

OPENING STATEMENT OF THE HONORABLE TODD AKIN (MO-02) AND THE HONORABLE
RUSS CARNAHAN (MO-03)

COMMITTEE ON RESOURCES
SUBCOMMITTEE ON NATIONAL PARKS
U.S. HOUSE OF REPRESENTATIVES

Hearing on ***H.R. 4581, The Easement Owners Fair Compensation Act of 2005***

Thursday, July 13, 2006, 2pm
1324 Longworth House Office Building

We would like to thank the Chairman and Ranking Member for holding this hearing on H.R. 4581, the Easement Owners' Fair Compensation Claims Act of 2005. This bill is a technical correction to the National Trails System Act, and is intended to clearly establish Congressional intent under the Trails Act. H.R. 4581 is necessary because the Federal Circuit Court of Appeals, in *Caldwell v. United States*, prescribed a rule inconsistent with the understanding of Congress when the Trails Act was enacted.

We would note at the outset that H.R. 4581 does not change or frustrate the purpose of the Trails Act in any way. In fact, H. R. 4581 assures that the administration of the Trails Act is consistent with Congress' intention and will make the Trails Act a more cost-effective program.

The National Trails System Act Amendments of 1983 sought to preserve possible future railroad use rights-of-way not currently in service, but to also encourage the conversion of these railroad easements to trails for recreational use. The Supreme Court determined that when a railroad easement is converted to a trail it is deemed a taking, and property owners are due just compensation.

Under the Trails Act, railroads and the entity taking possession of the trail are allowed to enter into negotiations in order to reach an agreement that transfers the full responsibility of the trail to a qualified entity and the railroad conveys its interest in the property. The result is that the railroad's easement is abandoned and the property is officially taken from the landowner for use as a trail. Landowners are given six (6) years under the Statue of Limitations in order to file a claim for compensation after the taking occurs.

Caldwell found that the statute of limitations for filing a claim begins to run when negotiations begin; *not* when the trail agreement is finalized. These negotiations can last anywhere from six months up to several years. In about a third of the cases, no trail agreement is reached, resulting in the Railroad retaining the easement. Thus, no taking occurs in those cases.

H.R. 4581 restores the date for starting the statute of limitations to the date when full responsibility of the trail is transferred to a qualified entity *and* when the railroad conveys its interest, not when negotiations begin. Thus, the statute of limitations under our bill starts to run when the property owners' rights to the property are *actually* taken by the Federal Government. This will ensure compensation to those property owners whose property the government already acknowledged taking, but not require the government to pay compensation or interest for property never converted to trail use or interest for the period before it actually takes a landowners property.

It will establish clearly Congress' intent regarding when the Trails Act is intended to interfere with a property owner's interest and it will provide that those property owners affected by the *Caldwell* decision are provided full and fair compensation for their property. Further, it will assure that the federal government does not use taxpayers' funds to pay for claims where it did not take any property and where, ultimately, no recreational trail is ever created.

Our bill is a technical correction to the National Trails Act, which will grant landowner's the compensation they deserve for land that was taken from them. Again, this bill does not infringe on the ability to convert rails to trails.

Thank you again for holding these hearings. We are submitting some of the factual and legal background along with our statement.