

**STATEMENT OF DR. STEPHANIE TOOTHMAN, ASSOCIATE DIRECTOR,
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SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON
PUBLIC LANDS AND ENVIRONMENTAL REGULATION OF THE HOUSE
COMMITTEE ON NATURAL RESOURCES, CONCERNING H.R. 5086, A BILL TO
AMEND THE NATIONAL TRAILS SYSTEM ACT TO DIRECT THE SECRETARY OF
THE INTERIOR TO CONDUCT A STUDY ON THE FEASIBILITY OF DESIGNATING
THE CHIEF STANDING BEAR NATIONAL HISTORIC TRAIL.**

July 29, 2014

Mr. Chairman and members of the subcommittee, thank you for the opportunity to appear before you today and present the Department's views on H.R. 5086, a bill to amend the National Trails System Act to direct the Secretary of the Interior to conduct a study on the feasibility of designating the Chief Standing Bear National Historic Trail, and for other purposes.

The Department supports H.R. 5086 with a technical amendment. However, we feel that priority should be given to the 24 previously authorized studies for potential units of the National Park System, potential new National Heritage Areas, and potential additions to the National Trails System and National Wild and Scenic Rivers System that have not yet been transmitted to Congress.

H.R. 5086 would amend Section 5(c) of the National Trails System Act by directing the Secretary to conduct a study of the Chief Standing Bear Trail for consideration for inclusion in the National Trails System. We estimate the cost of this study to be approximately \$500,000 based on costs of similar studies previously conducted by the National Park Service.

The proposed Chief Standing Bear National Historic Trail would extend approximately 550 miles from Niobrara, Nebraska, to Ponca City, Oklahoma, following the route taken by Chief Standing Bear and the Ponca people during Federal Indian removal, and their return route from Oklahoma back to Niobrara, Nebraska.

Chief Standing Bear was born around 1829 in the traditional Ponca homeland near the confluence of the Niobrara and Missouri rivers. About thirty years later, the tribe sold its homeland to the United States, retaining a 58,000-acre reservation between Ponca Creek and the Niobrara River.

When the federal government created the Great Sioux Reservation in 1868, the Ponca Reservation was included within its boundaries, depriving them of title to their remaining lands. In 1877, the federal government decided to remove the Poncas to Indian Territory. Standing Bear, a tribal leader, protested his tribe's eviction. Federal troops enforced the removal orders and the Poncas arrived in Indian Territory in the summer of 1878.

After leaving Nebraska, one-third of the tribe had died and nearly all of the survivors were sick or disabled. This included Chief Standing Bear's sixteen-year old son, who died in late December 1878. Wanting to honor his son's last wish to be buried in the land of his birth,

Standing Bear gathered a few members of his tribe and started north for the Ponca homeland in early January 1879, reaching the reservation of their relatives, the Omahas, about two months later. Standing Bear carried his son's bones with him to be buried in the familiar earth along the Niobrara River.

Because Indians were not allowed to leave their reservation without permission, Standing Bear and his followers were labeled a renegade band. The Army, on the order of the Secretary of the Interior, arrested them and took them to Fort Omaha, where they were to be held before being returned to Indian Territory. General George Crook, however, sympathized with Standing Bear and his followers and asked Thomas Henry Tibbles, an Omaha newspaperman, for help. Tibbles took up the cause and secured two prominent Omaha attorneys to represent Standing Bear.

The lawyers filed a federal court application for a writ of habeas corpus to test the legality of the detention, basing their case on the 14th Amendment to the Constitution. The government disputed the right of Standing Bear to obtain a writ of habeas corpus on the grounds that an Indian was not a "person" under the meaning of the law. In a landmark decision, U.S. District Court Judge Elmer S. Dundy ruled in favor of Standing Bear, reasoning that he and his band were indeed "persons" under the law, entitled to sever tribal connections, and were free to enjoy the rights of any other person in the land. The government appealed Dundy's decision, but the Supreme Court of the United States refused to hear the case, leaving Standing Bear and his followers free in the eyes of the law. Standing Bear died in 1908 and was buried alongside his ancestors in the Ponca homeland.

A study produced by the National Park Service would apply the criteria provided in the National Trails Act to determine inclusion in the National Trails System. We envision the Chief Standing Bear National Historic Trail study to focus on exploring recreational opportunities, defining historical aspects of the trail, and establishing methods for a working relationship with partners in order to identify facilities on adjacent lands that would contribute to the purposes of the trail.

Finally, the Department recommends a technical amendment to reference an official NPS map for the legislation.

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