designated, 17 areas reached or nearly reached their original sunset dates, but received extensions and continue to receive funding. Criteria has not been established to evaluate potentially qualified NHA sites for designation.¹ As a result, sites have been authorized that do not necessarily warrant designation. The program also lacks key management controls to determine whether Federal funds are well spent.²

The Administration proposes a merit-based tiered system to allocate funding. NHAs established before 2001 would be ineligible for new base funding unless they have self-sufficiency plans as of February 1, 2010. NHAs established after 2001 would be eligible to receive a base allocation. All other NHAs that have Department of the Interior-approved management plans would be eligible to compete for additional grants that the NHA program would award using merit-based criteria.

Citations

¹ Congressional Budget Office, *Budget Options, Volume 2* (August 2009).

² Government Accountability Office, *Testimony: A More Systematic Process for Establishing National Heritage Areas and Actions to Improve Them Are Needed* (March 30, 2004).

LATE

To Whom it may Concern,

My name is Allen Stack Jr.

I am a fourth generation stake-holder in Chinatown.

This testimony is supplemental to my earlier testimony.

A National Heritage Area is a complex instrument made up of many procedures and components.

A feasibility study and the extensive outreach it entails is part of the beginning of the process.

Then, procedurally, two of the many steps are

1) Introduction and passage of legislation.

2) Development of a management plan in negotiations between the Federal Government and the local managing entity.

Significant issues have not been addressed and need to be incorporated into this resolution.

Please amend No. 3 on page 2 of SCR138 and SR56 to the following:

Any concerns or other issues raised during the outreach efforts and how these concerns will be addressed in the legislation.

This will begin to address the serious shortcomings of this legislation.

Sincerely,



Allen Stack Jr.