

Testimony by Sara Capen

**Chairwoman of the Alliance of National Heritage Areas and Executive Director of the
Niagara Falls National Heritage Area**

**Before the Senate Committee on Energy and Natural Resources, Subcommittee on National
Parks**

For a Legislative Hearing

October 6, 2021

Chairman Manchin, Ranking Member Barrasso, Subcommittee Chairman King, Ranking Member Daines and other distinguished members of the Subcommittee, my name is Sara Capen, and I am the Executive Director of the Niagara Falls National Heritage Area (NFNHA), a nationally significant landscape stretching from Niagara Falls along the Niagara River to Youngstown, New York. I also serve as Chairwoman of the Alliance of National Heritage Areas, a membership organization representing the vast majority of National Heritage Areas. Your past and continued support of the National Heritage Area program is greatly appreciated.

I am respectfully requesting the Committee of Energy and Natural Resources to support passage of the National Heritage Area Act of 2021(S. 1942), introduced by Senator Debbie Stabenow and Senator Roy Blunt, with strong bipartisan support from 14 Senate cosponsors. I am pleased to present to the Committee this morning over 500 letters of support from a cross-section of stakeholders from across the United States who recognize the critical importance of National Heritage Areas and the contributions they make to 591 counties. Collectively, both the House and Senate bills have compiled 750 letters of support from 34 states. I respectfully request that these letters be entered into the record. In addition, I would also like to express my strong support for the other NHA-related bills the committee is considering today. However, as you will learn from my testimony, passage of the National Heritage Area Act of 2021 will negate the need to hold annual hearings like this one to consider a suite of non-controversial and widely supported bills that authorize the National Heritage Areas vital to the communities they serve.

While we are making progress, the fact remains that 30 National Heritage Areas are presently experiencing an unprecedented sunset crisis-a crisis that was merely delayed until December thanks to last week's passage of the Continuing Resolution. Under our current legislative model, National Heritage Areas are subject to individual sunset clauses, after which they lose federal funding. For too long now, the lack of a long-term legislative solution has led to a challenging two-year cycle of reauthorizations that expends the time and energy of this Committee, Members of Congress, National Park Service, National Heritage Area boards and staff.

Most significant, this never-ending cycle of funding uncertainty takes away from the important work we do in communities across the country, as NHAs and their supporters in Congress spend valuable time and energy on reauthorization bills. As an example of the challenges NHAs face, there are currently **23** reauthorization bills in the House and another **16** in the Senate all awaiting

committee action. The National Heritage Area Act of 2021 (S. 1942) would solve this problem. This bipartisan legislation is vitally important to the stability of the 55 NHAS that exist within the program.

S. 1942 will establish a system of National Heritage Areas and confirm their position as an integral part of the National Park Service, ensuring uniform standards for the way NHA's are funded, designated, managed, and assessed. The bill will also provide Congress with an enhanced ability to conduct oversight of the program. Passage of the ***John D. Dingell Jr., Conservation, Management, and Recreation Act*** of 2019 added six new NHAs to the program. The next logical step is to create an effective and efficient system for managing existing and future NHAs.

What are the benefits of passing the National Heritage Area Act of 2021? For starters, the National Heritage Area (NHA) Program is one of the Department of the Interior's most cost-effective initiatives, relying on a public-private partnership in which every federal dollar is matched with an average of \$5.50 in non-federal funding. This public-private partnership created a nearly \$13 billion impact; based on the finding of a 2012 study.

The match to the federal investment often comes in the form of contributions from volunteers, who commit their time and expertise within individual National Heritage Areas to support programs, maintain trails, and assist with community conservation projects. In 2019 alone, National Heritage Areas benefited from 38,061 volunteers contributing over 823,902 hours for heritage area projects- a \$19.6 million- dollar value. Our volunteer hours remained robust in 2020 despite pandemic-related challenges.

More important than the return on federal investment, National Heritage Areas are catalysts for economic revitalization and job creation in their communities. They are often located in places that have suffered economic setbacks due to declining industries. Utilizing a grassroots and community-driven approach, National Heritage Areas help these communities build a new economic platform based on heritage tourism and outdoor recreation that revitalizes the economy and instills pride of place for the people who live there- all while preserving and strengthening local control and private property rights of those who live in and around the boundaries of a National Heritage Area.

What makes National Heritage Areas different than other federal programs is that people and partners who live within National Heritage Areas are key participants in the decision-making process. National Heritage Areas have direct impact and involvement, with communities like Wheeling, WV, Akron, OH, and Muscle Shoals, AL bringing the National Park Service mission out from behind the enclaves of federal lands and providing direct access to the people living in 34 states across the country. Indeed, over the last 35-plus years, National Heritage Areas have lived up to President Reagan's vision of a "new kind of national park," which he expressed when he effectively created the program when he signed legislation creating the Illinois and Michigan Canal National Heritage Area in 1984.

In my limited time, I wish to further address a number of key issues and facts about National Heritage Areas and why they suggest passage of the National Heritage Area Act of 2021 is warranted.

- The National Park Service annually reports on the accomplishments of the NHAs. The latest summary is attached as **Appendix A**. Key findings include that NHA's have: (1) In 2020, NHA's leveraged \$88.5 million in cash and in-kind support to carry out heritage projects and program, greatly increasing the impact of the \$20.9 million in federal Heritage Partnership Program funding received; (2) Engaged 2,829 formal partners and 5,210 informal partners in heritage area activities. (3) Benefited from 23,152 volunteers contributing over 394,463 hours for heritage area projects -a \$10 .1 million-dollar value.
- National Heritage Areas have been and will continue to be committed to the preservation of private property rights. The program has always been entirely voluntary and cooperative, and we are completely supportive of the protections written into the proposed legislation (**Appendix C**)-protections that strengthen and affirm the existing regulations for all NHAs. For the record, I am attaching a comprehensive memo (**Appendix B**) that demonstrates (including a Government Accountability Office report in 2004)—that NHAs have absolutely no impact on private property, mineral, or water rights, do not allow for federal land acquisition; and have no impact to local, state, or federal regulatory authority or jurisdiction.
- Since 2005 and across both Republican and Democratic Administrations, the National Park Service has been on record supporting the concept of program legislation. In testimony from 2014 (**Appendix D**), “The need for and value of National Heritage Area program legislation has been well-considered and is supported in numerous studies. In 2005, the Administration identified the need for program legislation as part of an overall review of the program. In 2006, the National Park System Advisory Board report, *Charting a Future for National Heritage Areas*, recommended a legislative and policy foundation for the National Heritage Areas program. In 2009, the National Parks 2nd Century Committee reported on the value of National Heritage Areas as a collaborative model, recommending that they be recognized as long-term assets to the National Park System. Passage of legislation to authorize and define a nationwide system of National Heritage Areas was a key recommendation of the Committee’s 2009 report *Advancing the National Park Idea*. In 2011, in *America’s Great Outdoors: A Promise to Future Generations*, the Department of the Interior included a recommendation to “...establish through legislation clearly defined standards and processes to support a system of regional and community-based national heritage areas that promote locally supported preservation work, promote heritage tourism, and create jobs.”
- NHAs have already proven to be good stewards of taxpayer dollars-something that will be affirmed and strengthened through the National Heritage Area Act of 2021. NPS has conducted independent evaluations of 20 of the NHAs. The completed evaluations are available at the following link:

<https://www.nps.gov/subjects/heritageareas/evaluations.htm>

In closing, there are few federal programs that epitomize the democratic principles on which our nation was built like National Heritage Areas. National Heritage Areas truly are of the people, by the people, and for the people and celebrate nearly every aspect of American history, culture, industry and landscape. It is not an exaggeration to say that there is a National Heritage Area that appeals and relates to every American.

Over the course of the last three years, the ANHA has pursued every possible legislative pathway to ensure that the National Heritage Area program can continue to fulfill this critical mission without concern about a funding lapse. It has become increasingly clear that the most straightforward and sensible way to achieve this goal and eliminate the uncertain biennial reauthorization process is through a uniform system for authorizing, funding, and reviewing both existing and proposed NHAs. The National Heritage Area Act of 2021 will achieve these important goals and set NHAs on a firm foundation on which they can build and thrive.

Thank you, Chairman Manchin for the opportunity to testify in support of securing the future of NHAs through bipartisan program legislation. I look forward to addressing any questions you and other Senators may have.

Supplementary Documents

Appendix A

How We Spent 2020 – National Heritage Areas by the Numbers

The following data was compiled by the National Park Service on the Impact of National Heritage Areas in 2020. *Even with COVID, NHAs continued to be drivers of positive results in their communities, leveraging federal funds and inspiring volunteerism.*

National Heritage Areas expand on traditional conservation approaches by supporting large-scale, community-driven initiatives that engage communities in heritage preservation activities. National Heritage Area entities collaborate with stakeholders to determine how to make heritage relevant to local needs and interests using federal funds and local match. Through their work, they serve as catalysts for community and economic development. In 2020, NHAs:

- Leveraged \$88.5 million in cash and in-kind support to carry out heritage projects and programs, greatly increasing the impact of the \$20.9 million in federal Heritage Partnership Program funding received.
- Engaged 2,829 formal partners and 5,210 informal partners in heritage area activities.
- Benefited from 23,152 volunteers contributing over 394,463 hours for heritage area projects - a \$10 .1 million-dollar value.

Preserving our Heritage. Across the country, National Heritage Areas and their partners are reviving historic downtowns, preserving battlefields and industrial sites, and sharing our nation's history through the arts.

- 247 historic sites and 8,623 acres of cultural landscapes preserved and maintained, including battlefields.

- 79 collections projects undertaken, including the conservation of artifacts and creation of oral histories.
- 83 historic preservation grants awarded totaling \$655,192.

Healthy Environment & People. Conservation activities led by National Heritage Area entities and their partners improve air and water quality and support healthy ecosystems.

- 22,033 acres of land restored and maintained via invasive species removal, replanting, and toxic site clean-ups.
- 33 conservation grants awarded totaling \$599,225.

Through recreational projects such as land and water trails, National Heritage Areas are improving connectivity and accessibility, creating more vibrant and healthy communities.

- 143 recreation projects undertaken.
- 509 miles of trails maintained and 64 new miles of trails developed.
- 78 recreation grants awarded totaling \$709,962.

Educating Current and Future Leaders. Through programs such as Cane River National Heritage Area's City of Natchitoches Art Adventures Camp. National Heritage Areas and their partners are providing meaningful and inspirational connections to our nation's heritage and exploring the qualities and skills of leadership.

- Capacity-building assistance provided to 991 organizations.
- 256 educational programs were offered.
- 4,901 grants to support educational programs were awarded totaling \$1.3 million.

Appendix B

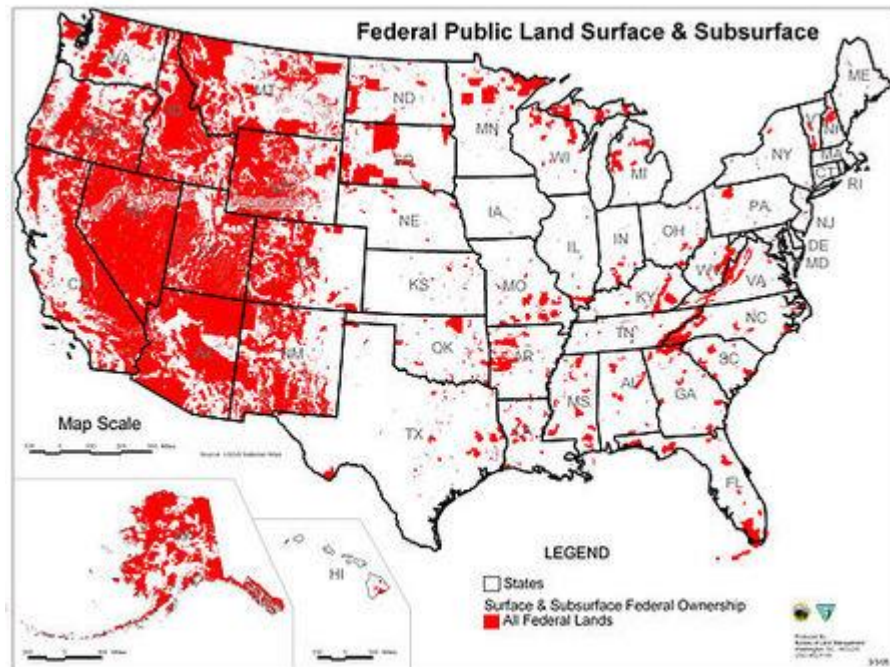
Dispelling Myths and Falsehoods on the Issue Of Private Property Rights and National Heritage Areas

National Heritage Areas (NHA) began in the 1980's as a community-based, locally-driven approach to conserving and enhancing the nationally-significant natural and historic resources of the United States. This approach was an alternative to the pure National Park model, which involved federally-owned land and managed by National Park Service employees, often at a considerable annual cost and sometimes causing issues with local residents with its heavy federal presence. The first NHA (Illinois and Michigan Canal NHA) was signed into law by President Reagan, who called it a "new type of National Park"

The idea first caught on in older industrial areas (such as New England, Pittsburgh, Akron, and Detroit) as an innovative way of addressing the challenges of the "Rust Belt" by rebuilding communities based on their rich heritage. Its popularity moved south to such places as Augusta, Georgia – which used it to revitalize this old mill town. Few questions on the private property rights issues arose at this time, as the program was always voluntary and cooperative.

As the National Heritage Area movement moved west, the issue did begin to arise. The reason is simple: as the map below shows, the federal government owns the vast majority of land in the West. Local residents there understandably worry about the outsized influence of the federal

government on their lives and livelihood. National Heritage Area legislation had already included language that specifically addressed the issue and guaranteed that NHA would protect private property rights. However, a myth persists that NHAs are a “new federal land-grab.” The facts – as encoded by each NHAs enabling legislation and borne out by decades of NHA projects and operations – show otherwise. In fact, a 2004 review of NHAs by the General Accounting Office (GAO) stated that “heritage area officials, Park Service headquarters and regional staff, and representatives of national property rights groups that we contacted were unable to provide us with any examples of a heritage area directly affecting—positively or negatively—private



property values or use.”

Yet, the myth persists, and along with it a fear of NHAs among some local residents. Following are examples illustrating how this issue has played out in different heritage areas.

Yuma Crossing National Heritage Area: Authorized in 2000, this NHA in southwestern Arizona focused its efforts on the restoration of seven miles of the Lower Colorado River. The Management Plan, which was developed with extensive public input, was approved by the Department of Interior in 2002, and work began on projects including riverfront parks and wetlands restoration. Unfortunately, fears that private property rights were endangered persisted, in spite of any evidence supporting the concerns. YCNHA and the local Farm Bureau worked to resolve the fears by (1) aligning the originally-authorized area to the Management Plan area, (2) having the County and City legislative bodies pass resolution directing its planning agencies to never use the YCNHA as a *pretext* for any regulatory action, and (3) including farmers on the YCNHA board of directors.

Patricia Ware, a third-generation farmer, was appointed to the Board in 2005 and over time became the YCNHA Chairperson. She was continually frustrated by the falsehoods that continued to surface. In a letter addressing the misinformation (and those who continued to share

it), she stated this: Private property rights are the fundamental basis of our way of life (farming). But so is the truth.”

And the truth is that National Heritage Areas do not affect private property rights. Their designation does not come with any regulatory authority or jurisdiction to create or enforce laws. This is illustrated by another western NHA: **Great Basin National Heritage Area** in eastern Nevada and western Utah. Encompassing 16,000 square miles straddling the state line, the GBNHA is in the heart of “sagebrush revolution” country. Well over 90% is federal land, mostly managed by the Bureau of Land Management, but also including sizable tracts of USDA Forest Service lands as well as the National; Park Service’s Great Basin National Park. When the Park was created in 1986, it did affect land use. Hunting, which had previously been permitted on the National Forest, was no longer permitted. And grazing rights were curtailed: though the Park’s enabling legislation allowed for the cattle and sheep grazing to continue on Park lands, the permits were all eventually traded or purchased and then retired by conservation groups. And while no one was “forced” to give up their grazing permits, the events are bitterly remembered by many area locals, especially the ranching community whose roots run deep in this desert soil.

So, when the idea of a National Heritage Area in the region was proposed, there was understandable concern not just about private property rights, but also about additional regulations and restrictions on the public lands that make up so much of this region. Eureka County, which sits to the west of the GBNHA, opted to not be included because of these concerns. Thirteen years later, some in Eureka County regret this decision, as the facts show that the Great Basin National Heritage Area has not had any effect on private property rights or on the management of the public lands within its geographic designation. GBNHA has no regulatory authority and no jurisdiction over any entity within the area. It has no effect on grazing permits. It has no effect on water rights. It has no effect on mineral rights or exploration. It is barred from using federal funds to purchase real property. What it does affect is the economics and quality of life in the communities throughout the area, as it leverages federal dollars to support economic revitalization, historic preservation, and tourism projects that are bringing new life and pride of place to towns that desperately need it. The only regulatory role GBNHA does play is in ensuring that any grants we award utilizing federal dollars comply with existing law. Locals – many of whom have issues with “the Feds” and the National Park Service – do not feel threatened by the heritage area. In fact, they overwhelmingly support it, see the benefits it has brought to the region, and love that it celebrates *their* heritage on *their* terms through projects and events that *they* choose.

Journey Through Hallowed Ground (JTHG)

This NHA has as its theme the rich history contained within Monticello in Virginia all the way to Gettysburg in Pennsylvania. The area includes the birthplaces and homes of nine U.S. Presidents and has as its focus key events of the Revolutionary and Civil War. JTHG works to promote heritage tourism. Attacked again as a “federal land grab”, JTHG defended its work, documenting that “officials from 14 Counties and 15 Towns/City Councils” have approved the NHA approach. JTHG’s public statement is below:

National Heritage Areas Do Not Impact Personal Property Rights

We have been asked whether or not the National Heritage Area designation would restrict individual property rights, and would restrict local land use decisions.

If either were the case, we would not have the support of the elected Boards of County officials from 14 Counties and 15 Towns/City Councils. In every instance, the facts, below, have been presented in public forum, and the opposition has been allowed an opportunity to present alternative evidence. Yet, in every instance, these elected bodies have considered all facts, heard all opinions, and have found that the proposed National Heritage Area designation does nothing but support the current businesses and the citizens of the region, while sharing the unparalleled heritage with others from throughout the country and the world.

Among the significant economic analysis which serves as a basis for this conclusion is an independent study conducted by the United States General Accounting Office report (No. GAO-04-593T). This study looked at what impact National Heritage Areas have had on personal property rights. The study found that National Heritage Areas do not affect the rights of property owners.

Page 17 states:

"To determine the extent to which, if at all, private property rights have been affected by these areas, we discussed this issue with the national coordinator, regional officials, the Executive Director of the Alliance of National Heritage Areas—an organization that coordinates and supports heritage areas' efforts and is their collective interface with the Park Service—the executive directors of the 23 heritage areas that were established at the time of our work, and representatives of several private property rights advocacy groups and individuals, including the American Land Rights Association, the American Policy Center, the Center for Private Conservation, the Heritage Foundation, the National Wilderness Institute, and the Private Property Foundation of America. In each of these discussions, we asked the individuals if they were aware of any cases in which a heritage area had positively or negatively affected an individual's property rights or restricted its use. None of these individuals were able to provide such an example."

This notwithstanding, the JTHG Partnership has been very clear, from the onset of this effort, that it respects all homeowners' and all elected bodies' right to control land use decisions. Accordingly, the JTHG Partnership, in concert with the lead Congressional Sponsors of the legislation, have made every effort to ensure that both our American heritage and our American rights are respected within the legislations written. The JTHG Partnership has no intention of infringing upon personal property rights.

Appendix C:

S. 1942 National Heritage Area Act Language Protecting Private Property Rights

When enacted, S. 1942, includes the following language, which is incontrovertible evidence that National Heritage Areas are committed to the protection of private property rights,

Nothing in this Act shall be construed to—

(1) abridge the rights of any property owner, whether public or private, including the right to refrain from participating in any plan, project, program, or activity conducted within the National Heritage Area;

(2) require any property owner to permit public access (including Federal, State, tribal, or local government access) to such property or to modify any provisions of Federal, State, tribal, or local law with regard to public access or use of private lands;

(3) alter any duly adopted land use regulation or any approved land use plan or any other regulatory authority of any Federal, State, or local agency or tribal government, or to convey any land use or other regulatory authority to any local coordinating entity;

(4) authorize or imply the reservation or appropriation of water or water rights;

(5) diminish the authority of the State to manage fish and wildlife including the regulation of fishing and hunting within the National Heritage Area; or

(6) create any liability, or to have any effect on any liability under any other law, of any private property owner with respect to any persons injured on such private property.

Appendix D

Excerpts from National Park Service Testimony

STATEMENT OF DR. STEPHANIE TOOTHMAN, ASSOCIATE DIRECTOR, CULTURAL RESOURCES, PARTNERSHIPS AND SCIENCE, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE HOUSE NATURAL RESOURCES SUBCOMMITTEE ON PUBLIC LANDS AND ENVIRONMENTAL REGULATION, CONCERNING H.R. 445, TO AUTHORIZE A NATIONAL HERITAGE AREA PROGRAM, AND FOR OTHER PURPOSES. July 29, 2014

“The need for and value of National Heritage Area program legislation has been well-considered and is supported in numerous studies. In 2005, the Administration identified the need for program legislation as part of an overall review of the program. In 2006, the National Park System Advisory Board report Charting a Future for National Heritage Areas recommended a legislative and policy foundation for the National Heritage Areas program. In 2009, the National Parks 2nd Century Committee reported on the value of National Heritage Areas as a collaborative model, recommending that they be recognized as long-term assets to the National Park System. Passage of legislation to authorize and define a nationwide system of National

Heritage Areas was a key recommendation of the Committee's 2009 report *Advancing the National Park Idea*. In 2011, in *America's Great Outdoors: A Promise to Future Generations*, the Department of the Interior included a recommendation to "...establish through legislation clearly defined standards and processes to support a system of regional and community-based national heritage areas that promote locally supported preservation work, promote heritage tourism, and create jobs." In 2012, National Park Service Director Jonathan B. Jarvis issued a Policy Memorandum on the National Heritage Areas Program stating that he endorses the recommendations of the National Parks Second Century Commission that "advocate creation of a clearly defined system of National Heritage Areas as well as funding at a level that will allow them to carry out their work." Just recently, the National Park Service's Cultural Resource Challenge (2014) expressed support for the passage of National Heritage Area program legislation and continued funding for National Heritage Areas."