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Heritage Areas: Background, Proposals, and Current Issues

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Updated January 9, 2009

Abstract. The 111th Congress is considering an omnibus public lands bill (S. 22) that includes provisions to establish ten new NHAs, study two areas for possible heritage designation, and amend four existing heritage areas. The 110th Congress enacted legislation (S. 2739, P.L. 110-229) to establish three new NHAs, study the feasibility of establishing two others, increase the total authorization of appropriations for several existing NHAs, require an evaluation of several existing NHAs, and amend other heritage areas. Other omnibus bills (S. 3213 and H.R. 1483) sought to designate new NHAs, require area studies, and expand the boundaries or make other changes to NHAs. The sizeable number of existing NHAs and proposals to study and designate new ones fostered measures (e.g., S. 278, S. 2180, and S. 3213) to provide criteria for designating NHAs, standards for their management, and limits on federal funding support. The Bush Administration has opposed the designation of new areas until systemic NHA legislation is enacted. Some opponents believe that NHAs present numerous problems and challenges and that Congress should oppose efforts to designate new areas and/or to create a system of NHAs.

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Summary

Over more than two decades, Congress has established 40 National Heritage Areas (NHAs) to commemorate, conserve, and promote areas that include important natural, scenic, historic, cultural, and recreational resources. NHAs are partnerships among the National Park Service (NPS), states, and local communities, where the NPS supports state and local conservation through federal recognition, seed money, and technical assistance. NHAs are not part of the National Park System, where lands are federally owned and managed. Rather, lands within heritage areas typically remain in state, local, or private ownership or a combination thereof. Heritage areas have been supported as protecting lands and traditions and promoting tourism and community revitalization, but opposed as potentially burdensome, costly, or leading to federal control over nonfederal lands. This report focuses on heritage areas designated by Congress (not other entities) and related issues and legislation.

NHAs might receive funding from a wide variety of sources, and Congress and the NPS do not ordinarily expect to provide NHAs with permanent federal funding. Congress typically determines federal funding for NHAs in annual Interior appropriations laws. NHAs can use federal funds for many purposes, including staffing, planning, and projects. The FY2008 appropriation for the NPS for assistance to heritage areas was \$15.3 million. The Bush Administration requested a decrease to \$7.1 million for FY2009. An annual appropriation for NHAs has not been determined to date.

There is no comprehensive statute that establishes criteria for designating NHAs or provides standards for their funding and management. Rather, particulars for each area are provided in its enabling legislation. Congress designates a management entity, usually nonfederal, to coordinate the work of the partners. This entity typically develops and implements a plan for managing the NHA, in collaboration with other parties. Once approved by the Secretary of the Interior, the management plan becomes the blueprint for managing the area.

The 111th Congress is considering an omnibus public lands bill (S. 22) that includes provisions to establish ten new NHAs, study two areas for possible heritage designation, and amend four existing heritage areas. The 110th Congress enacted legislation (S. 2739, P.L. 110-229) to establish three new NHAs, study the feasibility of establishing two others, increase the total authorization of appropriations for several existing NHAs, require an evaluation of several existing NHAs, and amend other heritage areas. Other omnibus bills (S. 3213 and H.R. 1483) sought to designate new NHAs, require area studies, and expand the boundaries or make other changes to NHAs. The sizeable number of existing NHAs and proposals to study and designate new ones fostered measures (e.g., S. 278, S. 2180, and S. 3213) to provide criteria for designating NHAs, standards for their management, and limits on federal funding support. The Bush Administration has opposed the designation of new areas until systemic NHA legislation is enacted. Some opponents believe that NHAs present numerous problems and challenges and that Congress should oppose efforts to designate new areas and/or to create a system of NHAs.

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Background

Over more than two decades, Congress has designated 40 National Heritage Areas (NHAs) to recognize and assist efforts to protect, commemorate, and promote natural, cultural, historic, and recreational resources that form distinctive landscapes. Congress has established heritage areas for lands that are regarded as distinctive because of their resources, their built environment, and the culture and history associated with these areas and their residents. A principal distinction of these areas is an emphasis on the interaction of people and their environment. Heritage areas seek to tell the story of the people, over time, where the landscape helped shape the traditions of the residents. In a majority of cases, NHAs now have, or have had, a fundamental economic activity as their foundation, such as agriculture, water transportation, or industrial development. Congress also has enacted measures authorizing the study of areas to determine the suitability and feasibility of designating the study area as a heritage area.

Congress designated the first heritage area—the Illinois and Michigan Canal National Heritage Corridor—in 1984. This area was located in one of the nation’s most industrialized regions and sought to combine a diversity of land uses, management programs, and historical themes. A goal was to facilitate grassroots preservation of natural resources and economic development in areas containing industries and historic structures. The federal government would assist the effort (e.g., through technical assistance) but not lead it. The idea of linking and maintaining a balance between nature and industry, and encouraging economic regeneration, resonated with many states and communities, especially in the eastern United States. Interest in establishing heritage areas was commensurate with growing public interest in cultural heritage tourism.

The attributes of each NHA are set out in its establishing law. Because they are based on distinctive cultural attributes, NHAs vary in appearance and expression. They are at different stages of developing and implementing plans to protect and promote their attributes. **Table 1**, below, identifies the current NHAs.

Table 1. Existing National Heritage Areas, by Date of Authorization

National Heritage Area	State	Date of Authorization	Enabling Legislation
Illinois and Michigan Canal National Heritage Corridor	IL	Aug. 24, 1984	P.L. 98-398
John H. Chafee Blackstone River Valley National Heritage Corridor	MA/RI	Nov. 10, 1986	P.L. 99-647
Delaware and Lehigh National Heritage Corridor	PA	Nov. 18, 1988	P.L. 100-692
Southwestern Pennsylvania Heritage Preservation Commission (Path of Progress)	PA	Nov. 19, 1988	P.L. 100-698
Cane River NHA	LA	Nov. 2, 1994	P.L. 103-449
Quinebaug and Shetucket Rivers Valley National Heritage Corridor	CT/MA	Nov. 2, 1994	P.L. 103-449
Cache La Poudre River Corridor	CO	Oct. 19, 1996	P.L. 104-323
America’s Agricultural Heritage Partnership (Silos and Smokestacks)	IA	Nov. 12, 1996	P.L. 104-333
Augusta Canal NHA	GA	Nov. 12, 1996	P.L. 104-333
Essex NHA	MA	Nov. 12, 1996	P.L. 104-333

National Heritage Area	State	Date of Authorization	Enabling Legislation
Hudson River Valley NHA	NY	Nov. 12, 1996	P.L. 104-333
National Coal Heritage Area	WV	Nov. 12, 1996	P.L. 104-333
Ohio and Erie Canal National Heritage Corridor	OH	Nov. 12, 1996	P.L. 104-333
Rivers of Steel NHA	PA	Nov. 12, 1996	P.L. 104-333
Shenandoah Valley Battlefields National Historic District	VA	Nov. 12, 1996	P.L. 104-333
South Carolina National Heritage Corridor	SC	Nov. 12, 1996	P.L. 104-333
Tennessee Civil War Heritage Area	TN	Nov. 12, 1996	P.L. 104-333
(MotorCities-)Automobile NHA	MI	Nov. 6, 1998	P.L. 105-355
Lackawanna Valley NHA	PA	Oct. 6, 2000	P.L. 106-278
Schuylkill River Valley NHA	PA	Oct. 6, 2000	P.L. 106-278
Wheeling NHA	WV	Oct. 11, 2000	P.L. 106-291
Yuma Crossing NHA	AZ	Oct. 19, 2000	P.L. 106-319
Erie Canalway National Heritage Corridor	NY	Dec. 21, 2000	P.L. 106-554
Blue Ridge NHA	NC	Nov. 10, 2003	P.L. 108-108
Mississippi Gulf Coast NHA	MS	Dec. 8, 2004	P.L. 108-447
National Aviation Heritage Area	OH/IN	Dec. 8, 2004	P.L. 108-447
Oil Region NHA	PA	Dec. 8, 2004	P.L. 108-447
Arabia Mountain NHA	GA	Oct. 12, 2006	P.L. 109-338
Atchafalaya NHA	LA	Oct. 12, 2006	P.L. 109-338
Champlain Valley National Heritage Partnership	NY/VT	Oct. 12, 2006	P.L. 109-338
Crossroads of the American Revolution NHA	NJ	Oct. 12, 2006	P.L. 109-338
Freedom's Frontier NHA	KS/MO	Oct. 12, 2006	P.L. 109-338
Great Basin National Heritage Route	NV/UT	Oct. 12, 2006	P.L. 109-338
Gullah/Geechee Heritage Corridor	FL/GA/NC/SC	Oct. 12, 2006	P.L. 109-338
Mormon Pioneer NHA	UT	Oct. 12, 2006	P.L. 109-338
Northern Rio Grande NHA	NM	Oct. 12, 2006	P.L. 109-338
Upper Housatonic Valley NHA	CT/MA	Oct. 12, 2006	P.L. 109-338
Abraham Lincoln NHA	IL	May 8, 2008	P.L. 110-229
Journey Through Hallowed Ground NHA	MD/PA/VA/WV	May 8, 2008	P.L. 110-229
Niagara Falls NHA	NY	May 8, 2008	P.L. 110-229

Sources: U.S. Dept. of the Interior, National Park Service, *National Heritage Areas: Legislative History 98th-109th Congresses*, at <http://www.cr.nps.gov/heritageareas/LEG/index.htm>, visited May 19, 2008, and P.L. 110-229.

Heritage areas are not federally owned, and a designation generally is not intended to lead to federal acquisition of lands. They consist mainly of private properties, although some include publicly owned lands. In most cases, the laws establishing NHAs do not provide for acquisition of land, and once designated, heritage areas generally remain in private, state, or local government ownership or a combination thereof. However, in a few cases Congress has authorized federal acquisition of land in heritage areas. For instance, Congress authorized

creation of the Cane River Creole National Historical Park (LA) within the Cane River NHA. Such cases of federal acquisition/ownership have been challenged by property rights advocates, who generally oppose federal land ownership and possible resulting limitations on private land uses. (See “Support, Opposition, and Challenges,” below.)

Heritage areas are among the types of entities that use technical and financial aid from the National Park Service (NPS) but are not directly owned and managed by the agency. They also are *not* part of the National Park System, where lands are federally owned and managed. Congressional designation of heritage areas is commonly viewed as a less expensive alternative to creating and operating new units of the National Park System. That system now has 391 diverse units: national parks, national monuments, national historic sites, national battlefields, national preserves, and other designations. (For information on establishing units of the National Park System, see CRS Report RS20158, *National Park System: Establishing New Units*, by Carol Hardy Vincent.)

While the oldest heritage area is 25 years old, NHAs are still viewed by some as an experimental form of protecting lands that reflect an evolution in roles and responsibilities. The traditional form of NPS land protection has been through government ownership, management, and funding of lands set aside for protection and enjoyment. By contrast, NHAs typically are nonfederally owned, managed by local people with many partners and NPS advice, funded from many sources, and intended to promote local economic development as well as to protect natural and cultural heritage resources and values.

Since the creation of the first NHA, interest in additional NHA designations has grown considerably. There has been significant interest from communities seeking tourism and economic revitalization as well as conservation and preservation. In the past, the Bush Administration had supported NHAs because they embody partnerships between communities and the federal government, locally driven resource preservation, and local (rather than federal) control of land. However, at recent hearings the Bush Administration has recommended deferring action on certain bills seeking to establish additional heritage areas, despite favorable studies of the areas, until systemic NHA legislation is enacted.¹

In the past few Congresses, dozens of proposals to designate heritage areas or study lands for heritage status have been introduced, and Congress has held many hearings on heritage bills and issues. The many bills introduced in the 110th Congress to designate heritage areas or study lands for potential heritage status indicated a continued high level of congressional interest in NHAs. The sizeable number of existing NHAs, together with the substantial number of proposals to study and designate new ones, fostered interest by some Members and the Bush Administration in establishing a standardized process and criteria for designating NHAs. (See “Legislative Activity,” below.) However, the absence over the decades of such a systemic law has provided legislative flexibility in the creation of new NHAs and the modification of existing ones. Further, some opponents of NHAs believe that they threaten private property rights, are burdensome, or present other problems and challenges, so Congress should oppose any efforts to designate new areas and/or to create a “system” of NHAs. (See “Support, Opposition, and Challenges,” below.)

¹ See, for example, testimony of Janet Snyder Matthews of the National Park Service on July 12, 2007, before a Subcommittee of the House Committee on Natural Resources, at http://resourcescommittee.house.gov/index.php?option=com_content&task=view&id=266&Itemid=1.

In addition to the federal heritage areas, other heritage areas have been designated by local governments or announced by local preservation groups, and a number of states have developed their own heritage area programs. Further, a White House initiative, *Preserve America* (Executive Order 13287, March 3, 2003), directs federal agencies to improve management of historic properties through adaptive reuse initiatives and to promote heritage tourism through partnerships with communities.² The first *Preserve America* grants, awarded on March 9, 2006, included grants for nine projects within NHAs. These grants were provided on a matching basis to assist communities with protection and use of community heritage. Also, the Alliance of National Heritage Areas (ANHA), a collaboration of the management entities for the federally designated NHAs, working through its Heritage Development Institute initiative, provides training to practitioners of heritage development. (See <http://www.heritagedevelopmentinstitute.org/home/>.) The ANHA also operates a resource center for heritage areas, organizes educational workshops and programs, and promotes heritage tourism.

Overview of Operations

There is no comprehensive statute that establishes criteria for designating NHAs or provides standards for their funding and management. Rather, particulars for an area typically are provided in its enabling legislation. While there tended to be more variety in the creation and operation of earlier heritage areas, the establishment and management of heritage areas have become somewhat more standardized through the inclusion of some similar provisions in their enabling legislation. Common understandings and characteristics are discussed below.

NHAs usually involve partnerships among the NPS, states, and local interests. In establishing heritage areas, Congress typically designates a management entity to coordinate the work of the partners. Management entities could include state or local government agencies, nonprofit corporations, and independent federal commissions. The management entity usually develops and implements a plan for managing the NHA, in collaboration with partners and other interested parties. While the components of the plans vary, in accordance with the authorizing legislation and local needs, they often identify resources and themes; lay out policies and implementation strategies for protection, use, and public education; describe needed restoration of physical sites; discuss recreational opportunities; outline funding goals and possibilities; and define the roles and responsibilities of partners. Once the Secretary of the Interior approves a plan, it essentially becomes the blueprint for managing the heritage area and is implemented as funding and resources are available. Implementation of management plans is accomplished primarily through voluntary actions.

NHAs might receive funding to prepare and implement their plans from a wide array of sources, including philanthropic organizations, endowments, individuals, businesses, and governments. Congress and the NPS do not ordinarily expect to provide NHAs with full and permanent federal funding, but rather encourage NHAs to develop alternative sources of funding. A March 30, 2004 report of the Government Accountability Office (GAO) states that during the six-year period from FY1997 through FY2002, heritage areas received \$310 million in total funding. About half the funds (\$154 million) were derived from state and local governments and private sources, with the other half (\$156 million) provided by the federal government. Of the federal funding, about \$50 million came from the NPS heritage program and \$44 million came from other NPS programs,

² For information on the *Preserve America* initiative, see <http://www.preserveamerica.gov/>.

with the balance (about \$61 million) provided by 11 other federal sources.³ A report of the Alliance of National Heritage Areas with data over a longer period shows the federal contribution at about one-third (35%) of total funding from 1985 through 2006.⁴ State and local governments also contributed about one-third (36%) of NHA funds, with private funding sources providing 25% and the remaining 4% from other sources. For 2006, the report indicates that the combined state and local (49%) shares of NHA funding were higher than federal (37%) and private contributions (12%).

In the past, Congress has determined the total level of federal funding for NHAs and usually has specified in appropriations documents the allocation for each NHA. The management entity generally receives any federal appropriations for the area. Federal funds might be used to help rehabilitate an important site, develop tours, establish interpretive exhibits and programs, increase public awareness, and sponsor special events to showcase an area's natural and cultural heritage. In testimony presented in March 2003, a DOI official testified to the success of NHAs in using funds provided by the NPS to leverage additional funding from other sources.⁵

Support, Opposition, and Challenges⁶

Some believe that the benefits of heritage areas are considerable and thus Congress should expand its assistance for creating and sustaining heritage areas. Supporters view NHAs as important for protecting history, traditions, and cultural landscapes, especially where communities are losing their traditional economic base (e.g., industry or farming), facing a loss of population, or experiencing rapid growth from people unfamiliar with the region. Advocates see NHAs as unifying forces that increase the pride of people in their traditions, foster a spirit of cooperation and unity, and promote a stewardship ethic among the general public.

Advocates of NHAs assert that they foster cultural tourism, community revitalization, and regional economic development. Heritage areas are advertised as entertaining and educational places for tourists, and may involve activities such as stories, music, food areas, walking tours, boat rides, and celebrations. Through increased tourism, communities benefit locally when services and products are purchased. In some cases, increased heritage tourism, together with an emphasis on adaptive reuse of historic resources, has attracted broader business growth and development.

³ The data reflect funding for 22 of the then existing 24 heritage areas. See GAO, *National Park Service: A More Systematic Process for Establishing National Heritage Areas and Actions to Improve Their Accountability Are Needed*, GAO-04-593T, Summary (Washington, DC: March 30, 2004), at <http://www.gao.gov/>.

⁴ See Alliance of National Heritage Areas, *2006 Annual Report*, p. 10, at <http://nationalheritageareas.com/resources.php?recordID=36&code=54>. As of January 8, 2009, this was the most recent annual report available.

⁵ Testimony of Paul Hoffman, U.S. Dept. of the Interior, before the Senate Energy and Natural Resources Subcommittee on National Parks, March 13, 2003, available at <http://www.access.gpo.gov/congress/senate/senate08ch108.html>.

⁶ For sources generally supportive of NHAs, see, for example, the websites of the National Park Service at <http://www.cr.nps.gov/heritageareas/>, Alliance of National Heritage Areas at <http://www.nationalheritageareas.com/>, and the National Trust for Historic Preservation at <http://www.nationaltrust.org>. For information generally opposed to NHAs, see, for example, the websites of the Property Rights Foundation of America, Inc., at <http://prfamerica.org/speeches/10th/NatlHeritageAreas-AppearInnocent.html> and the American Policy Center at <http://www.americanpolicy.org/prop/main.htm>, and congressional testimony by Daniel M. Clifton of Americans for Tax Reform before the House Resources Subcommittee on National Parks, Recreation, and Public Lands, September 16, 2003.

Some supporters see NHAs as generally more desirable than other types of land conservation. They often prefer the designation of NHAs, because the lands typically remain in nonfederal ownership, to be administered locally. Other NHA backers view establishing and managing federal areas, such as units of the National Park System, as too costly, and observe that small federal investments in heritage areas have been successful in attracting funds from other sources. Some proponents also see NHAs as flexible enough to encompass a diverse array of initiatives and areas, because the heritage concept lacks systemic laws or regulations, while others favor a standardized program and process.

Property rights advocates take the lead in opposing heritage areas. They contend that some national heritage areas lack significant local support. They charge that private property owners should be routinely notified when their lands fall within proposed heritage areas, because the NPS could exert a degree of federal control over nonfederal lands by influencing zoning and land-use planning. Some fear that any private property protections in legislation would not be routinely adhered to by the federal government. They are concerned that localities have to obtain the approval of the Secretary of the Interior for heritage area management plans and believe that some plans are overly prescriptive in regulating details of private property use (e.g., the species of trees that landowners can plant). Another concern of opponents is that NHA lands may one day be targeted for purchase and direct management by the federal government.

The lack of a general statute providing a framework for heritage area establishment, management, and funding has prompted criticism that the process is inconsistent and fragmented. Some see a need to establish and define the criteria for creating NHAs, specify what NHAs are and do, and clarify the federal role in supporting these areas. They are concerned that the enactment of additional heritage bills could substantially increase the administrative and financial obligations of the NPS. Some detractors assert that federal funds would be more appropriately spent on NPS park units and other existing protected areas rather than on creating new heritage areas. Still others cite a need for a mechanism to hold the management entities accountable for the federal funds they receive and the decisions they make.

Some observers recommend caution in creating NHAs, because in practice NHAs may face an array of challenges to success. For instance, heritage areas may have difficulty providing the infrastructure that increased tourism requires, such as additional parking, lodging, and restaurants. Other areas may need additional protective measures to ensure that increased tourism and development do not degrade the resources and landscapes. Still other NHAs may require improvements in leadership and organization of the management entities, including explaining their message and accomplishments. Some NHAs may experience difficulty attracting funds because the concept is relatively recent and not universally accepted as a sustainable approach to resource preservation or economic development. Some conservationists think the protective measures are not strong enough and some economic development professionals think the heritage idea does not fit the traditional framework for development. Also, achieving and maintaining appropriate levels of public commitment to implementation may be challenging.⁷

⁷ Information on challenges to NHA success is found in Jane Daly, "Heritage Areas: Connecting People to their Place and History," *Forum Journal (Journal of the National Trust for Historic Preservation)*, vol. 17, no. 4 (summer 2003), pp. 5-12.

Role of the National Park Service

The NPS assists communities interested in attaining the federal NHA designation by helping them craft a regional vision for heritage preservation and development. The agency may provide a variety of types of assistance to areas once designated—administrative, financial, policy, technical, and public information. The NPS seeks to serve as a catalyst by offering assistance to designated heritage areas only for a limited number of years. Specifically, the Bush Administration/NPS has sought legislation that would limit each heritage area to no more than \$1 million per year, not to exceed \$10 million per area over 15 years. (See below.)

Once a heritage area is designated by Congress, the NPS typically enters into a cooperative agreement, or *compact*, with the designated management entity, often comprised of local activists, to help plan and organize the area. The compact outlines the goals for the heritage area and defines the roles and contributions of the NPS and other partners, typically setting out the parameters of the NPS's technical assistance. It also serves as the legal vehicle for channeling federal funds to nongovernmental management entities.

At congressional direction, the NPS also prepares studies as to whether areas are suitable for designating as NHAs. The NPS often testifies before Congress on the results of these studies. The studies typically address a variety of topics, including whether an area has resources reflecting aspects of American heritage that are worthy of recognition, conservation, and continued use. They usually discuss whether an area would benefit from being managed through a public-private partnership, and if there is a community of residents, businesses, nonprofit organizations, and state and local agencies that would work to support a heritage area. Legislation authorizing an NHA might follow a positive study recommendation, although such recommendation is not a requirement for enacting legislation to designate an NHA.

Representatives of the Bush Administration testified in the 108th, 109th, and 110th Congresses in support of developing systemic NHA legislation to list the qualities a prospective area must possess and the parameters under which designation could occur. For instance, at a March 30, 2004, hearing of a Senate Energy and Natural Resources Subcommittee, a DOI witness outlined the Bush Administration's draft legislation to create a National Heritage Areas Program.⁸ At another subcommittee hearing, the same witness expressed "strong support" for legislation to establish a national heritage program, while suggesting modifications to S. 2543 (108th Congress) on behalf of DOI.⁹ Further, in hearings during the last few Congresses, the Bush Administration testified against establishing and expanding several NHAs under examination, until systemic NHA legislation is established.¹⁰ Other witnesses supported extending or establishing the NHAs being addressed at the hearings.

⁸ Testimony of A. Durand Jones, National Park Service, U.S. Dept. of the Interior, before the Senate Energy and Natural Resources Subcommittee on National Parks, March 30, 2004, at <http://energy.senate.gov/hearings/witnesslist.cfm?id=1128>.

⁹ Testimony of A. Durand Jones, National Park Service, U.S. Dept. of the Interior, before the Senate Energy and Natural Resources Subcommittee on National Parks, June 24, 2004, at http://energy.senate.gov/hearings/testimony.cfm?id=1243&wit_id=169.

¹⁰ See, for instance, the testimony of Donald Murphy of the National Park Service before the Senate Energy and Natural Resources Subcommittee on National Parks, June 26, 2006, at http://energy.senate.gov/public/index.cfm?FuseAction=Hearings.Hearing&Hearing_ID=1566.

The National Park System Advisory Board was created in 1935 to advise the Director of the NPS and the Secretary of the Interior on issues relating to the National Park Service. The Advisory Board conducted a review of NHAs, the Heritage Partnership Program, and future NPS involvement with NHAs. A 2006 report contains the Advisory Board's findings and recommendations. A key recommendation is to establish a legislative foundation for a system of NHAs in the Park Service, based on specified concepts. Concepts include requiring a feasibility study to demonstrate that future proposed heritage areas meet certain criteria; setting standards for management planning that include a business plan; and protecting the rights of private property owners. Another recommendation is to develop performance measures for NHAs.

In July 2006, the Bush Administration presented to Congress a draft National Heritage Areas Partnership Act based on the findings and recommendations of the Advisory Board. The draft proposed a National Heritage Areas System, composed of current and future NHAs. It sought to provide standards and processes for conducting feasibility studies, designating NHAs, and developing and approving management plans. It aimed to protect the rights of property owners. The draft also would have authorized the Secretary of the Interior to provide technical and financial assistance to local coordinating entities. A heritage area could receive up to \$1 million per year, but not more than \$10 million over a 15-year period, and a nonfederal match would be required. Legislation to create a process for designating, managing, and funding NHAs was introduced in both chambers in the 109th Congress, and one bill (S. 243) passed the Senate. Such legislation also was considered in the 110th Congress (S. 278, S. 2180, and S. 3213). (See "Legislative Activity," below.)

Legislative Activity

111th Congress

The 111th Congress is likely to continue considering an array of heritage area measures. Bills in the 111th Congress to establish heritage areas or authorize studies will be identified in a table in future updates of this report. As of January 8, 2009, the Legislative Information System (LIS) does not reflect any individual heritage area bills. However, draft text of one 111th Congress omnibus public lands bill (S. 22) includes provisions to establish ten new NHAs, study two areas for possible heritage designation, and amend four existing heritage areas.¹¹ Specifically, the bill would create the following new heritage areas: Sangre de Cristo (CO), Cache La Poudre River (CO), South Park (CO), Northern Plains (ND), Baltimore (MD), Freedom's Way (MA, NH), Mississippi Hills (MS), Mississippi Delta (MS), Muscle Shoals (AL), and Kenai Mountains-Turnagain Arm (AK). For each area, the measure contains language intended to address concerns about potential loss of, and restrictions on use of, private property as a result of NHA designation. For instance, for each area the measure states that it does not abridge the right of any property owner; require any property owner to permit public access to the property; alter any land use regulation; or diminish the authority of the state to manage fish and wildlife, including the regulation of fishing and hunting within the NHA. The measure requires the Secretary of the

¹¹ As of January 8, 2009, the text of the bill is not available in the Legislative Information System (LIS) for the 111th Congress. This summary is based on the draft text available through the website of the Senate Committee on Energy and Natural Resources at <http://energy.senate.gov/public/>, visited on January 8, 2009.

Interior, within three years of the date on which federal funding terminates, to evaluate each new area and report thereon to the congressional authorizing committees.

The bill also includes provisions to study the Chattahoochee Trace National Heritage Corridor (AL, GA) and the Northern Neck (VA) for possible NHA designation. The Secretary is to report findings, conclusions, and recommendations to the congressional authorizing committees within three fiscal years after funds for each study are provided. Further, the bill would make changes to the management of four existing heritage areas: the Quinebaug and Shetucket Rivers Valley National Heritage Corridor (CT, MA), the Delaware and Lehigh National Heritage Corridor (PA), the Erie Canalway National Heritage Corridor (NY), and the John H. Chafee Blackstone River Valley National Heritage Corridor (MA, RI).

110th Congress

Area-Specific Legislation

The 110th Congress continued a high level of interest in heritage area bills and issues. A variety of bills to designate or study individual areas were introduced, and one omnibus bill was enacted. (See the discussion of S. 2739, below.) Some of the measures sought to create heritage “corridors,” “routes,” or “partnerships.” A number of existing heritage areas have similar titles, and the NPS considers all of them to be NHAs. Similarly, in each of the 108th and 109th Congresses, some 50-60 bills to create or designate heritage areas were introduced.

Omnibus and Other Legislation

Omnibus heritage legislation—S. 2739—was enacted on May 8, 2008, as P.L. 110-229.¹² Other omnibus bills were considered by the House and Senate; some of them had provisions similar to those enacted in P.L. 110-229, as well as additional provisions.

P.L. 110-229 established three new heritage areas: Abraham Lincoln (IL); Journey Through Hallowed Ground (MD, PA, VA, WV); and Niagara Falls (NY). For each of the new heritage areas, the law contained provisions to address concerns about potential loss of, and restrictions on use of, private property as a result of NHA designation. Among the provisions, for each new area the law stated that it does not abridge the right of any property owner; require any property owner to permit public access to the property; alter any land use regulation; or diminish the authority of the state to manage fish and wildlife, including the regulation of fishing and hunting within an NHA.

The law also provided for the study of the Columbia-Pacific NHA (OR, WA) and the Abraham Lincoln NHA (KY). The Secretary of the Interior is to study the feasibility of designating these new NHAs based on specified criteria. These include whether the area (1) provides outstanding educational opportunities; (2) has a potential management entity to develop an NHA while encouraging local and state economic activity, and (3) has resources representing distinctive aspects of American heritage that are worthy of recognition, conservation, interpretation, and continuing use, and are best managed by private partnerships. The Secretary is to report findings,

¹² Omnibus measures with similar provisions, S. 2483 and S. 2616, had been introduced previously in the 110th Congress.

conclusions, and recommendations to the congressional authorizing committees within three fiscal years after funds for the studies are provided. As part of the study of the Columbia-Pacific, the Secretary is to analyze the potential impact of an NHA designation on private land within or bordering on the area.

For each of nine heritage areas,¹³ the law increased the total authorization of appropriations from \$10 million to \$15 million. The law also required the Secretary of the Interior to evaluate each heritage area not later than three years before its authority for federal funding would terminate. The evaluation provided for in the law is to assess the progress of the area's management entity in achieving goals and objectives, determine the impact of investments in the area, and identify the components for sustaining the area. The Secretary is to submit a report on the evaluation to the congressional authorizing committees, and the report is to include recommendations on the future role of the NPS. In lieu of these evaluation and reporting provisions, earlier legislation originally had proposed extending the authorization for the nine areas. However, some Members had opposed extending the funding for NHAs as premature since the original authorization would not expire for several years and because NHAs were intended to be largely self-sufficient after an initial period of NPS assistance.

P.L. 110-229 made technical corrections and/or expanded the boundaries of several heritage areas. It extended the boundary of the South Carolina National Heritage Corridor (SC) and the Rivers of Steel NHA (PA). It renamed the Ohio and Erie Canal National Heritage Corridor (OH) as the Ohio and Erie National Heritage Canalway, added additional counties to the National Coal Heritage Area (WV), and made other changes to those areas.

Several other omnibus heritage area bills were considered by the 110th Congress.¹⁴ S. 3213, had sought to create ten additional heritage areas: Sangre de Cristo (CO), Cache La Poudre River (CO), South Park (CO), Northern Plains (ND), Baltimore (MD), Freedom's Way (MA, NH), Mississippi Hills (MS), Mississippi Delta (MS), Muscle Shoals (AL), and Santa Cruz Valley (AZ). For each area, the bill contained provisions regarding private property, land use regulations, and state authority regarding fish and wildlife management which were similar to those enacted in P.L. 110-229 for the three new NHAs. The bill required the Secretary, within three years of the date on which federal funding terminates, to evaluate each new area and report thereon to the congressional authorizing committees. The bill included provisions to study the Chattahoochee Trace National Heritage Corridor (AL, GA) and the Northern Neck (VA) for possible NHA designation. The Secretary was to report findings, conclusions, and recommendations to the congressional authorizing committees within three fiscal years after funds for the study were provided.

Further, S. 3213, like H.R. 1949 and S. 1182, would have amended the Quinebaug and Shetucket Rivers Valley National Heritage Corridor Act to increase the total authorization of appropriations and extend for six years the authority of the Secretary of the Interior to provide assistance. The two Senate bills would have required the Secretary of the Interior to evaluate the heritage corridor not later than three years before the authority for federal funding would have terminated. The evaluation was to assess the progress of the corridor's management entity in achieving goals and

¹³ The areas are America's Agricultural Heritage Partnership (Silos and Smokestacks); Augusta Canal NHA; Essex NHA; Hudson River Valley NHA; National Coal Heritage Area; Ohio and Erie Canal National Heritage Corridor; Rivers of Steel NHA; South Carolina National Heritage Corridor; and Tennessee Civil War Heritage Area.

¹⁴ In general, this section does not cover omnibus and other heritage bills that were indefinitely postponed by the Senate in the 110th Congress.

objectives, determine the leverage and impact of investments in the corridor, and identify the components for sustaining the corridor. The report was to include recommendations on the future role of the NPS and was to be submitted to the congressional authorizing committees. S. 3213 also would have amended the Delaware and Lehigh National Heritage Corridor (PA), primarily with regard to the local coordinating entity (as would have H.R. 3809). It would have established a National Heritage Areas Program, as discussed below under “Bills to Establish Systemic NHA Procedures.”

In addition, S. 3213, like H.R. 1483, would have made changes to the staffing and membership of the management entity of the Erie Canalway National Heritage Corridor and made changes to the John H. Chafee Blackstone River Valley National Heritage Corridor. H.R. 1483 (as reported by a Senate committee) also would have established two NHAs—Santa Cruz Valley (AZ) and Muscle Shoals (AL). The Secretary of the Interior would have been authorized to provide financial assistance to these two areas for 15 years. H.R. 1483 called for a study of the Northern Neck (like S. 3213), and would have required the Secretary of the Interior to study the suitability and feasibility of designating the area as an NHA based on specified criteria. The 110th Congress also debated other legislation to amend existing heritage areas.

The 110th Congress also considered legislation to limit the designation of NHAs, and restrict access to private property in NHAs, until certain conditions were met. Specifically, S. 2807 and S. 2808 provided that the Secretary of the Interior shall not approve a management plan for an NHA unless the local coordinating entity provided written notification of the designation to each person residing, or owning property, in the NHA. The bills also provided that no NPS employee or member of the local coordinating entity of an NHA may enter private property in the NHA without the written consent of the property owner. Further, S. 2807, as well as S. 2809, provided that an NHA designation shall not take effect until the President certified that (1) the designation will not cause specific adverse impacts, for instance, on agriculture or livestock production within the proposed NHA, and (2) the total NPS deferred maintenance backlog in the state in which the NHA is proposed is not greater than \$50.0 million.

Bills to Establish Systemic NHA Procedures

Legislation governing the evaluation, designation, and management of new NHAs was considered but not enacted during the 108th, 109th, and 110th Congresses. The 110th Congress considered S. 278, S. 2180, and S. 3213. S. 278 and S. 3213 were on the Senate calendar at the end of the Congress, while S. 2180 was indefinitely postponed by the Senate.

The Senate bills would have required the Secretary of the Interior to conduct suitability-feasibility studies, or review and comment on such studies prepared by others, for areas under consideration for NHA designation. They set out criteria by which such areas would be evaluated, including identification of a local coordinating entity, demonstration of support by local governments and communities, development of a conceptual financial plan outlining the responsibilities of participants, and concurrence of managers of any federal lands within the proposed NHA. The criteria included evidence of resources and traditional uses that are of *national importance*, a term used to avoid confusion with the *national significance* needed for designating units of the National Park System.¹⁵

¹⁵ NPS Management Policies establish criteria for determining national significance. Under the criteria, an area will be regarded as nationally significant if it is an outstanding example of a resource; exceptionally illustrates or interprets (continued...)

The measures would have provided for the local coordinating entity for an NHA to develop a management plan for the area within three years of the availability of funds, and a process and time frame for action by the Secretary of the Interior to approve or disapprove the plan. The management plan was to include a business plan demonstrating that the local coordinating entity had sufficient partnerships and financial resources to carry out the plan, to encourage self-sufficiency of heritage areas. For each NHA, the bills would have authorized funding of not more than \$1 million per year, with a total of not more than \$10 million over 15 years. They would have capped funding for all NHAs at \$25 million per year, and included provisions on partnership support. The Senate bills would have authorized the Secretary of the Interior to award competitive grants to local coordinating entities whose financial assistance has ended. The grants could be used for individual projects at NHAs that further the purposes of the management plan.

The bills sought to protect private property owners, for instance, by not requiring their participation in NHA plans and activities. They also sought to protect existing regulatory authorities—for example, by not altering any “duly adopted” land use regulation, approved land use plan, or other regulatory authority. They set out the responsibilities of local coordinating entities and the authorities of the Secretary of the Interior (through the NPS). They further set out the relationship between the NHA system and the National Park System, stating explicitly that NHAs were not to be considered units of the Park System.

The bills required the Secretary of the Interior to evaluate and report to Congress on NHAs. They required the Secretary to evaluate an NHA not later than three years before its authority for federal funding would terminate. The evaluation was to assess the progress of the NHA’s management entity in achieving goals and objectives, determine the leverage and impact of investments in the area, and identify the components for sustaining the area. The report was to include recommendations on the future role of the NPS with regard to the heritage area, and was to be submitted to the congressional authorizing committees. Other heritage measures considered in the 110th Congress, including some bills to establish individual NHAs, included a similar reporting requirement.

109th Congress

The 109th Congress enacted one omnibus bill to designate and study numerous heritage areas (S. 203, P.L. 109-338). The law established 10 new heritage areas: Arabia Mountain NHA (GA), Atchafalaya NHA (LA), Champlain Valley National Heritage Partnership (NY/VT), Crossroads of the American Revolution NHA (NJ), Freedom’s Frontier NHA (KS/MO), Great Basin National Heritage Route (NV/UT), Gullah/Geechee Heritage Corridor (FL/GA/NC/SC), Mormon Pioneer NHA (UT), Northern Rio Grande NHA (NM), and Upper Housatonic Valley NHA (CT/MA). The language for all 10 areas seeks to protect private property rights. The law authorized studies of the suitability and feasibility of establishing three other areas: the Western Reserve NHA (OH), St. Croix NHA (VI), and Southern Campaign of the Revolution NHA (SC/NC).¹⁶ Further, it

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natural or cultural themes of our country’s heritage; provides extraordinary opportunities for public enjoyment or scientific study; and contains a true, accurate, and relatively unspoiled resource. S. 278, S. 2180, and S. 3213 defined national importance as possession of “unique natural, historical, cultural, educational, scenic, or recreational resources of exceptional value or quality; and a high degree of integrity of location, setting, or association in illustrating or interpreting the heritage of the United States.”

¹⁶ Under P.L. 109-338, the study area is to include specified counties in South Carolina and “may include sites and (continued...)”

amended the Illinois and Michigan Canal National Heritage Corridor (IL) regarding transition of the management entity from a federal commission to a nonprofit organization and protections for private property. For the John H. Chafee Blackstone River Valley National Heritage Corridor (MA/RI), the law provided for an update of the management plan, extended the authority of the commission, and authorized additional appropriations. The law also amended the National Coal Heritage Area (WV). The 109th Congress considered many other bills to designate or study areas.

The 109th Congress addressed legislation to amend existing heritage areas, and enacted one such measure (H.R. 326, P.L. 109-318), to amend the boundary of the Yuma Crossing NHA (AZ). Other legislation (H.R. 888 and S. 1721) would have extended the authorization for each of nine heritage areas from September 30, 2012, to September 30, 2027, and increased the total authorization of appropriations from \$10 million to \$20 million.

Funding

As part of its annual budget justification, the Administration submits its desired funding level for the NPS Heritage Partnership Program. In the past, Congress generally has determined a total funding level and the distribution of the funds for specified NHAs. NHAs can use such funds for varied purposes including staffing, planning, and implementing projects.

Over the past five fiscal years (FY2004-FY2008), funding for the NPS for national heritage areas fluctuated between \$13.3 million and \$15.3 million. During this period, 14 new NHAs were created.¹⁷ Specifically, the appropriation for FY2004 was \$14.3 million; for FY2005, \$14.6 million; for FY2006 and FY2007, \$13.3 million; and for FY2008, \$15.3 million.

For FY2009, the Bush Administration requested \$7.1 million for the NPS for NHAs, a 53% reduction from the FY2008 level. In its FY2009 budget justification, the NPS expressed support for reduced funding because of the lack of a law authorizing an overall heritage program, setting out criteria for establishing new areas, and providing a time frame for federal funds to established areas. Historically, the Bush Administration's requests for NHA funding have been significantly lower than the previous year's appropriation, but Congress has appropriated higher levels than requested. The NPS anticipated pursuing several efforts with FY2009 funding, including the promotion of legislation to establish a system of NHAs, publication of a handbook on NHA policies, and implementation of a system of evaluation and performance measures for NHAs. An annual appropriation for FY2009 for NHAs has not been determined to date.

Government Accountability Office (GAO) Report

A GAO report on NHAs, released March 30, 2004, concluded that, because there is no systematic process for designating NHAs or well-defined NPS criteria for assessing the qualifications of areas, it is not possible to ensure that future areas will have the resources and support to be viable or that federal funds are well spent. The agency also concluded that the NPS does not employ key management controls in overseeing heritage areas; for instance, the NPS does not consistently

(...continued)

locations in North Carolina as appropriate.”

¹⁷ Three additional NHAs were established in P.L. 110-229 after the enactment of appropriations for FY2008 for heritage areas.

review areas' financial audit reports or use results-oriented goals and measures. Further, the agency asserted that existing heritage areas do not appear to have affected property owners' rights. The GAO recommends that in the absence of congressional action to establish a formal heritage program, the NPS take the following actions: develop standards and processes for the agency's regional staff to use in approving heritage area management plans; require regular and consistent review of audit reports of NHAs; and develop results-oriented goals and measures for heritage area activities.

For Additional Reading

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