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Vanessa L. Condra

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RAY CLARK, GEORGE C. LANDRITH, III, AND ROGER MARZULLA, *The American Heritage Rivers Initiative: A Magnificent Idea or the Great Land/Power Grab?* in BRIEFLY . . . PERSPECTIVES ON LEGISLATION, REGULATION, AND LITIGATION; National Legal Center for the Public Interest, Washington, D.C. (December 1998); Vol. II, No. 12; 52pp; ISBN 0-937299-77-4, softcover.

This publication presents a comprehensive overview of the American Heritage Rivers Initiative (AHRI). The first chapter objectively defines the AHRI and dedicates the remaining two chapters to arguments supporting and opposing the Initiative. Overall, the publication successfully provides an informative guidebook for new law that will impact the rivers of this nation and their communities.

George C. Landrith, III, vice president and general counsel of the National Legal Center for the Public Interest, authored Chapter One, entitled "What is the American Heritage Rivers Initiative?" Landrith explains the evolution of the AHRI from a proposal by President Clinton in February 1997 to enactment into law by Executive Order No. 13,061 in September 1997. The AHRI describes its objectives as "natural resource and environmental protection, economic revitalization, and historic and cultural preservation." The Executive Order created the American Heritage Rivers Interagency Committee to implement the Initiative. This Interagency Committee consists of several federal departments and agencies, and attempts to ensure that "their programs and actions do not interfere with the historical, cultural, or environmental integrity of riverfront areas and that the agencies coordinate their efforts to 'preserve, protect, and restore rivers and their associated resources.'" "

The Initiative faced both support and opposition since its creation. In response to the negative concerns, the proposal made several changes before the Executive Order issued the AHRI. Among these changes, the revised proposal recognized the Fifth Amendment and rights of private property owners, and allowed senators and representatives to exclude rivers or portions of rivers within their states or districts from nomination. Notwithstanding its uncertain beginning, the AHRI came into being and implementation began. On June 16, 1998, fourteen rivers out of 135 nominated were designated by the President to be American Heritage Rivers.

Ray Clark, Associate Director of the National Environmental Policy Act Oversight Council on Environmental Quality, wrote Chapter Two, entitled "American Heritage Rivers: A Community-Based Approach to Economic Development and Environmental Protection." The author describes the AHRI as a positive measure by emphasizing the need to preserve our nation's rivers and the role of the river community in the Initiative's implementation. He particularly emphasizes that the Initiative entails "no new regulatory requirements for individuals or state and local governments." Instead, "the goal of the American Heritage Rivers Initiative is to support communities, within existing laws and regulations, by providing them with better access to information, tools and resources,

and encouraging private funding of local efforts deserving of special recognition.” The author then discusses the five major elements of the Initiative: “participation is 100 percent voluntary, communities self-nominate, must have broad community support, federal agencies must make information widely available, and Members of Congress can veto nominations within their district.”

Finally, the author corrects several myths that have arisen about the AHRI. First, he insists that the Initiative is not a “land grab” and that private property rights are still protected. Secondly, he stresses that no new funds have been apportioned for the AHRI. Instead, “this Initiative proposes to assist these communities through better use of existing programs and resources and coordinating the delivery of those services in a manner designed by the community, or ‘bottom-up.’” Last, this community-based program has received a wide range of support and is needed to help preserve and restore our nation’s rivers.

Roger J. Marzulla, General Counsel for Defenders of Property Rights, wrote Chapter Three, entitled “AHRI: This Baby Bureaucratic Monster is Bad for Business, Undemocratic and Unamerican.” The author views the AHRI as “the greatest land grab since the founding of this nation.” He firmly believes that it “is just one more scheme of the Clinton Administration for government to gain greater control over our lands, and over the freedom of businesses, farmers, and ranchers to pursue their professional endeavors unimpeded.” The author argues this viewpoint and supports his opinion by discussing approximately seventeen negative constraints he has found the AHRI to pose for the American taxpayer and landowner. He stresses that the AHRI is unconstitutional and a threat to property rights, stemming from its creation by executive order and not congressional approval, its vagueness concerning the extent and nature of local government and community involvement, and its apparent disregard for certain constitutional provisions affecting property rights, such as Article IV of the Constitution and the Fifth Amendment. The author suggests that contrary to proponents’ claims that the AHRI has no agenda, budget, authority, or employees, the AHRI in fact creates another layer of unnecessary bureaucracy, spending, and federal intrusion by establishing the Interagency Committee, the Advisory Committee, and appointing River Navigators, federally appointed bureaucrats whose job involves guiding the river community through the relevant federal programs. Finally, the author argues that the AHRI duplicates the Wild and Scenic Rivers Act and violates the Federal Land Management and Policy Act.

This publication offers an insightful look into the American Heritage Rivers Initiative. It serves as a useful guidebook for this relatively new law by providing an objective definition of the Initiative and viewpoints, both supporting and opposing its implementation.

Vanessa L. Condra