

**STATEMENT OF PETER MAY, ASSOCIATE REGIONAL DIRECTOR, LANDS, RESOURCES AND PLANNING, NATIONAL CAPITAL REGION, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE HOUSE SUBCOMMITTEE ON NATIONAL PARKS, FORESTS AND PUBLIC LANDS, OF THE COMMITTEE ON NATURAL RESOURCES, CONCERNING H.R. 4036, TO AUTHORIZE THE NATIONAL MALL LIBERTY FUND D.C. TO ESTABLISH A MEMORIAL ON FEDERAL LAND IN THE DISTRICT OF COLUMBIA TO HONOR FREE PERSONS AND SLAVES WHO FOUGHT FOR INDEPENDENCE, LIBERTY, AND JUSTICE FOR ALL DURING THE AMERICAN REVOLUTION.**

**September 16, 2010**

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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 H.R. 4036, a bill to authorize the National Mall Liberty Fund D.C. to establish a memorial on federal land in the District of Columbia to honor free persons and slaves who fought for independence, liberty, and justice for all during the American Revolution.

The Department supports H.R. 4036 if amended to conform to the principles, processes, and requirements set forth in the Commemorative Works Act, which has successfully guided the process for establishing monuments in the nation's capital since it was enacted in 1986 and as amended since that time. We also recommend that one technical correction be made to a map reference in the bill. The Department testified in support of S. 2738, an identical bill, before the Subcommittee on National Parks, Committee on Energy and Natural Resources, United States Senate, on December 3, 2009.

The bill would authorize the establishment of a memorial on federal land in the District of Columbia to recognize and commemorate the contributions of 5,000 African Americans who served as soldiers and sailors or provided civilian assistance during the American Revolutionary War. The bill prohibits the use of federal funds to establish the memorial, directs that the memorial be established according to the Commemorative Works Act, and repeals two laws for the authorization and site selection of a similar memorial proposal that expired.

In 1986, Congress enacted the Commemorative Works Act to guide the process for establishing memorials in the nation's capital. Since its enactment, the Act has played an important role in ensuring that memorials in the nation's capital are erected on the most appropriate sites and are of a caliber of design that is worthy of their historically significant subjects. The act was amended in 2003 to, among other things, provide for establishment of a Reserve where no additional memorials may be located.

While H.R. 4036 states that the memorial shall be established in accordance with the Commemorative Works Act, the bill contravenes a critical requirement of the Commemorative Works Act by pre-selecting Area I as the site for this memorial.

Area I is located within the Monumental Core of the nation's capital extending around the Capitol Reflecting Pool to the eastern boundary of Arlington National Cemetery and along the Virginia shoreline. Area I excludes the Reserve, the great cross-axis of the Mall, which generally extends from the United States Capitol to the Lincoln Memorial, and from the White House to the Jefferson Memorial. Congress, in the Commemorative Works Act, reserved Area I for subjects determined to be of preeminent and lasting historic significance to the Nation and it established a process for making this determination which has worked well for over 20 years. Through this process, a new memorial may be located in Area I only if the Secretary determines, after consulting with the National Capital Memorial Advisory Commission, which holds public meetings, that the memorial's subject warrants location in Area I and recommends it to Congress. If Congress agrees with the recommendation, it enacts a law within 150 days approving the location. As currently written, H.R. 4036 bypasses this important process.

We would also note that the Department's position regarding adherence to the Commemorative Works Act process for Area I designation is consistent with the position taken by the National Capital Memorial Advisory Commission, which reviewed the matter at its public meeting on April 21, 2010.

Thus, we would recommend H.R. 4036 be amended to strike all references to Area I, including the word "preeminent" in Section 2.

Following the Commemorative Works Act, in the Department's view, would not hinder the Liberty Memorial Foundation in its ability to establish this memorial. In fact, if the foundation obtained an Area I designation through the Commemorative Works Act process, the foundation's 7-year sunset period would be reestablished to begin with the enactment of the Area I designation instead of the initial legislation that would authorize the memorial. This change was made by Congress when it amended the Commemorative Works Act in 2003, and as a result, sponsors no longer need to fear that seeking an Area I designation might cost them their authority to establish the memorial at all.

We also would point out that H.R. 4036 makes no provisions for the disposition of monies raised in excess of funds needed for the establishment of the memorial or to hold in reserve the amount available should the authority to establish the memorial expire before completion. The Department recommends that the bill be amended to clarify the disposition of these funds.

The Department also notes that the bill references the 1986 map, which Congress amended in 2003 when it changed the boundaries of Area I and created the Reserve. The 1986 map is no longer valid. We recommend that the bill be amended to reference the revised map, numbered 869/86501B and dated June 24, 2003.

The Department reiterates our support of the establishment of a memorial in the Nation's Capital that recognizes and commemorates the contributions of African Americans who fought for independence, liberty and justice during the Revolutionary War. We look forward to the opportunity to work with the subcommittee to develop language that would provide for such authorization in a manner consistent with the principles, processes, and requirements set forth by existing authorities.

Mr. Chairman, that concludes my prepared testimony, I would be glad to answer any questions that you or other members of the subcommittee may have.

## **DRAFT UNTIL BILL NUMBER ASSIGNED**

### **STATEMENT OF PETER MAY, ASSOCIATE REGIONAL DIRECTOR, LANDS, RESOURCES AND PLANNING, NATIONAL CAPITAL REGION, NATIONAL PARK SERVICE, U.S. DEPARTMENT OF THE INTERIOR, BEFORE THE HOUSE SUBCOMMITTEE ON NATIONAL PARKS, FORESTS AND PUBLIC LANDS, OF THE COMMITTEE ON NATURAL RESOURCES, CONCERNING H.R. \_\_\_\_, TO AMEND THE CHESAPEAKE AND OHIO CANAL DEVELOPMENT ACT AND EXTEND THE AUTHORITY OF THE CHESAPEAKE AND OHIO CANAL NATIONAL HISTORICAL PARK COMMISSION.**

**SEPTEMBER 16, 2010**

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Mr. Chairman, members of the subcommittee, thank you for the opportunity to present the views of the Department of the Interior on H.R. \_\_\_\_, a bill which would amend the Chesapeake and Ohio Canal Development Act and to extend the authority of the Chesapeake and Ohio Canal National Historical Park Commission.

The Department supports H.R. \_\_\_\_\_. The establishment of the Commission on January 8, 1971, stemmed in part from the unique nature of the canal. It is unlike most areas administered by the National Park Service as it is a linear park running along a 185-mile stretch of river shoreline and is flanked by the nation's capital, suburban communities and numerous small towns.

H.R. \_\_\_\_\_ would change the termination date of the Chesapeake and Ohio Canal National Historical Park Commission from 40 years to 50 years after the effective date of January 8, 1971. The Commission's authority terminates in January 8, 2011. H.R. \_\_\_\_ would extend that authority to January 8, 2021.

The Chesapeake and Ohio Canal, begun in 1828 and completed in 1850, runs continuously 185 miles from Georgetown in the District of Columbia through Maryland and West Virginia to Cumberland in Maryland. Originally planned to link Washington, D.C., and Pittsburgh, Pennsylvania, as part of this nation's canal-building boom, the canal was constructed to be a major commercial route. While the canal operated until 1924 when it was abandoned, competition from the newly-constructed railroad and the National Road resulted in it having much less commercial success than its builders had hoped. In 1938, the United States purchased the narrow canal right-of-way from Georgetown to Cumberland, Maryland, and partially restored the lower end of the canal.

In 1961, the C & O Canal Monument was created by Presidential Proclamation but received no funding to develop the area or acquire adjacent lands. A proposal to construct a highway along the canal's route met considerable public opposition led by Supreme Court Justice William O. Douglas and this grassroots support ultimately led to the establishment of the Chesapeake and Ohio Canal National Historical Park, running the length of the original canal.

When the park was established in 1971, the Chesapeake and Ohio Canal National Historical Park Commission was created. The 19-member commission has served to link the various jurisdictions along the length of the park. Under the 1971 legislation, the Secretary of the Interior is directed to meet and consult with the commission at least annually on general policies and specific matters related to the administration and development of the park.

The C & O Canal National Historical Park Commission has performed valuable service during the past 39 years in advising and assisting the National Park Service in the administration and development of the C & O Canal park. In the early years, the commission served as the vehicle for public meetings in the development of the general plan for the park, and subsequently for several park, site-specific development concept plans. In the years since, the commission has served as the public forum for discussing implementation of plans along the 185 miles of the park.

The C & O Canal National Historical Park Commission represents not only the local park neighbors, but the national constituency as well. Many commission members have a life-long interest in the C & O Canal and the National Park Service. The commission meets quarterly. Commission members are only compensated for reimbursement of actual expenses for meetings. Individual members of the commission serve on various volunteer groups and participate in park-sponsored events throughout the year. The commissioners communicate directly with the park superintendent during meetings and individually throughout the year regarding park issues.

The commission continues to be a necessity because the park is spread across 19 political jurisdictions. It is difficult for the park staff to make substantive connections with the various communities. To compensate, it has been very useful to seek advice and counsel from commission members

The work of managing C & O Canal National Historical Park will continue beyond January 8, 2011, and the public connection to park management through the commission should continue as well.

This completes my prepared comments concerning H.R \_\_\_\_\_. I will be pleased to answer any questions you or other members of the subcommittee may have.