

September 18, 2024

Testimony of Sandra Marra,
President and CEO of the Appalachian Trail Conservancy
H.R. 9159, the Appalachian Trail Centennial Act

Chairman Tiffany, Ranking Member Neguse, Members of the Subcommittee,

Thank you for the opportunity to testify on H.R. 9159, the Appalachian Trail Centennial Act (ATCA). My name is Sandra Marra, and I am the President and CEO of the Appalachian Trail Conservancy (ATC), the sole NGO working trail-wide to facilitate the operation of the Appalachian National Scenic Trail (ANST or Trail). I come to you with nearly 40 years of experience with the Appalachian Trail Conservancy, as a maintainer, volunteer leader, and now CEO of the ATC. We are proud of this legislation, and grateful to the bipartisan leadership of Congressmen Lawler and Beyer for developing it with Senators Kaine and Tillis. By enacting H.R. 9159, Congress will clarify the partnership nature of National Scenic and Historic Trails (NSHTs), establish a legal class of volunteer organizations that reflects the work the National Trails System Act (NTSA) has protected for organizations like the ATC, and direct the executive branch to better understand NSHTs to unlock their conservation and recreation potential.

The ATC is the sole 501(c)(3) organization working across the entirety of the ANST, a unit of the National Park System (System). The ATC was founded in 1925 to facilitate the development of the Appalachian Trail, what is now the ANST, and spearheaded the NTSA (and its amendments) to establish the first NGO partnership park in the federal government.¹ There are now 30 additional NSHTs.² The ANST is governed by the Cooperative Management System (CMS),³ which partners federal and state agencies, non-governmental organizations (NGOs), and individual volunteers to collaboratively develop and steward the conserved areas adjacent to this nearly 2,200-mile footpath surrounded by over 400,000 acres of land.⁴

¹ *National Park System: Units Managed Through Partnerships*, CRS Report R42125, p. 7. April 5, 2016. A review of the partnership parks surveyed by this report reflects the ANST is the first NGO partnership park in the System.

² The Pacific Crest National Scenic Trail, administered by the USDA Forest Service, was established alongside the ANST in the original 1968 Act. This brings the total number of NSHTs to 32.

³ This is a generally accepted term describing the network of partnerships that enable NSHTs to operate, although the term “Cooperative Management System” is not used on every NSHT.

⁴ The ATC continues to work with the NPS and USFS in particular to determine the gross acreage of the ANST and the exact acreage under the responsibility of the given land managers/owners. The NPS FY25 Budget Justification at O-22 posits that the gross acreage is 243,542.49 and the NPS-managed acreage is 183,166.13, but this number does not include the acreage included in management areas in the National Forest System, nor does it include acres managed by states or non-federal entities for the ANST (or clarify acreages managed by other NPS units).

Many people believe that the ANST is merely a “simple footpath.” It is not. It is a large landscape conservation effort designed to connect the people and places of the Appalachian Mountain range and to protect the natural, scenic, cultural, and historic values of that physiographic region to provide for the “maximum recreational potential.”⁵ The footpath, or treadway, of the ANST is the way in which any single individual can access these values, something some estimated 4 million people do every year.⁶ It is this quirk of the NTSA from which much confusion about NSHTs arises: that is, the Act does not protect treadways; rather, it establishes continually developing federal public lands⁷ organized around treadways. The second quirk of the NTSA is that volunteers and volunteer organizations are empowered to do—and do, in fact do—much of the work that, on other federal lands, is done by federal employees, based on the operation of the Appalachian Trail prior to its gaining National Scenic Trail status.⁸

At its core, the ATCA seeks to promote the successes and the strengths of cooperative management partnerships by stating the nature of the highest achieving to-date NTS partnership: that of the ANST.⁹ This legislation will address inconsistencies in the treatment of NSHTs and the partnerships that enable them without requiring the adoption of one model of cooperative management over another, as well as provide direction to the agencies to include NSHTs in their evaluations of conservation impact, such as through visitor economic impact analyses.¹⁰

Definitions and Roles

The National Trails System Act of 1968, as amended, has protected the ability of individuals and NGOs to serve in essential roles. We say “protected” because the work that we and our NGO partners perform on our respective trails largely predates the inclusion of those trails in the NTSA (or its enactment, in the case of the ATC and the Pacific Crest Trail Association). In fact, more or less down the line of the 32 NSHTs in existence today, there is one (or two) primary

⁵ 16 U.S.C. 1242(a)

⁶ This number is the ATC’s best estimate, given a 2007 visitation estimate performed by the USFS and tracking with modern visitation trends. The NPS and the ATC are currently collaborating on a visitation estimate relying on anonymized “big data.”

⁷ Although we generally refer to NSHTs as public “lands,” they are in fact lands and waters, and rivers, lakes, and shores are features of many NSHTs. The Captain John Smith National Historic Trail (NHT), for example, is entirely water-based.

⁸ 16 U.S.C. 1246(h) lays out allowable roles for non-federal entities in federally administered areas of a NSHT, empowering them to “operate, develop, and maintain any portion of such a trail either within or outside a federally administered area,” although the NTSA does not define these terms, as the ATCA would. 16 U.S.C. 1250 includes additional allowable roles for “volunteers” and “volunteer organizations,” which the NTSA do not define, but the ATCA would.

⁹ It also includes the first statutory reference to the “A.T. Clubs,” independent non-governmental organizations that partner with the NPS, USFS, and ATC to operate the ANST.

¹⁰ Currently, the federal land management agencies do not measure the visitor economic impact of those visiting the NSHTs.

NGO partner(s) who envisioned the designation of the trail they operate (sometimes more than a single trail) and advocated to have Congress include that trail in the NTS.¹¹

These Congressionally protected roles are exceedingly uncommon in the federal land management agencies and can cause consternation for those who are unfamiliar with the practices of NSHTs, whether they be new hires to federal unit offices or an individual responsible for processing grants and agreements.¹² Because NSHTs are so few, as are the staff members who rotate through them, and operate so differently than conventional federal public land units, continual and recurring education is required despite the 57 years of ANST Cooperative management under the NTSA. The ATCA's adoption of clear definitions will decrease confusion and increase the volunteer- and partnership-centric operation of NSHTs.

The NTSA implies, but does not declare, that three general aspects of "land management"—as we understand them—are disaggregated on NSHTs. On the ANST, overall "trail administration" belongs to the NPS (consulting with the USFS),¹³ "land management" can reside with the NPS, USFS, state, or private entity (as "land owner"), and "operation,"¹⁴ generally lives in ATC and the A.T. Clubs.¹⁵ Therefore, much of the day-to-day work in the ANST and NSHTs are performed by volunteers and NGO staff. This is because the Trail was designed by volunteers and NGO partners, with the footpath predating the park unit's establishment by 40 years. The NPS park office was created to integrate the pre-existing network of partnerships into the federal public land management apparatus, not exclusively to "manage" the ANST in the conventional NPS sense.¹⁶ Our management model, enabled by the NTSA, is premised on "non-delegability,"

¹¹ Some NSHTs have more than one organization operating at the same level of engagement, but serving different regions or responsibilities of a given NSHT. The New England National Scenic Trail and the Lewis and Clark National Historic Trail are two examples.

¹² While orienting new staff members to a given NSHT "unit" office can be complicated enough, it is the orientation of those federal employees who are not specifically staffed to a "unit" where one can see the steepest learning curve. NSHT unit offices are generally more static than those of the park units they intersect, those of Great Smoky Mountains and Shenandoah National Parks, for instance, or those working in the regional offices. Unlike NSHT unit staffers, staffers in other parts of the federal land management agencies may have little to no interaction with cooperative management outside of a discrete task relating, but may still require a full crash course in the legal and practical differences of the NSHTs from conventional federal land units.

¹³ See 16 USC 1244(a)(1).

¹⁴ What we refer to as "operation" in this letter has often been described as "local NGO management," a term which has caused some confusion because of the association of "land management" with final decision-making under many federal land use laws. Under the NTSA, the NPS is statutorily identified as the "trail administrator," or final decision maker for the ANST on most topics, but is expressly *not* the land manager for large stretches of the Trail; the USDA Forest Service is statutorily the consulting administrator, as well as the land manager for approximately 47% of the Trail. Delineating between administration of the cooperative enterprise, management of the lands, and operation of the treadway and conserved corridor is just one example of how NSHTs are complex.

¹⁵ This disaggregation is complex, and not explicitly stated itself in the NTSA. It can be inferred however, by the reference to "administration" as being only to federal entities and "management" and "operation" as allowable for non-federal entities. The ATCA would cement these distinctions for the benefit of all.

¹⁶ Generally speaking, "federal land management" refers to the exclusive and final decision-making authority of the agency assigned the responsibility by Congress for a given area. Because the ANST and PCNST were in part located on areas that had already been conserved by Congress, a distinction between "administration" and management" was necessary because, for example, Shenandoah National Park was already being managed by the NPS and the

meaning that any inherently governmental activity¹⁷ must be performed by the government and everything else can be (and on the ANST is) generally done by NGO partners.

This disaggregation is, in some sense, radical, but it is the only way that the ANST or any other long trail could ever be successful. By separating out these roles, the NTSA protected the volunteer and volunteer organization roles on NSHTs but it also protected the legal structure of lands Congress had already conserved in 1968. The APPA Superintendent administers the ANST, but does not manage all the land that constitutes the ANST—this would give an NPS official final decision-making authority over portions of the Cherokee National Forest, Sky Meadows State Park, and the Cherry Valley National Wildlife Refuge, for example—and the NPS has never truly operated the ANST, as from the moment of designation, the ATC and the Clubs continued to perform most of the day-to-day work on the Trail, a model replicated to varying degrees across the other NSHTs.

Recognizing the Roles of Organizations like the ATC

The statutory versatility of the NTSA, while still a novel innovation to many is an unequivocal necessity and the formalization of the system that began on the A.T. 47 years prior to President Johnson’s signing of that Act,¹⁸ and even before the first formal agreement with the NPS and USFS during President Franklin Roosevelt’s administration.¹⁹ The flexibility of the Act, as well as its safeguarding of prior congressionally-established conserved lands were enhanced with the amendments signed into law by President Carter²⁰ and President Reagan.²¹ The ATCA does not limit this versatility; rather, it reflects practically how it is implemented.

Although the NTSA was written (and amended) to continue to allow the ATC to do what it began in 1925 and to empower other organizations to do the same, the NTSA does not make explicit that the role we and similar organizations play is to be expected. The novel experiment, however, has proved tremendously successful, and the lingering statutory ambiguity tends to help neither the trail administrator nor the NGO partner. By collecting the NTSA- permissible

ANST was never intended to overwhelm the pre-existing management prerogatives of that park, or usurp management authority from the Chief of the Forest Service for White Mountain National Forest, as an example. Trail administration and trail/land management have been different from the inception of the NTS.

¹⁷ Essentially, law enforcement, compliance, title of lands, and oversight of overall management and operation. These are the core responsibilities of “trail administration.” *Solicitor’s Opinion on Delegation to ATC*, March 17, 1983, p.4.

¹⁸ The development of the ANST began with the publishing of *An Appalachian Trail: A Project in Regional Planning*, *Journal of American Institute of Architects*, October 1921. It is accessible at: <https://appalachiantrail.org/our-work/an-appalachian-trail-a-project-in-regional-planning/>.

¹⁹ *The Appalachian Trailway Agreement*, October 15, 1938.

²⁰ Via P.L. 95-248, *To Amend the National Trails System Act, and for other purposes*, March 21, 1978 and P.L. 95-625, *National Parks and Recreational Lands Act of 1978*, November, 10, 1978.

²¹ P.L. 98-11, *To amend the National Trails System Act by designating additional national scenic and historic trails, and for other purposes*, March 28, 1983.

authorities and laying out clear requirements and guardrails for behavior, the ATCA confirms that the disaggregated model of management authorities is successful and appropriate for NSHTs. It is, in fact, the only way that these long, multi-jurisdictional areas are able to be effectively governed.

The NPS park office²² for the 2,194-mile long and over 400,000-acre ANST is, at full compliment, 10 people. The ATC is, in the peak season, somewhere around 85. The A.T. Clubs provided upwards of 5,000 volunteers in 2023, and many have additional staff members engaged in supporting the ANST. Our collective non-governmental effort is worth almost \$7 million.²³ That's just one of the 32 National Scenic and Historic Trails. What is undeniable on the ANST, and for many of our well-performing National Scenic and Historic Trails, is that the federal government simply cannot do it alone. H.R. 9159 recognizes that fact and maintains important guardrails for the federal government while clarifying for the executive branch that partnership and substantive roles for volunteers and volunteer organizations are essential aspects of the National Scenic and Historic Trails. Congress understood this in drafting and amending the NTSA, including its references to the ATC in the 1968 Act.²⁴ We recognize that some agency partners have concerns about diminished authorities, or about placing NGOs in final decision-making positions. H.R. 9159 neither diminishes agency authority nor places any NGO in a final decision-making position.²⁵

As drafted, with the exception of the recognition of the ATC as the first “Designated Operational Partner” (DOP)—the ATC remains the only NGO referenced in the NTSA—no other NSHT would be required to have a DOP. Trails that have one or more organizations supporting the breadth of work that the ATCA does for the ANST could have more than one DOP. Even with a DOP, the trail administrator would be able to enter into cooperative agreements with other organizations to do work on NSHTs. Establishing DOPs reflects the reality of trail operation today, maintains the opportunity to broaden partnerships with for a NSHT, and provides legal clarity on how organizations like the ATC are a distinct class of NGO partners for a discrete slice of the federal public lands world.²⁶

²² In the language of the NPS, the ANST park office is “APPA,” which is responsible for supervising the ATC and A.T. Clubs and coordinating with federal, state, and tribal governments to support the ANST.

²³ ANST volunteers accounted for approximately 200,000 hours in 2023, with an estimated value of \$33.49 per hour of labor, according to the Independent Sector’s calculator: <https://independentsector.org/resource/value-of-volunteer-time/>, last visited September 16, 2024.

²⁴ Today, the ATC remains mentioned in 16 U.S.C. 1244(d) and (e).

²⁵ The ATC views this as the heart of the agreement between it and the federal government that became the NTSA. The federal government has final authority and the volunteers and volunteer organizations may continue largely as they have since 1921.

²⁶ Organizations like the ATC are often slotted into inappropriate categories (such as being misunderstood as cooperating associations or “friends” groups); clarifying our collection of roles and connections to the public land units we work on is something we believe will benefit partnership networks, rather than detract from the community of partnership.

Unlocking the Promise of NSHTs

The ANST is the most invested-in NSHT since the establishment of the NTS. This is due to a variety of factors, but none of them predetermine that the ANST should be the only NSHT developed to the degree that it has been. In designating a NSHT, Congress recognizes potential and provides some tools to unlock that potential. A lock without a key, however, remains forever closed. By directing the agencies to report on the state of the trails and determine how to build out the trails Congress has established, the ATCA will focus agency and partner attention on these dynamic public land units, bringing new populations of citizen stewards into the fold, promoting vulnerable histories, protecting at-risk ecosystems, and unlocking the maximum recreational potential at a time of overwhelming interest in outdoor recreation.

Despite what we would describe as the unqualified success of the partnership-dependent, volunteer-centered, multi-jurisdictional A.T. Project, the federal trail administrators have never quite supported these public land units the way that they support more conventional units of the System, National Forest System, or National Conservation Lands System.²⁷ For example, the staffing levels of NSHTs are entirely incommensurate with their acreage, estimated visitation, or the complexity of their partnerships.²⁸ Although the NPS and USFS measure visitation and economic impact for most of their units, they do not do so for the NSHTs.²⁹ Because official status is so important to the agencies—and rightfully so, because they are charged to follow Congress’ directions—the full suite of funding streams, planning tools, and management authorities that exist for other System units have been denied the NSHTs.³⁰ The ATCA’s requirement to gather this information will better support NSHTs, their Congressionally identified values, and the public.³¹

At its core, the ATCA reflects the reality of day-to-day operations of the ANST, the most invested-in, developed, and successful National Scenic Trail, as it exists today and declares what is necessary to support and enhance the NTS. The ATC is also grateful to Congressmen Lawler and Beyer for H.R. 9159’s recognition of the indispensable role of the A.T. Clubs, the first-ever statutory acknowledgement of their importance to the ANST. The ATC began coordinating this

²⁷ That is to say, the federal agency approach to budgeting both assumes substantial non-governmental support and does not consider the state of development for any given NSHT. The recent NPS granting of “unit status” to three NPS-administered NSHTs was a response to improper resourcing and support for those (now-)units.

²⁸ The ATC and partners in the NTS community have doggedly advocated for attention to this issue, with increasingly positive responses from Congress as well as Presidential administrations.

²⁹ See footnote 6, *supra*

³⁰ The NPS provides an excellent example. See, generally, *Decision Memorandum for the Director to Request the Director to Administratively Designate Three National Scenic Trails as Units of the National Park System and Initiate a Policy Process for Granting Unit Status for Other National Scenic or Historic Trails*, November 16, 2023.

³¹ There are many challenges in the development of the federal budget. The ATC does not argue that all of this information would necessarily result in higher allocations for NSHTs; rather, comparing apples to apples would facilitate the adjusting of budgets to more appropriate levels.

effort upon its founding in 1925, looking to the A.T. Clubs to develop the relationships necessary throughout the ANST's 14 states to build the Trail itself. The historical and ongoing work of the A.T. Clubs cannot be understated, as there would simply be no ANST without this corps of dispersed, expert volunteers and non-governmental organizations.

We are eager to advance the discussion on the importance of the NTS and the partnerships that enable it as well as to do the hard work itself, as we have been doing for nearly 100 years. The ATCA is the product of years of discussion within both the Cooperative Management System (CMS) of the ANST and with our partners throughout the NTS. The ATC is not proprietary of the NTS, nor do we believe we have all the answers. We are committed to continue working to strengthen and secure the partnership nature of the NSHTs with our partners. We also understand that the three trail administering agencies—the National Park Service (NPS), the U.S. Forest Service (USFS), and the U.S. Bureau of Land Management (BLM)—approach trail administration in differing ways. We appreciate the extensive and substantive feedback the USFS has provided, which Congressmen Lawler and Beyer incorporated into H.R. 9159. We encourage Congress to enact the Appalachian Trail Centennial Act and look forward to continued dialogue on to conserve and support the National Scenic and Historic Trails, which we believe should remain available accessible for future generations of Americans to enjoy and experience.