STATEMENT OF CAM SHOLLY, ASSOCIATE DIRECTOR, VISITOR AND RESOURCE PROTECTION, NATIONAL PARK SERVICE, U.S. DEPARTMENT OF THE INTERIOR, BEFORE THE HOUSE SUBCOMMITTEE ON PUBLIC LANDS AND ENVIRONMENTAL REGULATION, OF THE COMMITTEE ON NATURAL RESOURCES, CONCERNING H.R. 1497, TO AMEND TITLE 36, UNITED STATES CODE, TO ENSURE THAT MEMORIALS COMMEMORATING THE SERVICE OF THE UNITED STATES ARMED FORCES MAY CONTAIN RELIGIOUS SYMBOLS, AND FOR OTHER PURPOSES.

JUNE 6, 2013

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. 1497, to amend title 36, United States Code, to ensure that memorials commemorating the service of the United States Armed Forces may contain religious symbols, and for other purposes.

H.R. 1497 would amend chapter 21 of title 36, United States Code, to allow religious symbols to be included as part of either a military memorial that is established or acquired by the United States Government, or a military memorial not established by the United States Government, but for which the American Battle Monuments Commission (Commission) cooperated in the establishment of the memorial. H.R. 1497 also defines a military memorial as a memorial or monument commemorating the service of the United States Armed Forces, including works of architecture and art.

The National Park Service administers those military memorials located on parkland in the District of Columbia, some of which were established under the Commemorative Works Act, and those war memorials within parks in other parts of the country. It is our honor and privilege to manage and interpret these memorials. Concerning the effects of this legislation, the Department defers to the Commission for a position on H.R. 1497 to the extent it involves memorials administered by the Commission or for which the Commission cooperated in the establishment. Next, H.R. 1497 may also affect memorials administered by the Department of Defense which should have the opportunity to offer its views. Finally, the Department defers to the Department of Justice as to any potential First Amendment questions raised by H.R. 1497.

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

STATEMENT OF CAM SHOLLY, ASSOCIATE DIRECTOR, VISITOR AND RESOURCE PROTECTION, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS AND ENVIRONMENTAL REGULATION OF THE HOUSE NATURAL RESOURCES COMMITTEE CONCERNING H.R. 1495 AND H.R. 2192—BILLS TO AMEND THE ACT POPULARLY KNOWN AS THE ANTIQUITIES ACT OF 1906.

June 6, 2013

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to provide the views of the Department on H.R. 1495 and H.R. 2192, bills to amend the Act popularly known as the Antiquities Act of 1906 ("Antiquities Act").

The Administration strongly opposes these two bills. The Antiquities Act has been used by presidents of both parties for more than 100 years as an instrument to preserve and protect critical natural, historical, and scientific resources on Federal lands for future generations. The authority has contributed significantly to the strength of the National Park System and the protection of special qualities of other Federal lands—resources that constitute some of the most important elements of our nation's heritage. These two bills, which would limit the president's authority in various ways, would undermine this vital authority.

H.R. 1495 would prohibit the use of the Antiquities Act to extend or establish national monuments in the State of Arizona unless authorized by Congress. H.R. 2192 would require national monument designations to be approved by Congress within two years of a presidential proclamation in order to maintain their national monument status and would also impose certain requirements affecting the processes for proposing and managing national monuments.

The use of the Antiquities Act was addressed in some of the listening sessions associated with the America's Great Outdoors initiative in 2010, and the public voiced strong support for the designation of unique places on Federal land as national monuments. As a result of this public input, one of the recommendations of the America's Great Outdoors report, issued in February 2011, was to implement a transparent and open approach in the development and execution of new monument designations. The Administration supports conducting an open, public process that considers input from local, state, and national stakeholders before any sites are considered for designation as national monuments through the Antiquities Act. All national monument designations respect valid existing rights on Federal lands and any other relevant provisions of law. National Monument designations only apply to lands owned or controlled by the Federal government.

The Antiquities Act was the first U.S. law to provide general protection for objects of historic or scientific interest on Federal lands. In the last decades of the 19th Century, educators and scientists joined together in a movement to safeguard archeological sites on Federal lands, primarily in the West, that were endangered by haphazard digging and purposeful, commercial artifact looting. After a generation-long effort to pass such a law, President Theodore Roosevelt signed the Antiquities Act on June 8, 1906, thus establishing the first general legal protection of cultural and natural resources of historic or scientific interest.

The Antiquities Act set an important precedent by asserting a broad public interest in the preservation of natural and cultural resources on Federal lands. The law provided much of the legal foundation for cultural preservation and natural resource conservation in the Nation.

After signing the Antiquities Act into law, President Roosevelt used the Antiquities Act eighteen times to establish national monuments. Those first monuments included what are now known as Grand Canyon National Park, Petrified Forest National Park, Chaco Culture National Historical Park, Lassen Volcanic National Park, Tumacacori National Historical Park, and Olympic National Park.

Since President Roosevelt, fourteen U.S. presidents have used the Act over 150 times to establish or expand national monuments. Congress has redesignated many of these national monuments as other types of national park units. Some of our most iconic resources that were initially established by presidential proclamation include Devils Tower, Muir Woods, Statue of Liberty, and Acadia National Park. The National Park Service currently manages seventy-eight national monuments. The Bureau of Land Management also administers nineteen national monuments designated by presidential proclamation, including Agua Fria in Arizona and Canyons of the Ancients in Colorado, which preserve significant archeological sites, and the Fish and Wildlife Service administers four national monuments.

Most recently, on March 25, 2013, President Obama used the Act to issue proclamations that established five national monuments, three of which are now part of the National Park System: Charles Young Buffalo Soldiers National Monument (OH), First State National Monument (DE), Harriet Tubman Underground Railroad National Monument (MD). President Obama also used the Act to establish two monuments that are being managed by the Bureau of Land Management: Rio Grande del Norte National Monument (NM) and San Juan Islands National Monument (WA). In these cases, the Department engaged in discussions with national, state, local, and Tribal stakeholders, and each monument enjoyed a broad spectrum of enthusiastic support.

Without the president's authority under the Antiquities Act, it is unlikely that many of these special places would have been protected and preserved as quickly and as fully as they were. The statute provides the necessary flexibility to respond quickly to impending threats to scientific and historic resources, while striking an appropriate balance between legislative and executive decision making.

The Antiquities Act has a proven track record of protecting—at critical moments—especially sensitive Federal lands and the unique cultural and natural resources they possess. These monuments have become universally revered symbols of America's beauty and legacy. Though some national monuments have been established amidst controversy, who among us today would dam the Grand Canyon, turn Muir Woods over to development, or deny the historic significance of Harriet Tubman's struggle against slavery? These sites are much cherished landscapes which help to define the American spirit. They speak eloquently to the wisdom of retaining the Antiquities Act in its current form.

Mr. Chairman, thank you for the opportunity to present the views of the Administration.

STATEMENT OF CAM SHOLLY, ASSOCIATE DIRECTOR, VISITOR AND RESOURCE PROTECTION, NATIONAL PARK SERVICE, U.S. DEPARTMENT OF THE INTERIOR, BEFORE THE HOUSE SUBCOMMITTEE ON PUBLIC LANDS AND ENVIRONMENTAL REGULATION, OF THE COMMITTEE ON NATURAL RESOURCES, CONCERNING H.R. 2166, TO DIRECT THE SECRETARY OF THE INTERIOR AND SECRETARY OF AGRICULTURE TO EXPEDITE ACCESS TO CERTAIN FEDERAL LANDS UNDER THE ADMINISTRATIVE JURISDICTION OF EACH SECRETARY FOR GOOD SAMARITAN SEARCH-AND-RECOVERY MISSIONS, AND FOR OTHER PURPOSES.

JUNE 6, 2013

Mr. Chairman and members of the subcommittee, thank you for the opportunity to present the views of the Department of the Interior on H.R. 2166, to direct the Secretary of the Interior and Secretary of Agriculture to expedite access to certain Federal lands under the administrative jurisdiction of each Secretary for good Samaritan search-and-recovery missions, and for other purposes.

We recognize the anguish that extended searches for individuals believed to be deceased cause the families of these individuals, and are sensitive to situations that involve the loss of a human life. The Department often partners with qualified organizations and individuals to quickly and efficiently carry out these search and recovery missions on federal lands, and we continually look for ways to better facilitate these missions. The Department appreciates the intent of H.R. 2166, but asks the committee to defer action on the bill to provide time to fully analyze its effects on our land management bureaus and develop recommended amendments.

Because this bill was only introduced two weeks prior to the hearing, our bureaus have not had time to fully analyze how the requirements of the bill would fit with their existing processes or serve their partners.

H.R. 2166 would require the Secretary of the Interior and Secretary of Agriculture (Secretaries) to develop and implement a process to expedite access to federal lands for eligible organizations and individuals who request access to Federal lands to conduct good Samaritan search and recovery missions. The bill would require these procedures to include provisions clarifying that such groups are not considered Federal volunteers, and exempting such groups from the Volunteers in the Parks Act of 1969, the Federal Tort Claims Act, and the Federal Employee Compensation Act. The bill would also prohibit the Secretaries from requiring such organizations or individuals to have liability insurance as a condition of accessing federal lands if they acknowledge and consent, in writing, that they understand they are not protected under federal law and sign a waiver releasing the federal government from all liability related to the access granted.

The bill would require the Secretaries to notify an eligible organization or individual of the approval or denial of a request within 48 hours after the request is made and, in the case of a denial, notify the organization or individual of the reason for denial and any actions that they can

take to meet the requirements for the request to be approved. The bill would also require the Secretaries to develop partnerships with search-and-recovery organizations to coordinate and expedite good Samaritan search-and-recovery missions on federal lands. Within 180 days after enactment, H.R. 2166 would require the Secretaries to submit a joint report to Congress describing plans to plans to develop partnerships and efforts being taken to expedite and accelerate good Samaritan search-and-recovery mission efforts on federal lands.

Initially, the Department has identified a number of issues with H.R. 2166. One issue is that the bill would subject the permittee to liability by allowing them to engage in dangerous, high-risk activities without the protection of liability insurance. Many of these efforts take place in rugged, isolated areas that are difficult to traverse and may present significant hazards such as swift moving streams, canyons, extreme weather conditions, poisonous plants, and dangerous wildlife. These groups may not fully recognize these risks. In many such cases, federal land managers have determined that it makes good, prudent sense for the organization or individual conducting a search to have liability insurance. However, we recognize that some well-qualified groups or individuals may want to assume this risk without insurance. We are prepared to work with the sponsor and the committee to ensure that the bill would facilitate this process, without creating an undue burden on the land management bureaus or the applicants.

Another issue is the requirement that the Secretaries develop partnerships with search and rescue organizations. The Department has a record of routinely partnering with outside organizations and local law enforcement agencies for search and recovery and through these partnerships, has successfully conducted many such efforts. Therefore, this requirement is not necessary.

In addition, we note technical issues with the definitions contained in the bill. For example, the meaning of the term “not-for profit capacity,” which is used in the definition of eligible organization and eligible individuals, is not clear. And, the requirement that eligible organizations and eligible individuals have certification in training that meets or exceeds standards established by the American Society for Testing and Materials is not needed, in our view, because federal agencies use other standards for verifying a prospective provider’s qualifications and medical/fitness level.

We would welcome the opportunity to work with Representative Heck and this committee to address these issues, and other concerns that may be raised as we review this bill.
Mr. Chairman, this concludes my statement. I would be happy to answer any questions that you or other members of the committee may have.