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October 6, 2008

VIA ELECTRONIC FILING

Troy Brady
Section of Environmental Analysis
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423

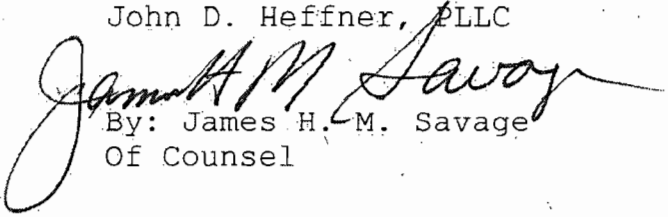
RE: **STB Docket No. AB-1020X**
East Penn Railroad, LLC-Abandonment Exemption-In Berks
and Montgomery Counties, Pennsylvania

Dear Mr. Brady:

On behalf of Berks County, we are submitting a copy of a letter transmitted this day to SHPO. A service certification is annexed hereto.

We thank the SEA for its time and consideration.

Sincerely yours,
John D. Heffner, PLLC


By: James H. M. Savage
Of Counsel

JHS/mhd

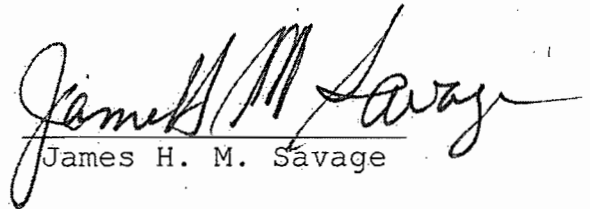
Enc.

cc: Karl Morell, Esq. (w/enc.)
Laurel Frankston Grass (w/enc.)

CERTIFICATE OF SERVICE

I certify that I served this day by electronic mail on counsel for Petitioner, and by first class mail upon counsel for Montgomery County a true copy of the within correspondence.

Dated: October 7, 2008


James H. M. Savage

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October 6, 2008

Andrea MacDonald
Chief, Div. of Preservation Services
Bureau of Historic Preservation
Commonwealth Keystone Bldg., 2nd Floor
400 North Street
Harrisburg, PA 17120-0093

Re: ER 08-1408-042-B
STB Docket Number AB 1020_0_X
East Penn Railroad, LLC-Abandonment Exemption-Berks etc.

Dear Ms. MacDonald,

We are attorneys representing Berks County in opposition to the abandonment of the Colebrookdale Branch of the East Penn Railroad (ESPN). We are submitting this letter supplementing our September 30, 2008 letter requesting the Bureau reconsider their opinion letter of May 22, 2008.

Our continuing investigation discloses the Colebrookdale Line sits astride our nation's historic "Ground Zero", the Schuylkill River Valley, epicenter of the American and Industrial Revolutions. See, *The Schuylkill River National & State Heritage Area*, U.S. National Park Service Brochure, annexed hereto as Exhibit A.

To quote from the brochure,

"Industrialism took hold along the Schuylkill River and its tributaries very early in the nation's history. Mines, factories, mills and forges sprung up across the region and helped make Southeastern Pennsylvania a powerhouse and leader in the Industrial Revolution. To efficiently move materials and products between the cities and towns along the river, the Schuylkill River Navigation System was built using canals and slack water pools. **The navigation system was later supplemented by the railroads.** Today visitors can explore a coal mine, restored sites of furnaces, sections of the former Schuylkill Navigation System and historic rail yards and railroad museums."

(Emphasis supplied).

There is no mention in ESPN's historic report (assuming the Society even received it; of which we have, as yet, no proof) of the Line's inclusion within the Schuylkill River National and State Heritage Area, a major omission, to say the least.

Congress has recognized the importance of this National Heritage Area. Quoting from the Statement of Katherine Stevenson, Associate Director For Cultural Resources Stewardship And Partnerships, National Park Service, Department Of The Interior, before The Subcommittee on National Parks, Historic Preservation and Recreation, Committee on Energy and Natural Resources of the United States Senate, Concerning S. 1584, To Establish The Schuylkill National Heritage Area in the State of Pennsylvania on May 18, 2000:

"Mr. Chairman, thank you for the opportunity to present the views of the Department of the Interior on S. 1584, to establish the Schuylkill River Valley National Heritage Area in the State of Pennsylvania. The heritage area would be located along the Schuylkill River in the southeastern counties of Schuylkill, **Berks**, Montgomery, Chester, and Philadelphia, with boundaries delineated by the Secretary of the Interior.

The Department supports this legislation....

The Schuylkill River Valley is rich in natural and cultural resources that reflect our nation's history and the region's industrial and agricultural heritage. The area played a role in the American Revolution, and was the center of early charcoal iron industries that helped foster Pennsylvania's strong iron industry. **It was also the location of early transportation systems, including the Schuylkill Canal and the Reading Railroad.** The region has exhibited a longstanding commitment to reversing environmental degradation to the river and completing recreational programs and projects that encourage appreciation of the natural resources of the Schuylkill River Valley.

Heritage areas are places where natural, cultural, historic, and recreational resources combine to form a nationally distinctive landscape arising from patterns of human activity shaped by geography. **Heritage conservation efforts are grounded in a community's pride in its history and traditions, and its interest in seeing them retained. The areas are designed to protect large, regional landscapes and resources that tell the story of its residents.** They are best managed by entities with broad community representation and the ability to foster partnerships throughout the region. The Schuylkill River Valley has the characteristics necessary to be established as a national heritage area and the potential to meet the expectations of the National Park Service's national heritage area program."

(Emphasis supplied.)

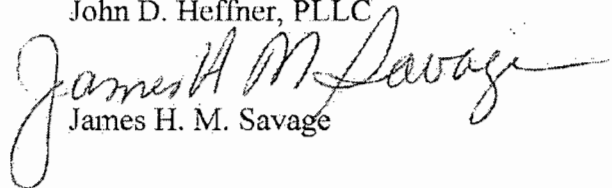
The legislation created the Schuylkill River Greenway Association to manage the Schuylkill River Heritage Area. Headquartered in Pottstown, PA, the Association's website is www.schuylkillriver.org. The Association is charged by Congress with responsibility to involve residents, public agencies, and private organizations working in the Heritage Area; to specify existing and potential sources of funding to protect, manage, and develop the Heritage Area; to include actions to be undertaken by units of Government and private organizations to protect the resources of the Heritage Area; to create an inventory of the resources contained in the Heritage Area, including a list of any property in the Heritage Area that is related to the themes of the Heritage Area and that should be preserved, restored, managed, developed, or maintained because of its natural, cultural, historical, recreational, or scenic significance; and to develop intergovernmental cooperative agreements to protect the historical, cultural, recreational, and natural resources of the Heritage Area in a manner consistent with supporting appropriate and compatible economic viability. See, text of S.1584, annexed hereto as Exhibit B.

Once again, there is no indication that the Association was contacted with respect to this abandonment. Under the circumstances as well as the above referenced Federal statute, the Bureau should co-ordinate its review with the Association.

As the Bureau can see from our continuing efforts, this historic preservation matter is of great importance to the citizens of Berks County. Based upon the foregoing, the County once again respectfully requests the Bureau reconsider its opinion as to the historic significance of the Colebrookdale Branch, and issue an opinion letter recommending appropriate conditions to assure historic preservation of this highly significant line of rail.

We thank the Bureau for its faithful consideration.

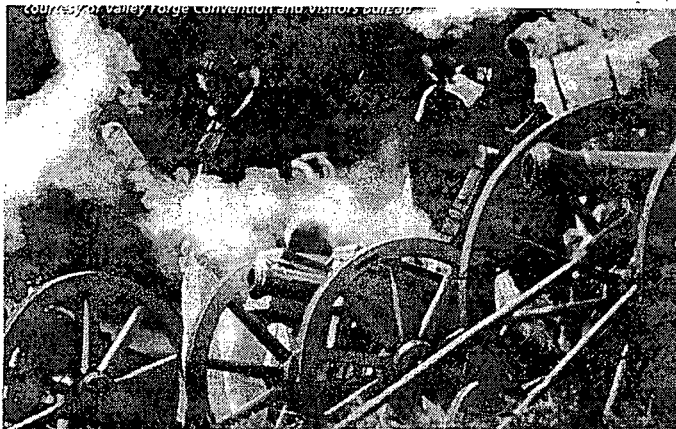
Very truly yours,
John D. Heffner, PLLC


James H. M. Savage

JHS/mhd
Enc.

cc: Troy Brady (w/enc.) *Via Electronic Filing*
Karl Morell (w/enc.) *Via E-Mail*
Kurt D. Zwikl (w/enc.) *Via E-Mail*

EXHIBIT A

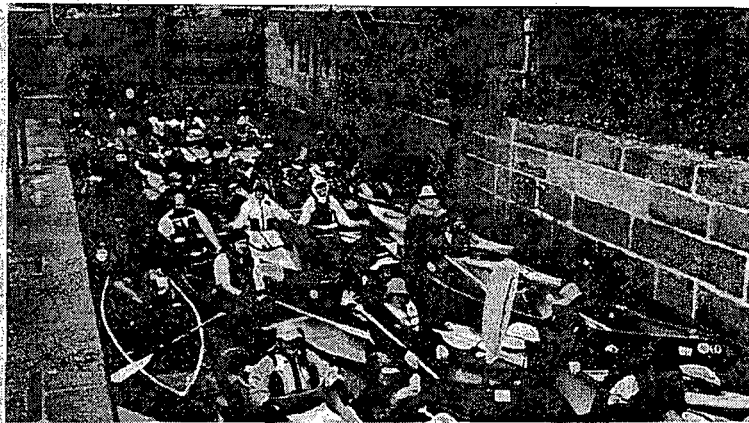
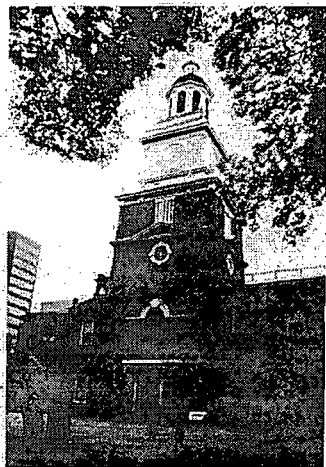


American Revolution

The battle for America's independence began and turned upon events within the Schuylkill River Heritage Area. In Philadelphia, a group of men took bold steps and declared their freedom from the most powerful nation on earth. Walk in the footsteps of the fight for freedom at Valley Forge and Independence National Historical Parks and in Germantown:

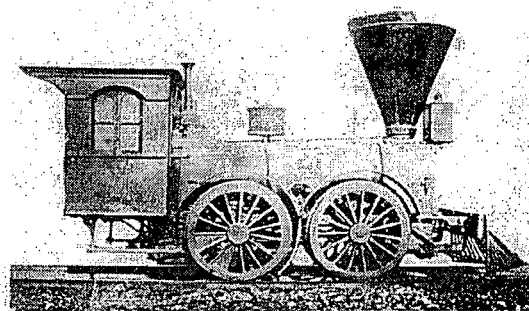


Independence Hall



Industrial Revolution

Industrialism took hold along the Schuylkill River and its tributaries very early in the nation's history. Mines, factories, mills and forges sprung up across the region and helped make Southeastern Pennsylvania a powerhouse and leader in the Industrial Revolution. To efficiently move materials and products between the cities and towns along the river, the Schuylkill River Navigation System was built utilizing canals and slackwater pools. The Navigation System was later supplanted by the railroads. Today visitors can explore a coal mine, restored sites of furnaces, sections of the former Schuylkill Navigation System and historic railyards and railroad museums.



Catowissa Locomotive
courtesy of
the Historical Society
of Schuylkill County

A National Heritage Area is a place recognized by the United States Congress for its unique qualities, resources and historical significance to America's past. This special designation allows a Heritage Area to promote conservation, education, recreation, historical preservation and tourism as tools for revitalization and economic development throughout the region.

	NATIONAL HERITAGE AREA		COUNTY BOUNDARIES
	NATIONAL LANDMARK		ATTRACTIONS
	NATIONAL PARK		NATIONAL SCENIC TRAIL
	STATE PARK		COMPLETED TRAIL
	STATE FOREST		FUTURE TRAIL
	STATE GAMELAND		

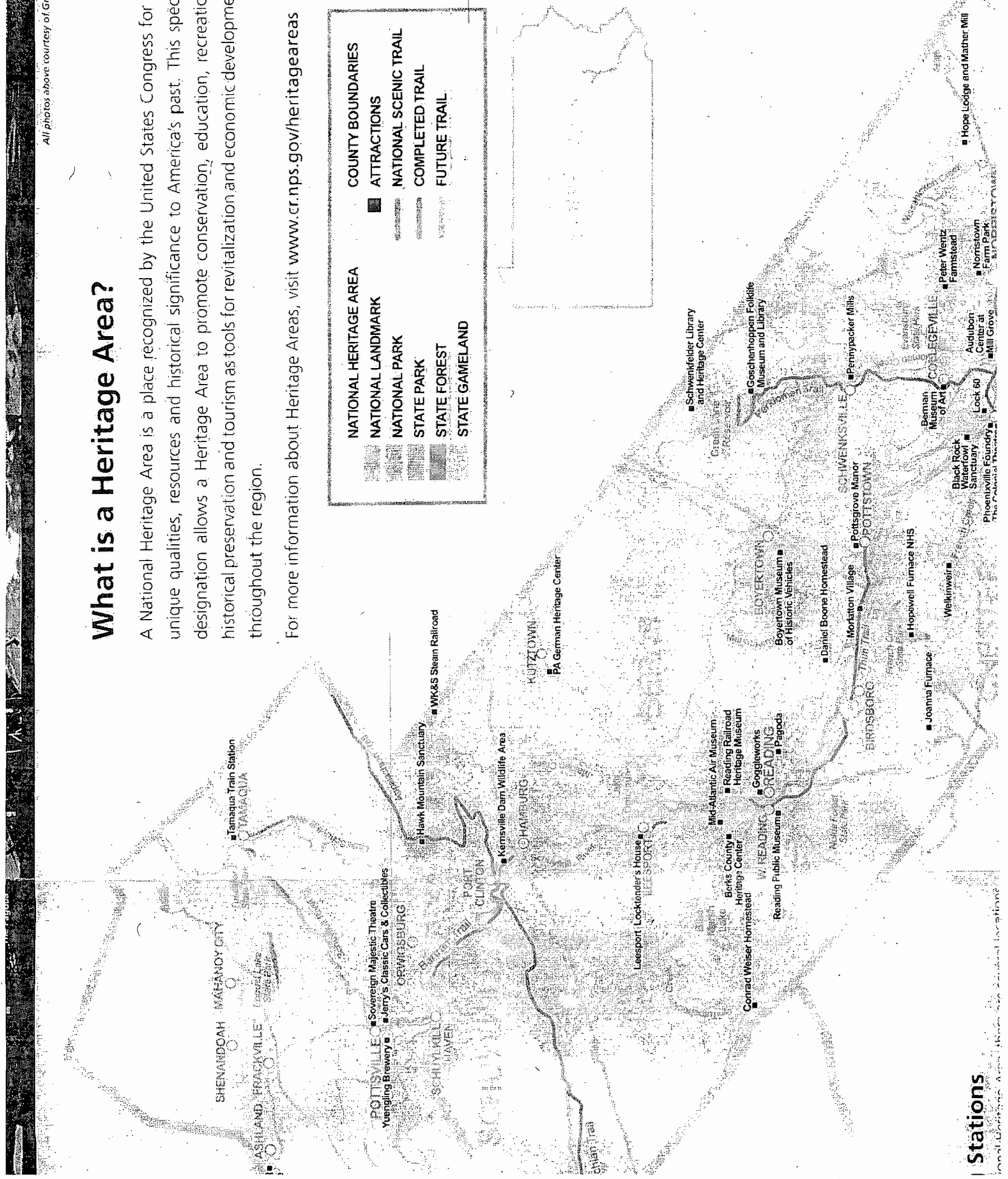


EXHIBIT B

106TH CONGRESS
1ST SESSION

S. 1584

To establish the Schuylkill River Valley National Heritage Area in the State of Pennsylvania.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 15, 1999

Mr. SANTORUM (for himself and Mr. SPECTER) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To establish the Schuylkill River Valley National Heritage Area in the State of Pennsylvania.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Schuylkill River Valley
5 National Heritage Area Act”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—Congress finds that—

8 (1) the Schuylkill River Valley made a unique
9 contribution to the cultural, political, and industrial
10 development of the United States;

1 identifying access points and sites of inter-
2 est are installed throughout the Heritage
3 Area;

4 (B) encourage economic viability in the
5 Heritage Area consistent with the goals of the
6 management plan; and

7 (C) encourage local governments to adopt
8 land use policies consistent with the manage-
9 ment of the Heritage Area and the goals of the
10 management plan;

11 (3) consider the interests of diverse govern-
12 mental, business, and nonprofit groups within the
13 Heritage Area;

14 (4) conduct public meetings at least quarterly
15 regarding the implementation of the management
16 plan;

17 (5) submit substantial changes (including any
18 increase of more than 20 percent in the cost esti-
19 mates for implementation) to the management plan
20 to the Secretary for the approval of the Secretary;
21 and

22 (6) for any fiscal year in which Federal funds
23 are received under this Act—

24 (A) submit to the Secretary a report
25 describing—

1 (i) the accomplishments of the man-
2 agement entity;

3 (ii) the expenses and income of the
4 management entity; and

5 (iii) each entity to which the manage-
6 ment entity made any loan or grant during
7 the fiscal year;

8 (B) make available for audit all records
9 pertaining to the expenditure of Federal funds
10 and any matching funds, and require, for all
11 agreements authorizing expenditure of Federal
12 funds by organizations other than the manage-
13 ment entity, that the receiving organizations
14 make available for audit all records pertaining
15 to the expenditure of such funds; and

16 (C) require, for all agreements authorizing
17 expenditure of Federal funds by organizations
18 other than the management entity, that the re-
19 ceiving organizations make available for audit
20 all records pertaining to the expenditure of
21 Federal funds.

22 (c) USE OF FEDERAL FUNDS.—

23 (1) IN GENERAL.—The management entity
24 shall not use Federal funds received under this Act

1 to acquire real property or an interest in real prop-
2 erty.

3 (2) OTHER SOURCES.—Nothing in this Act pre-
4 cludes the management entity from using Federal
5 funds from other sources for their permitted pur-
6 poses.

7 **SEC. 7. DUTIES AND AUTHORITIES OF FEDERAL AGENCIES.**

8 (a) TECHNICAL AND FINANCIAL ASSISTANCE.—

9 (1) IN GENERAL.—At the request of the man-
10 agement entity, the Secretary may provide technical
11 and financial assistance to the Heritage Area to de-
12 velop and implement the management plan.

13 (2) PRIORITIES.—In assisting the management
14 entity, the Secretary shall give priority to actions
15 that assist in—

16 (A) conserving the significant natural, his-
17 torical, and cultural resources that support the
18 themes of the Heritage Area; and

19 (B) providing educational, interpretive, and
20 recreational opportunities consistent with the
21 resources and associated values of the Heritage
22 Area.

23 (3) EXPENDITURES FOR NON-FEDERALLY
24 OWNED PROPERTY.—The Secretary may spend Fed-
25 eral funds directly on non-federally owned property

1 to further the purposes of this Act, especially assist-
 2 ing units of government in appropriate treatment of
 3 districts, sites, buildings, structures, and objects list-
 4 ed or eligible for listing on the National Register of
 5 Historic Places.

6 (b) APPROVAL AND DISAPPROVAL OF COOPERATIVE
 7 AGREEMENTS AND MANAGEMENT PLANS.—

8 (1) IN GENERAL.—Not later than 90 days after
 9 receiving a cooperative agreement or management
 10 plan submitted under this Act, the Secretary, in con-
 11 sultation with the Governor of the State, shall ap-
 12 prove or disapprove the cooperative agreement or
 13 management plan.

14 (2) ACTION FOLLOWING DISAPPROVAL.—

15 (A) IN GENERAL.—If the Secretary dis-
 16 approves a cooperative agreement or manage-
 17 ment plan, the Secretary shall—

18 (i) advise the management entity in
 19 writing of the reasons for the disapproval;
 20 and

21 (ii) make recommendations for revi-
 22 sions in the cooperative agreement or plan.

23 (B) TIME PERIOD FOR DISAPPROVAL.—

24 Not later than 90 days after the date on which
 25 a revision described under subparagraph (A)(ii)

1 is submitted, the Secretary shall approve or dis-
2 approve the proposed revision.

3 (c) APPROVAL OF AMENDMENTS.—

4 (1) IN GENERAL.—The Secretary shall review
5 substantial amendments to the management plan.

6 (2) FUNDING EXPENDITURE LIMITATION.—

7 Funds appropriated under this Act may not be ex-
8 pended to implement any substantial amendment
9 until the Secretary approves the amendment.

10 **SEC. 8. CULTURE AND HERITAGE OF ANTHRACITE COAL**
11 **REGION.**

12 (a) IN GENERAL.—The management entities of herit-
13 age areas (other than the Heritage Area) in the anthracite
14 coal region in the State shall cooperate in the management
15 of the Heritage Area.

16 (b) FUNDING.—Management entities described in
17 subsection (a) may use funds appropriated for manage-
18 ment of the Heritage Area to carry out this section.

19 **SEC. 9. SUNSET.**

20 The Secretary may not make any grant or provide
21 any assistance under this Act after the date that is 15
22 years after the date of enactment of this Act.

23 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

24 (a) IN GENERAL.—There are authorized to be appro-
25 priated to carry out this Act not more than \$10,000,000,

1 of which not more than \$1,000,000 is authorized to be
2 appropriated for any 1 fiscal year.

3 (b) FEDERAL SHARE.—Federal funding provided
4 under this Act may not exceed 50 percent of the total cost
5 of any project or activity funded under this Act.

○

1 (2) the Schuylkill River is distinctive as the
2 first spine of modern industrial development in
3 Pennsylvania and 1 of the first in the United States;

4 (3) the Schuylkill River Valley played a signifi-
5 cant role in the struggle for nationhood;

6 (4) the Schuylkill River Valley developed a
7 prosperous and productive agricultural economy that
8 survives today;

9 (5) the Schuylkill River Valley developed a
10 charcoal iron industry that made Pennsylvania the
11 center of the iron industry within the North Amer-
12 ican colonies;

13 (6) the Schuylkill River Valley developed into a
14 significant anthracite mining region that continues
15 to thrive today;

16 (7) the Schuylkill River Valley developed early
17 transportation systems, including the Schuylkill
18 Canal and the Reading Railroad;

19 (8) the Schuylkill River Valley developed a sig-
20 nificant industrial base, including textile mills and
21 iron works;

22 (9) there is a longstanding commitment to—

23 (A) repairing the environmental damage to
24 the river and its surroundings caused by the
25 largely unregulated industrial activity; and

1 (B) completing the Schuylkill River Trail
2 along the 128-mile corridor of the Schuylkill
3 Valley;

4 (10) there is a need to provide assistance for
5 the preservation and promotion of the significance of
6 the Schuylkill River as a system for transportation,
7 agriculture, industry, commerce, and immigration;
8 and

9 (11)(A) the Department of the Interior is re-
10 sponsible for protecting the Nation's cultural and
11 historical resources; and

12 (B) there are sufficient significant examples of
13 such resources within the Schuylkill River Valley to
14 merit the involvement of the Federal Government in
15 the development of programs and projects, in co-
16 operation with the Schuylkill River Greenway Asso-
17 ciation, the State of Pennsylvania, and other local
18 and governmental bodies, to adequately conserve,
19 protect, and interpret this heritage for future gen-
20 erations, while providing opportunities for education
21 and revitalization.

22 (b) PURPOSES.—The purposes of this Act are—

23 (1) to foster a close working relationship with
24 all levels of government, the private sector, and the
25 local communities in the Schuylkill River Valley of

1 southeastern Pennsylvania and enable the commu-
2 nities to conserve their heritage while continuing to
3 pursue economic opportunities; and

4 (2) to conserve, interpret, and develop the his-
5 torical, cultural, natural, and recreational resources
6 related to the industrial and cultural heritage of the
7 Schuylkill River Valley of southeastern Pennsyl-
8 vania.

9 **SEC. 3. DEFINITIONS.**

10 In this Act:

11 (1) COOPERATIVE AGREEMENT.—The term “co-
12 operative agreement” means the cooperative agree-
13 ment entered into under section 4(d).

14 (2) HERITAGE AREA.—The term “Heritage
15 Area” means the Schuylkill River Valley National
16 Heritage Area established by section 4.

17 (3) MANAGEMENT ENTITY.—The term “man-
18 agement entity” means the management entity for
19 the Heritage Area appointed under section 4(c).

20 (4) MANAGEMENT PLAN.—The term “manage-
21 ment plan” means the management plan for the
22 Heritage Area developed under section 5.

23 (5) SECRETARY.—The term “Secretary” means
24 the Secretary of the Interior.

1 (6) STATE.—The term “State” means the State
2 of Pennsylvania.

3 **SEC. 4. ESTABLISHMENT.**

4 (a) IN GENERAL.—For the purpose of preserving and
5 interpreting for the educational and inspirational benefit
6 of present and future generations certain land and struc-
7 tures with unique and significant historical and cultural
8 value associated with the early development of the Schuyl-
9 kill River Valley, there is established the Schuylkill River
10 Valley National Heritage Area.

11 (b) BOUNDARIES.—The Heritage Area shall be com-
12 prised of the Schuylkill River watershed within the coun-
13 ties of Schuylkill, Berks, Montgomery, Chester, and Phila-
14 delphia, Pennsylvania, as delineated by the Secretary.

15 (c) MANAGEMENT ENTITY.—The management entity
16 for the Heritage Area shall be the Schuylkill River Green-
17 way Association.

18 (d) COOPERATIVE AGREEMENT.—

19 (1) IN GENERAL.—To carry out this title, the
20 Secretary shall enter into a cooperative agreement
21 with the management entity.

22 (2) CONTENTS.—The cooperative agreement
23 shall include information relating to the objectives
24 and management of the Heritage Area, including—

1 (A) a description of the goals and objec-
2 tives of the Heritage Area, including a descrip-
3 tion of the approach to conservation and inter-
4 pretation of the Heritage Area;

5 (B) an identification and description of the
6 management entity that will administer the
7 Heritage Area; and

8 (C) a description of the role of the State.

9 **SEC. 5. MANAGEMENT PLAN.**

10 (a) IN GENERAL.—Not later than 3 years after the
11 date of enactment of this Act, the management entity shall
12 submit to the Secretary for approval a management plan
13 for the Heritage Area that presents comprehensive rec-
14 ommendations for the conservation, funding, management,
15 and development of the Heritage Area.

16 (b) REQUIREMENTS.—The management plan shall—

17 (1) take into consideration State, county, and
18 local plans;

19 (2) involve residents, public agencies, and pri-
20 vate organizations working in the Heritage Area;

21 (3) specify, as of the date of the plan, existing
22 and potential sources of funding to protect, manage,
23 and develop the Heritage Area; and

24 (4) include—

1 (A) actions to be undertaken by units of
2 government and private organizations to protect
3 the resources of the Heritage Area;

4 (B) an inventory of the resources con-
5 tained in the Heritage Area, including a list of
6 any property in the Heritage Area that is re-
7 lated to the themes of the Heritage Area and
8 that should be preserved, restored, managed,
9 developed, or maintained because of its natural,
10 cultural, historical, recreational, or scenic sig-
11 nificance;

12 (C) a recommendation of policies for re-
13 source management that considers and details
14 application of appropriate land and water man-
15 agement techniques, including the development
16 of intergovernmental cooperative agreements to
17 protect the historical, cultural, recreational, and
18 natural resources of the Heritage Area in a
19 manner consistent with supporting appropriate
20 and compatible economic viability;

21 (D) a program for implementation of the
22 management plan by the management entity;

23 (E) an analysis of ways in which local,
24 State, and Federal programs may best be co-

1 ordinated to promote the purposes of this Act;
2 and

3 (F) an interpretation plan for the Heritage
4 Area.

5 (c) DISQUALIFICATION FROM FUNDING.—If a man-
6 agement plan is not submitted to the Secretary on or be-
7 fore the date that is 3 years after the date of enactment
8 of this Act, the Heritage Area shall be ineligible to receive
9 Federal funding under this Act until the date on which
10 the Secretary receives the management plan.

11 (d) UPDATE OF PLAN.—In lieu of developing an
12 original management plan, the management entity may
13 update and submit to the Secretary the Schuylkill Herit-
14 age Corridor Management Action Plan that was approved
15 by the State in March, 1995, to meet the requirements
16 of this section.

17 **SEC. 6. AUTHORITIES AND DUTIES OF THE MANAGEMENT**
18 **ENTITY.**

19 (a) AUTHORITIES OF THE MANAGEMENT ENTITY.—
20 For purposes of preparing and implementing the manage-
21 ment plan, the management entity may—

22 (1) make loans and grants to, and enter into
23 cooperative agreements with, the State and political
24 subdivisions of the State, private organizations, or
25 any person; and

1 (2) hire and compensate staff.

2 (b) DUTIES OF THE MANAGEMENT ENTITY.—The
3 management entity shall—

4 (1) develop and submit the management plan
5 under section 5;

6 (2) give priority to implementing actions set
7 forth in the cooperative agreement and the manage-
8 ment plan, including taking steps to—

9 (A) assist units of government, regional
10 planning organizations, and nonprofit organiza-
11 tions in—

12 (i) preserving the Heritage Area;

13 (ii) establishing and maintaining in-
14 terpretive exhibits in the Heritage Area;

15 (iii) developing recreational resources
16 in the Heritage Area;

17 (iv) increasing public awareness of
18 and, appreciation for, the natural, histor-
19 ical, and architectural resources and sites
20 in the Heritage Area;

21 (v) restoring historic buildings relat-
22 ing to the themes of the Heritage Area;
23 and

24 (vi) ensuring that clear, consistent,
25 and environmentally appropriate signs