

LAND IN ROCKY MOUNTAIN NATIONAL PARK; BENJAMIN
FRANKLIN NATIONAL MEMORIAL; DESIGNATE THE STAR-
SPANGLED BANNER TRAIL AS HISTORIC; EXTEND THE
ACADIA NATIONAL PARK ADVISORY COMMISSION;
KALAUPAPA NATIONAL HISTORICAL PARK ADVISORY COM-
MISSION; AND STUDY OF MARITIME SITES IN MICHIGAN

HEARING

BEFORE THE

SUBCOMMITTEE ON NATIONAL PARKS

OF THE

COMMITTEE ON

ENERGY AND NATURAL RESOURCES

UNITED STATES SENATE

ONE HUNDRED NINTH CONGRESS

FIRST SESSION

on

S. 584

H.R. 432

S. 652

S. 958

S. 1154

S. 1166

S. 1346

JULY 28, 2005



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ICAL PARK ADVISORY COMMISSION; AND
STUDY OF MARITIME SITES IN MICHIGAN**

THURSDAY, JULY 28, 2005

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

The subcommittee met, pursuant to notice, at 10 a.m. in room SD-366, Dirksen Senate Office Building, Hon. Craig Thomas presiding.

**OPENING STATEMENT OF HON. CRAIG THOMAS,
U.S. SENATOR FROM WYOMING**

Senator THOMAS. I believe we'll go ahead and start. Everything's a little unusually busy around here today, so folks may be a little late. But in any event, it's time for us to begin, so we'll do that.

I want to welcome Deputy Director Steve Martin and our other witnesses to today's subcommittee hearing. Steve, congratulations on your assignment as Deputy Director, we're delighted to have you here. Your background in Wyoming, of course, is particularly helpful. Anyway, I look forward to working with you.

The purpose for this hearing is to hear testimony on seven pending bills: S. 584 and H.R. 432, bills to require the Secretary of the Interior to allow continuing occupancy of certain land and improvements within Rocky Mountain National Park; S. 652, a bill to provide financial assistance for the rehabilitation of the Benjamin Franklin National Memorial in Philadelphia, and the development of an exhibit to commemorate the 300th anniversary; S. 958, a bill to amend the National Parks Trail System to designate the Star-Spangled Banner Trail in the States of Maryland and Virginia and the District of Columbia as a National Historic Trail; S. 1154, a bill to extend Acadia National Park Advisory Commission to provide improved visitor services at the park, and for other purposes; S. 1166, a bill to extend the authorization of the Kalaupapa National Historical Park Advisory Commission; and S. 1346, a bill to direct

the Secretary of the Interior to conduct a study of maritime sites in the State of Michigan. So, we have several issues, and we're very pleased to have you all here.

We will begin, then, with our first witness, Steve Martin, Deputy Director of the National Park Service. Steve, thanks for joining us. [The prepared statement of Senator Santorum follows:]

PREPARED STATEMENT OF HON. RICK SANTORUM, U.S. SENATOR
FROM PENNSYLVANIA

It is my pleasure to speak on behalf of S. 652 and introduce Dr. Dennis Wint, President and Chief Executive Officer of The Franklin Institute of Philadelphia, Pennsylvania. Prior to assuming the position of CEO in 1995, Dr. Wint earned a Ph.D. from Case Western Reserve University and served as president of the St. Louis Science Center. Under Dr. Wint's leadership, the Institute has been transformed and reinvented to emphasize the advances in science and technology.

In appearing before the Subcommittee today, I pledge my full support for prompt passage of S. 652, which would authorize federal funding for the rehabilitation and enhancement of the Benjamin Franklin National Memorial. The Memorial is located on the premises of The Institute and, as Dr. Wint will explain, it is unique, because unlike other national memorials throughout the United States, it does not receive federal funding to support programs, operations, or preventative maintenance. In contrast to other national memorials that are owned and operated by the National Park Service, the Benjamin Franklin National Memorial remains in the custody of a private, non-profit institution.

I was pleased that with your support, the Senate passed identical legislation last year; however, our colleagues in the House did not act upon this bill prior to the 108th Congress' adjournment. With a national celebration occurring in 2006 to mark the 300th anniversary of the birth of Benjamin Franklin, Senator Specter and I re-introduced this bill because we believe it is our nation's obligation to honor the legacy of a distinguished scientist, statesman, inventor and diplomat by making certain that our national memorial to Benjamin Franklin remains intact and accessible to the public.

The time has come to pass this legislation and provide federal support to help The Institute ease the burden of maintaining this national treasure so that generations of Americans may continue to enjoy this magnificent tribute to his legacy. As an indication of The Franklin Institute's commitment to this important project, I am pleased to report that Dr. Wint plans to commence a private fundraising campaign that will match The Institute's request for federal assistance as required by this legislation. Subsequently, prompt passage of this bill is expected to leverage the support of interested parties that will provide much needed funding for this project.

Mr. Chairman, after consideration of today's testimony, I urge the Committee to favorably report this measure to help ensure its prompt enactment. Thank you and now it is my pleasure to introduce to you Dr. Dennis Wint, President and Chief Executive Officer of The Franklin Institute of Philadelphia, Pennsylvania.

**STATEMENT OF STEPHEN P. MARTIN, DEPUTY DIRECTOR,
NATIONAL PARK SERVICE, U.S. DEPARTMENT OF THE
INTERIOR**

Mr. MARTIN. Thank you, Senator Thomas, for having me here today. I would like to submit six statements on the different bills, but just summarize my remarks to start with and then answer any questions.

Senator THOMAS. Your statements will be part of the record.

Mr. MARTIN. S. 584, the Betty Dick Residence Protection bill would require the Secretary of the Interior to permit continued occupancy and use of certain lands and improvements within Rocky Mountain National Park. The Department supports the general goal of the bill, which is to allow the National Park Service to resolve the issue of Mrs. Betty Dick's desire to continue to use her summer residence inside Rocky Mountain National Park, which she has used for more than 25 years. Currently, the National Park

Service does not have clear statutory authority to address this unique situation. The Department would support this legislation, if amended, in a way that balances the merits of Mrs. Dick's situation with the public's interest in the property, which was purchased and is owned for the benefit of the American people. Our testimony recommends amendments that would open a portion of the property for public use, require fair market value rent for the property, and name Mrs. Dick as sole beneficiary of the bill. The pending legislation would only address Mrs. Dick's unique situation. The Department is also willing to work with the committee to develop a broader solution, one that would provide NPS with clear statutory authority to address expiring reservations of use and occupancy and other situations with similar merit. We regret the difficult situations that sometimes arise from expiration of private use and occupancy leases located within the National Parks, and we look forward to working with the committee on this issue.

S. 652, the Ben Franklin National Memorial, would authorize up to \$10 million in Federal funding for the rehabilitation of the Benjamin Franklin National Memorial in Philadelphia, and the development of an exhibit to commemorate the 300th anniversary of the birth of Benjamin Franklin. The Department does not support this bill.

For many years, the Department has opposed legislation authorizing appropriations for non-National Park Service construction projects, because of its impact on the limited amounts of discretionary funds available to address the priority needs of our National Parks, and other programs that we administer.

In addition, when Congress authorized the Ben Franklin National Memorial as an affiliated area in 1972, no provision was made for appropriated funds to be used for the Memorial. Congress anticipated that the Franklin Institute would continue to operate and maintain the Memorial at no cost to the government.

We are committed, though, to supporting initiatives to commemorate the 300th anniversary of Benjamin Franklin and the interpretation of his legacy, especially at Franklin Court, a unit of Independence National Historical Park, but given the current demands on National Park Service funds, we cannot support this legislation.

Senator THOMAS. Mr. Martin, can I interrupt you for a moment?

Mr. MARTIN. Yes.

Senator THOMAS. The Senator's here from Maine, and I think she has other commitments.

Would you care to make your opening comments?

**STATEMENT OF HON. SUSAN COLLINS, U.S. SENATOR
FROM MAINE**

Senator COLLINS. Thank you very much, Mr. Chairman, and thank you, Mr. Martin, for allowing me to interrupt your testimony before you got to my bill. I was on pins and needles on what you were going to say.

Chairman Thomas, Senator Salazar, members of the subcommittee, I would like to thank you, first of all, for holding this hearing, and for considering a bill that I've introduced that is called the Acadia National Park Improvement Act of 2005. This legislation takes important steps to ensure the long-term health of

one of America's most beloved National Parks. It would increase the land acquisition ceiling at Acadia by \$10 million, facilitate an off-site intermodal transportation center for the Island Explorer bus system, and extend the Acadia National Park Advisory Commission. I would invite the members of this distinguished subcommittee to come to Acadia this summer, it is an absolutely beautiful place.

In 1986, Congress enacted legislation designating the boundary of Acadia National Park. However, many private lands were contained within the permanent, authorized boundary. Congress authorized the park to spend \$9.1 million to acquire those privately held lands from willing sellers only. While all of that money has now been spent, rising land prices have prevented the money from going as far as Congress originally intended. There are more than 100 private tracts left within the official park boundary. Nearly 20 of these tracts are currently available from willing sellers, but the park does not have funds anymore to purchase them. My legislation would authorize an additional \$10 million to help acquire these lands.

Since the lands already fall within the congressionally authorized boundary, I want to emphasize that this effort would just "fill in the holes" within the park, it would not enlarge the boundaries of the park.

My legislation would also facilitate the development of an intermodal transportation center as part of the Island Explorer bus system. The Island Explorer has been extremely successful over its first 5 years. These low-emission, propane-powered vehicles have carried more than 1.5 million riders since 1999. In doing so, they removed 424,000 vehicles from the park, and reduced pollution by 24 tons.

Unfortunately, the system lacks a central parking and bus boarding area, and as a result, many day-use visitors do not have ready access to the Island Explorer buses. My legislation would authorize the Secretary of the Interior to provide assistance in the planning, construction and operation of an intermodal transportation center. I would stress that this center would be constructed in partnership with the Federal Highway Administration, the U.S. Department of Transportation, the Maine Department of Transportation, and other partners. It would reduce traffic congestion, preserve park resources, and help to ensure a vibrant tourist economy.

Finally, Mr. Chairman, my legislation would extend the 16-member Acadia National Park Advisory Commission for an additional 20-year period. This commission was first created by Congress in 1986, and it's scheduled to expire in 2006. That would really be a mistake. The Commission consists of Federal, State, and community representatives who have provided invaluable advice relating to the management and development of the park. The commission has proven its worth many times over, and I would recommend that it be extended for an additional 20 years.

Mr. Chairman, Acadia National Park is a true gem on the Maine coastline. The park is one of Maine's most popular tourist destinations, with nearly three million visitors a year. While unsurpassed in beauty, the park's ecosystem is also very fragile. Unless we are

careful, we risk substantial harm to the very place that Mainers and Americans hold so dear.

In just 11 years, Acadia will be 100 years old. Age has brought both increase in popularity, and greater pressures. By providing an additional \$10 million to protect sensitive lands within the boundary of the park, by expanding the highly successful Island Explorer System, and by extending the advisory commission, our legislation would help make the park stronger, and healthier than ever on the occasion of its centennial anniversary.

Again, my appreciation to you for holding this hearing. I know how dedicated the members of this subcommittee are to preserving and strengthening our National Park System. I hope you will give favorable consideration to this bill. Thank you very much, Mr. Chairman.

Senator THOMAS. Thank you, Senator, it's always nice to have Mainers here. I've never heard that word before.

Senator COLLINS. Thank you.

Senator THOMAS. Thank you, Mr. Director, you can go right on with your testimony.

Mr. MARTIN. The Star-Spangled Banner Trail, S. 958, would amend the National Trails System Act to designate the Star-Spangled Banner Trail as a National Historic Trail. The Department supports this bill, which would designate an approximately 290-mile land and water trail, extending from southern Maryland through the District of Columbia, and Virginia, along the Chesapeake Bay.

The proposed National Historic Trail would commemorate the events leading up to the writing of the Star-Spangled Banner, during the Chesapeake Campaign of the War of 1812. The proposed trail represents an opportunity for an effective partnership among Federal, State and local governments, a dedicated trail organization, and the many public and private site managers to administer and maintain a federally designated, commemorative trail, along the historic routes of the Chesapeake Campaign.

Because of its emphasis on partnerships, this approach provides the greatest flexibility for resource protection, while creating a framework for interpretation, and visitor experience.

Acadia National Park, S. 1154, which was just very well-spoken to, would extend the Acadia National Park Advisory Commission for an additional 20 years, increase the park's land acquisition ceiling to \$28 million, and authorize the park to participate in the planning, construction, and operation of an intermodal transportation center outside of the park's boundary.

The Department supports enactment of this bill, with two technical amendments, which are attached to our statement. The Acadia Advisory Commission continues to be a valuable asset that enhances communication between park managers and local communities. Its continuation is strongly supported by its State and local representatives. The land acquisition ceiling is needed because of the increased number of willing landowners who wish to sell their property, and acquiring these properties is effective at this time for the National Park Service. Raising the ceiling to \$28 million would allow the park to acquire all of the parcels within the boundary that are currently available for sale.

The intermodal transportation center is the final piece of a three-phase transportation strategy that was developed with the assistance of an interagency team of transportation and park managers, and partners who have combined their resources to offer the Island Explorer, a bus system that uses clean, propane-powered vehicles. More than 1.5 million riders have used the popular system since 1999. Traffic congestion on Mount Desert Island has been reduced, and the park's air quality has improved. The new project calls for developing an off-island transportation center, which would include a visitor orientation facility to serve day users of Acadia National Park.

Kalaupapa Advisory Commission, S. 1166, would extend the authorization of the Kalaupapa National Park Advisory Commission for another 20 years. The Department supports this legislation, with amendments described in our statement. Extending the duration of the Kalaupapa Advisory Commission for another 20 years would enable a panel of knowledgeable and dedicated individuals to provide guidance during the coming years when the park will be anticipating the change from a patient community to a more traditional park unit.

Kalaupapa National Historical Park was established to preserve and interpret the settlement on Kalaupapa Peninsula on the island of Molokai, and to provide a well-maintained residential community for the patients with Hansen's Disease, or leprosy. The enabling legislation gave primary consideration to the rights and needs of the resident patients, so long as they remain there. However, the legislation also anticipated the day when there would no longer be a resident patient community at Kalaupapa. An advisory commission, in operation until 2025 would offer important guidance for the National Park Service as it seeks to provide for the settlement's last remaining patients, and transition to a park that is more broadly available for the public.

Maritime sites in Michigan, S. 1346, would authorize a special resource study of the maritime heritage sites in the State of Michigan. The Department does not support this bill. While Michigan is rich in historic treasures linked to its Great Lakes heritage, and the coastline of the state are home to important resources, such as wetlands, dunes, and threatened and endangered species and plants. We believe the best of these cultural and natural resources are already being conserved and interpreted for the enjoyment of the public. All four National Park Service units in Michigan—Pictured Rocks National Lakeshore, Keweenaw National Historical Park, Isle Royale National Park and Sleeping Bear Dunes National Lakeshore—already preserve and interpret historic maritime resources identified in the provisions of S. 1346.

The State of Michigan also has made great efforts to protect important cultural and natural resources. Michigan has listed over 1,000 sites on the National Register of Historic Places, which include many ships and shipwreck sites. The State has developed a data base that includes the stories of the 1,500 shipwrecks, as well as information on 11 underwater preserves.

We would continue to work together with the communities, the State and others to preserve, interpret and use these areas.

Mr. Chairman, this concludes my testimony. I'd be pleased to answer any questions that you might have.

[The prepared statement of Mr. Martin follows:]

PREPARED STATEMENT OF STEPHEN P. MARTIN, DEPUTY DIRECTOR, NATIONAL PARK SERVICE, U.S. DEPARTMENT OF THE INTERIOR

ON S. 584 AND H.R. 432

Mr. Chairman and members of the Subcommittee thank you for the opportunity to appear before you today to present the Department of the Interior's views on S. 584 and H.R. 432, bills that would require the Secretary of the Interior to permit continued occupancy and use of certain lands and improvements within Rocky Mountain National Park.

The Department supports the general goal of S. 584 and H.R. 432 to allow the National Park Service (NPS) to resolve the merits of Mrs. Betty Dick's desire to continue to live in the home inside Rocky Mountain National Park where she has lived for more than 25 years. Currently, the NPS does not have clear statutory authority to address these unique situations. In this testimony, we recommend certain amendments that will address both Mrs. Dick's needs while recognizing the public's purchase and ownership of this property.

As drafted, the pending legislation will only address Mrs. Dick's unique situation. The Department also would be willing to work with the Committee to develop a broader solution, one that would provide NPS with clear statutory authority to address expiring reservations of use and occupancy in other situations with similar merit. We look forward to working with the Committee on this issue.

On April 14, 2005, the Department testified in opposition to H.R. 432 at a hearing before the House Subcommittee on National Parks. However, since that time, the Department has recognized the need for a broader solution in light of the several hundred reservations of use and occupancy that will expire over the next 10 years. Some of these existing reservations may present circumstances similar in merit to Mrs. Dick's.

S. 584 and H.R. 432 would allow the continued use and occupancy of land within Rocky Mountain National Park by Betty Dick for the remainder of her life. The bills also state that the use and occupancy of the land would be governed by the conditions stated in the 1980 settlement agreement. Under these conditions, Betty Dick would be required to make an annual payment of \$300 to the Secretary of the Interior and she would be prohibited from constructing any new structures on the property.

We regret the difficult situations that sometimes arise from the expiration of private use and occupancy leases located within National Parks. Mrs. Dick has been a model tenant in Rocky Mountain National Park. The park has always enjoyed, and continues to enjoy, a congenial relationship with her, and she is a familiar summer resident of the Grand Lake community opening her home to park staff and residents of the community alike. Park staff always feel welcome in Mrs. Dick's home and have frequently stopped by to discuss this issue and other items of mutual interest relating to the park.

The situation that is the subject of these bills is the result of a commitment made by Mr. Dick, Mrs. Dick's late husband, to vacate the property that he sold to the NPS 25 years ago. We understand and appreciate that this commitment has caused anxiety and stress for Mrs. Dick.

In 1977, the NPS purchased 66.5 acres from Marilyn Dick, the ex-wife of George Fredrick Dick for \$214,000. The title company that handled the transaction overlooked the fact that Mr. Dick had retained a right of first refusal to purchase the property if his ex-wife ever decided to sell. Mr. Dick sued the NPS and his former wife in U.S. District Court. In a legally binding Memorandum of Settlement Agreement, signed by the parties in 1980, the NPS retained ownership of the property and agreed to lease approximately 23 acres to Mr. Dick and his heirs for a period of 25 years for \$7,500, which equates to \$300 per year. Mr. Dick died in 1992. His second wife, Betty Dick, survives him and now occupies the premises during the summer months. As the heir of Mr. Dick, Betty Dick had a leasehold interest in the property that expired July 16, 2005.

Mrs. Dick has contacted the NPS about extending her use and occupancy on a preferential basis for the remainder of her life. The NPS lacks the authority to grant such an extension either through existing leasing authority or special use permit authority. NPS does have the authority to issue leases competitively in most circumstances; issuing leases noncompetitively is limited to leases to units of government or non-profit organizations under certain circumstances. NPS is also is re-

quired to charge rent at least equal to fair market value, and the rent payment is kept by the park.

NPS cannot issue special use permits to extend use and occupancy for a life term under current authorities. However, NPS does have authority under certain circumstances to issue a two-year special use permit, with the possibility of re-issuance as long as the justifying circumstances apply, that would allow an individual with an expired use and occupancy to remain on the premises. Some of the criteria include situations in which NPS would be unable to remove the structure for a significant period of time (e.g., because of the need to complete planning requirement or the lack of available funds); the structure has or may have historical significance that would be endangered if vacated; or termination of residency would create undue hardship to the occupant (this provision requires the structure to be the primary residence of the individual). Special use permits also may only be issued for rent equal to the fair market value rent for the property, and the rent would be deposited in the U.S. Treasury. Under our current authority, we have offered Mrs. Dick such a special use permit that allows her to remain on her property for a period of time while NPS conducts a planning process to consider the options and determine an appropriate use for the property taking into account the interests of American taxpayers and park visitors, and park resources.

Mrs. Dick has verbally indicated that she will not accept the offer of a special use permit because it does not address her request for a life estate. A written offer has been sent to her that asks for her reconsideration of the NPS offer. While she has not yet responded to the request for reconsideration, she has accepted our offer to remain at her summer home for the remainder of this season as we await the outcome of the pending legislation. In accepting this offer, Mrs. Dick has stated her appreciation to park staff for allowing her to continue her normal routine for this summer.

The Department would support S. 584 and H.R. 432, if amended in a way that balances the merits of Mrs. Dick's situation with the public's interest in this property, which was purchased and is owned for the benefit of the American people. First, the Department would recommend that the bills be amended to reduce the acreage she occupies from 23 acres to approximately three to five acres that contain the house and outbuildings and her access to the Colorado River. The balance of the property would then be available for park visitors, including access to the river. This would require producing a new map, which we would be happy to provide to Mrs. Dick and to the public.

In addition, we suggest that Mrs. Dick's continued occupancy of the property should be subject to fair market value rent, based upon an appraisal of the property, with the rent being retained by the park.

Finally, we suggest that the bill be amended to name Mrs. Dick as the sole beneficiary of the legislation, and that language be added to allow the termination of the lease in the event that Mrs. Dick is no longer able to use the property in the summer or is unable or unwilling to pay the annual fees. We would be happy to work with the Subcommittee staff to develop these amendments.

Throughout the country, there are many instances where the NPS has purchased private inholdings and permitted former landowners to remain on the property for a period of time, usually 25 years, through a "Reservation of Use and Occupancy." The United States pays a reduced purchase price to account for the value of the retained use. This acquisition tool saves taxpayer dollars and allows the former owner to continue to enjoy the property for a set period of time. As we noted earlier, the Department also would like to work with the Committee to develop a broader solution—one that would provide the NPS with clear statutory authority to address the expiring reservations of use and occupancy in situations where there is merit. We look forward to working with the Committee on this effort.

That concludes my remarks. Mr. Chairman, I would be happy to answer any questions you or other members of the Subcommittee may have.

ON S. 652

Mr. Chairman, thank you for the opportunity to appear before your committee to present the views of the Department of the Interior on S. 652, a bill to provide financial assistance for the rehabilitation of the Benjamin Franklin National Memorial in Philadelphia, Pennsylvania, and the development of an exhibit to commemorate the 300th anniversary of the birth of Benjamin Franklin. The Department does not support this bill.

This bill would authorize financial assistance in the form of a grant to the Franklin Institute to rehabilitate the Benjamin Franklin National Memorial, and to develop an interpretive exhibit relating to Benjamin Franklin to be displayed at a mu-

seum adjacent to the memorial. An amount not to exceed \$10,000,000 would be authorized to be appropriated for these purposes, with the Franklin Institute required to provide matching funds.

For many years, the Department has opposed legislation authorizing appropriations for non-National Park Service construction projects. Many of these projects, like the rehabilitation of the Ben Franklin National Memorial, represent an important contribution to the preservation of our Nation's history. However, each time such legislation is enacted and appropriations follow, it further reduces a limited amount of discretionary funds available to address the priority needs of our national parks and other programs administered by the National Park Service. With the emphasis we have placed on the President's initiative to reduce the deferred maintenance backlog, it has become more important than ever to avoid authorizing funding for non-National Park Service projects that would likely draw funds from the National Park Service's budget. We are committed to supporting initiatives to commemorate the 300th anniversary of Benjamin Franklin and the interpretation of his legacy, especially at Franklin Court, a unit of Independence National Historical Park in Philadelphia, but given the current demands on National Park Service funds, we cannot support this legislation.

The Benjamin Franklin National Memorial is an affiliated area of the National Park System that is owned and administered by the Franklin Institute. The Memorial includes a colossal seated marble statue of Franklin carved by sculptor James Earle Fraser, which stands in the Rotunda of the Franklin Institute's main building at 20th Street and the Benjamin Franklin Parkway in Philadelphia. The statue and surrounding Memorial Hall was designated as the Benjamin Franklin National Memorial on October 25, 1972 (P.L. 92-551) and made no provision for appropriated funds to be used for acquisition, development, operation or maintenance of this Memorial. The House committee report on P.L. 92-551 anticipated that the Franklin Institute would continue to operate and maintain the Memorial at no cost to the government.

A Memorandum of Agreement (MOA) entered into on November 6, 1973, falls under the administrative authority of Independence National Historical Park. The MOA outlines the major responsibilities of each party regarding the operations of the national memorial. The Franklin Institute agreed to preserve the memorial in perpetuity, that no substantial alterations or repairs be taken without Secretarial approval, that the public shall be admitted without charge to the memorial, and that there will be equal employment opportunities. In turn, the Secretary agreed to include the memorial in publications, to make appropriate references to it in the interpretive and information programs of Independence National Historical Park, and to cooperate with the Institute in all appropriate and mutually agreeable ways on behalf of the memorial.

Mr. Chairman, thank you for the opportunity to comment. This concludes my prepared remarks, and I will be happy to answer any questions you or other committee members might have.

ON S. 958

Mr. Chairman and members of the committee, thank you for the opportunity to appear before you today to present the Department of the Interior's views on S. 958, a bill to amend the National Trails System Act to designate the Star-Spangled Banner Trail as a National Historic Trail.

The Department supports S. 958, which would designate an approximately 290-mile land and water trail extending from southern Maryland through the District of Columbia and Virginia along the Chesapeake Bay. The land routes would follow existing public roads, along which British and American troops traveled. The bill would require the Secretary to encourage public participation and consult with landowners, Federal, State, and local agencies on the administration of the trail. The bill would prohibit land or interest in land outside the exterior boundaries of any federally administered area from being acquired for the trail without the consent of the owner.

The proposed National Historic Trail would commemorate the events leading up to the writing of "The Star-Spangled Banner" during the Chesapeake Campaign of the War of 1812. These events include the British invasion of Maryland, the Battle of Bladensburg, the burning of the White House and the Capitol, the burning of the Washington Navy Yard, and the Battle for Baltimore in the summer of 1814. The route of the invasion is known and documented, and the proposed trail would follow it as closely as practical.

The War of 1812 and the Chesapeake Campaign of 1814 had long-lasting and far-reaching effects on the United States and American culture. It represented the first

major test of our infant democracy, contributed to the formation of a national identity, and demonstrated the importance of a strong military and the need for coastal defenses. During the campaign, other events occurred that are significant to our nation's heritage, particularly the writing of the poem commemorating a key battle—the Battle for Baltimore. Francis Scott Key's poem, the words of which comprise our National Anthem, celebrated the resiliency of the young nation and the flag he described as "The Star-Spangled Banner" during the successful defense of Fort McHenry. The events provide important testimony, too, about the roles of the enslaved and civilians in the early defense of the nation.

Should S. 958 be enacted, the National Park Service, subject to availability of funds, would prepare a comprehensive management plan with widespread public participation to identify the goals and objectives for trail preservation, research, interpretation, public use, trail marking, and cooperative management. The bill recognizes the advantages offered by the regional nature of the trail and the many organizations interested in and associated with the history of the Chesapeake Campaign. Several key trail-related resources, such as Fort McHenry and the White House, are owned by the Federal government. We anticipate that other trail-related resources such as structures within Old Town Alexandria in Virginia or Jefferson Patterson Park and Museum in Maryland will primarily remain in local or private ownership.

In 1999, the Star-Spangled Banner National Historic Trail Study Act (Public Law 106-135) was enacted authorizing the Secretary of the Interior to study the potential route of a Star-Spangled Banner National Historic Trail. The history, background, integrity, and national significance of the trail were researched and analyzed. The criteria for national trails, set forth in the National Trails Systems Act, were applied, and five of the eight trail study segments were found to meet the necessary criteria. The proposed 290-mile trail would only include these five segments.

Providing conservation and enjoyment of, public access to, and interpretation of the historic route and its resources has been a growing focus of both public and private initiatives in recent years as the Bicentennial of the War of 1812 approaches. In Maryland, a grassroots initiative was undertaken to raise public awareness of the important events that occurred in the Chesapeake region in the summer of 1814 during the War of 1812. Historians and regional groups recognized the untold stories and legacy of the events of the Chesapeake Campaign and the need for protection and interpretation of related historical resources.

The proposed trail represents an opportunity for an effective partnership among Federal, State, and local governments, a dedicated trail organization, and the many public and private site managers to administer and maintain a federally designated commemorative trail along the historic routes of the Chesapeake Campaign. Because of its emphasis on partnerships, this approach provides the greatest flexibility for resource protection while creating a framework for interpretation and visitor experience.

Mr. Chairman, that concludes my remarks and I would be happy to respond to any questions that you and the committee may have.

ON S. 1154

Mr. Chairman, thank you for the opportunity to appear before your committee to present the views of the Department of the Interior on S. 1154, a bill to extend the Acadia National Park Advisory Commission, to provide improved visitor services at the park, and for other purposes. The Department supports enactment of this bill with two technical amendments.

If enacted, S. 1154 would accomplish three objectives. First, it would extend the life of the 16-member Acadia National Park Advisory Commission, which is set to expire in September 2006, for an additional 20 years. Second, the bill would increase the park's land acquisition ceiling from \$9.1 million to \$28 million. Third, it would authorize Acadia National Park to participate in the planning, construction, and operation of an intermodal transportation center outside the park's boundaries.

Acadia National Park Advisory Commission

The Acadia National Park Advisory Commission has been in operation for almost 20 years, and continues to be a valuable asset that enhances communication between park managers and local communities. The Commission's state and local representatives participate actively, and they strongly support its continuation. The cost of administering the Commission is minimal and is covered by the park's operating budget.

Increase in Land Acquisition Ceiling

Acadia National Park's authorized land acquisition ceiling of \$9.1 million has been reached, although there are over 100 tracts left to be acquired to complete the park as authorized by Congress in 1986. Land prices on Mount Desert Island, where Acadia National Park is located, have increased dramatically since 1986 and may continue to do so if local home-inflation trends continue. Many willing landowners are anxious to sell, but the park cannot buy the land because the land acquisition ceiling does not permit the use of sufficient appropriated funds, thus leaving valuable resources within the park threatened with incompatible development.

The current law allowing Congress to exceed the ceiling by 10% or \$1 million per year has resulted in an additional \$8.9 million appropriated over the ceiling, for a total appropriation of \$18 million for land acquisition at Acadia National Park to date. However, because the current law is limited to \$1 million per year, it does not adequately address situations where available tracts are valued higher than \$1 million. If these undeveloped tracts within the boundaries of the park are developed with new structures, acquisition costs will increase. Acquiring these lands sooner rather than later is more cost-effective for the National Park Service in the long run. In addition, the park currently faces encroachment issues, where private landowners use adjacent park lands for swing sets, hot tubs, sheds and the like. The proposed \$28 million ceiling would allow the National Park Service to acquire all parcels of land that are located within the boundary of the park that are currently available for sale.

Incompatible development within park boundaries can degrade the natural and cultural values that are important to the visitors of Acadia National Park. There are also "spillover" impacts from use of private lands that are surrounded by park land including noise and light impacts, which tend to drive the public away from these parts of the park. Finally, larger blocks of land are more cost-effective to manage than smaller discontinuous parcels that are owned by multiple owners and thus, result in higher boundary monitoring and patrol costs.

Intermodal Transportation Center

The intermodal transportation center is the final piece of a three-phase transportation strategy that was developed with the assistance of an interagency team of transportation and park managers. The interagency team was established pursuant to the 1997 Memorandum of Understanding between the Secretary of Transportation and the Secretary of the Interior to comprehensively address public transportation in and around our national parks. Language within S. 1154 authorizing Acadia National Park to participate in the planning, construction and operation of an intermodal transportation center outside park boundaries is essential for completion of a highly successful transportation system that operates through a consortium of twenty partners. These partners include the U.S. Department of Transportation, the Maine Department of Transportation, and many local interests who developed this transportation strategy and have combined their resources to offer the Island Explorer, a bus system that uses clean propane-powered vehicles to move visitors around the Island. The operational costs are paid for by a special transportation fee imposed at Acadia, state and local funds, and business contributions.

Daily summer use of the Island Explorer has averaged 3,700 riders and more than 1.5 million riders have used the popular system since it began in 1999. Traffic congestion on Mount Desert Island and the negative impacts of too many vehicles in Acadia National Park have been reduced, and the park's air quality has improved annually.

Currently, overnight visitors are picked up at their lodgings by the Island Explorer, but the increasing numbers of day use visitors do not have access to the transit system because it lacks a central parking and bus boarding area. As planned, the project calls for developing an off-island intermodal transportation center to serve day users of Mount Desert Island and Acadia National Park. The center is needed to maximize the benefits of the transit system and to fully achieve the project's goals of reducing traffic congestion, preserving park resources and the visitor experience, and ensuring a vibrant tourist economy.

The proposed center would be strategically located on Route 3 (the only road to Mount Desert Island and Acadia National Park) in Trenton, Maine. A non-profit partner will acquire the land using donated funds. The Maine Department of Transportation and the Federal Transit Administration will have the lead in the planning and construction of the center, which will include parking for day users, a visitor orientation facility highlighting park and regional points of interest, a bus boarding area, and a bus maintenance garage.

Most of the proposed facility would be built with funds provided by the U.S. Department of Transportation to the State of Maine. The National Park Service would

be responsible for the design, construction, and operation of all or part of the visitor orientation portion of the center, which would include exhibits, media presentations, and general information for park visitors bound for Acadia National Park. The National Park Service might also contribute to maintenance and operation of the facility. The proposed center would replace the park's inadequate Thompson Island Information Center, which is too small to accommodate the large number of summer visitors to the park, contains out-of-date exhibits, and is not optimally located to intercept visitors.

We would recommend two technical amendments be made to section 4 of the bill. First, we need to clarify that the Secretary would be authorized to conduct activities that facilitate the dissemination of information relating to the Island Explorer or any successor to the Island Explorer in case the transit system is renamed. Second, in order to preserve flexibility in how resources are allocated, we would recommend that the word "may" be used instead of "shall".

Mr. Chairman, thank you for the opportunity to comment. This concludes my prepared remarks and I will be happy to answer any questions you or other committee members might have.

Technical amendments to S. 1154, the Acadia National Park Improvement Act of 2005

On p. 2, line 9, strike "shall" and insert "may".

On p. 2, line 26, strike "system;" and insert "system or any successor transit system;".

ON S. 1166

Mr. Chairman, thank you for the opportunity to present the Department of the Interior's views on S. 1166, a bill to extend the authorization of the Kalaupapa National Historical Park Advisory Commission. The advisory commission is due to expire on December 22, 2005; this bill would extend the commission another twenty years, until December 22, 2025.

The Department supports this legislation with amendments described later in this statement. Extending the duration of the Kalaupapa National Historical Park Advisory Commission for another 20 years would enable a panel of knowledgeable and dedicated individuals to provide guidance during the coming years when the park will be anticipating the change from a patient community to a more traditional national park unit.

Kalaupapa National Historical Park was established in 1980 by Public Law 96-565 to preserve and interpret the settlement on the Kalaupapa Peninsula on the island of Molokai, and to provide a well-maintained residential community for the patients with Hansen's disease (leprosy). The enabling legislation gave primary consideration to the rights and needs of the resident patients so long as they remained there. However, the legislation also anticipated the day when there would no longer be a resident patient community at Kalaupapa by providing for a reevaluation of the policies governing the management, administration, and public use of the park once that occurs.

With a patient population of fewer than 40, it is likely that sometime before 2025, there will no longer be a resident patient community at Kalaupapa. At that time, the reevaluation of policies governing the park will be undertaken, as required by the law establishing the park. An advisory commission in operation until 2025 could offer important guidance to the National Park Service, as it seeks to provide for the settlement's last remaining patients and transition the park from a site that is primarily a patient community to one that is more broadly available for public uses.

While we believe it is critically important to have the involvement of the patient community on the advisory board for as long as possible, we believe that an extension of the advisory commission for 20 years, by necessity, needs to be accompanied by a change in the allowable composition of the commission. Section 108(a) of P.L. 96-565 provides for the Secretary of the Interior to appoint seven members to the 11-member advisory commission who are present or former patients, elected by the patient community. We recommend amending this section to provide for the Secretary to appoint seven members who are knowledgeable about Kalaupapa's history and have a strong interest in the preservation of the settlement's history, if patients are unable to serve on the commission. We support retaining the requirement currently in law that the other four members be appointed from recommendations submitted by the Governor of Hawaii.

For similar reasons, we also recommend amending Section 108(d) of P.L. 96-565. This section requires the Secretary to consult with the commission on a training program for the patients, among other matters, and provides for public visitation levels to be determined by the commission on the basis of a patient referendum. For

the next phase of decision-making, we believe it would be more appropriate to amend Section 108(d) to specify that the commission should recommend to the Secretary the long-term strategic planning, education, and outreach efforts that should be undertaken by the National Park Service for the park and should advise the Secretary about appropriate visitation levels for the park.

We would be pleased to work with the subcommittee on language for amendments to Sections 108(a) and 108(d).

In the 25 years since Congress passed the enabling legislation for Kalaupapa National Historical Park, the National Park Service has built a strong relationship with many of the residents and the State of Hawaii. We have learned a lot—about Hansen’s disease, inequality, renewal and hope—through our relationship with these individuals and their families. We want those who have helped us understand the history of what happened at Kalaupapa to be involved in framing the story for the future. Providing for the advisory commission for the park to remain in existence for another 20 years will help ensure that this goal is achieved.

Mr. Chairman, this concludes my testimony. I will be happy to answer questions you or the other members of the subcommittee may have.

ON S. 1346

Mr. Chairman, thank you for the opportunity to present the views of the Department of the Interior on S. 1346, a bill to authorize the Secretary of the Interior to conduct a special resource study of the maritime heritage sites in the state of Michigan.

The Department does not support S. 1346. While Michigan is rich in historic treasures linked to its Great Lakes’ heritage and the coastlines of the state are home to important resources such as wetlands, dunes, and threatened and endangered species and plants, we believe the best of these cultural and natural resources are already being conserved and interpreted for the enjoyment of the public.

S. 1346 would authorize a study to determine the potential economic and tourism benefits of preserving, protecting, and interpreting the State’s maritime resources. It would recommend management alternatives for the most effective long-term protection and interpretation of the resources. The study also would address ways to link communities, waterways, monuments, parkways, national and state parks, and state historic sites on the national, regional, state and local levels into a Michigan Maritime Heritage Destination Network. S. 1346 would require a report to be submitted to Congress not later than 18 months after funds are made available that describes the results of the study. The bill would authorize funding of \$500,000 for the study.

All four National Park Service (NPS) units in Michigan, Pictured Rocks National Lakeshore, Keweenaw National Historical Park, Isle Royale National Park, and Sleeping Bear Dunes National Lakeshore already preserve and interpret historic maritime resources identified in the provisions of S. 1346. These parks contain historic maritime landscapes of a size and quality unique on the Great Lakes and rare elsewhere on the United States coastlines. The maritime heritage resources at all four NPS sites are interpreted and presented to the public in a variety of ways. Symbols of the maritime history of Lake Superior are preserved at Pictured Rocks National Lakeshore at three former Coast Guard stations and the Au Sable Light Station, which is perhaps the finest example on the Great Lakes of late 1800’s vintage masonry lighthouses. At Keweenaw National Historical Park, the majority of cultural resources are related to copper mining. Some of the success of that industry was attributed to the waterways of Lake Superior and the role that copper played in building ships and boats to this day. Thus, this site adds another dimension to the maritime heritage of the area.

Copper mining on the island of Isle Royale and the growth of Lake Superior shipping led to the establishment of four lighthouses around Isle Royale National Park. These lighthouses, three of which are listed on the National Register of Historic Places, and numerous shipwrecks of both national and state significance scattered throughout Isle Royale National Park give clear indication of the traffic and danger the waters of Lake Superior posed to sailing vessels throughout history. The area was a base for a thriving commercial fishing industry from the 1830’s until the park’s establishment in 1931.

The maritime resources at Sleeping Bear Dunes National Lakeshore include an 1858 lighthouse, three original Life-Saving Service /Coast Guard stations, eight historic rescue boats, and hundreds of museum artifacts. Cultural landscapes highlight the maritime and agricultural resources of the area. The waters of Lake Michigan have played a key role in the settlement of the state.

There are indoor and outside exhibits, walking tours, living history, boat tours and audio-visual programs at these park sites. Scores of school groups make trips to these sites where history comes alive to enhance their social science studies. During the summers, national park rangers, Volunteers-in Park (VIPs), and various park partners staff museums, visitor centers, and historic structures to provide the general public with enthusiasm and knowledge of the maritime heritage resources.

The state of Michigan also has made great efforts to preserve and protect important cultural and natural resources. Michigan has listed over one thousand sites on the National Register of Historic Places, which includes state parks, historic houses, commercial and residential areas, farm and factory complexes, cemeteries, monuments, as well as ships and shipwreck sites. The state has developed a database that includes the stories and details of wrecks and rescues of 1,500 shipwrecks as well as information on the 11 underwater preserves and other important historical facts. There are 120 lighthouses along the coastline, the oldest ones being over 180 years old. And Michigan established the first fresh water marine sanctuary in the Great Lakes area, the Thunder Bay National Marine Sanctuary and Underwater Preserve, to maintain stewardship over and interpret a large collection of shipwrecks. There are numerous museums, hotels, historic ships and boats, locks and ports, and underwater preserves related to the maritime industry.

The Great Lakes are a critical part of Michigan's economy and quality of life. Millions of people use the Great Lakes each year to enjoy beaches, good fishing and boating. Pictured Rocks National Lakeshore, Keweenaw National Historical Park, Isle Royale National Park, and Sleeping Bear Dunes National Lakeshore will continue to ensure that outstanding natural and cultural resources will be protected for generations to come.

Mr. Chairman, this concludes my prepared testimony. I would be pleased to answer any questions you or the committee may have.

Senator THOMAS. All right. Thank you very much, Mr. Martin.

We've been joined by the Senator from Hawaii. Would you have any opening statements?

**STATEMENT OF HON. DANIEL K. AKAKA, U.S. SENATOR
FROM HAWAII**

Senator AKAKA. Thank you, very much, Mr. Chairman. I thank you very much for holding this hearing. I have a statement that I ask to be included in the record. I'd like to say that I've heard a lot of your statement, Mr. Martin, and I'm glad to know how you feel about Kalaupapa National Park and I'd like to say more about that later. Thank you very much, Mr. Chairman.

[The prepared statement of Senator Akaka follows:]

PREPARED STATEMENT OF HON. DANIEL K. AKAKA, U.S. SENATOR FROM HAWAII

Mr. Chairman, thank you for scheduling this hearing. I would like to make a brief statement in support of S. 1166, a bill Senator Inouye and I introduced to extend the authorization of the advisory commission at Kalaupapa National Historical Park. Like the other bills on today's agenda, this is not a major national issue, but it is very important to my State.

Kalaupapa National Historical Park was established by statute in 1980 to provide for the preservation of the nationally and internationally significant resources of the Kalaupapa settlement on the island of Molokai—including its residents, culture, history, and natural resources.

The purpose of the park is to provide a well-maintained community in which the patients with Hansen's disease may remain at Kalaupapa as long as they wish, while protecting their current lifestyle and their individual privacy. The park also protects the spectacular features of the Kalaupapa peninsula and the important history of the site.

The park's enabling legislation also established the Kalaupapa National Historical Park Advisory Commission consisting of 11 members, appointed by the Secretary of the Interior. Seven of the members are patients or former patients elected by the patient community. Four members are appointed from recommendations made by the Governor of Hawaii, and at least one of these is Native Hawaiian.

The Advisory Commission has provided very useful input and advice to the Secretary of the Interior on policy concerning visitation to the park and other matters.

It is remarkable that 25 years have passed since enactment of the bill establishing the park and Commission, and at the end of the 2005 calendar year, the Advisory Commission expires. It is important to continue the work of the Commission, which is to provide a voice for the patients and residents on matters concerning their home. S. 1166 simply extends the authorization for an additional 20 years.

I have received a letter from some of the residents at Kalaupapa in support of S. 1166, and I ask that it be included in the hearing record.*

Mr. Chairman, I look forward to working with you and the sponsors of the bills on today's agenda to help move them through the Committee process as soon as practicable.

Thank you.

Senator THOMAS. Thank you very much.

Now we're joined by the Senator from Michigan. If you'd like to go ahead before we ask questions.

**STATEMENT OF HON. DEBBIE STABENOW, U.S. SENATOR
FROM MICHIGAN**

Senator STABENOW. Thank you, Senator Thomas. Thank you, I will leave before you ask questions.

Senator THOMAS. Well, we'll have some for you, of course.

[Laughter.]

Senator STABENOW. I very much appreciate your allowing me to say a few words about a very important bill to Michigan that Senator Levin and I have introduced, and I appreciate your allowing me to speak now. As you may know, in the Banking Committee, we are currently marking up the GSE bill, so I'm running back and forth. I also know my colleagues, Senator Sarbanes and Senator Santorum who are also on the Banking Committee, have bills and want to appear before your committee. But I very much appreciate your hearing on this important bill. Senator Thomas, Senator Akaka, thank you very much for your leadership on the committee, and of course, Senator Salazar, thank you for being here.

I'm speaking today about the Michigan Lighthouse and Maritime Heritage Act. Senator Levin and I introduced this bill because we believe it's important to our maritime heritage, and it's important to provide education and interpretation to the public of the great maritime heritage in Michigan. I invite all of you to come to Michigan, if you have not, to enjoy the beauty of our great State.

This bill has long had broad bipartisan support in the Michigan delegation. Congressman Dave Camp just introduced the bill today in the House, and has been my colleague on the House side, working on this issue for us. I also want to take the time to thank Steve Belko for traveling all the way from Michigan to testify before the subcommittee today.

The Great Lakes are an inseparable part of Michigan's identity, and our cultural heritage. Our 3,288 miles of shoreline cover a larger distance than the entire eastern coast of the United States. Michigan's landscape reflects our deep bond with the Great Lakes, and the associated industries that have shaped our State from the time of the earliest settlers.

We're very proud that Michigan has the most lighthouses of any State in the Nation, totaling 120 lighthouses. At one time we had over 100 staffed lighthouses, which was more than any other State. Our lighthouses are no longer staffed, because of advances in tech-

*The letter is included in the appendix.

nology, but they remain a symbol of the importance that the Great Lakes has played, and continue to play, in Michigan's history.

In addition to our famous lighthouses, Michigan is also home to the Nation's only freshwater marine sanctuary, the Thunder Bay National Marine Sanctuary. We have historic shipwrecks and numerous maritime and lighthouse museums.

The purpose of my bill is to link all of these elements together—history, lighthouses, maritime sanctuaries, shipwrecks and museums—so that Michigan residents and all visitors to our great State, have a wonderful insight into the importance of the Great Lakes in the settling, the growth and the development of our history.

Specifically, S. 1346 will help develop Federal, State and local partnerships by requiring the National Park Service to work with the State of Michigan and local communities to study and make recommendations to Congress on the best ways to promote and protect Michigan's lighthouses and maritime resources. These recommendations would include specific legislative proposals for the preservation of lighthouses and maritime history. For example, they may call for the creation of a State-wide trail, highlighting the historic features of our shorelines and lighthouses—I would love to see that. The recommendations would also include the identification of funding sources from Michigan communities, which are critical to this effort.

Finally, Mr. Chairman, my bill will also promote tourism for the local economies of our Great Lakes communities. Our shoreline towns host visitors from across the country who travel to view the magnificence of our coastal areas and the lighthouses that illuminate them. These small communities are more dependent than ever on tourism dollars, and we must help them by coordinating our efforts to protect Michigan's lighthouses, and promote our Great Lakes maritime culture.

I want to thank you, again, for allowing me to come on S. 1346 in today's hearing. I'm hopeful that the subcommittee and the committee will support the legislation and move it to the floor so that we can continue our broad, bipartisan effort in Michigan to preserve and protect our history and our assets on the Great Lakes. And I invite you, at any time, to come join us, and we will show you some wonderful beauty in Michigan. Thank you.

Senator THOMAS. Thank you very much, Senator, for being here, we appreciate it.

Now we'll go back to the questions for the Director, and we'll try and time those. Let me ask about the Rocky Mountain land occupancy issue. It's my understanding that back in 1979 it was offered, the land, as a life estate. However, the final agreement was for a 25-year estate. Do you know how the final agreement came about? That is the final agreement; is that right?

Mr. MARTIN. Yes, the final agreement was for a 25-year term. I don't know exactly how it came about, except that it was done through negotiation. We do have some correspondence from Mr. Dick's attorney where he talked about a 25-year use and occupancy as well as the life tenancy, so I know that both of those options were in play, but exactly what resulted in the decisionmaking, I'm not aware of.

Senator THOMAS. So what would be necessary to change that? I think you suggested that under some conditions—what would be necessary to cause that to happen? Would there have to be congressional action, or can the Department do that?

Mr. MARTIN. We have looked extensively at the authorities that we have, and feel that we don't have the authority to extend this to a life tenancy. Right after the current situation came up, the region and the park provided a short-term extension for the summer, as we looked into it. We have offered some additional time, as we plan for the continued use of the property, but we really feel—and we're really looked at it hard—that we don't have that current authority.

Senator THOMAS. Now, I think you mentioned there are nearly 300 similar cases throughout the park Service. What kind of a precedent would we be setting in terms of arrangements that have been made? Should this happen here?

Mr. MARTIN. I think we have to be sensitive to that. The lands were purchased for the American public, just as in the previous testimony on the land issues in Maine that are similar, where we're working within the boundaries of parks to acquire these lands, I think that under the right conditions, we feel that some more general legislation could provide flexibility for unique situations. It would have to be clearly laid out.

In this particular case, on the individual legislation, we feel that some amendments, including fair market for the property, opening some of the property to the public and a few other amendments, would make it acceptable.

Senator THOMAS. I understand there's a bill pending, or a bill suggested that would be broad for this and other arrangements as well.

Mr. MARTIN. We've been requested to do drafting service on a bill that would look at some broader flexibility for in-holdings. That's the status of it. Other than that, we have, of course, stated in the testimony that we're willing to work with the committee in evaluating what might be fair to, not only to this situation, but to future ones that come up.

Senator THOMAS. With regard to the Benjamin Franklin tricentennial, how much funding has the park Service provided in the past?

Mr. MARTIN. Very little. We helped some with a presidentially-appointed commission on a matter of thousands of dollars, and they did receive a Save America's Treasures grant for \$300,000, which is one that we make available, but otherwise there has been no funding.

Senator THOMAS. So this is not a parks facility?

Mr. MARTIN. That's correct.

Senator THOMAS. The Star-Spangled Banner Trail, is that a trail, or is that a series of activities that took place? Why is it called a trail, and why should it be called a trail?

Mr. MARTIN. Yes, it's a series of activities, but I think the concept of a trail linking them together to commemorate the Star-Spangled Banner and the events that went on and working with the groups that have come together on it as that campaign went on, I think it is appropriate as a trail.

Senator THOMAS. That is not recognized as any unit of the Federal Government now?

Mr. MARTIN. No. We have areas, certainly, that represent portions of that story within the National Park System. By adding it to the trails system—we've done similar things elsewhere, like Lewis and Clark, where you have an opportunity to work with a broad array of partners that manage through their own jurisdictions and work together.

Senator THOMAS. I know it's difficult, but somehow we have to start having, it seems to me, some kind of a definition of what can be Federal designations and what can be local and State. Now, your testimony was that you support the idea of this being a Federal designation?

Mr. MARTIN. Yes, but this Federal designation really lays out an opportunity to cooperate, as opposed to the traditional National Park Service model where we own all of the properties. It's really a recognition of working together.

Senator THOMAS. What would it be called, then?

Mr. MARTIN. It would be part of the National Trails System.

Senator THOMAS. National Trails System?

Mr. MARTIN. Yes.

Senator THOMAS. Okay. Thank you very much.

Senator Akaka.

Senator AKAKA. Thank you very much, Mr. Chairman. Thank you, Mr. Martin, for your testimony. I just want to be sure that your testimony did include supporting the extension of the authorization of the advisory commission at Kalaupapa National Historical Park. I also note that you have suggested the make-up of the commission is something that we need to look at, because of the age of the patients who serve on the commission. We'll certainly consider that. Also, I'd like to tell you that in Hawaii the people tend to live longer than we think, and I would prefer that we keep the composition until the time comes, so that they don't feel that the make-up will change while they're still alive. But that's something to consider. I thank you so much for the support you've given.

I have, Mr. Chairman, a letter from the residents of Kalaupapa in support of S. 1166, and I ask that it be included in the record with my full statement.

Senator THOMAS. It will be included.

Senator AKAKA. Mr. Chairman, also there is a statement of Senator Paul Sarbanes of Maryland on the designation of the Star-Spangled Banner Trail in the States of Maryland and Virginia, and the District of Columbia as a National Historic Trail. Senator Paul Sarbanes is submitting this for the record.

Senator THOMAS. It will be included.

[The prepared statement of Senator Sarbanes follows:]

PREPARED STATEMENT OF HON. PAUL S. SARBANES, U.S. SENATOR FROM MARYLAND

Thank you, Mr. Chairman and Members of the Subcommittee for scheduling this hearing on S. 958, to designate the Star-Spangled Banner Trail in the States of Maryland and Virginia and the District of Columbia as a National Historic Trail.

The Star Spangled Banner National Historic Trail would commemorate an extremely important period in the history of our nation—one that has often been overshadowed by other conflicts in our nation's history—but which is quite significant in understanding our national heritage. It would tell the story of the important events that occurred in this region during the War of 1812 including the British in-

vasion—the only combined naval and land attack on the United States, the Battle of Bladensburg, the burning of the White House, the Capitol and the Washington Navy Yard, and the Battle of Baltimore during the summer of 1814. It is, of course, out of this battle that Francis Scott Key watched the tremendous bombardment at Fort McHenry and wrote the words which were to become our National Anthem. This is a very compelling story of our patriots' determination to stand firm against this enemy attack and bombardment that preserved our democracy, helped form our national identity through the symbols of the National Anthem and the Star Spangled Banner, and had such a long lasting effect on American culture.

Over the past five years, the National Park Service has conducted a vigorous investigation and determined that five of the eight trail segments examined fully meet the three principal criteria for inclusion in the National Historic Trail System, that is, they retain historic integrity, are nationally significant, and have significant potential for public recreational use and historic interpretation. The feasibility study and environmental impact statement which was completed in March 2004, recommends as its preferred alternative that "the proposed Star Spangled Banner National Historic Trail . . . be established by Congress as a national historic trail with commemorative recreation and driving routes and water trails." The proposed National Historic Trail would be comprised of approximately 175 miles of land and 373 miles of water routes within the States of Maryland, Virginia and the District of Columbia. The study concluded that the costs of implementing the proposed trail would be minimal. No federal acquisition of trail sites is envisioned, and less than \$2.5 million would be required to develop the comprehensive management plan, conduct archeological surveys and provide interpretation.

In my view, this trail will be of tremendous historical and educational benefit to the Nation. Since the passage of the National Trail Systems Act of 1968, the Congress has recognized historically significant routes of exploration, migration and military action through the National Historic Trails Program. Routes such as the Lewis and Clark, Pony Express and Selma to Montgomery National Historic Trails cross our country and represent important episodes of our nation's history—episodes which were influential in shaping the future of this country. The inclusion of the Star-Spangled Banner Trail will give long overdue recognition to another of these important events. As we rapidly approach the bicentennial of the War of 1812, I very much hope that the committee will consider this legislation and report it to the Senate floor favorably.

Senator AKAKA. Thank you very much, Mr. Chairman.

Senator THOMAS. Senator Salazar.

Senator SALAZAR. Thank you very much, Chairman Craig and ranking member Akaka. Let me first say that I would ask unanimous consent to include my opening statement with respect to the Betty Dick issue into the record.

Senator THOMAS. Without objection.

[The prepared statement of Senator Salazar follows:]

PREPARED STATEMENT OF HON. KEN SALAZAR, U.S. SENATOR FROM COLORADO

Good morning, Chairman Thomas, Senator Akaka. Thank you for holding this hearing today in the midst of a busy week. I appreciate the opportunity for the committee to hear more about H.R. 432/S. 548, "The Betty Dick Residence Protection Act".

I'd like to ask unanimous consent that my opening statement and a statement from Congressman Udall be placed into the record.

I'd like to welcome Mrs. Betty Dick and thank her for coming all the way to Washington to testify.

Betty Dick is an 83 year old woman who has spent much of the past 25 years on property within the boundaries of Rocky Mountain National Park in Colorado. Over the course of those 25 years, Betty Dick has become a cherished part of the Grand Lake community. She's been a good citizen and has been happy to share her family's beautiful cabin for civic events, and she has been a good neighbor to the National Park. In fact, the Park Service refers to Mrs. Dick as a "model tenant".

But now, the National Park Service believes that it is compelled to evict Betty Dick. This bill would authorize and instruct the Park Service to allow Mrs. Dick to spend her last summers at her cherished home.

Mrs. Dick has been living on this property subject to a settlement agreement with the Park Service that allowed for the Dick's occupancy for 25 years and expired earlier this month. There are circumstances around the settlement agreement that sug-

gest that the settlement was supposed to be for the duration of Fred and Betty Dick's lives.

Fred Dick, Betty's husband, died in 1992. Mrs. Dick knows she doesn't have too many summers left, but she would like to spend them at her family home. My bill will ensure that the federal government-and in particular the NPS-respects the basic dignity of this woman living out her days in her house.

This bill goes back to the original settlement that was supposed to allow Fred and Betty Dick to occupy the land for the duration of their lives. In 1979, the Department of Interior met with the Dicks and agreed that a life estate was an appropriate settlement, and put it in writing. Then the deal disappeared. Mrs. Dick feels that they were the victims of a classic bait and switch. I sincerely hope that was not the case. I believe the parties to the NPS/Dick settlement intended to give Mr. Dick and his wife Betty the equivalent of a life estate. The 25-year lease was apparently based on the faulty assumption that Mr. and Mrs. Dick would not survive the term of that lease. We owe it to Betty Dick to correct that faulty assumption. We now know, and my bill recognizes, that Betty Dick has outlived the Park Service's original incorrect assumptions. This bill, far from setting a new precedent, simply corrects faulty assumptions.

The Park Service will testify about the need to address in-holdings in other National Parks. To the extent there is a broader problem related to Park in-holdings, I would support legislation designed to address that problem. I cannot, however, support holding up a solution for Mrs. Dick while we wait for the Park Service to answer basic questions about the nature and extent of the perceived problem and its recommended solutions the problem.

If there is a need for legislation to address in-holding situations there is no reason for Mrs. Dick to be held captive to the Park Service's pace. H.R. 432 has cleared the House of Representatives unanimously and it deserves to be evaluated on its own and in the light of the particular facts involved. How long should Betty Dick have to wait for a dignified resolution to her simple request to live out the remainder of her life in her family home?

This bill will, simply, require the Secretary of the Interior's National Park Service to enter into an agreement that will allow Betty Dick to continue to occupy her family cabin and property within Rocky Mountain National Park for the rest of her life. Mrs. Dick will continue to pay the rent that has been due under the prior lease. Mrs. Dick's children and grandchildren will have no right to occupy the property after her death, and the cabin and property will then be managed by the Park Service.

This bill recently passed the House unanimously and it has been sent to the Senate. It enjoys broad support in Colorado and I am hopeful that the subcommittee and full committee will act favorably in regards to this bill. Again, Mr. Chairman, thank you for conducting this hearing.

Senator SALAZAR. And I also would ask unanimous consent that we include Representative Mark Udall's statement into the record.

Senator THOMAS. Without objection.

[The prepared statement of Representative Udall follows:]

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

Thank you, Mr. Chairman, and thank you for holding this hearing on my bill, H.R. 432.

The bill would permit Ms. Betty Dick to continue her use and occupancy of a house located on lands within Rocky Mountain National Park.

The bill is not complicated. It would allow Ms. Dick to continue to use the property and live in this house in Grand County, Colorado, for the rest of her life.

This is not about ownership. The property belongs to the federal government and is part of the National Park. There is no dispute about that.

This is strictly about whether Ms. Dick should be permitted to continue to use the property.

There is no dispute that she has had that right for the past 25 years, under a legal agreement between her late husband and the National Park Service.

There is also no dispute about the fact that this agreement expired on July 16th of this year. The National Park Service, through a letter from Rocky Mountain National Park Superintendent Vaughn Baker, has indicated that Ms. Dick can nevertheless remain on this property until mid-October.

Although the Park Service has given her this additional time, as things now stand, come October of this year Ms. Dick, who has been a good neighbor with the

National Park and who has opened her home for community events, will again face the unsettling prospect of having to permanently vacate this property.

I do not think that is either necessary or desirable.

As I said, Ms. Dick has been a good neighbor. She has taken good care of the property and has not created management or administrative problems for the National Park Service in the years she has lived there.

In my opinion, she should be allowed to continue to live on this property and continue to contribute to the National Park and the surrounding community.

I had hoped that Ms. Dick and the Interior Department could work out a resolution to this issue so that she could remain. Beginning in September of last year, on a number of occasions I urged the National Park Service to sit down with her and explore various options. Regrettably, these entreaties were either rejected or ignored, and no such discussions took place.

Earlier this month, the National Park Service indicated that they would be willing to offer Ms. Dick a 2-year lease for \$1,000 per month, which would allow her to stay while they evaluated the property and planned for its future use.

Ms. Dick rejected this offer. I also had my own concerns with this proposal, as it would not necessarily allow Ms. Dick to remain on this property for the rest of her life, and, presuming Ms. Dick is still with us in two years hence, we would still be facing then the same situation we face today—that is, finding a workable and acceptable arrangement allowing her to remain on the property for the rest of her life.

Given that this proposal has been rejected, and other efforts to work this out administratively have come to naught, I believe that this legislation provides a fair resolution that will give Ms. Dick the certainty and peace of mind about her future.

The National Park Service has expressed concern that this legislation will create a “precedent” in that there are apparently many other individuals who occupy property within national parks.

However, I believe that Ms. Dick’s situation is unique because she has occupied this property under the terms of an agreement that settled an underlying lawsuit to void the sale of the property to the National Park Service. In addition, as this is a “private bill,” this legislation relates only to the particulars and equities of Ms. Dick and her occupancy—and no future Congress would be bound to consider or pass similar legislation.

Ms. Dick needs to have a resolution to this issue as soon as possible.

Since I first raised this matter with the Interior Department, I have been impressed with the outpouring of support from the nearby communities of Grand Lake and Granby, Colorado. The people in these communities have expressed a strong desire to have Ms. Dick remain on this property and be a part of their community. The bill would enable that to happen.

I do not think this is a controversial measure. It was approved by the Resources Committee by unanimous consent and passed the House in a similar fashion. I urge its approval.

Thank you again, Mr. Chairman.

Senator SALAZAR. Mr. Martin, I have a series of questions that I would like to ask of you. And in the second panel today, we will be hearing from Betty Dick about her particular situation at Rocky Mountain National Park and the circumstance that has brought her here to Washington, some nearly three decades after this saga started. One of the things for me that is troubling with all this is that a circumstance that seems to be so easily fixable has become so seemingly difficult. As you said, in your testimony, from your point of view, if you had the authority, you could go ahead and act to resolve Mrs. Dick’s situation, but right now you feel you lack that statutory authority. The House of Representatives passed legislation with the unanimous vote to fix her situation, and we are now here in the Senate with the park Service and the Department of the Interior taking the position that that legislation would have to be amended for the Department to support it, but you support the general goals.

I will tell you that, from my point of view, what we’re dealing with here is a very unique circumstance. It’s not going to create precedent, because of the history of this particular situation, and

I don't want to have Betty Dick, who's 83 years old, used as a political football by the Federal Government, or by anybody, because that's not how we ought to treat people.

Now, when I go back and study the information, the records that have been put together over time with respect to this issue, I find a memorandum that was written by the Department of the Interior a long time ago, concerning a meeting that was held here by Betty Dick and her husband, Fred, and it was a meeting that was conducted at the suggestion and request of then-Senator Adlai Stevenson, and Senator Ted Stevens had his staff also attend the meeting. It was a result of that meeting—what we had was the Associate Director, at the time, writing a memorandum that said—it talked about the issue with respect to the Dick family, and it said, and I quote, “At the request of Senator Adlai Stevenson’s office, a meeting was held on November 16, 1979 at the office of the Chief-Land Acquisition. It was attended by Will Kriz, Allen Harpine, George Dick, Betty Dick, and others. Mr. Kriz suggested that on a technical acquisition, a compromise whereby George and Betty Dick would obtain a life estate on the house and surrounding out-buildings and a portion of the land seem to be in order. However, he advised that he needed to obtain views of management.”

The memo then continues, and in subsequent paragraphs says the following, and again I quote, “After discussing this matter with Superintendent Brooks, we concur with Mr. Kriz in the desirability of a life estate compromise. We feel that the following limitations should be part of the compromise,” and they set forth what those limitations are which have been complied with. There's a subsequent documentation, then, that changes were made to the concept that had been agreed to in the meeting that was held at the direction of Senator Adlai Stevenson.

I will ask you some questions—if I may, Mr. Chairman—and I want you to be straightforward with me, because here's where we are with Mrs. Dick. Her lease, under your interpretation, has expired. We're about ready, from a National Park Service point of view, to kick her off of her property. We have legislation that has passed the House unanimously, and we are now over here in the Senate. And if we end up going through the amendments that you have suggested, obviously this legislation is going to have to go back to the House, and we are going to end up in a situation where we are not going to be able to bring this matter together in a timely fashion to make sure that we give Mrs. Dick an opportunity to live out her life on her property, which she has been living on now for more than two decades.

My question to you is this, in terms of the timeliness of moving forward, and providing the kind of equitable relief here, what would the amendments that you and the Department are suggesting do to that timeline, to be able to give her the closure to this issue as soon as possible?

Mr. MARTIN. The question is, what our amendments are, or what would it do, or how long would it take to get them enacted? I guess I'm a little—

Senator SALAZAR. What, from your point of view, would we be able—you know what I know, that is that—

Mr. MARTIN. My sense is, throughout this, that we've already offered an extension through this year, and an extension while we plan for the future use of the property over the next 2 years. And, that said, we've struggled with how to be fair here. That's our current position with what we feel we have flexibility for.

It seems reasonable to think, with the amendments, that there would be time within that timeframe to get those amendments in the bill and pass it. We have made that provision for extending Mrs. Dick's use of the property while we sort this out and while we plan for the future disposition of the property.

Senator SALAZAR. Mr. Martin, I understand those amendments are amendments that Mrs. Dick has not been agreeable to, because she views that they are inconsistent with the terms that were agreed upon when this arrangement was first entered into, some 25 years ago.

Let me tell you the concerns that I have with respect to the amendment. It seems to me that we could have legislation that fixes this problem—we could actually get that done, perhaps, even before we go home—but if we move forward with the types of changes that you're talking about, knowing how legislation moves around here, this 83-year old person, whom I have come to revere, is not going to get the kind of relief that she wants. And I think that she is rightly entitled to it, given the discussion and the memorandum that were put together some 25 years ago, giving her the understanding that she had a life estate on this property.

Let me ask you a second question. I hear a lot about precedent, and I understand your position, you feel you don't have the authority to do this deal that we want to do with Mrs. Dick. Well, we can, through this legislation, give you that authority so it gets done. You raise a concern that this might create a precedent that's unwarranted. I have looked at other situations where, in fact, the National Park Service has done this at the direction of Congress. There's a situation involving the Indiana National Sand Dunes, and there was another situation involving a place called Biscayne-Stiltsville, in which apparently the in-holding was handled with this kind of legislation.

Given that kind of precedent that has occurred before, it seems to me that it would be appropriate to support this legislation because of its uniqueness. And I also recognize, Mr. Martin, that there may be a larger issue here. So, let me ask this questions. In terms of a precedent, are you here telling the committee today, Mr. Martin, that there have been no other situations in the recent history of the park Service where we have dealt with an in-holding in the manner that we propose to address it here in this legislation?

Mr. MARTIN. To the best of my knowledge. Are you saying have there been other cases where we, the Park Service, have converted a 25-year use and occupancy to a life lease?

Senator SALAZAR. My question is, has the Congress in the past dealt with this kind of an issue, having a kind of in-holding that basically has given you the authority to basically resolve it and make it into a life estate?

Mr. MARTIN. I know that there have been other cases where Congress has stepped in and changed the way we've administered things, but I don't know of any, specifically, like this particular one.

That doesn't mean that there couldn't be, we've administered—I think there are over 400 that we've closed out in the past, and there are 290 or so of these that currently exist. I think there are roughly 50 expiring this year, but I don't know of any exactly like this. But that doesn't mean that there couldn't have been.

Senator SALAZAR. There might have been, and the Congress might have, in fact, stepped in to correct the situation.

Mr. MARTIN. Yeah.

Senator SALAZAR. Let me ask you a question about the longer-term issue, because this is a matter that I very much agree with Chairman Craig on, that if, in fact, there is a significant issue with respect to the other, some 300 in-holdings that we have in our National Park System, that we should, in fact, address that. And I think it would be the appropriate jurisdiction of this Committee to deal with that broader issue. And I would be very happy to work along with Senator Craig and the National Park Service to get that longer-term issue resolved.

I would like you to describe for us how you see this situation today in terms of those other in-holdings, and the kind of problems that we're having with those other in-holdings, and also what kind of contours you would put around legislation that this committee might consider to address the in-holding situation in other parks around the country.

Mr. MARTIN. Well, I think that we have to work with you and really work with our lands and parks to come up with what unique situations exist and where it might be fair to adjust commitments, or—

Senator SALAZAR. Do we know today, Mr. Martin, where those unique situations exist? Can you, as the Assistant Director of the National Park Service, come in and give us a listing of what those unique situations are?

Mr. MARTIN. I would say no, that we can come in and tell you where those exist, But I think that we would have to go out and evaluate each one, because there's a tremendous variety. They exist in over 30 parks, and having been in parks that have administered these, each one is tough. This is not something that we really relish, it's a hard thing, and where they've been acquired, like Grand Teton, where we've had to move people out, where it's their primary residence, we've worked with them as best we could with our authorities to give them the time to find another place in an extremely competitive market. So I think we could come up with general categories from our experience of executing the previous 400 or so that we have closed and, I think, come up with some reasonable terms. Things like, where it's their primary residence, significant economic hardship, unusual terms and conditions—like this one—where there was some uncertainty in exactly how the agreement came together. I think we could come up with—from the knowledge that we have—what would seem reasonable in being compassionate in big government in regulating these, but also preserving the interests of the American people, to make these properties available for recreation and other things, which is the intent of their purchase. So, we would be happy to do that, and work hard to get that information to you.

Senator SALAZAR. And Mr. Martin, let me just say that I very much look forward to working with you on that, but my understanding is, as yours is, that because of the uniqueness of each one of these in-holdings and the development of legislation that would try to address this on a broader issue, it's going to take us some time to get there, and I very much look forward to working with you on that. I ask you on behalf of the park Service, are you willing to work with me, and to work with Senator Craig and others on this committee to develop that kind of legislation?

Mr. MARTIN. Yes.

Senator SALAZAR. Then let me also ask you, if we were able to move forward with the legislation that I have proposed here today concerning Mrs. Dick's situation, would that in any way negate the effort to move forward with this broader legislation that we're addressing here this morning?

Mr. MARTIN. I don't think so.

Senator SALAZAR. I very much appreciate your testimony, and I don't mean to be hostile, but I am very concerned about—given the history of this very unique situation, that we see our national government essentially kicking somebody out of their household, which has been their family home for so long. I appreciate your candidness.

Mr. MARTIN. Thank you.

Senator THOMAS. Okay, thank you. I know this is a difficult one, so we certainly would look forward to working with you. I do think, as I understand it, as a matter of record, that the agreement was a 25-year agreement, regardless of the misunderstanding. That is the agreement that is in place that we have to deal with.

Senator SALAZAR. If I may, Chairman Thomas?

Senator THOMAS. Sure.

Senator SALAZAR. I respect my neighbor from the North, because you've walked amongst the ranches and corrals, just like I have in my life, so I have tremendous respect for you, and it is true that I think the legal document that you currently have in place has a 25-year life estate, but the understanding that Mrs. Dick had when she had the meeting at the request of Adlai Stevenson gave her the very distinct impression that—

Senator THOMAS. I understand that, and I don't mean to take away the importance of that, I just want to get on the record that the agreement that the park is going by is a legal agreement for 25 years. So we'll have to work with that, but we will work together to do something.

Thank you very much, I guess I have one short question on this Michigan—

Mr. MARTIN. The lighthouses?

Senator THOMAS. The lighthouse thing. Now, that's a study; is that correct?

Mr. MARTIN. Yes, that is a request for a study.

Senator THOMAS. I see. But you're not supportive of that idea?

Mr. MARTIN. Right. We certainly support the concept of working together for tourism, and with these affiliated areas, our feeling is that that kind of cooperation could be achieved without going into a study that we have to fund.

Senator THOMAS. I understand. Thank you very much. Thank you, Mr. Director, nice to have you here.

Mr. MARTIN. Thank you.

Senator THOMAS. Okay, let's go to our second panel now, please. Dr. Ralph Eshelman, Dr. Dennis Wint, Dr. Steve Belko, and Mrs. Betty Dick, if you'd all come to the table, please.

I certainly appreciate all of you being here, and look forward to your testimony. If you have written statements, they will be included in the record. If you could sort of shorten up your statements, we'll try to get 5 minutes on each statement.

So why don't we start with you, Dr. Eshelman.

STATEMENT OF DR. RALPH ESHELMAN, LUSBY, MD

Dr. ESHELMAN. Good morning, Mr. Chairman and members of the subcommittee. I appreciate the opportunity to be here to testify in support of the Star-Spangled Banner National Historic Trail. I think Mr. Martin did a good job in summarizing that, in particularly emphasizing the fact that this is a partnership.

But there is also one other thing that I think is important, and that is that this is a grassroots effort. The whole concept of this trail actually came from the people who live in the community in this region, so I definitely want that to be noted as a part of the record.

Also, this is not a War of 1812 trail. This is a trail which tells the story about the Star-Spangled Banner and how that flag inspired a poem which became our National Anthem. And, Mr. Chairman, you had asked the question of Mr. Martin, is this, in fact, a trail, or is it merely some events that are connected together, and I want to address that, because it is, indeed, a trail. It has a documented path where the British invaded southern Maryland from Benedict on the Patuxent River. They marched to Bladensburg, where we had that ill-fated battle where, you know, the Americans lost; they marched into Washington, DC, where we are today; they captured our Nation's Capital, and they burnt the public buildings, including the Capital, which is just a stone's throw from here, and also the White House, which is just down the street.

The trail also documents the trail that was used by the British when they attacked Baltimore. And many people don't understand, but that's also a water trail as well as a land trail. There was a land component to the Battle for Baltimore, and that's known as the Battle of North Point today.

So to answer your question, yes, in fact, this is an actually documented trail that has been well-studied. The study team has had scholars from England, from Canada, and throughout the United States that have helped work on this particular trail, all of the members of the study team have visited all of the resources along that trail, and I can emphatically tell you that it meets all the requirements of being listed as a National Historic Trail.

If you would like me to go into more detail on the specifics of where that trail actually goes, I'm happy to do that, but it is also well-documented in our reports that we have provided, as well as in my written testimony that will be a part of this record.

So instead, what I'd really like to do is to concentrate on a personal reflection of the purpose and really. The significance of this trail. And that is that, unfortunately, many Americans don't fully appreciate or understand our own history. And if we were to do a poll of the children in our schools today, and we were to ask them two simple questions—under what war was the Star-Spangled Banner created, and Who made that flag?—unfortunately, we would get the wrong answers from most of our children. I think most of our children would say the Revolutionary War, and it was made by Betsy Ross, and of course that's not the case at all.

And that's the importance of this trail, it's going to help Americans, as well as visitors that come to this country, to better appreciate and understand America's foremost icon, in my opinion, the Star-Spangled Banner and to help people understand how the words of the National Anthem came about, so that when you hear the words, "the rockets' red glare," or "the bombs bursting in air" that you understand that that was a part of the Battle of Baltimore. And so, to me, that is the significance behind this particular trail. It's going to help to raise patriotism, it's going to help to make people better understand our own history about really our foremost icon, the Star-Spangled Banner. It's preserved at the Smithsonian Institution, again, not very far from where we are here today.

So I personally am asking your support for this trail, and anything I can do to help, or answer any questions that you have in that regard, I'd be more than happy to do.

[The prepared statement of Dr. Eshelman follows:]

PREPARED STATEMENT OF DR. RALPH ESHELMAN, LUSBY, MD

First I would like to thank the Chair and the members of this Subcommittee on National Parks to allow me to testify in support of an amendment to the National Trail System Act to add a new historic trail, the Star-Spangled Banner National Historic Trail. I have been involved in cultural resource preservation and management for over thirty years and served as the historian for the Star-Spangled Banner National Historic Trail Study. I can think of no existing or potential historic trail in the United States that is more deserving of this national distinction than the trail we are now considering.

The Star-Spangled Banner National Historic Trail Study was approved by the Secretary of Interior after exhaustive research and review by numerous scholars and several public presentations. The proposed Star-Spangled Banner National Historic Trail meets all the criteria for designation as required by the National Trail System Act. Below is a brief summary of the significance of the War of 1812, how the Star-Spangled Banner came about as a result of this war, criteria upon which the proposed trail was determined eligible for National designation, and a personal perspective on the potential significance of inclusion of this proposed trail into the National Trail System.

What was the War of 1812? Because it took place only 29 years after the United States secured its freedom from England, the War of 1812 is sometimes incorrectly referred to as the "Second War for Independence." However, the British were not fighting to regain their former American colonies. Rather, they sought to protect their remaining North American interest, Canada. The Revolutionary War (Loyalists versus Revolutionists) and American Civil War (Yankees versus Rebels) were in many instances wars of brother against brother. The War of 1812 was an international conflict (Great Britain versus the United States), even though Americans were divided over it (Federalists Doves versus Democrat-Republican Hawks). New Englanders were especially against the war, while the South and West largely favored it. What caused the War of 1812? It is estimated that by 1807 over 1,000 Maryland sailors alone had been illegally and unwillingly pressed into service on British warships, mostly to help England fight Napoleon. On June 21, 1807, the US frigate *Chesapeake* left the Washington Navy Yard and sailed down the Potomac

River and the Chesapeake Bay into the Atlantic. It was soon hailed by the larger British warship *HMS Leopard*, which demanded that the frigate muster its crew so a search could be conducted for British "deserters." The *Chesapeake* refused, whereupon the British opened fire, killing three American sailors, then boarded and took four men, two of whom were black and two of whom were nephews of George Washington. President Thomas Jefferson, trying to avoid war, retaliated by placing an embargo on all English goods. However, this curtailed commerce, which especially upset New Englanders, since they controlled most American shipping, and thus their fortunes were most threatened. As a result, there was talk of secession. While the new administration under President James Madison emphasized the maritime issues with England, the war was largely a result of the desire for national expansion. The southern and western slaveholding states, led by War Hawks such as John C. Calhoun and Henry Clay, wanted war with Britain in order to push the annexation of Canada, expand the western and southern frontiers, remove the threat of alliance between Britain and the Indians of the Great Lakes region, and help prevent slaves from escaping beyond American borders. While valid maritime issues did exist, they were less the cause of the war than a pretext for public outcry, as expressed by the slogan that it was necessary to protect "free trade and sailors rights." After a war vote that barely passed in the Senate, President Madison signed the declaration of war against Great Britain on June 18, 1812. American opposition to the war was as widespread as that during the Vietnam War. Early American forays into Canada for the most part resulted in routs, but Captain Oliver Perry's victory at Lake Erie eased the threat of British attack from the west. Still, the victory of the USS *Constitution* ("Old Ironsides") over the HMS *Guerriere*, and American privateers who successfully took the war to the shores of England, were isolated successes among an otherwise dismal affair for America due to the small size of the U.S. regular army and navy, over reliance on volunteer militia as well as ineptitude, lack of leadership, stupidity and woeful lack of preparedness for a major conflict. By 1814 the British Navy has blockaded nearly the entire east coast reducing foreign trade to six percent of its 1807 peak. With the defeat of Napoleon England concentrated its efforts on America. The War of 1812 was the first and only time a foreign military force invaded the United States. Our young Nation's capitol was burnt in 1814 in retaliation for America's burning of York (now Toronto), then the capitol of Upper Canada, in April of the previous year. Had not Baltimore and Lake Champlain been successfully defended, the British probably would have crushed the United States. New England Federalists convened in Connecticut to denounce the war and weaken federal authority. Southerners called the act treason. The last major battle of the War of 1812 was the Battle for Baltimore September 24, 1814. The Peace Treaty of Ghent was signed in Belgium, December 24, 1814. The American victory at the Battle of New Orleans was fought on January 8, 1815, 15 days after the Treaty. The war was over. The annexation of Canada was blocked, but the nation could now look inward and westward. Citizens for the first time had confidence in the nation and could now truly refer to themselves as Americans. How did the Star-Spangled Banner become a national icon? The United States had done nothing to defend its capital, Washington. Only a relatively small detachment at Fort Warburton (later called Fort Washington) on the Potomac River protected the city. Although it was estimated that 15,000 militiamen could be depended upon to defend Washington, in reality the government could muster only 1,000 regular troops and about 4,000 militiamen, and of the latter only a few hundred were actually available and ready. Although some government leaders believed that Washington was not a likely enemy target, British forces embarked upon a plan to capture the capital in 1814. The main body of the British fleet entered the Patuxent River in Maryland and landed forces at Benedict to march overland to Washington. A smaller fleet entered the Potomac, in part as a feint to make the Americans think that was the direction of the invasion, but also to take Fort Warburton and provide a water route for land forces retreating from Washington, if necessary. With most of the regular U.S. Army on the Canadian border, the defense of the nation's capital fell largely to poorly led, poorly trained, inexperienced militia. How much could be expected of them in the face of battle-hardened British soldiers, many just arriving after defeating Napoleon in Europe? When the British returned through Upper Marlboro after successfully capturing Washington some British deserters began plundering small nearby farms. Robert Bowie, a former governor of Maryland, enlisted Dr. William Beanes, his cousin, among others, who seized six or seven of the deserters and confined them to a jail at nearby Queen Anne Town. One of the prisoners escaped and informed his commander of the incident. A contingent of British marines was sent to arrest Bowie, Beanes and at least one other man. The Americans were held in exchange for the British prisoners. In addition the British threatened to burn the town to the ground if the British prisoners were not released by

noon the next day. When the British prisoners were released all the Americans were likewise released except Beanes who was considered the instigator of the incident and was taken and placed in confinement aboard the British flag-ship HMS *Tonnant* some thirty-five miles away at Benedict. Beanes's friend, Richard W. West, hurried to Georgetown to urge his brother-in-law, U.S. Attorney for the District of Columbia, Francis Scott Key, to arrange a mission to seek Beanes release. President James Madison authorized Key to meet with General John Mason of the U.S. Commissary for Prisoners. Mason approved the mission and gave Key a letter addressed to General Robert Ross in command of the British land forces setting forth the government's case for Beanes's release as a civilian noncombatant. Key was instructed to go to Baltimore and contact Colonel John Stuart Skinner, U.S. Agent for Exchange of Prisoners, to handle the negotiations. Ironically, it was Skinner who did a Revere-like ride to warn the capitol of the British approach in August 1814. Skinner and Key, set sail down the Bay from Baltimore (September 5, 1814) to near the mouth of the Potomac River on a cartel or truce ship, where they met the British fleet and boarded the HMS *Tonnant* under a flag of truce when Vice Admiral Sir Alexander Cochrane invited them to dinner (evening, September 7, 1814). Skinner had also obtained letters from wounded British soldiers left behind after the Battle of Bladensburg giving testimony to the kindness and treatment given them by U.S. hands. This so moved General Ross, who had ordered the arrest of Beanes, that he suggested to Cochrane to release him, but only after their planned attack on Baltimore—they did not want the American forces to learn of their next objective. Beanes, Key and Skinner, due to crowded conditions on HMS *Tonnant*, were ordered on board the HMS *Surprize* which took the cartel in tow (September 8, 1814). During the Battle for Baltimore the three Americans at Skinner's request were placed on board the cartel under guard. Key was so moved by the scene of the battle that he partially composed a poem which eventually became our National Anthem. The three American's were released on the cartel boat which sailed to Baltimore (late September 16, 1814). That night in the Indian Queen Hotel Key worked on his poem from which he produced the draft that probably is the one now on exhibit at the Maryland Historical Society. Handbills of the poem were printed the day after (September 17, 1814) Key arrived in Baltimore. Copies of the poem were distributed to every man who was at Fort McHenry during the bombardment. It was Skinner who took Key's poem to the *Baltimore Patriot* which published it under the title "The Defense of Baltimore (evening 20 September 1814).

During the American Civil War federal troops often sang "The Star-Spangled Banner." In 1895 Army Regulations ordered that the song be played during the lowering of the American flag during evening retreat. The Secretary of Navy ordered it played during both morning and evening colors. By 1916 "The Star-Spangled Banner" was regarded as the official National Anthem. Yet it wasn't until 3 March 1931, when President Herbert Hoover signed the bill passed by Congress that "The Star-Spangled Banner," born in the Battle for Baltimore, officially became National Anthem of the United States.

Study Team Methodology—The Study Team researched all the resources related to the story behind the Star-Spangled Banner. The team visited those resources and linking trail to ascertain the feasibility, public access and integrity of these resources. In addition the team held a Scholar's Roundtable of international experts on April 7, 2001. Present were: Dr. Dwight Pitcaithley, Chief Historian, National Park Service; Donald Graves, historian and scholar from Canada; Dr. Andrew Lambert, Kings College, London; Marilyn Zoidis, curator of the Star-Spangled Banner Project, Smithsonian Institution; Dr. Donald Hickey, professor at Wayne State College and specialist in the War of 1812; and Dr. Joseph Whitehorne, former staff historian for the U.S. Army. This was followed by a local historian's workshop on April 12, 2001. Present were: Dr. William Dudley, director of the Naval Historical Center, Washington, DC; Christopher George, editor of the *Journal of the War of 1812* and author of *Terror on the Chesapeake: The War of 1812 on the Bay*; Dr. Fred Hopkins, Jr., expert on privateering and author; Sally Johnston, director of the Star-Spangled Banner Flag House and Museum; Dr. Stanley Quick, historian; Robert Reyes, president of the Friends of the North Point Battlefield, Inc; Scott Sheads, author and historian, Ft. McHenry; Donald Shomette, historian and author; and Lonny Taylor, historian and author of *the Star-Spangled Banner: The Flag that Inspired the National Anthem*.

Based on this study, the team determined that six of the eight identified trail segments retain integrity sufficient to result in a recommendation for their designation as a national historic trail: Criterion One. All recommended trail segments were found to be nationally significant: Criteria Two. The proposed trail segments have significant potential for public recreational use and historical interpretation as well as aesthetic appeal and patriotic appreciation: Criteria Three.

Personal Perspective—It is sad, but most of the children here in the United States if asked who made the Star-Spangled Banner and during which war was it created would answer Betsy Ross and The American Revolutionary War. Inclusion of the Star-Spangled Banner Trail within our National Trail System will help American's and visitors alike understand and better appreciate the history behind America's greatest icon—The Star-Spangled Banner and the poem evoked from the flag which eventually became our National Anthem. Having served-for many years on the team which studied the potential for this trail, I have become keenly aware of the significance and meaning behind the Star-Spangled Banner. Every time I see the flag, whether at a baseball game, Boy Scout camp, or flying over our Capitol or over Fort McHenry, it gives me pause. Often times a chill will ascend up my spine. Designation of this proposed national trail will enable our citizens to better understand and appreciate the symbolism behind this flag. Many more will get goose bumps when they see our flag and hear our National Anthem. Our patriotism will increase; our pride will fill; and our spirits will soar. I ask you, what trail now existing in the United States is more appropriate for national designation than this proposed Star-Spangled Banner National Historic Trail?

Senator THOMAS. Thank you very much, sir.
Dr. Belko.

**STATEMENT OF DR. STEVE BELKO, MANAGER, MICHIGAN
LIGHTHOUSE PROJECT, OXFORD, MI**

Dr. BELKO. I want to thank you, Mr. Thomas, and Mr. Salazar, for the opportunity to present the position of Michigan's lighthouse and maritime interest, both governmental and non-profit, in support of S. 1346, the Michigan Lighthouse and Maritime Heritage Bill.

From the very beginning, I want to state that this bill is the most important piece of legislation, to date, that will aid and facilitate the restoration of Michigan's rich maritime heritage, including lighthouses, which is my specialty, and not only that, provide a foundation for the economic growth of the local communities along our coastline.

In light of Mr. Martin's testimony, I want to change a little bit of what I had planned for my oral testimony. He was correct in stating that Michigan, the National Parks in Michigan, as well as our State Parks are phenomenal, my wife and I use them often. But Michigan has a long way to go to preserve its lighthouses and its maritime heritage, it has a long way to go to provide that economic foundation that the local communities and the State of Michigan, itself, can build upon.

Maritime heritage is the most important aspect of Michigan's tourism, hands down, and lighthouses are a key part of that. This plan, S. 1346, does provide a comprehensive plan for all of the State of Michigan, and for the rest of the Great Lakes States to model upon for, not only preserving, but setting in motion a plan to identify and to interpret, and then to provide a plan for the long-term preservation of Michigan's rich maritime heritage, and to provide a plan for the exhibition of that for the public to enjoy for generations to come, and identifies funding sources, and all the needs, from technical to economic development, that the State of Michigan needs.

I have a lot of experience in lighthouse preservation efforts, and a lot of experience in comprehensive heritage studies, such as S. 1346 provides, and I will say today that I know that this is the bill that Michigan needs to take it into the future.

Tourism is our second-largest industry in the State of Michigan. Our number one industry is a little lagging behind right now, and this is something that the people of Michigan greatly need. And I'm certainly here on behalf of all of the maritime, both governmental and non-profit organizations and individuals in the State of Michigan and its lighthouse organizations. We fully support S. 1346, and we think this will provide the comprehensive plan to set us in motion to preserve our maritime heritage and help the local economies throughout the State of Michigan. Thank you for your testimony, and I'll be happy to answer any questions.

[The prepared statement of Dr. Belko follows:]

PREPARED STATEMENT OF DR. STEVE BELKO, MANAGER,
MICHIGAN LIGHTHOUSE PROJECT, OXFORD, MI

Mr. Chairman and fellow subcommittee members, I want to thank you for the opportunity to present the position of Michigan's lighthouse interests, both governmental and nonprofit, regarding S. 1346, entitled the "Michigan Lighthouse and Maritime Heritage Act," a bill to direct the Secretary of the Interior to conduct a study of maritime sites in the state of Michigan.

I must emphasize from the very start of my testimony, that Sen. Stabenow's bill is *the* most important piece of legislation to date aiding and facilitating the preservation of Michigan's rich maritime heritage and providing an unparalleled opportunity for continued economic growth in our state. As an expert both on lighthouse preservation efforts and on comprehensive heritage studies, such as proposed under S. 1346, I cannot express enough how critical this bill is to the people of our state, to our maritime heritage, and to our local economies.

It is no secret that the state of Michigan—the Great Lakes state—is one of this nation's premier maritime destinations, with a rich maritime heritage and culture stretching back long before European colonization and settlement. From Native American fishermen and French fur traders, to Great Lakes shipping supporting the great copper, iron ore, and lumber legacy of Michigan, to pristine and rugged shorelines, the people of Michigan have indeed a maritime heritage worthy of treasuring and exhibiting for all to enjoy. The state contains twelve maritime-related national landmarks, two extensive national lakeshores, and the only fresh water national maritime sanctuary. Our state's history—its settlement, its development, its economy, and its culture—cannot be told without emphasizing first and foremost our extensive maritime legacy.

It is also no secret that the cornerstone of Michigan's maritime heritage are the numerous historic lighthouses stretched across our great state. The state of Michigan has over 120 historic lighthouses—more than any other state. Many reside along the extensive 3,200 miles of Michigan's shoreline; some stand miles offshore on remote islands or isolated shoals. All have historical and architectural significance and are either listed or eligible for listing in the National Register of Historic Places. These architectural wonders once served as crucial beacons to Great Lakes shipping, but now they have yielded to the advance of technology. The era of global positioning has made the Fresnel lens antiquated to all but recreational boaters and lighthouse enthusiasts. Simple metal poles supporting computerized navigation instruments have replaced the brick and steel towers with their adjacent keeper's dwellings and ancillary outbuildings.

Yet these historic structures still attest to the rich maritime history of the state. Their very presence still commands awe from those who catch sight of them and lighthouse lore never fails to capture the attention of all who pass their way. Michigan's lighthouses, many in a state of disrepair and in danger of disintegrating, stand witness to the great age of the lighthouse keepers and their isolated lives struggling to keep the shipping lanes of the Great Lakes safe. Dedicated groups endeavoring to save this integral part of the state's history have restored some of Michigan's lighthouses. Several of these lighthouses now house museums devoted to lighthouse history and maritime culture, and are open to the public for their pleasure and education. Many more lighthouses, however, are in dire need of restoration. Without quality stewards to preserve, maintain, and exhibit these ailing structures, they will certainly vanish from the landscape, only to exist in our collective memory, in old photographs, or in dusty log books.

Michigan's lighthouses have become the state's most identifiable icon, gracing tourism guides, welcome centers, city logos, and countless marquees, billboards,

business publications, and storefronts. Travel Michigan, the state's "tourism bureau," has as its logo, a lighthouse, and the State of Michigan's official website likewise sports a lighthouse, the beautifully restored Big Sable Point Light Station residing along the blue waters of Lake Michigan. Rescuing these historic structures and maintaining them for public enjoyment has obviously emerged as one of Michigan's most popular endeavors.

S. 1346 provides the people of Michigan with a comprehensive plan for rescuing and restoring our lighthouses and other maritime structures and landscapes. The study will assess the needs and outline the costs of preserving our historic lighthouses and maritime resources; it will identify funding sources critical to a successful campaign for restoring and exhibiting our maritime history; and, it will provide the necessary and much-needed direction for implementing preservation projects, for establishing methods of interpreting our rich maritime heritage, and for laying out a long-term strategy for future restoration efforts. And I must add, that this bill will not only benefit Michigan and the Great Lakes region, it will also provide a model for other states to follow as they, too, preserve their own heritage and historical resources.

As important, this study will generate a centralized and complete inventory of our state's maritime resources, by bringing together the knowledge of local, regional, state, and national entities interested in saving Michigan's maritime resources. The bill will further establish and facilitate healthy partnerships among all levels of government and throughout all the communities lying along our shoreline, and combine their talents and skills in creating a network of organizations and individuals dedicated to preserving and exhibiting Michigan's abundant maritime resources. The creation of the Michigan Maritime Heritage Destination Network will undoubtedly link all maritime interests and resources in our state into a working cooperative, providing shared information and technical expertise, mapping out future preservation efforts, and guaranteeing the successful exhibition of Michigan's lighthouses and maritime heritage for generations to come.

Passage of S. 1346 is not only imperative for preserving our state's maritime heritage, it is equally critical for boosting the future economic potential of our state. Tourism is the second largest industry in Michigan, and with our largest industry (the automotive industry) currently facing hard times, we must invest in the state's ability to attract substantial numbers of tourists.

Our maritime heritage can indeed draw great numbers of tourists, and our maritime heritage and resources are indeed the foundation for increasing our tourism base. As such, S. 1346 will help guide the state of Michigan in implementing a strong and effective plan of action for expanding and capitalizing on the tourist-oriented sector of our state's economy. Preservation of the state's lighthouses and other maritime structures and resources will bring much-needed dollars into local communities, directly affecting other segments of the local economies, from restaurants, hotels, and gas stations, to retail shops and local attractions. In short, this bill is imperative for the economic growth and vitality of the local communities directly affected by this legislation, and it will yield significant economic dividends for the state of Michigan and for the Great Lakes region in general.

In closing, the lighthouse and maritime interests within the state of Michigan vigorously support passage of S. 1346, providing the people of Michigan and of the Great Lakes overall with a comprehensive plan for emphasizing the importance of the maritime heritage of the region and for augmenting the economic development of the local communities residing along the extensive Great Lakes shoreline.

Mr. Chairman, this concludes my remarks. I would be pleased to answer any questions you or other members of your committee may have.

Senator THOMAS. Thank you very much.
Dr. Wint.

**STATEMENT OF DR. DENNIS M. WINT, PRESIDENT AND CEO,
THE FRANKLIN INSTITUTE, PHILADELPHIA, PA**

Dr. WINT. I'm Dennis Wint, president and chief executive officer of the Franklin Institute in Philadelphia. I very much appreciate the opportunity to testify on behalf of S. 652, to authorize Federal funding for the rehabilitation of the Benjamin Franklin National Memorial, which is our Nation's primary and most visited memorial to Franklin. I want to also extend my gratitude to the sponsors

of this legislation, Senator Arlen Specter and Senator Rick Santorum, for their continuing support.

Mr. Chairman, I'd also like to thank you and the subcommittee for passing this legislation last year, in the 108th Congress. Despite our best efforts, however, the House did not have the time to pass the measure.

I'm pleased to report that on April 14, 2005, Representative Jim Gerlach introduced legislation, H.R. 1645, so the House will be able to have the opportunity to join the Senate in considering this bill. We urge you, respectfully, to pass favorably on this legislation.

Founded in 1824, the Franklin Institute is the Nation's premiere science and technology museum, and also the custodian of the Benjamin Franklin National Memorial. In the spirit of inquiry and discovery embodied by Ben Franklin, the mission of the Institute is to honor the lifetime achievements of Franklin and to foster a development of a scientifically and technologically literate society.

The memorial was unveiled in 1938. It is the same size and scale as the Abraham Lincoln memorial, featuring a pantheon-inspired marble rotunda, and a massive statue of Franklin.

The statue was created by the great American sculptor James Earle Fraser, whose work also includes the buffalo nickel, and the bust of Theodore Roosevelt. Nearly one million visitors visit the national memorial each year. Over 350,000 of those are school children.

The memorial is unique, because unlike other national memorials in the United States, as we have heard, it does not receive any funding for its support and maintenance operations. In 1972, Public Law 92-511 designated the Benjamin Franklin Memorial. In 1973 a Memorandum of Agreement directed the Department of the Interior to cooperate with the Franklin Institute in all appropriate and mutually agreeable ways in the preservation and the presentation of the Benjamin Franklin Memorial as a national memorial. This agreement also requires that the Institute admit the public, free of charge.

However, the Institute is a 501(c)(3), not-for-profit corporation, and over the past 67 years, the burden of maintaining the Memorial has been our responsibility, and we have spent nearly \$20 million from our operating and our capital budgets to preserve and maintain the Memorial since its opening in 1938.

Despite our best efforts, I regret to inform the subcommittee that this national treasure has fallen the victim of the pressures of time, especially the marble surfaces in the structure that houses the statue of Ben Franklin. The Department of the Interior has not provided any funds in support of the National Memorial, with the exception of a \$300,000 grant from Save America's Treasures in fiscal year 2000. This fund helped improve ADA access, but left other issues unresolved.

January 17, 2006 marks the 300th anniversary of the birth of Ben Franklin. In recognition of that momentous occasion, President Bush signed into law H.R. 2362, creating the Benjamin Franklin Tercentenary Commission. This Commission, which I co-chair with Senator Specter, specifically recommends the re-dedication, and other appropriate activities related to the National Memorial. As a result, the Institute is currently engaged in a private fundraising

program that will match any funds that are invested by the Department of the Interior. It is also crucial that we receive the authorization on appropriation so that this can coincide with the anniversary of Franklin's birth.

Accordingly, we do respectfully urge the subcommittee to support S. 652, and enact it prior to the celebration of Franklin's birth in January 2006.

Mr. Chairman, and members of the subcommittee, thank you for the opportunity to testify on this very important issue, and I'm happy to answer any questions you might have.

[The prepared statement of Dr. Wint follows:]

PREPARED STATEMENT OF DENNIS M. WINT, PRESIDENT AND CEO,
THE FRANKLIN INSTITUTE, PHILADELPHIA, PA

Good morning.

I am Dr. Dennis Wint, President and Chief Executive Officer of The Franklin Institute of Philadelphia, Pennsylvania.

I very much appreciate your willingness to consider Senate Bill 652, to authorize Federal funding for the rehabilitation of the Benjamin Franklin National Memorial, our nation's primary and most-visited monument to Franklin. I would like to take this opportunity to extend my gratitude to the sponsors of this legislation, Senator Arlen Specter and Senator Rick Santorum, for their steadfast support for this project.

Mr. Chairman, I would like to begin by thanking you and the Subcommittee for helping to pass this legislation in the Senate during the 108th Congress. Despite our best efforts, unfortunately, the House did not have the time needed to consider the measure through regular order. I am pleased to report that on April 14, 2005, Congressman Jim Gerlach introduced companion legislation, House of Representatives Bill 1645, so that the House will again have an opportunity to join the Senate in considering this bill.

I am appearing today to respectfully urge the Subcommittee to favorably report this legislation because it will authorize the appropriation of funding that is critical to the integrity of one of our nation's most awe-inspiring national memorials.

Unveiled in 1938, The Benjamin Franklin National Memorial is on the same scale as the Abraham Lincoln Memorial and features a Pantheon-inspired marble rotunda and massive white-marble statue of a seated, introspective Franklin. The statue was created by the great American sculptor James Earle Fraser, whose works include the Buffalo Nickel and a bust of then Vice-President Theodore Roosevelt which is housed in the Senate's own collection.

This national memorial is unique, because unlike other national memorials throughout the United States, it does not receive an annual allocation of Federal funds to support programs, operations, or preventative maintenance.

Founded in 1824, The Franklin Institute is one of the nation's premier science and technology museums and also serves as custodian of the Benjamin Franklin National Memorial.

In the spirit of inquiry and discovery embodied by Benjamin Franklin, the mission of The Franklin Institute is to honor the lifetime achievements of Franklin—America's distinguished scientist, statesman, inventor, diplomat, and founding father, and to foster the development of a scientifically and technologically literate society.

Indeed, The Franklin Institute brings Franklin's legacy of inquiry, discovery, and learning to nearly one million visitors each year, more than 350,000 of whom are schoolchildren. Every visit to The Franklin Institute begins with a moment of reflection and inspiration in the Benjamin Franklin National Memorial.

In 1972, Public Law 92-511 designated this site as the Benjamin Franklin National Memorial.

In 1973, a Memorandum of Agreement, executed between the U.S. Department of the Interior and the Franklin Institute, directed the Department of Interior to cooperate with the Institute in "all appropriate and mutually agreeable ways in the preservation and presentation of the Benjamin Franklin Memorial Hall as a national memorial." Under the terms of the 1973 Agreement, the Institute is required to admit the public to the Memorial free of charge.

However, The Franklin Institute is a 501(c)(3) non-profit organization and, over the last 67 years, the burden of maintaining this National Memorial has been the total responsibility of the Institute. Nearly \$20 million has been expended from the

Institute's operating and capital budgets to preserve and maintain the Memorial since it's opening in 1938.

In spite of our diligent efforts, I regret to inform the Subcommittee that this national treasure has fallen victim to the pressures of time, especially the exterior and interior marble surfaces and structures that house the statue of Benjamin Franklin.

The Interior Department has not provided any federal funding for maintaining this National Memorial, with the exception of a \$300,000 "Save America's Treasures" grant awarded in Fiscal Year 2000 with support from Senators Specter and Santorum. Although this funding did help to improve ADA accessibility to the Memorial, it left other structural issues unresolved. To address these issues, The Franklin Institute is currently engaged in a private fundraising campaign that will match dollar for dollar any funds invested by the Department of the Interior.

Mr. Chairman, 2006 marks the 300th anniversary of the birth of Benjamin Franklin. Given this important opportunity for our Nation to remember and celebrate Franklin, we are eager to commence work to renovate and restore the Memorial. Timely passage of this legislation will make our plan possible.

In July 2002, President George W. Bush signed into law House Resolution 2362, that created the Benjamin Franklin Tercentenary Commission. This Commission, which I co-chair with Senator Specter, specifically recommends rededication of and other appropriate activities related to the National Memorial.

Since the Memorial Hall's opening, tens of millions of Americans have had the opportunity to salute Franklin's remarkable impact in Philadelphia. As we continue to develop plans to welcome visitors from throughout the world during the Franklin Tercentenary, it is vital that we begin a meticulous restoration process that will make the Memorial a place of appropriate reverence to Dr. Franklin on the upcoming momentous anniversary of his birth.

Our private fundraising campaign will help match our request for federal assistance. However, it is critical for The Franklin Institute to secure this authorization and subsequent appropriations to ensure that the Benjamin Franklin National Memorial is preserved and presented to future generations in a manner befitting Benjamin Franklin's enormous legacy for our Nation.

A rehabilitated Memorial will present Franklin and his inspirational story for the study and observation of future generations of Americans and citizens worldwide.

Accordingly, I respectfully urge this Subcommittee to support Senate Bill 652 so that it may be enacted prior to the national celebration of Franklin's life beginning in January 2006.

Thank you for your invitation to testify on this very important matter and I would be delighted to answer any questions that you or other distinguished Members of Subcommittee may have.

Senator THOMAS. Thank you very much.

Mrs. Dick, welcome.

STATEMENT OF BETTY DICK, GRAND LAKE, CO

Mrs. DICK. Chairman Thomas, Senator Salazar, and members of the Subcommittee on the National Parks, thank you for your kind consideration of my plight. I'm here to speak in favor of H.R. 432 and/or S. 584, and to acquaint you with the reasons why you should vote favorably on one of these pieces of legislation.

I'm the widow of George F. Dick, known to his family and friends as Fred, who died in 1992. I'm 83 years old, and during the summer months I live on a 20-acre parcel that is within the boundaries of Rocky Mountain National Park.

This property was bought by Fred, and his former wife, Marilyn, in 1961. In the settlement of Fred and Marilyn's bitter divorce in June 1977, Marilyn received the property, and Fred received the right of first refusal to buy it.

Without giving Fred his right of first refusal, Marilyn sold the property to the U.S. Government in October of that year. When Fred discovered that the property had been sold, he sued Marilyn and the Government, demanding that the Government honor his right of first refusal.

In the Spring of 1978, I married Fred, and so I became an interested bystander to the struggle and witnessed the events that I want to bring to your attention. These events will explain the uniqueness of my situation and why this is not a precedent-setting case.

It was after interminable depositions, hearings and the like, and thousands of dollars spent on two law firms that Fred and I—without our lawyers—traveled to Washington, DC, in November 1979 to see if the case could be settled. In a meeting with various officials representing the Department of the Interior, it was agreed that the case would be settled. Fred and I were each to receive a life estate in the property, Fred was to give up 44 acres, which was two-thirds of his land, and to pay a settlement fee of \$7,500. We were not mistaken in our understanding of this agreement.

Shortly after this meeting, on November 26, 1979, the Associate Regional Director of Park Operations at the Rocky Mountain National Park circulated a memo which recounted that November meeting, and specifically cited the Department of the Interior's recommendation that we were to get a life estate to settle this case. It's this memorandum you have as Exhibit A, and Senator Salazar has read that to you, so I will not repeat that, but it's the meeting with Mr. Kriz and Ted Stevens' Committee at that time.

Papers were drawn to settle the case based upon the agreement that we would have a life estate, specifically. And you have a Stipulation that is Exhibit B, and a Judgment, Exhibit C, that were drawn, which expressly stated that Fred and I would have a life estate on the property. And I want to add here, that after that meeting in 1979, Fred was certain that this settlement agreement would be a life estate.

And we came back to the ranch in the late Spring, because it's 9,000 feet up, and you can't get into it in the wintertime. He had the property completely re-fenced so that the Government would have its 44 acres. He had it re-fenced for the 23 acres that were to remain. This was all done at his expense. And all of that time, during the winter, three statements came, certain preliminary statements saying "life estate".

So he gave up the property, he sent the \$7,500, and within a month, Exhibit D came, and that was the Exhibit that says 25 years. So Fred had agreed, as a gentleman, to his part of this agreement, but the Government had not honored their part.

When Fred saw the change, he was devastated. Realizing that he had, once again, been out-manuevered, he also realized that he could no longer afford the litigation against the Government, with its unlimited resources and lawyers, which by past experience had not honored his right of first refusal.

Saying that it would not make a difference, since he would not live another 25 years, he signed the settlement agreement. And that's what you have attached as Exhibit D, which you, Chairman Thomas, had talked about.

As it turned out, Fred would not live so long that there would be a difference between a life estate and a term of 25 years, but I'm still here, and it makes a difference to me. At 83, I have just a few years of life left. For the last 25 years I've been a good neighbor to the park and the employees, who feel comfortable just drop-

ping in for a cup of coffee or just to check on me, which I'm grateful for. I've been heavily involved in the Grand Lake community, making my home and grounds available for several organizations for their summer picnics and cookouts. I've served on the Board of the Rocky Mountain Repertory Theatre for over 5 years, two as president. The Grand Lake Board of Trustees and the mayor in our little town have voted to support my request, and I have huge support from the Grand County community. As long as my health continues to be good, I intend to continue in these community activities, just as I have in the past. That is, if I have my home to live in.

I watched litigation that went on for too long and cost too much money. Then, when we thought we had the matter settled, the Government changed the deal. At that point, having exhausted our resources, both physical and financial, Fred just took what he could get, even though it was different from what had been agreed upon.

I respectfully ask the subcommittee to consider the fairness of this matter, and to give me what was agreed upon in November 1979, nothing more. I also ask the subcommittee to note that I was party to the settlement originally made with the Government, but the settlement papers were only signed by Fred. As a result, the contract I have with the Government has never been honored, and I have never agreed to any change. The Government's obligation remains outstanding that I receive a life estate in exchange for the money paid. The National Park Service does not want to talk about this, but I do.

One further thing. The Government's contention that their hands are tied because there was a court order is not true. The fact is, there was a settlement between Fred and the Government, and the case was dismissed. There was no court decree entered. If this matters, the facts ought to control. As you can plainly see, this is a settlement agreement, not a lease, and because of its uniqueness, it is not a precedent-setting case.

I thank you for your consideration, and I will respect whatever decision you make.

Senator THOMAS. Thank you. Thank you all, very much.

Just a couple of quick questions. Mr. Eshelman, would the establishment of this trail entail the purchase of more lands by the Federal Government?

Dr. ESHELMAN. No, sir. At this time, there's no anticipation of trying to acquire any land. In fact, in the legislation, I believe it states that there would not be any, so I do not believe that's a problem at all.

Senator THOMAS. I see. From your testimony, you believe because of the history this is a logical Federal designation, as opposed to local or State?

Dr. ESHELMAN. Without question. I mean, what more could you ask for than a trail that's going to tell our citizens about the Star-Spangled Banner? To me, it's the premiere icon of the United States, it has national significance.

Senator THOMAS. Dr. Belko, you talked about the impact on the economy and so on; is that justification for a Federal designation?

Dr. BELKO. Well, I certainly think so.

Senator THOMAS. Well, I know you do, but if you were setting up a principle for parks and national establishments, would it be because of the local economy?

Dr. BELKO. Absolutely not. I think the premiere aspect—the thing we need to focus on about this bill is it provides a plan, an outline, if you want to say, a kind of Bible for the restoration of all of Michigan’s maritime resources. And it’s just not for identification and interpretation for public enjoyment, it goes a step further. We can incorporate that maritime heritage, which is so critical to our State’s history, into the local economies. It becomes a way for them to bring in tourists, to make money from restaurants and gas stations and hotels. So it is—I wouldn’t even say indirect, I would call it a direct consequence—a benefit from this.

Senator THOMAS. Would there be a plan, an arrangement, in your view, to raise local money and participation financially?

Dr. BELKO. Absolutely. I think one of the neatest things about this bill, one of the more important aspects is that it is a cooperative effort, from Federal Government down to our State government, and to all of the non-profit organizations, and the local governments, some wonderful organizations. They have a direct role in this, in this partnership, to create this maritime heritage destination network. They would share technical expertise and assistance, funding sources, and it would provide great benefits to the State of Michigan, so the partnership is key.

Senator THOMAS. I appreciate it, thank you.

Dr. Wint, as I understand it, the Franklin Institute contemplated non-Federal funding, and as you’ve indicated, there’s basically—I guess there’s one little instance, but non-Federal funding, is that correct?

Dr. WINT. That is correct. The Memorandum of Understanding in 1973 did indicate there would be cooperation in mutually agreeable ways with the National Park Service. It did not explicitly or implicitly state that there would be Federal support. However, 30 years ago, I don’t believe we could have envisioned what has happened today, particularly with the celebration of Franklin’s 300th anniversary beginning in January, nor the enormous growth of the Institute in terms of our attendance.

In 2002, our attendance was 711,000, this past year it was 934,000. We expect it to reach a million or more, and every person who comes, sees the Franklin Memorial.

Senator THOMAS. What do you contemplate the cost will be for the restoration of the statue and the construction of the displays?

Dr. WINT. The total cost would be \$18 million, which includes the restoration of the memorial hall, and the creation of a museum devoted to Franklin that would be built immediately adjacent to Franklin Hall. So the visitor would come in, see Franklin Hall, and then turn left and go into this museum. We would fundraise for the balance of the money from private sources.

Senator THOMAS. All right. Well, thank you. Thank you, Mrs. Dick, for being here. We appreciate your testimony and we really look forward to working with you.

Senator.

Senator SALAZAR. First, Dr. Eshelman, I commend you for your project, and also for recognizing the importance of teaching the his-

tory and heritage of this great Nation to the American public, but particularly toward children, so thank you for coming before the committee today.

Mrs. Dick, I wanted—first of all, Mr. Chairman, I'd ask your consent and the consent of the committee that the exhibits that were referred to by Mrs. Dick be entered as part of the record of this proceeding.

Senator THOMAS. Without objection.

Senator SALAZAR. I want to make a comment, Mrs. Dick. It is now 26 years ago that you came to Washington, DC, with your husband, without a lawyer. Today, 26 years later, you come to Washington, DC, now without him, but again without a lawyer. You sit at a witness table here in one of our hearing rooms of the U.S. Capitol. You talk to us about your plight, and the issue that you want this committee to consider, and the request for a favorable vote on S. 584. I just want to commend you for having that courage.

Most of the time what happens at this Capitol are the people who we hear from are not ordinary Americans. We hear from people who are either somehow tied into the bureaucracy, or paid millions of dollars to do what they do. You, on the other hand, have come here asking your government to do something that would help resolve a situation that has been outstanding for a very long time, and I'm very hopeful that you will be able to work with all of my colleagues in the U.S. Senate, to afford you the same kind of relief that was recognized by all members of the U.S. House of Representatives.

Let me ask one question of you, in terms of your management of the land during the time period that you've been there, over a quarter century, have there been any issues in terms of the management of the property between you and the Park Service, or has it been a good, positive relationship?

Mrs. DICK. For the most part, it's been very positive, and I certainly do appreciate the Superintendent, the present Superintendent, and all of the people who work there. As I indicated in my testimony, the rangers stop in and we have a good relationship. I have been responsible for the maintenance of all the buildings and the insurance on the property, I pay every year. I feel that it's been a great experience, and they do too, I think, if you ask any one of them. In fact, there are a great many of them who have stopped by and said, "We sure hope you get to keep your property," and that is very encouraging.

I do want to make another statement, if I may, Chairman Thomas, and that is that the park has only come to me within the last week with any effort to negotiate at all. We have made every effort through our Congressman, and through Senator Salazar, and through many of my friends, just to get them to sit down and talk to me about this, and they claim that there is nothing they can do administratively. It was a week ago, Tuesday, when I was first told about this negotiation, which went on without my knowledge, and I was notified by the press. NBC called me and asked me how I felt about this negotiation that was taking place, and I just said, "What negotiation? I don't know anything about this." And when they came to me the following day, from the park, the Super-

intendent, to present the terms of the negotiation—which I hadn't known anything about—and tell me I can be on some kind of a lease, which was to be for 2 years, while they start to plan what they're going to do with my property. And I was concerned about that, because I thought surely they had some plan for it, but they're just now beginning to think what they're going to do with those buildings that they got.

So the park has no plans, and they're asking me to stay in limbo for another 2 years, while they decide what they're going to do with the property. And in the meantime, they're cutting back on their personnel in the park, they're cutting back on their programs in the park, and I do not see how they can maintain that property, or how they can destroy it, which is another thing that has been threatened. And I can't negotiate when they come to me 9 days before I'm to appear here, with this kind of a settlement, whereby they take away everything but three to five acres, and expect me to pay what they call "fair market value" of \$1,000 a month for what's left.

It's been a misunderstanding from the very beginning. And I really appreciate your listening to my story, because it is complicated, and it is unique, and that's why it's hard to explain. Thank you both so very much.

Senator THOMAS. You're more than welcome.

Senator SALAZAR. Mrs. Dick, thank you very much for having made the trip, again. And to you, Chairman Thomas, I appreciate your courtesy this morning, and your leadership of this committee. Thank you very much.

Senator THOMAS. If there are no further questions—if we have any questions further, we may ask them, and other members may have questions over the next month, otherwise the committee's adjourned. Thank you all for being here.

[Whereupon, at 11:23 a.m., the hearing was adjourned.]

APPENDIXES

APPENDIX I

Responses to Additional Questions

THE FRANKLIN INSTITUTE,
Philadelphia, PA, August 11, 2005.

Hon. CRAIG THOMAS,
Chairman, Subcommittee on National Parks, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR CHAIRMAN THOMAS: Thank you so much for inviting me to testify on July 28, 2005 before the Senate Subcommittee on National Parks on Senate Bill 652, which would authorize the National Park Service to provide up to \$10 million in funding for the revitalization and rehabilitation of the Benjamin Franklin National Memorial.

I appreciated the opportunity to be introduced to you by Senator Rick Santorum prior to hearing and to offer testimony on the importance of passing this legislation to duly and appropriately recognize Benjamin Franklin, our distinguished scientist, statesman, and diplomat, given the upcoming 300th anniversary of his birth.

As I testified, I respectfully urge the Subcommittee to favorably report this legislation so that it might be enacted in a timely manner, so as to coincide with Franklin's 300th birthday on January 17, 2006.

I have enclosed herewith responses to the questions posed in your letter of August 1, 2005. Please let me know if you require any additional information.

Thank you for your interest and consideration.

Sincerely,

DENNIS M. WINT,
President and CEO.

[Enclosure.]

RESPONSES OF DENNIS M. WINT TO QUESTIONS FROM SENATOR THOMAS

Question 1a. The bill authorizes \$10 million and requires matching funds for any Federal money. How much do you estimate that it will cost to restore the Benjamin Franklin statue and construct the proposed displays?

Answer. The cost of the total Benjamin Franklin Memorial Project is \$20 million.

The first priority is to clean the Memorial, restore and repair all marble surfaces, and restore and clean the statue. The second, and equally necessary, phase of the project would be to address longstanding structural issues in the rotunda dome and skylights, replace defunct lighting and sound systems, and relight the Memorial in a dramatic fashion.

The final phase of the project would be to create a facility adjacent to the Memorial to house a nationally significant collection of priceless Franklin artifacts, and to add a next generation, state-of-the-art, Franklin multi-media learning experience that would make this site even more of an American destination.

The estimated expenses for this project are as follows:

NATIONAL MEMORIAL RESTORATION AND RENOVATIONS:

Accent lighting and sound system	\$153,000
Memorial lobby upgrades	705,000
Repairs to skylights, roof monitors	430,000
Mechanical and electrical	400,000
Cleaning, restoration of marble surfaces	710,000

Multimedia experience	5,000,000
Restorations and renovations subtotal	<u>\$7,398,000</u>

PRESERVATION AND EXHIBITION OF FRANKLIN ARTIFACTS:

Site development	\$8,800,000
Exhibit installation	\$2,800,000
Fees, escalation, contingency	<u>\$1,000,000</u>

Franklin Memorial Museum subtotal

	<u>\$12,600,000</u>
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TOTAL PROJECT COST	<u><u>\$19,998,000</u></u>
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Question 1b. Have you identified potential funding sources for the matching funds?

Answer. Yes. The Institute will raise the matching funds primarily from the private sector, including private foundations, corporations, and individuals. As a 501(c)(3) non-profit organization, the Institute relies on a host of private and public funding sources to operate with a balanced budget. The Institute has identified several of these funding sources as potential providers of matching funds for any Federal investment in this project. The Institute may also pursue funding from the Commonwealth of Pennsylvania.

The Institute's capacity to succeed in raising matching funds is evidenced by a recently completed \$61 million life-safety and HVAC renovation project, of which nearly \$28 million was provided as part of matching or challenge grants. The Institute anticipates similar success in matching any Federal funds invested in the Benjamin Franklin National Memorial.

Question 1c. Have you raised any money towards the effort to date?

Answer. No. While the Institute does have several private funding sources that have expressed interest in funding this project, these requests are pending until passage of S. 652 and subsequent appropriations. The level of support from the Federal government will dictate both the scope and pace of this project.

The Institute has contributed an estimated \$50,000-\$100,000 out of its own operating budget to develop this comprehensive plan for the Memorial.

Question 1d. Have you begun any of the restoration or construction work?

Answer. Yes. The Institute was able to make the Memorial ADA-accessible in 2000-2001, partially made possible through a grant of \$300,000 from the Save America's Treasures program, which was provided with support from Senators Rick Santorum and Arlen Specter. In addition, the Institute raised more than \$800,000 from private sources and the Commonwealth of Pennsylvania to improve access in the Memorial for a total estimated cost of \$1.1 million.

For the continuing renovation efforts, the Institute has consulted with an architect, a project manager, experts in the restoration of historic facilities, educators, and a multi-media firm in developing plans for the revitalization of the Memorial.

No additional restoration or construction work has been initiated since these upgrades because the planned restoration requires public and private funding. Further, significant limitations on visitor traffic to and through the hall would limit the celebrations planned for Franklin's 300th. Upon enactment of S. 652, the Institute expects to leverage the initial private contributions in time to commence work on or around January 17, 2006, Dr. Franklin's birthday.

Question 1e. How long will it take to complete the work?

Answer. The project will take 4 years from planning until completion.

Question 2. The enabling legislation that established The Franklin Institute contemplated a non-Federal funding source and did not include a provision for use of Federal funds. What has changed to cause a need for Federal funds and do you anticipate future requests?

Answer. In 1972, when Congress designated this site as The Benjamin Franklin National Memorial, it was impossible to foresee the changes brought about that have made the Memorial a national destination with over 1 million visitors annually. Since the Memorial was built in 1938, nearly \$20 million has been expended from The Franklin Institute's operating and capital budgets to preserve and maintain it. Visitorship takes its toll both in the wear and tear on the Memorial structure and in the added expense the Institute incurs in serving these visitors in a space that generates no admission revenue as agreed upon in the 1973 Memorandum of Understanding between The Franklin Institute and the National Park Service.

The Institute is now Pennsylvania's most-visited museum and the Memorial is the third most-visited tourist attraction in Philadelphia. My predecessors did not anticipate that by 2005, visitorship would more than triple and annual maintenance costs of the Memorial would exceed \$300,000.

Accordingly, once S. 652 is enacted and the authorized funding is appropriated, the Institute will actively match federal funding to upgrade the Memorial, ensuring that Franklin's legacy and remarkable story have a home fitting of his importance to our nation. Beyond this authorization and subsequent appropriations, the Institute will not seek further Federal support for the Benjamin Franklin National Memorial.

RESPONSES OF DR. RALPH ESHELMAN TO QUESTIONS FROM SENATOR THOMAS

Question 1. What makes this trail unique and worthy of designation as a National Historic Trail?

Answer. The proposed Star-Spangled Banner National Historic Trail would commemorate the events leading up to the writing of the poem "The Star-Spangled Banner" during the War of 1812; events that are generally misunderstood by the general public. This sequence of events include the British invasion of Maryland, the Battle of Bladensburg, the burning of the White House and the Capitol, the burning of the Washington Navy Yard, and the Battle for Baltimore in the summer of 1814. These events are significant to the United States' national heritage. Not only was our national anthem derived from these events, but the flag that inspired the poem, has become America's foremost patriotic icon. I can think of no more significant trail that is worthy of inclusion in the National Trail System.

The criteria for national trails, set forth in the National Trails Systems Act, have been applied, and five of the eight proposed trail segments meet all three criteria. National Historic Landmark criteria for national significance have also been applied and have been met by the proposed trail. The route of the invasion is clearly known and well documented—The proposed trail follows this route with only minor short deviations made necessary by limited highway access and railroad construction.

Question 2. The trail will include separate trail segments highlighting six different sites associated with the war of 1812. Are separate segments the usual route National Historic Trails follow?

Answer. While the proposed national trail contains five routes, the routes are physically connected by land and/or water. While we refer to these trail routes as segments, they actually are complete routes, each which tell one aspect within the full story of the Star-Spangled Banner. Those segments consist of the British invasion route from Benedict to Washington, the British feint up the Potomac River, the British feint up the Chesapeake Bay, the British route up the Patapsco River to Fort Mchenry and the British land route from North Point to Baltimore. Together, these "segments" or routes serve to tell a single story—the story of how the Star-Spangled Banner came to be. Many national trails have multiple routes including the Oregon National Historic Trail, California National Historic Trail, Old Spanish National Historic Trail, Santa Fe National Historic Trail, Lewis and Clark National Historic Trail, Potomac Heritage National Historic Trail, and Florida National Historic Trail.

This question implies that the Star-Spangled Banner Trail has only six sites. In fact, each segment consists of multiple sites (or resources as the National Park Service refers to them). The fewest number of sites for any one of the recommended segments consists of 8 resources while the British land invasion route segment consists of forty-six resources. In total there are ninety-four identified resources among the five recommend trail segments.

Question 3. Is it necessary for the Star-Spangled Banner Trail to have Federal designation or can it be managed as a state or regional entity?

Answer. The Chesapeake Campaign of 1814 is nationally significant and represents key turning points in American social and political history. The events of the invasion contributed to the preservation of a young nation and its Constitution. Therefore, Federal designation is both desirable and appropriate. The trail would be managed in partnership with Maryland similar to many other National Historic Trails.

Question 4. Will the creation of the Star-Spangled Banner Trail require the purchase of any lands?

Answer. Creation of the trail does not envision any federal land acquisition. Thought doubtful, if any such land acquisition should be required in the future, it would only be from willing sellers.

August 19, 2005.

Hon. CRAIG THOMAS,
 Chairman, Subcommittee on National Parks, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR SENATOR THOMAS: I truly appreciate your attentiveness when I appeared before your committee on July 28, 2005, and thank you most especially for thoughtfully making the effort to speak to me after the hearing.

Your August 1st letter with further questions arrived Monday the 15th of August. To expedite matters I am sending the response by FAX and will try to make my responses as complete as possible.

Thank you, Senator Thomas, for requesting a clarification of my situation. I am truly appreciative of your interest in furthering the understanding of this unique situation—one which I am pursuing because I have felt the unfairness of it for so many years. As I stated at the July 28th hearing—I am only asking for what the National Park Service promised us in November 1979—nothing more.

Sincerely,

BETTY H. DICK.

RESPONSES OF BETTY H. DICK TO QUESTIONS FROM SENATOR THOMAS

Question 1. You provided a Park Service memo from 1979 that mentions a life estate. If you expected to get a life estate, why didn't you question things at that time and correct the paperwork?

Answer. There are several reasons why we didn't pursue the life estate that had been promised by the National Park Service and attempt to correct the paperwork.

A) Fred and his first wife, Marilyn had contested ownership of the Colorado property for two years, from 1975-1977. To settle the matter, Fred finally gave the tide to Marilyn with the explicit provision that if she sold the property, he would have the right of first refusal. Their divorce was finalized in June, 1977. In October 1977, the National Park Service, ignoring Fred's right, bought the property from Marilyn.

B) Fred learned of the sale when it was subsequently published in our local weekly newspaper. He immediately began litigation against the NPS to recover his property through the right of first refusal clause. Another two years of legal wrangling and legal fees ensued—1977-1979.

C) Fred and I were married in 1978. To reach a final settlement on the property, we met with NPS officials in Washington, DC in November 1979. These men were attentive and sympathetic, realizing he had been by-passed and unfairly deprived of his right to the property. The settlement reached that day had three specific conditions. The NPS was to give each of us a life estate, and Fred was to give up 2/3 of his land (44 acres) and pay a settlement fee of \$7,500.00.

D) Throughout the winter of 1979-1980 we received three preliminary NPS papers which I presented at the July 28th hearing as Exhibits A, B, and C—all stating a life estate for both of us. Fred, believing the deal was sincere, returned to the Colorado property in early May of 1980, and at his expense had it re-surveyed, took down the original fencing to re-fence his agreed upon 23 acres, and sent the \$7,500.00 to the NPS.

E) Fred was a graduate of the University of Illinois Law School. He was President of the Peoples Bank in Bloomington, Illinois. He had bought the Colorado property in 1961 and vastly improved it for his summers in retirement. He was a gentleman who honored his commitments. When the 25 year settlement paper arrived in early summer 1980, he was devastated. *He realized the NPS had deceived him a second time. He could no longer enter into negotiations that were financially and emotionally draining with a Government entity he could no longer trust.* He had nowhere to turn—he felt defeated . . . so he signed the 25 year agreement, to expire in July 16, 2005.

F) For the record, neither Fred nor I have paid the NPS \$300.00 a year as it is claiming. That figure comes from dividing \$7,500 by 25 years. The agreement for a life estate was made and the \$7,500 was paid for the life estate, prior to any mention of 25 years. The NPS is also claiming this was a court ruling—it was not. It was a *Settlement Agreement* between Fred and the United States of America. (Exhibit D available at the July 28 hearing)

Question 2. Is This your primary residence and how long do you occupy the home each year?

Answer. Regarding my residence in Colorado. I return here every year mid-May and leave for Arizona mid-October. The altitude here is 9,000 ft., so the weather determines the length of my stay. My primary interests are here. My family considers this my main residence and enjoys visiting during the summer. I have become deeply involved in the Church community, the cultural community and edu-

cational aspects of the community. The Mayor and the Trustees of Grand Lake have voted to support my efforts to remain here, as have many friends and acquaintances of Grand County. The present Superintendent of Rocky Mountain National Park is sympathetic to my cause, and has granted me the right to stay here through the summer of 2005.

APPENDIX II

Additional Material Submitted for the Record

UDALL BILL BEST PLAN FOR INHOLDING LEASE

[Rocky Mountain News—July 26, 2005]

The Senate should go along with the House and approve a private bill that would give 83-year-old Betty Dick the right to stay on her 23 acres within Rocky Mountain National Park until she dies or leaves.

A life estate in the inholding is what Dick and her late husband asked for and should have been given by the National Park Service originally. But instead the Park Service insisted on a 25-year agreement. It technically expired a week ago, although the local supervisor has granted her the right to stay through the summer.

The bill sponsored by Rep. Mark Udall won unanimous approval in the House, but it may be in trouble in the Senate. Sen. Wayne Allard and others maintain it might set a legal precedent for 290 other disputed inholdings in 35 national parks.

We don't think so. Dick is not on a lease like the others; what she has is a settlement agreement under which she paid \$7,500 for 23 acres for 25 years. The Udall bill would extend the \$300-a-year payment until she dies.

The Park Service, which originally insisted there was no administrative remedy, recently decided that there was. It offered to let her stay if she surrendered all but five of her acres and paid \$1,000 a month for them.

She sensibly said no. She's hoping the Udall bill, which is scheduled for a hearing in the Senate's parks subcommittee Thursday, gets passed. So do we.

Kalaupapa, HI, July 18, 2005.

Hon. DANIEL K. AKAKA,
Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

Hon. DANIEL K. INOUE,
U.S. Senate, Washington, DC.

DEAR SENATORS AKAKA AND INOUE: I am writing to you in support of S. 1166, a bill to extend the authorization of the Kalaupapa National Historical Park Advisory Commission. I appreciate your introduction of this measure on behalf of the patients of Kalaupapa.

As you know, the Advisory Commission will expire on December 22, 2005. I understand that S. 1166 would extend the Commission for an additional 20 years. The Advisory Commission plays an integral role for the patients to provide input to the National Park Service on visitation issues and other matters that may arise.

The Advisory Commission meets approximately twice a year and we discuss issues are that critical to our community. Our decisions on levels of visitation are binding, after a referendum; we also discuss the following:

- Status of the National Park Advisory Commission
- Status of the Lease Agreement with Department of Hawaiian Home Lands
- Status of Water System
- Status of Friends of Father Damien
- Archeology Work in Kalaupapa Settlement
- Fishing Laws
- Jurisdiction and Law Enforcement
- Electrical System Taken Over by National Park Service
- Vegetation Clearing
- Future of Airline Service to Kalaupapa Settlement
- Co-Habitation of Non-Married NPS Staff
- Influx of Volunteer Staff Without Time Limits
- Establishing An Onsite Memorial For Patients

Also our concerns on status of Cooperative Agreements with the following agencies:

State of Hawaii Department of Health
State of Hawaii Department of Transportation
State of Hawaii Board of Land & Natural Resources
Catholic Church
United Church of Christ

We need to ensure that we have a voice for our community and that voice with the Park Service will continue. We look forward to dealing with some of the important transitional issues for Kalaupapa in the future, to ensure that the memory of previous patients continues to be honored.

I have been informed that a Senate hearing on S. 1166 is scheduled for July 21st and I, along with the current members of the Commission, and the patients of Kalaupapa, hope that the bill will be passed by the Senate soon.

KUULEI BELL
PAUL HARADA
GLORIA MARKS
SHUICHI HAMAI
HENRY NALAIELUA
CLARENCE KAHILIHWA

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