

**Statement of  
David Tenny, Deputy Under Secretary  
Natural Resources and Environment  
United States Department of Agriculture  
Before the  
Subcommittee on National Parks, Recreation and Public Lands  
Committee on Resources  
U.S. House of Representatives**

**June 17, 2003**

**H.R. 1964, Highlands Stewardship Act**

Mr. Chairman,

Thank for this opportunity to present the Administration's views on H.R. 1964, the Highlands Stewardship Act. I am David Tenny, Deputy Under Secretary for Natural Resources and Environment, U.S. Department of Agriculture (USDA). I am accompanied today by Kathryn Maloney, Director of the Forest Service Northeastern Area.

Mr. Chairman, over the last decade, the Department of Agriculture has been an active partner with States, local governments, academics, landowners, community-based organizations, and others in documenting the resource values and supporting land conservation efforts in New York and New Jersey, two of the four states included in this legislation.

Based upon our experience in this region, the Department believes this legislation generally reflects actions and findings that we have already taken to date. We are not opposed to the measure, but we would like to work with the committee to make improvements to the bill. I can assure the Subcommittee that the Department of Agriculture recognizes the importance of the Highlands area and supports the desired land management objectives of H.R. 1964, which builds on the body of work we have completed.

At the direction of Congress, in 1992, the USDA Forest Service completed the New York-New Jersey Highlands Regional Study that characterized the water resources, wildlife habitat, outdoor recreation opportunities, and agricultural resources in the region. This study identified lands with important resource values such as the Sterling Forest located near Tuxedo, NY.

Over the past 10 years, the Forest Legacy program with \$4,000,000 in Federal funds has leveraged over \$14,000,000 in non-federal funds to secure conservation easements and other interests in 3,400 acres in New Jersey and New York. Over the last five years, private landowners, nonprofits and State and local governments, through a range of Forest Service non-regulatory, technical and financial assistance programs have leveraged nearly \$750,000 toward land conservation activities. These include technical and financial assistance to states and

communities and landowner assistance for management planning and implementation of conservation practices.

The Forest Service updated the New York-New Jersey Highlands Regional Study in 2002. The original study area was expanded from the Hudson River eastward to the New York-Connecticut border. The Update identifies a number of many important natural resources in the Highlands, and the effect of existing patterns of land use change on these resources. Some key findings from the 2002 Update include:

- The Highlands adjoin a metropolitan area of more than 20 million people.
- More than 11 million people rely on the Highlands water resources.
- More than 14 million people visit the Highlands each year for recreational opportunities.
- 5,200 acres per year of land was developed between 1995 and 2000.
- Almost 40 percent, 540,000 acres, are considered to have high conservation value. Nearly half of these lands are currently in some type of permanent conservation arrangement, such as an easement or under a nonprofit land trust holding.
- Approximately 100,000 acres considered to have high conservation value have a high likelihood of change.
- Forty two of the 51 existing Hydrologic Unit Code 11 watersheds (which have an average area of about 50 square miles) presently have 10 percent or less impervious surface cover (a significant indicator of water quality). Depending on the rate of land use change, this number could fall to between 18 to 9 in the next thirty years.
- The future population in the New Jersey-New York Highlands could increase by 26 to 48 percent in the next 30 years, based on our analysis.

H.R. 1964 directs the Secretaries of Agriculture and the Interior, in consultation with appropriate Federal officials, the Governors of the four states, and local units of government, to establish the Highlands Stewardship Area in the Highlands region. It provides that not later than one year after the date of enactment of this Act, the Secretaries shall prepare a map depicting the Stewardship Area.

The bill also directs the Secretary of Agriculture to establish the Office of Highlands Stewardship to implement the strategies of the 1992 Study and 2002 Update. The Office would be authorized to provide financial and technical assistance to an eligible entity to carry out a project to protect, restore, preserve, promote or interpret Area resources.

H.R. 1964 also directs the Secretary of Agriculture to establish the Highlands Stewardship Area Work Group to assist with implementation of those strategies and to advise the Secretaries on priorities for projects carried out with assistance provided pursuant to the Act.

Finally, the bill directs the Secretary of the Interior to designate annually land conservation partnership projects that are eligible, under certain conditions and with specified limitations, to receive financial assistance under the Act. H.R. 1964 would authorize appropriations of \$25,000,000 to the Secretary of the Interior from the general funds of the Treasury or the Land and Water Conservation Fund for each of fiscal years 2004 through 2013 to be used for this purpose.

As part of a Congressional request in FY 2002, the Secretaries of Agriculture and the Interior will be putting forth a joint set of recommendations identifying ways that Federal government can work with State, local and non-profit partners to address important resource issues, based on the findings of the 1992 Study and 2002 Update. These recommendations are currently in executive branch clearance. I believe when they are provided to Congress that they will be consistent with several of the key components of H.R. 1964.

However, this afternoon, I want to bring to the Subcommittee some issues that the Department has identified with H.R. 1964 that may require further consideration by the Subcommittee.

First, the legislation covers a 2 million-acre, four-state region. The Department's efforts to date have concentrated on the 1.5 million acre New York-New Jersey portion of the region, and have only generally characterized the resource values in the Pennsylvania and Connecticut portions of the proposed Highlands Stewardship Area. More thorough consideration and inventory of the resource values in Pennsylvania and Connecticut is needed. It is important to have current and accurate inventory information for Pennsylvania and Connecticut so that natural resources in all four states can be considered equally for the technical and financial assistance authorized by this legislation. This type of comprehensive resource assessment would require additional time and money, and is not now addressed in H.R. 1964.

Second, the specific organizational requirements mandated in H.R. 1964 could duplicate existing activities and organizations that support land conservation in the Highlands region. For example, the functions articulated for the Office of Highlands Stewardship are currently performed by the staff of the Forest Service's Northeastern Area of State and Private Forestry. The measure is unclear about which USDA agencies other than the Forest Service or Natural Resources Conservation Service, if any, are to participate in the Office of Highlands Stewardship, the organizational location of that office within USDA, or its relation to the Department of the Interior. The Subcommittee should consider using the existing Forest Service organizational structure.

To our knowledge, the bill does not authorize any activity not already authorized under current law. USDA could designate the Highlands area as a high priority within existing authorities to permit its agencies to address resource issues in the Highlands region. The bill's targeting of technical assistance, financial assistance, and land conservation projects could require USDA to determine the priority of these activities relative to other high-priority programs or projects that may rely on the same funding source.

The bill is also unclear about how land conservation projects would be funded, authorizing funds either from Treasury or the Land and Water Conservation Fund (LWCF) but not indicating whether the projects authorized under the measure are the same as land acquisition authorized by LWCF.

The measure includes a concept for focusing intra- and cross-departmental federal conservation assistance on non-federal lands but has few details on the idea, particularly with regard to how

this designation would change with respect to on-the-ground management of lands within the stewardship area, most of which are privately owned.

In addition, the Department believes H.R. 1964 would be improved by clarifying several provisions.

H.R. 1964 lists the Palisades Interstate Park Commission as both a "Highlands State" and as a "non-Federal entity". The Commission should not be considered a State. It should be listed as a non-Federal entity only.

Section 5(c) directs the Secretaries to prepare a map of the Highlands Stewardship Area within one year. As discussed previously, the Department believes it prudent to undertake an analysis of the 500,000 acres in Pennsylvania and Connecticut that are proposed to be included in the Area. If the Subcommittee concurs, the deadline for preparing the map should be extended so that the two-state assessment could be conducted.

Also, if a primary purpose of the map is to delineate the properties and communities that are envisioned to be eligible for the technical and financial assistance to be provided under H.R. 1964, the Subcommittee should consider clearly stating that is the purpose for which the map is to be used by the Secretaries.

The Highlands Work Group set forth in Section 6(c) would alter the informal collaborative process that successfully operated for a decade.

During the study process, an informal work group met periodically and was effective in providing valuable input. More than 100 organizations and individuals, representing a broad spectrum of interests, were invited to participate, building good working relationships and a sense of inclusiveness.

The proposed Highlands Work Group would fall under the provisions of the Federal Advisory Committee Act (FACA). Congress has had occasion to exempt advisory groups from FACA for various reasons. The Department is concerned whether a 100-member FACA committee would be effective and timely. The Department suggests that more specific guidance on the selection of members and the appointment of a Chair be provided, if FACA is to apply. However, our experience has shown that an inclusive, informal model could serve as the mechanism for inter-governmental consultation and public participation.

Mr. Chairman, that concludes my statement. The Department would be pleased to work with the Subcommittee on amendments to the provisions discussed in my statement.

I would be happy to answer any questions you may have for me at this time.