

**STATEMENT OF
SUE MASICA, CHIEF OF STAFF, NATIONAL PARK SERVICE,
DEPARTMENT OF THE INTERIOR,
BEFORE THE SUBCOMMITTEE ON NATIONAL PARKS, FORESTS, AND
PUBLIC LANDS,
HOUSE COMMITTEE ON NATURAL RESOURCES,
CONCERNING
H.R. 554, THE PALEONTOLOGICAL RESOURCES PRESERVATION ACT.**

APRIL 17, 2007

Mr. Chairman, thank you for the opportunity to present the Department of the Interior's views on H.R. 554, the Paleontological Resources Preservation Act. The Department supports H.R. 554 and the tools it would provide to the Bureau of Land Management, the National Park Service, the U.S. Fish and Wildlife Service, the Bureau of Reclamation, and the U.S. Geological Survey to properly manage, protect, interpret, and care for paleontological resources on federal lands. The bill would balance the public's interest in protecting fossils by creating a permit system with the public's interest in collecting fossils by allowing for the casual collection of certain fossils from federal lands without a permit. We appreciate past efforts by the Committees and the sponsors of the bills to adopt amendments offered by the Department and look forward to continuing to work with you as this bill moves forward.

Fossils are non-renewable resources that provide information about the history of life on earth. Federal lands, the majority of which are in the drier western part of the United States, contain a rich array of plant, invertebrate and vertebrate fossils.

Paleontological digs and preserved sites on federal lands, paleontological exhibits in museums, and informal displays at local nature centers attract visitors from across the United States and abroad. Popular books, television shows, and movies that feature creatures of our past, such as dinosaurs, generate the attention of audiences of all ages. The information supporting many of these efforts is derived from the preservation and study of paleontological resources.

Some examples of the types of resources that would be protected under H.R. 554 include:

- The skull and lower jaw from an Oreodont, a sheep-sized, cud-chewing, plant-eating mammal from 37 million years ago (scientific name *Miniochoerus gracilis*). This was collected in 1932 from what is now Badlands National Park. (EXHIBIT 1)
- Two skeletons of herring-like fossil fish from 50 million years ago (scientific name *Diplomystus* spp.). These were collected in 1956 from the Green River Shale in what is now Fossil Butte National Monument. (EXHIBIT 2)
- A small ammonite (related to the modern chambered nautilus) from about 80 million years ago (scientific name *Scaphites* sp.). This was collected some time prior to 1876 in what is now Yellowstone National Park. (EXHIBIT 3)
- Theropod tracks found in Denali National Park and Preserve. Theropods were carnivorous dinosaurs that walked on their hind legs and probably

weighed about 200 pounds. Field researchers located dozens of additional dinosaur footprints in the area, including those of hadrosaurs (duck billed dinosaurs), bird tracks, and numerous plant fossils. All these organisms lived during the Late Cretaceous period (65 to 145 million years ago). (PHOTO 1)

- Five complete t-rex fossils, valued in the millions, found at the Charles M. Russell (CMR) National Wildlife Refuge in Montana. Although no official count exists, 465 fossil exposures and finds also have been reported at the refuge, including more than 10 Triceratops' fossils that have been verified by refuge staff. (PHOTO 2)

High commercial values of fossils have likely contributed to the number of fossil thefts and vandalism on federal lands. For example, 721 incidents of fossil theft and vandalism were reported in just 36 national parks between 1995 and 1998. At just one refuge, it is estimated that hundreds of pounds of small items such as shark teeth, turtle scutes and Triceratops horns are carried out each year. Fossils illegally removed from federal lands are sold here and abroad for amounts that, in some cases, have totaled hundreds of thousands of dollars. Even if the fossils are eventually recovered, which is rare, the contextual information critical for interpreting the fossils is permanently lost and the scientific value is significantly diminished.

Currently, the federal agencies primarily use their general authority to protect resources to manage paleontological resources on federal land. To address the

theft of such resources, federal agencies rely on general statutes that protect against theft of government property. These general statutes, however, do not adequately take into account the unique nature of paleontological resources, their scientific value, and the high commercial demand. Many federal fossil theft cases are treated as misdemeanors and the associated penalties do not reflect the actual value of the fossil. One way that Congress can address such challenges is to provide specific statutory protection for the items at issue. In 1979, Congress enacted the Archeological Resources Protection Act (ARPA) to provide specific protection for archeological resources. H.R. 554 recognizes the need to provide similar protections for fossils. Below are several examples of the relatively few cases in which looters of paleontological resources from federal lands were caught and convicted. While these cases ultimately identified the offenders and recovered the fossils, they also represent the limitations of existing federal protections.

- In 2005, an individual with foreign citizenship plead guilty to three counts of theft of government property for stealing mammoth ivory and bones from the BLM administered National Petroleum Reserve in Alaska. The defendant was sentenced to one year and one day imprisonment, three years supervised release, \$25,706 in restitution, \$2,604 criminal fine, and \$900 special assessment. Much of the ivory was believed to have been exported out of the country. Mammoth tusks in the commercial market can command anywhere from \$1,000 to \$20,000 per tusk depending on their condition. For example, four tusks similar in quality and condition to those in this case, were valued by an appraiser at \$68,000. (PHOTO 3)
- In 2001, a group of individuals confessed to excavating large pieces of fossils under cover of night on federal lands located on the Utah and Colorado border. Evidence could not be recovered in the case and the individuals could not be prosecuted under theft of government property statutes with only the confession. The scientific value of the site was largely destroyed. The defendants had previously been convicted under ARPA and

indicated that they switched to digging fossils because of the lack of specific statutory protection. (PHOTO 4)

- In 2002, a Pennsylvania resident also plead guilty to theft of an Allosaurus fossil that was obtained from federally administered land. The defendant sold the specimen to a Japanese buyer for \$400,000. The defendant was sentenced to one to fifteen years in prison and paid a fine of \$50,000. The case was prosecuted under more favorable Utah state law. (PHOTO 5)

H.R. 554 would provide paleontological resources with specific protection. The bill would ensure that valuable sites remain protected by providing the Secretary with the authority to withhold information on the nature and specific location of paleontological resources. The bill would prohibit the excavation, removal, or damage to paleontological resources on federal lands as well as the sale, purchase, exchange, transport, export, or receipt of paleontological resources. Criminal penalties for these acts would be set by classification, following fine and imprisonment penalties imposed under federal law. Civil penalties would provide for consideration of scientific value as well as the cost of response, restoration and repair of the resource and the site location. These and other provisions in the bill would provide agencies with additional tools needed to protect paleontological resources and to potentially deter the large scale commercial destruction and exploitation of fossils on federally administered lands.

H.R. 554 would codify recommendations in an interagency report submitted to Congress in May 2000, titled "Fossils on Federal and Indian Lands" (the Interagency Fossil Report). The report found that a majority of people who commented viewed

fossils on federal lands as part of America's heritage, recommended that vertebrate fossils continue to be protected as rare and within the ownership of the federal government, and supported the involvement of amateurs in the science and enjoyment of fossils. The report recommends the establishment of a framework for fossil management, analogous to ARPA.

Under the agencies' existing regulations and policies, vertebrate fossils located on Federal lands may only be collected with a permit for scientific and educational purposes. H.R. 554 would codify this collection policy and standardize the permitting requirements among the various agencies. It would ensure that these fossils are retained as public property and curated in suitable repositories for current and future generations of scientists and the public to study and enjoy.

H.R. 554 includes a provision that would authorize the Secretary to allow the casual collection, without a permit, of certain paleontological resources for non-commercial personal use. For example, under this bill, visitors to BLM lands who enjoy paleontology as a hobby could continue to collect and keep for their personal use a wide variety of common plant and invertebrate fossils. The casual collection of such fossils can be an important component of the public's enjoyment of some federal lands and is generally consistent with scientific and educational goals.

We have identified a few specific amendments we would like to offer at this time. First, we would like to provide clarification language on the confidentiality provisions in the bill. Second, we would like to offer some additional comments concerning Sections 7, 8, and 9, including clarification of the mental state standard, specification of a statute of limitations of the bill, the inclusion of civil judicial penalties and injunctive relief, as well as a multiple offense provision. We would like to work with the Committee, the Department of Agriculture, and the Department of Justice on these specific amendments as well as some additional technical and clarification amendments.

The specific protection of paleontological resources is long overdue. What we can learn about the history of life on earth through the examination of paleontological resources on federal lands is invaluable. As the prices of fossils rise, we will be under increasing pressure to both protect scientifically significant fossil resources and ensure their appropriate availability to the general public. H.R. 554 would provide a number of critical tools that are needed to adequately protect paleontological resources and effectively provide for their coordinated and comprehensive management.

Mr. Chairman, this concludes my statement. I would be pleased to answer any questions you or other members of the Committee may have.