CRM

CULTURAL RESOURCE MANAGEMENT
Information for Parks, Federal Agencies, Indian Tribes, States, Local Governments, and the Private Sector

VOLUME 20 NO. 5 1997

Altogether Fitting and Proper
Saving America's Battlefields

U.S. DEPARTMENT OF THE INTERIOR
National Park Service
Cultural Resources

PUBLISHED BY THE NATIONAL PARK SERVICE

To promote and maintain high standards for preserving and managing cultural resources

ASSOCIATE DIRECTOR
CULTURAL RESOURCE STEWARDSHIP AND PARTNERSHIPS
Katherine H. Stevenson

EDITOR
Ronald M. Greenberg

PRODUCTION MANAGER
Karlota M. Koester

GUEST EDITOR
Tanya M. Gossett

ADVISORS
David Andrews
Editor, NPS
Joan Bacharach
Museum Registrar, NPS
Randall J. Biallas
Historical Architect, NPS
Susan Buggey
Director, Historical Services Branch
Parks Canada
John A. Burns
Architect, NPS
Harry A. Butowsky
Historian, NPS
Pratt Cassity
Executive Director,
National Alliance of Preservation Commissions
Muriel Crespi
Cultural Anthropologist, NPS
Mark R. Edwards
Director, Historic Preservation Division,
State Historic Preservation Officer, Georgia
Roger E. Kelly
Archeologist, NPS
Antoinette J. Lee
Historian, NPS
John Poppeliers
International Liaison Officer
for Cultural Resources, NPS

CONTRIBUTING EDITORS
Stephen A. Morris
Outdoor Recreation Planner, NPS
Kay D. Weeks
Technical Writer-Editor, NPS

CONSULTANTS
Wm. H. Freeman
Design, Imaging, Production–Freeman Publishing Services
Janice C. McCoy
Editing–Editorial Notes

***CRM* CELEBRATING 20 YEARS OF PUBLICATION**

Contents

VOLUME 20 **NO. 5** **1997**
ISSN 1068-4999

Altogether Fitting and Proper
Saving America's Battlefields

Foreword 3
Edwin C. Bearss

Working Together 4
Tanya M. Gossett

Catalyst for Battlefield Preservation
The Civil War Sites Advisory Commission Study 7
Jan Townsend

Planning Partnerships Work
The Chattanooga Area Civil War Sites Assessment 11
Patrick Reed, James Ogden III, and Chris Abbett

Takings Law
Fact and Fiction 15
Catharine M. Gilliam

An Uphill Battle for Recognition 19
Tersh Boasberg

Treatments for Historic Battlefield Landscapes 21
Charles A. Birnbaum

Preserving Civil War Sites
Maryland's Voluntary Easement Strategy 23
H. Grant Dehart

Lee vs. Grant
Battlefields and Tourism in Virginia 28
David Ruth and Mike Andrus

Better Planning Through GIS
Battlefield Management Efforts at CAST 32
R. Brian Culpepper

Mapping Battlefields 34
David W. Lowe

Preserving Kentucky's Civil War Legacy 35
Joseph E. Brent

A Small Battlefield with Many Friends 39
Phyllis Baxter

Revolutionary Preservation 42
Nancy V. Webster

National Historic Landmark Battlefields 46
Susan Escherich

An electronic version of this issue of *CRM* can be accessed through the *CRM* homepage at <http://www.cr.nps.gov/crm>.

Cover photo, see story page 35.

Statements of fact and views are the responsibility of the authors and do not necessarily reflect an opinion or endorsement on the part of the editors, the *CRM* advisors and consultants, or the National Park Service. Send articles, news items, and correspondence to the Editor, *CRM* (2250), U.S. Department of the Interior, National Park Service, Cultural Resources, P.O. Box 37127, Washington, DC 20013-7127; (202-343-3395, Fax 202-343-5260, Internet: ron_greenberg@nps.gov).

Foreword

The most significant and positive result from the acrimonious eighth battle of Manassas, which concluded in 1988 with the addition of 560 acres of land to Manassas National Battlefield Park at the cost of nearly $130 million, was heightened national interest in preservation and interpretation of our country's historic battlefields, particularly those associated with the Civil War. This led to two significant actions by the United States government.

In late November 1990, President George Bush signed into law legislation forwarded by the 101st Congress establishing the Civil War Sites Advisory Commission (CWSAC). The Commission was to identify the nation's historically significant Civil War sites; determine their relative importance; determine their condition; assess threats to their integrity; and recommend alternatives for their preservation and interpretation. That same year, Secretary of the Interior Manuel Lujan, Jr. created the American Battlefield Protection Program (ABPP), which was to be administered by the National Park Service. The ABPP's mission was to provide leadership on the federal level in building private-public partnerships that resulted in battlefield preservation without involving federal land purchases.

In 1993, the CWSAC submitted its report to Congress and disbanded. Since that time, the American Battlefield Protection Program has administered and monitored the CWSAC's recommendations. More importantly, the ABPP has continued to provide leadership and coordination in building partnerships by bringing together diverse constituencies throughout the nation in the interest of battlefield preservation and interpretation. It has also been a catalyst for the burgeoning interest in heritage tourism and traveling Americans' long romance with the Civil War, its significance, personae, and personalities.

The ABPP is not a "big buck" government program. With a small sum of federal seed money—never more than $750,000 in a fiscal year—it has succeeded in generating projects valued at millions of dollars that have given impetus to the protection, preservation, and interpretation of battlefields in 20 states and the District of Columbia.

As a federal employee for nearly half a century, first in the Marine Corps and then in the National Park Service, I have seen few, if any, federal programs that are as cost effective and constructive as the American Battlefield Protection Program. The following essays, I trust, will inspire the reader to share my enthusiasm for the program.

—Edwin C. Bearss
Historian Emeritus
National Park Service

Tanya M. Gossett

Working Together

There has been a remarkable national effort in the 1990s to protect, preserve, and interpret United States battlefields, particularly Civil War battlefields. The federal government, numerous state and county governments, and countless private citizens have helped identify and save some of this nation's most important historic landscapes. This special issue of *CRM* is dedicated to the historians, planners, archeologists, elected and appointed officials, private property owners, and concerned citizens who have worked tirelessly to transform the status of an entire type of cultural resource from the obscure and threatened to the prominent and protected.

The National Park Service's American Battlefield Protection Program (ABPP) is the principal federal partner in this national initiative. The ABPP provides guidance, support, and seed money for battlefield preservation, planning, interpretation, and education. As Jan Townsend discusses in her article, the ABPP was born of the controversial and costly battlefield preservation solution achieved at Manassas in the late 1980s. The ABPP's mission is to help avert last-minute, reactive preservation and to promote community-based solutions.

Planning and stewardship are two key objectives. The ABPP encourages public and private partners to identify and evaluate battlefields as early as possible so that information about them can be incorporated into land use, site management, economic development, and tourism plans. This effort helps avert crises that can divide communities and lead to the destruction of important historic sites.

Ever-shrinking budgets for federal land management agencies necessitate increasing commitment to battlefield preservation at the state and local levels. The ABPP fosters non-federal stewardship of historic battlefields by working with private landowners, developers, battlefield friends groups,

National Battlefield Organizations

These national organizations support battlefield preservation and work cooperatively with the American Battlefield Protection Program. There also are numerous state and local battlefield preservation organizations that would welcome your support.

Association for the Preservation of Civil War Sites
11 Public Square, Suite 200
Hagerstown, MD 21740
(301) 665-1400

The Civil War Trust
2101 Wilson Boulevard, Suite 1120
Arlington, VA 22201
(703) 516-4944

The Conservation Fund
Civil War Battlefield Campaign
1800 North Kent Street
Arlington, VA 22209
(703) 525-6300

National Parks and Conservation Association
1776 Massachusetts Avenue, NW, Suite 200
Washington, DC 20036
(202) 223-6722

National Trust for Historic Preservation
1785 Massachusetts Avenue, NW
Washington, DC 20036
(202) 673-4000

Natural Lands Trust, Inc.
Hidacy Farms
1031 Palmers Mill Road
Media, PA 19063
(610) 353-5587

For information about local battlefield preservation organizations mentioned in this issue of *CRM*, please contact the ABPP at the National Park Service, Heritage Preservation Services, P.O. Box 37127, Suite 250, Washington, DC 20013, (202) 343-9505, or <http://www2.cr.nps.gov/abpp/>.

state and local officials, and others to create opportunities for preservation. The program encourages its partners to champion battlefields and associated historic sites as valuable community assets, such as recreational open space, outdoor classrooms, and tourist destinations.

As large cultural landscapes, surviving battlefields associated with the French and Indian War, the American Revolution, the War of 1812, the Mexican War, the Civil War, and the Indian Wars often face urban and suburban encroachment or, in remote locations, rural neglect. As the following articles describe, numerous strategies exist for protecting and enhancing these vanishing landscapes and their component resources. Federal regulations and case law, heritage tourism corridors, local planning techniques, new archeological and computer technologies, fund raising and grantsmanship, interpretive exhibits and educational programs, site development design guidelines, fee simple acquisition of land, scenic and conservation easements, designation of significance by federal, state, and local governments, and public consensus-building are all means to preservation. As the authors describe, the real challenge lies in the ability of organizations to combine, reinvent, and apply these techniques to the individual circumstances at our nation's historic battlefields.

Battlefields, like most expansive landscapes, are often fully or partially in private ownership. Battlefield preservationists have learned, sometimes the hard way, that building consensus among landowners, battlefield neighbors, developers, and local officials is essential for a successful project and continued good relations. Several of the following articles touch upon sensitive subjects—such as property rights and takings—which are, for good or for bad, part of the recent story of battlefield preservation.

Tanya M. Gossett is a historic preservation planner with the American Battlefield Protection Program.
The author sincerely thanks H. Bryan Mitchell, Acting Chief, ABPP, and Virginia Carter, Christopher M. Shaheen, and J. Hampton Tucker, Preservation Planners, ABPP, for their support and assistance in preparing this special issue of CRM. *Additional appreciation goes to readers David W. Lowe, Antoinette J. Lee, and John Renaud of Heritage Preservation Services, National Park Service. Special thanks also to Kathy Wandersee of the Delaware County Planning Department in Media, Pennsylvania, for providing important historical material on short notice. Photographs, if not otherwise noted, are by Eric Long Photography, Gaithersburg, Maryland.*

ISTEA Enhancement Funds

In 1991, Congress passed the Intermodel Surface Transportation Efficiency Act (ISTEA), which authorized federal funds over six years for highways, highway safety, and mass transportation. Included in ISTEA's Surface Transportation Program was the requirement for states to set aside 10% of these funds for transportation enhancement projects. Historic preservation and conservation activities were identified in the Act as eligible for enhancement funding.

In the last 132 years, no other program has provided as much revenue for Civil War preservation activities. ISTEA grants from 12 states and accompanying matching funds have generated nearly $44 million for Civil War preservation projects. Federal highway enhancement funds provided nearly $24 million matched by $20 million from other sources.

In addition to fee and easement purchases at threatened battlefields, ISTEA-funded projects have included such diverse activities as monument restoration on the Nashville battlefield, archeological research at a Confederate munitions foundry in Alabama, and landscape work for the African-American Civil War Memorial in Washington, DC.

An inventory of Civil War-related projects that have been financed through the ISTEA program is on page 6. It documents how states—especially Maryland, Kentucky, Virginia, and Alabama—have effectively used ISTEA enhancement funds to their fullest potential. In almost every project, the formula for funding was 80% federal, 20% public-private matching.

ISTEA legislation expires in 1997. For information about the possible reauthorization of ISTEA, contact The Civil War Trust, 2101 Wilson Boulevard, Suite 1120, Arlington, VA 22201, (800) CWTRUST.

ISTEA Enhancement Funds for Civil War Projects

ALABAMA

1993 Archeological Park at Tannehill State Park ($14,400)
1993 Pave Bike Trail Tannehill State Park ($40,776)
1993 Reconstruct Charging Bridge Tannehill State Park ($58,165)
1993 Archeological Research at Tannehill State Park ($14,400)
1993 Brierfield Rolling Mill at Tannehill State Park ($21,600)
1993 Ashby Post Office at Tannehill State Park ($33,600)
1994 Preserve Joe Wheeler Home ($150,000)
1995 Restore First White House ($181,929)
1995 Acquire 32 acres at Fort Morgan ($300,000)

ARKANSAS

1994 Acquire 3.96 acres Prairie Grove ($75,000)
1995 Acquire 61.96 acres at Prairie Grove ($505,000)

WASHINGTON, DC

1996 Landscape African-American Civil War Monument ($2,293,937)

KANSAS

1996 Construction at Mine Creek Historic Site ($323,000)

KENTUCKY

1991 Acquire Land at Perryville ($3,125,000)
1994 Access Improvement at Fort Duffield ($72,000)
1995 Acquire Land and Easements at Mill Springs ($370,000)
1995 Acquire 4.57 acres at Perryville ($80,000)
1995 Acquire up to 596 acres at Perryville ($1,500,000)
1995 Develop Kentucky Civil War Trail ($36,000)
1996 Acquire Land at Wildcat Mountain ($174,000)
1996 Acquire Land and Develop Interpretation at Munfordville ($498,000)

MARYLAND

1992 Land Protection and Easements at Antietam ($7,400,000)
1992 Acquire 25 acres at South Mountain ($4,200,000)
1992 Land Protection at Monocacy ($1,500,000)
1993 Acquire 5 acres at Grove Farm at Antietam ($75,000)
1994 Acquire Land at Monocacy ($3,400,000)

MISSISSIPPI

1994 Acquire Land at Corinth ($2,300,000)

NEW MEXICO

1993 Road Study at Glorieta Pass ($350,000)

OKLAHOMA

1995 Land Protection at Honey Springs (Information Not Available)

TENNESSEE

1995 Restore Rippavilla ($600,000)
1996 Battle of Nashville Monument Restoration ($187,500)

VIRGINIA

1992 Lee's Retreat Scenic Highway Project ($225,190)
1994 Lee's Retreat Highway Pull-offs ($390,100)
1994 Site Interpretation at Fredericksburg and Petersburg ($510,000)
1994 Scenic Easement at Sayler's Creek ($200,500)
1994 Battlefield Tour, Fredericksburg ($2,762,788)
1994 Interpretation at McDowell ($40,000)
1994 Interpretation at White Oak ($21,475)
1995 Pedestrian Wayside Exhibits in Hopewell ($72,000)
1995 Acquire Grim Farm at Kernstown ($1,308,000)
1995 Stabilize Foundation of Mt. Zion Church ($230,400)
1995 City of Salem-Hanging Rock Battlefield Trail ($848,783)
1995 Battlefield Tour, Winchester ($1,775,288)
1995 Improvements at Staunton River Bridge ($1,750,000)
1995 Virginia Civil War Trails ($580,000)
1996 Danville Train Station, Phase 3 ($1,300,000)
1996 Virginia Civil War Trails, Phase 3 ($550,000)
1996 Highway Marker Replacement Program ($250,000)

WEST VIRGINIA

1993 Acquire 332 acres at Rich Mountain ($259,000)
1995 Landscape Hampshire County Battle Trenches ($394,000)

Total Projects: 50
Total: $43,797,831

Statistics compiled by The Civil War Trust, March 1997.

Jan Townsend

Catalyst for Battlefield Preservation
The Civil War Sites Advisory Commission Study

Responding to events concerning the Manassas National Battlefield Park in the late 1980s, then Secretary of the Interior Manuel Lujan, Jr., with the support of the U.S. Congress, established the American Battlefield Protection Program (ABPP) as part of the National Park Service in 1990.

In 1988, Hazel/Peterson Companies had submitted plans to Prince William County, Virginia, seeking approval to build a regional mall on 542 acres of land called the Williams Center Tract, which was next to the national park. Although the company's approved rezoning application showed residential development with a very limited retail component, Prince William County endorsed the regional mall plan. Many citizens, including members of the Save the Battlefield Coalition, were outraged because development of the Williams Center Tract would destroy lands associated with the 1862 Civil War battle known as Second Manassas or Second Bull Run. Opponents of the planned mall took their case to the American public and the U.S. Congress. Congress held hearings as Hazel/Peterson Companies set about developing the property. On November 10, 1988, President Ronald Reagan signed into law the act taking the land.

The United States government took immediate ownership of the land, and development of the mall ceased. Congress, as required by the Fifth Amendment of the Constitution, monetarily compensated the developer and its partners for already-incurred or anticipated future revenue losses. To date, U.S. taxpayers have spent nearly $130 million to purchase the Williams Center Tract, which is now part of the Manassas National Battlefield Park. Although the federal government was able to protect these important battlefield lands for the American public, most preservationists, Civil War historians, and members of Congress quickly acknowledged that, as a preservation strategy, last-minute federal acquisition is often too costly and divisive. As a result, they began looking for alternative strategies to protect America's hallowed ground.

Secretary of the Interior Manuel Lujan, Jr. speaking about battlefield preservation in Kansas City, Missouri, in October 1991. Photo courtesy CWSAC.

The ABPP is one of these strategies. Secretary of the Interior Lujan charged the program with promoting battlefield preservation through partnerships, early planning, education, and interpretation. Dr. Marilyn Nickels, the ABPP's first chief, focused on preserving 25 "At Risk" Civil War battlefields designated by the Secretary.

Legislation

As the ABPP came into being, Senator Dale L. Bumpers of Arkansas and Congressman James R. Olin of Virginia proposed an act establishing a commission to conduct a comprehensive study of the nation's Civil War sites. Other senators and representatives joined them, and Secretary Lujan endorsed the study. Public Law 101-628, dated November 28, 1990, directed the Secretary to establish a Civil War Sites Advisory Commission (CWSAC) to conduct the study.[1] The law also authorized the Secretary of the Interior to conduct a separate study of Virginia's Shenandoah Valley Civil War sites, which was completed in 1992.[2] Through the Secretary of the Interior, the ABPP assumed responsibility for the Commission and Shenandoah Valley studies.

The Commission

The Commission held its first meeting in Washington, DC, on July 17, 1991.[3] As the Commission drafted its charter and work plan, the National Park Service, in December 1991, decided to separate the Commission study from the ABPP so that the study could move on a fast-track. The Commission intended to complete the study within the two years stipulated in the law. Jan Townsend became the Project Manager for the study.[4] Dr. Marilyn Nickels and a small staff[5] continued the ABPP's primary mission of working with its partners to preserve the 25 Civil War battlefields targeted by the Secretary.

Study Methods

The Civil War Sites Study Act of 1990 specifically directed the Commission to:

- identify this nation's significant Civil War sites;
- establish the relative significance of these sites;
- determine their condition;
- assess the threats to that condition; and
- identify preservation alternatives that federal, state, and local governments and public and private organizations could use.

Uncounted numbers of sites are associated with the military, political, technological, and social aspects of the Civil War. Historians have documented approximately 10,500 Civil War military events alone. Given the time and funding constraints of the study and the circumstances that led to it, the Commission decided to focus its attention on principal military events and the battlefield lands associated with those events. The authoritative *War of the Rebellion: A Compilation of the Official Records of the Union and Confederate Armies* served as the primary reference source. Civil War historians and State Historic Preservation Officers also helped identify principal military events. The Commission's final inventory consisted of 384 events in 26 states and included landscapes tied to these events.

Field investigators researched and mapped the 384 battle sites. They also recorded descriptive data about each site, assessed its overall integrity, and identified factors that would likely be threats to its long-term preservation. The field studies were cooperative efforts. Personnel in the National Park Service's Southeast, Southwest, Midwest, and National Capital regional offices and the Washington office coordinated the field studies. These personnel and more than 50 historians and archeologists based at national parks and in state historic preservation offices conducted most of the field investigations. At least 15 volunteers, many of whom were especially knowledgeable about local Civil War sites, also helped with the field investigations. To ensure consistency and streamlined site documentation, field investigators used documentation procedures and forms developed by Commission staff.

The Commission held 16 public meetings between July 1991 and July 1993 to solicit public comment on the subject of battlefield preservation. Meetings were held in different locations across the country, from Baton Rouge, Louisiana, to Gettysburg, Pennsylvania. More than 150 citizens including governors, State Historic Preservation Officers, park superintendents, academics, Civil War enthusiasts, property rights activists, battlefield landowners, and many others addressed the Commission. In conjunction with the public meetings, Commission members were able to visit more than 50 battle sites in person.

The Commission developed a ratings system to rank the military importance of the Civil War events (e.g., raid, skirmish, battle, etc.) associated with the 384 sites. The military importance rating (A, B, C, or D) was based on the importance of each event to the outcome of the war and the campaign. Using data provided by the field investigators, the Commission then assigned each site a value based on its condition (Good, Fair, Poor, or Lost) and the level of anticipated threats to that integrity (High, Moderate, or Low). In addition, the Commission assessed each site for its interpretive potential vis-a-vis a list of interpretive themes.

Finally, the Commission ranked the battlefields in terms of the need for preservation action. After some debate, the Commission concluded that three factors—military importance, condition, and threats—should be taken into consideration. Battlefields having a military importance rating of A or B, Good or Fair integrity, and High or Moderate threats became Priority I battlefields. By definition, these battlefields were in critical need of coordinated preservation action by the Year 2000. (See page 9.)

To address the issue of preservation alternatives, the Commission contracted with Elizabeth B. Waters, an expert in the fields of land use and community planning, economic development, and environmental protection. Waters focused on compiling open-space and land preservation techniques that could be used by federal, state, and local governments and federal and private entities. She directed four preservation workshops on behalf of the Commission that drew upon the expertise of more than 40 nationally recognized experts in the fields of land use policy, land use law, tax laws, open space preservation, local land use planning, historic preservation, negotiation and conflict resolution, heritage education, and farmland preservation. Waters' final report, "Civil War Heritage Preservation: A Study of Alternatives," is still in demand and applicable to the preservation of large historic, archeological, and open-space landscapes.[6]

Civil War Sites Advisory Commission Report

The Civil War Sites Advisory Commission delivered its report to Congress and the Secretary of the Interior on July 12, 1993.[7] That day, during a ceremony held in front of the Lincoln Memorial, the Commission presented its study results and recommendations to the American public. The ceremony received national press and television media coverage. In September 1993, Commission chair Holly Robinson and other members testified before the U.S. Senate Public Lands, National Parks, and Forests Subcommittee on the study's findings and recommendations.

Civil War Sites Advisory Commission's Priority I Battlefields

Alabama
Mobile Bay (includes Forts Morgan and Gaines)

Arkansas
Prairie Grove

Georgia
Allatoona
Chickamauga
Kennesaw Mountain
Ringgold Gap

Kentucky
Mill Springs
Perryville

Louisiana
Port Hudson

Maryland
Antietam
Monocacy
South Mountain

Mississippi
Brices Cross Roads
Chickasaw Bayou
Corinth
Port Gibson
Raymond
Vicksburg

Missouri
Fort Davidson
Newtonia

New Mexico
Glorieta Pass

North Carolina
Bentonville

Oklahoma
Honey Springs

Pennsylvania
Gettysburg

South Carolina
Secessionville

Tennessee
Chattanooga
Fort Donelson
Spring Hill

Virginia
Boydton Plank Road
Brandy Station
Bristoe Station
Cedar Creek
Chaffin's Farm/New Market Heights
Chancellorsville
Cold Harbor
First Kernstown
Fisher's Hill
Gaines' Mill
Glendale
Malvern Hill
Mine Run
North Anna
Petersburg
Second Deep Bottom
Second Manassas
Spotsylvania Court House
White Oak Road
Wilderness

West Virginia
Harpers Ferry
Rich Mountain

The Commission's brief report eloquently explains why we should save Civil War sites; presents a snapshot of the nation's principal Civil War battlefields in terms of historical military importance, location, size, ownership, conditions, and threats; and discusses how battlefields are protected currently, including laws and public programs, park status, historic designation, interpretation, and public and private partnerships. The report also outlines how directed government leadership can better protect battlefields by focusing on preservation priorities, encouraging private sector preservation, helping local and state governments to preserve and to promote battlefields, giving private landowners preservation incentives and tools, and developing educational and heritage tourism programs. In addition, the Commission recommended steps that Congress and the Secretary of the Interior could take immediately. These steps included:

- adopting a national policy to protect principal battlefields and related sites through cooperative efforts of federal, state, and local governments and private groups and individuals;
- establishing an Emergency Civil War Battlefield Land Acquisition Program that would be a matching grant program funded for seven years at $10 million per year;
- creating a Civil War Battlefield Stewardship Pilot Program that would permit the federal government to enter into long-term (seven years) contractual agreements with private property owners to restore or maintain historic settings, provide interpretive access, and other preservation amenities (the Commission recommended funding the stewardship program at $2.5 million per year);
- authorizing federal institutions to transfer important battlefield lands under their control to appropriate federal, state, or local government agencies or non-profit organizations;
- appropriating up to $500,000 for a study of Civil War history themes that the National Park Service does not currently, but should, interpret;
- establishing an expedited Congressional review process for considering the expansion of currently authorized national park unit boundaries when immediate action is required and when the lands in question are being donated, are historically important, and are adjacent to the park boundaries;
- enacting specific revisions to the United States tax code to provide incentives and remove disincentives for private landowners to preserve significant battlefields; and
- authorizing the biennial reconstitution of the Commission for a brief period to review the progress made in battlefield preservation and report its findings to the Congress and the Secretary of the Interior.

On July 12, 1993, the ABPP adopted the Commission's Priority I battlefields as its own, expanding its priority list from 25 to 50 battlefields. The ABPP also adopted the Commission's findings and partnership recommendations. Pursuant to the legislation that created it, the Civil War Sites Advisory Commission disbanded on October 10, 1993, three months after the transmittal of its report. The Commission's former staff returned to their home in the ABPP.

With its many partners, the ABPP has helped enhance battlefield preservation at more than 90% of the Priority I battlefields.[8] Through cooperative agreements and grants, the ABPP has worked with more than 80 partners on 167 preservation projects at nearly 70 battlefields. The ABPP's promotion of preservation at the initial 25 battlefields and the Commission's public meetings and site visits led directly to the formation of many battlefield preservation organizations with whom the ABPP now works. The ABPP is currently considering how to re-evaluate the current preservation status of the original 384 Civil War sites in order to "graduate" many of the now-protected battlefields and raise others to Priority I status. Many pristine sites considered "safe" in 1993 are now threatened. For example, the Big Black River Bridge battlefield in Mississippi is now threatened by proposals to build gambling casinos in the area.

Although Congress appropriated funds for the ABPP beginning in 1990, it did not authorize the program. This past fall, Congress reconfirmed its commitment to battlefield preservation by authorizing the ABPP. The law states that:

> The ABPP shall encourage, support, assist, recognize, and work in partnership with citizens, Federal, State, local, and tribal governments, other public entities, educational institutions, and private nonprofit organizations in identifying, researching, evaluating, interpreting, and protecting historic battlefields and associated sites on a National, State, and local level.[9]

In 1996, the ABPP expanded the scope of its programs. In addition to Civil War sites, the program has begun working with partners at battlefields associated with the French and Indian War, the American Revolution, the War of 1812, the Mexican War, and the Indian Wars. In early 1997, the Director of the National Park Service, on behalf of the Secretary of the Interior, tapped the ABPP to coordinate and administer the Revolutionary War and War of 1812 Historic Preservation Study. This study, authorized by Congress and the President in November 1996,[10] likely will be conducted as was the Civil War Sites Advisory Commission study. It is hoped that the new study will generate as much cooperative preservation action at Revolutionary War and War of 1812 battlefields as its predecessor did for Civil War battlefields.

Notes

1 P.L. 101-628 authorized 13 Commission members. The number was raised to 15 in a later law, P.L. 101-166.

2 David W. Lowe, *Study of Civil War Sites in the Shenandoah Valley of Virginia*. Prepared pursuant to Public Law 101-628 (Washington, DC: U.S. Department of the Interior, NPS 1992).

3 In 1991, Commission members included historian Mary Frances Berry, documentary film maker Ken Burns, historian William J. Cooper, Jr., state legislator Frances "Peg" Lamont, businessman J. Roderick Heller III, U.S. Congressman Robert J. Mrazek, historian James M. McPherson, farm lobbyist Hyde H. Murray, and educator Holly A. Robinson. Historian Edwin C. Bearss represented the Director of the National Park Service. The members elected John Rodgers, Chair of the Advisory Council on Historic Preservation, to serve as chair. Shortly after that, Rodgers accepted another political appointment and left the Advisory Council. The members then elected Holly Robinson to be the Commission's chair. Robert D. Bush joined the Commission representing the Advisory Council. Howard Coffin, a free lance writer, and U.S. Congressman Charles H. Taylor joined the Commission in early 1992. Lawrence E. Aten of the National Park Service served as the Commission's Executive Director. By February 1992, the Commission's 14 members were in place, with the House of Representatives choosing not to appoint the fifteenth member.

4 Other Commission staff included former ABPP staff members Dale Floyd and David W. Lowe, and National Conference of State Historic Preservation Officers (NCSHPO) contractors Kathleen Madigan, Denice Dressel, and Booker T. Wilson III.

5 Maureen Foster and two NCSHPO contractors.

6 Elizabeth B. Waters, "Civil War Heritage Preservation: A Study of Alternatives." Prepared for the Civil War Sites Advisory Commission (Washington, DC: U.S. Department of the Interior, National Park Service, 1992).

7 Civil War Sites Advisory Commission, *Civil War Sites Advisory Commission Report on the Nation's Civil War Battlefields*. Prepared for the Committee on Energy and Natural Resources, United States Senate, the Committee on Natural Resources, United States House of Representatives, and the Secretary of the Interior (Washington, DC: U.S. Department of the Interior, National Park Service, 1993).

8 As of March 1997, preservation action has occurred at all but two of the 50 sites.

9 P.L. 104-333, § 604(b).

10 P.L. 104-333, § 603.

Jan Townsend served as the CWSAC's Project Manager from 1992-93 and then Chief of the American Battlefield Protection Program from 1995 to 1997. She is currently Cultural Resources Program Lead for the Eastern States Office of the Bureau of Land Management.

Patrick Reed, James Ogden III, and Chris Abbett

Planning Partnerships Work
The Chattanooga Area Civil War Sites Assessment

The preservation of our nation's special places can no longer be solely the responsibility of federal, state, or local agencies or even private, non-profit conservation organizations and land trusts. To truly preserve our historic, natural, and recreational heritage, existing partnerships must be strengthened and new ones initiated. Partnerships can serve not only for land acquisition, but also for preservation planning and management of cultural resources.

True partnerships must incorporate the ideas and input of both public and private organizations and individuals. Federal, state, and local agencies, community organizations, businesses, and private citizens must all have a role. Partnerships need to be as inclusive and creative as possible to succeed, and they need to incorporate the strengths that each partner brings to the effort. These concepts of partnership were central to the success of the Chattanooga Area Civil War Sites Assessment.

In 1993, the Congressional Civil War Sites Advisory Commission recognized the battlefields associated with the Battle of Chickamauga, Georgia, and the Battles for Chattanooga, Tennessee, as among the most threatened Civil War sites in the nation. These battles were part of the campaign for control of the Chattanooga region, the "Gateway to the Deep South," and were defining events in the outcome of the American Civil War and the history of our nation.

Lookout Mountain reminds visitors of the historic Civil War events that took place within its shadow. With metropolitan Chattanooga below, the view relates the need for cooperative preservation and regional planning efforts. Photo courtesy NPS.

However, the loss of regional open space and agricultural lands to continued urban and suburban growth and development in the Chattanooga metropolitan area threatens these resources. One county next to the Chickamauga battlefield has grown in population by 72% in the past 25 years. This growth has resulted in the loss or degradation of many significant sites and threatens all the remaining resources. These resources, however, are a unique component of what makes the Chattanooga region special; they add immeasurably to the local quality of life and fuel a multi-million dollar heritage tourism industry. The Chickamauga and Chattanooga National Military Park (Park) alone attracts more than one million visitors annually. The protection of these significant historic resources is not only the right thing to do, but it is also good business.

The Assessment

These factors led the Park to initiate discussions with state and local planners and historians about how best to preserve and interpret Civil War resources in the Chattanooga area. These discussions spawned the Chattanooga Area Civil War Sites Assessment (Assessment) in 1994. The Assessment would evaluate related Civil War resources immediately adjacent to the Park and throughout the Chattanooga region and stimulate actions to better preserve and interpret some of the area's most important Civil War sites.

The Chattanooga Area Civil War Sites Assessment was patterned after the Fredericksburg and Spotsylvania National Military Park (FRSP) Related Lands Study conducted in the early-1990s. The Chattanooga Assessment used many of the same evaluation criteria and processes as had been used at FRSP, but it also built on insights made during that study. The FRSP Related Lands Study was conducted largely by National Park Service (NPS) staff at the park and from the regional office. There had been little involvement of other levels of government or other agencies. Some of those involved in the FRSP study felt it would be easier to develop an information database and disseminate the recommendations if there was more local involvement. As a result, the

Assessment team members study historic and land use maps in developing recommendations for a portion of the Lookout Mountain battlefield. Much of that battlefield is outside the boundary of the Park. Photo courtesy NPS.

decision was made to assemble a planning team that included representatives from local, state, and regional planning agencies and governments and to fully involve the public in the Assessment. These partners were involved in every phase of the Assessment—from the formation of the process to the selection of study sites, to the site evaluations, and to the development of preservation and interpretation recommendations. They guided the Assessment process and helped preserve the Chattanooga region's Civil War heritage.

The Assessment planning team included representatives from the Chattanooga-Hamilton County Regional Planning Agency (RPA), the Coosa Valley Regional Development Center (RDC), the Georgia Department of Natural Resources' Historic Preservation Division (HPD), the Southeast Tennessee Development District (SETDD), the National Military Park, the National Park Service's Rivers, Trails and Conservation Assistance Program, and the Association for the Preservation of Civil War Sites, Inc. (APCWS). The NPS's American Battlefield Protection Program (ABPP) provided invaluable financial and technical support that made the Assessment a reality.

The primary objective of the Assessment was to develop and implement preservation and interpretation strategies for the most significant Civil War resources in the Chattanooga area. Typically, these resources lie outside the bounds of the Park and provide the context to understanding the overall military campaign punctuated by the Battle of Chickamauga and the Battles for Chattanooga. Discussions with planning team members during the Assessment also addressed the need for comprehensive planning to improve the entrance corridors or "gateways" into the Park units and development along Park boundaries.

The planning team worked under a number of guiding principles:

- Resource protection/interpretation and economic development are not mutually exclusive options for communities and the region; they can both thrive—but only if directed in appropriate locations and in appropriate balance;
- The project must be a true partnership of government agencies at all levels, non-profit organizations, and individual citizens;
- Significant sites will be protected and interpreted **in partnership** with affected property owners and land managers;
- The Park will help area agencies and organizations protect and interpret significant sites with no intention of adding those sites to the Park;
- Discussions about the protection and interpretation of important sites should focus not only on the intrinsic historic and cultural benefits gained, but also on the regional economic and recreational benefits possible through heritage tourism and open space preservation;
- Strive to involve, educate, and garner input from as many different interests as possible and to incorporate all input into the Assessment process and findings.

The planning team evaluated 38 Civil War sites in a two-state, three-county study area. The site evaluation process was kept simple and easy to replicate, so that project partners, if desired, could use the same process and criteria to evaluate other Civil War sites in the region beyond the scope of the Assessment. Before actual site visits by the entire planning team, research materials were gathered for each site. These materials included information on historic significance, cultural resources, present land use, and ownership. This information will be maintained at the Park for future reference and research. The planning team and others then visited each of the sites and evaluated them based on several criteria (see page 14).

From these site visits and concurrent and subsequent discussions, the planning team developed specific preservation objectives and recommendations for each site. These objectives and recommendations include opportunities for both resource protection and interpretation. Fact sheets on each site and an Assessment report reflect the work of the planning team and public input.

Project Successes

The planning team realized a number of successes during the Assessment. The most notable was the level of involvement in the Assessment by private citizens. The site visits offered a unique opportunity for individuals to accompany the planning team, learn more about their region and individual study sites, and provide comments.

Interested citizens and a few local elected officials and decision-makers accompanied the planning team on these visits. At each site, those present learned about the significance of the resources and participated in discussions about how best to preserve and interpret that site.

The level of site visit participation reflected the interest of local citizens and organizations in the preservation of the region's Civil War heritage. Support from local Civil War enthusiasts, historical associations, and area landowners was significant and will, assuredly, lead to better long-term protection for many of the assessed sites.

The Assessment also brought attention to two extremely important North Georgia study sites that needed better preservation, McLemore's Cove and Ringgold. These two sites figured prominently in the Assessment, but both needed individual attention. Involvement in the Assessment led area organizations and communities to pursue and receive ABPP assistance for evaluating the planning, management, and interpretative needs of the assessed sites.

Other significant successes were also realized. The personal involvement of partner staff members and other individuals on the project planning team led to their ownership of both the project and the process. They provided invaluable resources in the form of time, expertise, and information to the Assessment process and helped to develop a better product than the NPS or any individual partner could have accomplished alone. Because of this cooperative achievement, the planning team expects local planners to more readily embrace the conclusions and recommendations of the study.

Each project partner now better understands the others' missions and responsibilities. The new relationships forged during this process have strengthened existing regional partnerships and spawned new ones. For example, the Chattanooga-Hamilton County Regional Planning Agency (RPA), which reviews development proposals in Chattanooga and Hamilton County will, hereafter, consider whether proposed development affects an Assessment site. If one of these sites could be impacted, the RPA staff will involve other interested agencies in the development approval discussions. This does not guarantee blanket protection or pristine preservation of significant Civil War resources in the Chattanooga area, but it does provide the Park and other Civil War-related interests an opportunity to comment on local land use and development decision-making.

The Assessment also provided a focus for Park staff and priorities. Now, more so than in recent decades, the Park staff recognizes the significance of the Civil War resources that are not presently preserved either by the NPS or other public interests. The Park intends to continue developing partnerships that will lead to the long-term preservation of remaining historically significant sites and the interpretation of "lost" sites that still harbor the memories of important actions.

Project Shortcomings

The planning team also suffered a few shortcomings during the project. Generating significant interest from local elected officials, planning commission members, and local and regional agency directors was the greatest hurdle. Area leaders were invited, sometimes with personal invitations, to all project public meetings, site visits, workshops, and special events. Workshops on heritage tourism and alternative development techniques were held specifically for area leaders. Even though few area leaders attended project meetings, they were kept informed through mailings, newsletters, and personal visits from planning team members. Probably, even now, few leaders understand the project or have a personal interest in implementing its findings. This will offer numerous challenges to the planning team as members strive to implement regional resource protection and interpretation efforts.

The planning team also discovered that it should have identified key landowners at individual study sites earlier in the process. This information was gathered late in the project, after site visits were completed. In collaboration with the Trust for Public Land, the planning team hosted a workshop on land preservation tools and their benefits to landowners. All identified landowners were invited to attend. This workshop was very successful; four or five owners of large holdings came forward to discuss pursuing long-term protection of family farms and lands. Had the planning team spent more time earlier, it might have

Assessment team members take in the view from the porch of the Cravens House on the Lookout Mountain battlefield. Viewsheds were important considerations for members as they evaluated each site. Photo courtesy NPS.

identified additional landowners willing to discuss options for preservation of their properties.

The final shortcoming of the project was the time required to complete the Assessment; it took more than two years to accomplish. Portions of at least one site were lost during this time because the planning team was not aware of the impending and previously planned development of the site.

Future Activities

The most difficult part of the Assessment process—implementing the recommendations—still lies ahead. If the information and the recommendations are not regularly used by area planners and officials, only limited benefits will come from this cooperative preservation planning effort. The planning team continues to market the Assessment and the concept of comprehensive historic resource protection to area leaders in order to make preservation a reality. The Assessment's report and fact sheets on each site are presently being widely distributed to governmental agencies and other organizations.

In 1997, the planning team hopes to develop a Geographic Information System (GIS) database containing much of the information the Assessment developed for individual sites. Producing the information in a GIS format should make the Assessment findings more accessible to area planners and thereby encourage them to include it in local land use documents. Future land use decisions will affect many of these historic sites as well as the overall quality of life and "sense of place" that make the Chattanooga and North Georgia area a multi-million dollar heritage tourism location. Hopefully, the Chattanooga Area Civil War Sites Assessment will help guide some of these decisions.

Planning partnerships really do work. It worked for Chickamauga and Chattanooga National Military Park and Assessment partners, and it will work for other efforts around the nation. This is a highly effective way for the NPS to plan when faced with related lands issues and protection of resources beyond NPS boundaries.

If you would like further information about the Chattanooga Area Civil War Sites Assessment, please contact Superintendent Pat Reed or Chief Historian Jim Ogden at the Chickamauga and Chattanooga National Military Park at (706) 866-9241, or Outdoor Recreation Planner Chris Abbett, Rivers, Trails and Conservation Assistance Program, Southeast Field Area (404) 562-3175.

CACWSA Criteria for Site Evaluation

Significant Views—Views both into the site and from the site

Setting—The land uses of the site and surrounding lands

Battle Actions—Both the physical remains and intangible qualities of the occurring actions, including the intensity of the combat and the decisiveness of maneuvers and presence of troops

Well-documented Structures, Sites, and Features—Both existing features and remains of features that were fully documented

Presumed Wartime Features—Both existing features and remains of features that were not fully documented

Original Terrain—Integrity of existing terrain and whether it is similar to its Civil War appearance

Gateways—Whether the site served as a primary entrance corridor into one of the existing NMP units

Catharine M. Gilliam

Takings Law
Fact and Fiction

The area of law referred to as "takings" law can be complex and confusing. This article will review the general principles of takings law for the layman who needs a basic understanding to comply with the law and avoid the widely circulated "myths" about takings.[1] Citizens, non-profit organizations, land trusts, local governments, and others who struggle to protect America's battlefields will face many challenges and sometimes stiff opposition. All too often, a real estate developer who wants to build a superstore, a housing development, or a shopping mall on a rural field sees recognition of the land as significant to America's history as a direct threat to the landowner's right to pursue a profit.

The dedication that battlefield preservationists possess about their right and responsibility to protect hallowed ground may clash head on with the passion other people feel about their right to use land as they choose. There has been a great deal of misinformation, exaggeration, and hyperbole injected into the debate over property rights in recent years. While the courts of the United States continue to expand the case law interpreting the constitutional protections of property owners, the law has not changed dramatically; and the tools and programs to protect cultural and natural resources remain on solid legal ground. Battlefield preservationists and their partners in governmental agencies need not be intimidated by those who claim that "the takings clause" prevents them from designating and appropriately protecting lands of historical and cultural significance.[2] The Fifth Amendment to the United States Constitution provides:

> ....nor shall private property be taken for public use, without just compensation.[3]

The takings clause of the Fifth Amendment provides one of our most basic rights and freedoms as Americans. The ability of courts to rely on this simple clause, written in the 18th century, to maintain the balance between the public good and individual liberty as we approach a new millennium is strong testament to the brilliance of the Constitution and the Bill of Rights. Advocates for the protection of America's heritage should never allow their opponents to characterize them as **opposing** constitutional protections, although those charges are often made.

As stated eloquently by the Honorable Randall T. Shepard, Chief Justice, Indiana Supreme Court and a member of the Board of Trustees of the National Trust for Historic Preservation:

> ....Most Americans see the Fifth Amendment as a shield protecting us from government overreaching. Others seek to use it as a sword, a weapon against efforts to conserve what is special about this land. Americans who are committed to building better communities must understand the role of law and the takings clause of the Fifth Amendment if they are to be effective builders....[4]

Since the 1960s, citizens who recognize our responsibility to identify and to protect those special places that represent our history and culture have built up an increasingly full "tool box" of local ordinances, state statutes, federal laws and, increasingly, incentives in taxation and funding programs that encourage the protection of resources. As battlefields are identified and recorded, those who advocate conservation of these lands and sites have chosen from among the legal tools developed by the historic preservation and land conservation movements. In recent years, the private property rights campaign—waged in state and federal courts, the legislatures, and in the court of public opinion—has had the goal of removing some of those valuable tools from the land protection tool box.

The private property rights campaign's limited success has been primarily in the public relations arena where increasing attention in the press, presentations at local civic clubs, and the broad distribution of videos and newsletters, have encouraged the impression of a shift in law and policy. It is incumbent upon preservationists to keep informed and not to be intimidated or unduly restricted in efforts using time-tested preservation tools and to continue developing innovative approaches in the future. Nevertheless, those who apply laws and administer resource protection programs need to comply with constitutional requirements and to respect fully the rights of property owners.

Physical Taking of Property

The aspect of takings law that is easiest to understand is eminent domain or condemnation—where the government actually acquires title to real property that had been privately owned. Eminent domain may be exercised to build a road, provide land for a public facility such as a school or a landfill, or to promote some other public purpose. The government must show that acquisition of the land is for a legitimate public purpose and must pay compensation to the landowner. The rights of the landowner in eminent domain cases are protected by statutes describing the process and procedure to be followed and by the due process clause of the United States Constitution as well as the Fifth

Amendment.[5] As any individual who owns—or hopes to own—real estate understands, it is reassuring that the government is restrained in its ability to "take" land and that the courts are available to protect the rights of citizens from an overzealous government agency.

A critical concept to remember in eminent domain cases—and in the "regulatory takings" cases that will be discussed later—is that the Fifth Amendment does not prohibit the government from taking private property; but it simply guarantees that when government needs to take land for a public purpose, it will pay "just compensation" to the owner.

Regulatory Takings

If takings law were limited to cases in which the title to the land passes to the government, this would be one of the most elementary and widely understood areas of constitutional law. However, in the 20th century, the law of takings has been extended to certain cases where the government merely **restricts** a private owner's **use** of his land in order to protect the larger public—but the owner retains full title to the property. The overwhelming majority of governmental programs and laws that regulate activities and the use of land do not require that the government in any way compensate the property owner. The complexity of takings law comes from the fact that, in some few cases, the courts have found that the impact of regulation does require that the government agency pay compensation to the property owner.

The first United States Supreme Court case that opened the door for claims of compensation for a "regulatory taking" was *Pennsylvania Coal Co. v. Mahon*.[6] In the 1920s, the Pennsylvania legislature passed a law that prohibited coal companies from mining coal beneath the ground in a municipality that would result in buildings or streets sinking. Significant to the Court's finding of a taking was that the coal company had sold only the surface rights to a private owner and retained the subsurface rights. The purchaser of the surface rights had specifically waived any claim against the coal company for future subsidence caused by coal mining.[7] When the case was decided in 1926, the Court struck down the Pennsylvania statute. Justice Oliver Wendell Holmes[8] wrote "The general rule, is that while property may be regulated to a certain extent, if regulation goes too far it will be recognized as a taking."[9] Although many believe that Justice Holmes "rewrote the Constitution" in the *Pennsylvania Coal* majority opinion,[10] it is the beginning of a series of Supreme Court cases that more precisely define when government regulation goes "too far."

After *Pennsylvania Coal*, administrators of government programs that regulated use of real property from the local to the federal level had to make their best judgment regarding whether the enforcement of a regulation in a particular case would constitute a "regulatory taking." Slowly, more detail was added by judges who wrote opinions applying constitutional requirements to regulatory actions on a case by case basis. The earliest legal decisions arose in cases about the early-20th-century planning concept of zoning.[11] In *Euclid v. Ambler Realty Co.*,[12] also decided in 1926, the U.S. Supreme Court recognized zoning as a legitimate use of governmental "police power" to protect the public good and denied the plaintiff's claims of a regulatory taking.[13] As the early takings cases were decided in the 1920s and 30s, two factors emerged as central to the takings inquiry: 1) the degree of economic impact on the property owner, and 2) the need to protect the public good and the rights of neighboring property owners.

There was a 50-year gap in which the Supreme Court did not issue another opinion on takings law. During this time, the state courts and lower federal courts heard cases and issued many opinions, without further guidance from the Supreme Court. These state and federal courts developed case law that could roughly be summarized in a test involving the following three questions:

- What is the economic impact on the property owner?[14]
- Does the regulation promote a valid public purpose?[15]
- What is the character of the government action?[16]

The Importance of Penn Central

It is fortunate for historic preservationists that the most important takings case—and certainly the most clearly written Supreme Court opinion in this area of the law—solidly confirms the constitutionality of a local historic preservation ordinance. *Penn Central Transportation Company v. New York City*[17] was the result of a challenge to an urban design review district. The principles and structure of an ordinance that protects the architectural and historic character of an urban district are fundamentally similar to a rural preservation ordinance designed to protect the qualities of a historic battlefield. In Justice Brennan's well known majority opinion in *Penn Central*, some important concepts were articulated, including:

- Communities can adopt laws to enhance the quality of life, including those based on aesthetic values.
- There will be no taking if the regulation advances a legitimate governmental interest and the landowner retains some viable use of property.
- There will be no taking if the effect of the regulation is to deny **speculative future** profit.

- The court will look at the entire parcel of land, not just the regulated portion.[18]

Recent Cases

Beginning in the 1980s, a series of takings cases made their way to the Supreme Court, and new wrinkles were added to the understanding of what is permissible regulation without compensation. In a 1987 case reminiscent of *Pennsylvania Coal Co. v. Mahon*,[19] the Court found that a Pennsylvania law requiring coal companies to leave at least 50% of the coal beneath homes, public buildings, and cemeteries in order to prevent subsidence did **not** constitute a taking. *Keystone Bituminous Coal Association v. Benedictus*[20] demonstrates that minor changes in the facts and careful drafting of a statute, along with other factors, can lead to a different result. A case in which the Court added a new aspect to takings case law, *First English Evangelical Church v. County of Los Angeles*,[21] ultimately resulted in a finding that the regulation in question did **not** constitute a taking. Before sending the case back to the state court for further consideration, the Court recognized that a "temporary taking" was possible. A governmental agency might have to pay compensation to a property owner for loss of the use of the property while an unconstitutional regulation was in effect.[22]

In 1987, the Court addressed the question of whether government can require, without compensation, dedication of land or other contributions by property owners to offset the cost to the community that results from development. In *Nollan v. California Coastal Commission*,[23] the state attempted to require that owners of an oceanfront lot allow the public to walk across the front part of their lot in exchange for the grant of a building permit to build a vacation home. Even though the Court found in *Nollan* that this requirement by the Coastal Commission violated the takings clause, they based their decision on the lack of connection (or "nexus") between the burden on the public and the benefit of the requirements imposed by the government.

Perhaps the most well-known takings case in recent years was *Lucas v. South Carolina Coastal Commission*,[24] also involving a beachfront housing development. The state statute challenged in *Lucas* had been poorly drafted; it failed to include a variance or hardship provision. Its effect on the plaintiff was found to result in an unconstitutional taking.[25] Under the terms of the statute as originally drafted, David Lucas could not build on two oceanfront lots he had bought that were surrounded by other houses in a development. Although the statute was later amended in such a way that Lucas could have obtained his building permit, he chose to pursue the case to the Supreme Court rather than develop his property.

Further driving home the point that the details in drafting a statute or ordinance can make the difference between validity and a requirement to pay compensation, the Supreme Court in *Dolan v. City of Tigard*[26] found that floodplain restrictions were reasonably related to the impact of new construction, but that a required dedication of private land within the floodplain for a public bicycle path, without compensation, was not constitutional. The Court reasoned that increased impact of the expanded hardware store was not in "rough proportion" to a requirement that the property owner give the City the land for the bicycle path.

Avoiding Takings Disputes

Case law is not the only area in which the personal property rights or "takings" campaign is having an impact. Frustrated by their lack of success in dramatically changing takings law through the courts, development interests have encouraged the introduction of bills that would statutorily expand the law of takings beyond what the U.S. Constitution provides. These "takings" bills have been introduced in Congress and introduced or proposed in all 50 state legislatures. An extensive media campaign has also created an impression of public frustration with resource protection laws.

Preservationists who dedicate their time and talents to the protection of battlefields and other cultural resources should not be distracted by unexpected claims of constitutional takings or alleged violations of property rights. While there is no guarantee that claims will not arise, government agencies and preservation groups should keep the following guidelines in mind:

Know the law. While you should not be expected to study this area of law in depth, it helps to be familiar with the basics and to keep the lines of communication open with your legal counsel.

Strive for good community relations and education. It is well worth the time and effort to involve the larger community and adjacent property owners in decisions, explain why new regulations are necessary, and demonstrate the long-term benefits.

Remember the goal of balance and fairness. While preservationists should be vigilant and thorough in protecting resources, especially in the face of well-financed opposition, it is also important to continually examine whether the preservation goals can be achieved in a way that addresses the concerns of relevant property owners.

Research and respond to anecdotes. A well-worn tactic of those who seek to expand takings law and limit resource protection programs is to

use anecdotal stories of great hardship and burdens on sympathetic-sounding property owners. All too often, these stories are not accurate—or there was a reasonable solution available that was not used. Getting an accurate story is an important part of these public policy debates.

Have property owners be your advocates. The private property rights campaign is often backed by large business interests and trade associations. It is in their interest to have the public face on their arguments be "the little guy." Many property owners work to enact and enforce historic preservation and environmental laws in the interest of protecting quality of life in the community. When community protection laws are challenged, make sure voices for protection are part of the community and explain their personal interests.

Notes

1 For more detailed guidance on the law of takings, see *generally* Sugameli, "Takings Issues in Light of Lucas v. South Carolina Coastal Council: A Decision Full of Sound and Fury Signifying Nothing," 12 *Virginia Environmental Law Journal* 439 (1993).

2 In the last decade, new property rights organizations have formed and some conservative "think tanks" have distributed information about how to use property rights arguments to promote real estate development interests. In our democracy, vigorous and informed debate is healthy and productive, but it is important to recognize that the increase in the number of court cases and legislative proposals has been carefully orchestrated.

3 U.S. Const. amend. V. The takings clause is applied to state and local government actions through the Fourteenth Amendment.

4 Duerksen and Roddewig, *Takings Law in Plain English* at *vii* (1994). This pamphlet is available from the American Resources Information Network, (800) 846-2746.

5 U.S. Const. amend. V. The due process clause is applied to state and local government actions through the Fourteenth Amendment.

6 260 U.S. 365 (1926).

7 *See* Bosselman, Callies & Banta, *The Takings Issue* 124-33 (Council on Environmental Quality 1973).

8 Battlefield preservationists should be interested to note that the famous Supreme Court Justice Oliver Wendell Holmes fought in the Civil War with the 20th Massachusetts. Holmes was wounded on May 1, 1863, at Fredericksburg, Virginia. *See* Bowen, *Yankee from Olympus* at 184 (1943).

9 260 U.S. at 413.

10 Bosselman, supra note 7, 124-40. Chapter 8 of Bosselman is entitled *Pennsylvania Coal v. Mahon: Holmes Rewrites the Constitution.* Justice Brandeis wrote a vigorous dissent to Justice Holmes' *Pennsylvania Coal* opinion. 260 U.S. at 416.

11 The first zoning ordinance in the United States was adopted by New York City in 1918 and applied in Manhattan. The major proponents of adopting were prominent business leaders who had invested heavily in real estate and were concerned that their property values were in jeopardy because stockyards were allowed to be built next to department stores. Thus, "property rights" arguments were used to create zoning laws originally.

12 272 U.S. 365 (1926).

13 In *Euclid,* the property owner's takings claim was based on a significant reduction in value of 75%, from $10,000 per acre when industrial development was allowed to $2,500 per acre as zoned.

14 The courts look for "reasonable economic use" by the property owner. A taking will usually be found only if there is an extreme economic impact on the property owner.

15 The courts will balance the public benefit with the private loss. Both historic preservation and protection of natural resources have long been recognized as valid public purposes.

16 The most difficult cases arise when governments seek to allow public access, a physical incursion, to private property. If a preservation plan includes the need for public access, it would be advisable to pursue purchase of the land outright or an access and conservation easement. At a minimum, situations involving access should be closely analyzed by legal counsel before enactment of any regulation.

17 438 U.S. 104 (1978).

18 As an example, a property owner might try to divide an existing parcel of land into the portion where building (or other use) is prohibited (e.g., a flood plain) and another portion, and then claim that 100% of the value of the regulated portion has been denied. The courts have generally seen through this tactic and consistently rejected it.

19 *See* note 6.

20 480 U.S. 470 (1987).

21 482 U.S. 304 (1987).

22 While the *First English* decision represented adoption of an important **remedies** concept, it is sometimes misinterpreted as expanding the basic takings test. It should be remembered that the challenged regulation did not result in a taking.

23 483 U.S. 825 (1987).

24 505 U.S. 1003 (1992).

25 While the Court found in favor of Lucas, it also defined the "nuisance exception" in its ruling. The Court stated that a law that prohibits a use of property that would constitute a public nuisance will **not** constitute a taking, even if application of the law denies a property owner all economic value.

26 114 S.Ct. 2309 (1994).

Catharine Gilliam is the Executive Director of Community Strategies, a division of the Carol/Trevelyan Strategy Group. She formerly served as Assistant General Counsel and Director of Preservation Services of the National Trust for Historic Preservation and as Executive Director of the Historic Fredericksburg Foundation.

Tersh Boasberg

An Uphill Battle for Recognition

In the late 1980s, a protracted and sometimes inglorious preservation struggle began at the Brandy Station battlefield in Culpeper County, Virginia. That struggle played out in the arena of government decision-making, but time and the tenacity of a local citizens group—not the governmental decisions—became the battlefield's greatest allies.

When the preservation effort began, only a handful of local residents were aware of the historic significance of the rolling fields and woodlands in the heart of the county. A lone cast iron sign on U.S. Route 29 was the only tangible reminder that the greatest cavalry battle of the Civil War had raged across this rural landscape. The site was not a federal, state, or local park; and no conservation easements or other protective mechanisms were in place. The battlefield was not a local historic district, nor was it mentioned in Culpeper County's comprehensive plan. The site had not been listed in the Virginia Landmark Register or in the National Register of Historic Places. In short, public awareness of the battlefield was practically non-existent.

The fledgling Brandy Station Foundation, a group of citizens concerned with the future preservation of the battlefield, recognized that the site was imminently threatened by proposed development and that the site's identity crisis needed to be resolved. Governmental decisions about the use of the site would soon be made without any authoritative certification or public acknowledgment that the site was historic. In 1989, the Foundation submitted a proposal to the Virginia Department of Historic Resources for listing the battlefield on the state's register. The Foundation also asked the National Park Service (NPS) to designate the battlefield as a National Historic Landmark. The state documented and evaluated the battlefield and formally added it to the Virginia Landmark Register in October 1989. Virginia's honorific designation affirmed the Foundation's argument of the battlefield's significance, but it offered no substantive protection.

The Brandy Station battlefield along U.S. Route 29.

About this time, a California-based developer petitioned Culpeper County officials to rezone a portion of the battlefield—prime agricultural land—for industrial development. The proposed development would be four times the size of the ten largest industries in the county put together. The development proposal came at the height of the Washington metropolitan area's 20-year land boom. Many in the county perceived it as a significant generator of revenue. In 1990, the Culpeper County Board of Supervisors, overruling its own Planning Commission, voted to rezone 1,500 acres of the Brandy Station battlefield from agricultural to industrial use. Ironically, the Board made its decision during the airing of Ken Burns' PBS documentary *The Civil War*.

The Foundation filed suit against the county immediately. The Foundation argued that, given the historic significance of the site, the Board's decision to rezone the land was arbitrary and capricious because the Board failed to give the Foundation a reasonable opportunity to present their case against rezoning. The Foundation claimed that the Board's failure had violated the Foundation's due process rights under the Fourteenth Amendment to the U.S. Constitution.[1] I served as the Foundation's legal counsel, and we were extremely fortunate to secure the pro bono services of Washington's largest law firm, Arnold & Porter.

The lawsuit lasted two-and-a-half years. Although the Court ultimately rejected the Foundation's constitutional arguments, time and events marched on—and circumstances changed while the case was in court. The Foundation con-

Ruffins Run, the wetlands that triggered Section 106 compliance by the Army Corps of Engineers.

tinued its efforts to gain recognition for the battlefield and to galvanize support for its preservation.

On February 28, 1991, the National Park Service determined that 13,903 acres of the "Brandy Station Battlefield and Related Locations," as demarcated on the Virginia Landmark Register, was eligible for the National Register of Historic Places.[2] The NPS then became active on two fronts. Using its Geographic Information Systems capabilities, the NPS created detailed maps that included data about troop movements, known areas of battle, topography, ground cover, streams, and historic resources. The NPS documentation revealed that the proposed industrial development was located at the very center of the Brandy Station battlefield. The NPS also sought to negotiate with the developer and with county officials to identify and agree upon a development scheme that would be sensitive to the core areas of the battlefield.

The Brandy Station battlefield received additional national attention while its proponents were in court. The Congressionally-appointed Civil War Sites Advisory Commission named Brandy Station among the 50 most endangered Civil War battlefields in the nation. The National Trust for Historic Preservation placed Brandy Station on its list of the 11 most endangered historic resources in the country. The Ken Burns documentary and the movie *Glory* renewed national public interest in the Civil War and fostered the growth of preservation groups such as the Association for the Preservation of Civil War Sites (APCWS).

There were also setbacks. In 1991, the Virginia General Assembly, under great political pressure to do so, enacted legislation that required owner consent for all listings in the state landmarks register. The law was written to apply retroactively to two recent, controversial designations: the Brandy Station and Bristow Station battlefields. Brandy Station was removed from the Virginia Landmark Register in 1993. Further, the developer at Brandy Station protested the National Park Service's determination of National Register eligibility and succeeded in getting Secretary of the Interior Manuel Lujan, Jr. to withdraw the determination on procedural grounds in late 1992. However, the two designations had done their work: the battlefield was transformed from an obscure site to a nationally recognized historic resource.

Time also brought about another critical change: the booming real estate market went bust. The faltering market, combined with continuing efforts in and out of court to preserve the battlefield, made investment in the industrial development less attractive than it had been in 1989. The developer was forced to place his partnership in bankruptcy. The Foundation, with financial backing from the APCWS, bid on the land in bankruptcy court. The court ruled, however, in favor of a proposal from a second developer who sought to build a Formula 1 racetrack on the site. The second developer acquired 500 of the original 1,500 acres rezoned by the county.[3]

The potentially destructive nature of this racetrack—with its attendant noise, pollution, dust, and traffic—angered many county residents. While opposition to his proposed venture grew, the developer began the process of obtaining the necessary permits for the project. The proposed racetrack complex required an Army Corps of Engineers permit to fill about one acre of federally protected wetlands.[4] The Corps could not issue the permit without first considering the possible impact on historic resources under Section 106 of the National Historic Preservation Act of 1966, as amended. Technically, but importantly, the withdrawal of the NPS's previous determination of eligibility did not mean the battlefield was ineligible for the National Register. Instead, it meant only that there was no official determination one way or the other. Consequently, the Corps was obliged to consider the question anew; and the previous documentation left no doubt of the battlefield's eligibility.

The Brandy Station Foundation's aggressive interest in the Corps' permitting process ensured that the Corps held public hearings and considered the permit application at length before making a decision. The Corps ultimately issued the permit; but the Foundation, with the assistance of the Washington law firm Robins, Kaplan, Miller & Ciresi, went to court again to challenge the Corps' action.

The Foundation's lawyers argued that the Corps erred in awarding the permit on two counts: first, that the agency needed to take into consider-

ation the indirect effects of the racetrack (e.g., noise, pollution, traffic) in addition to the direct effect of filling in and thereby destroying wetlands; and second, that the agency needed to take into account the impact of the racetrack on the entire battlefield, not just the isolated area of wetlands. The case never went to court. The racetrack developer's financing collapsed and plans for the racetrack were scratched, making the case moot. The land reverted to the first developer.

The Foundation renewed its efforts to acquire the land. Relying again on the generous financial backing of the APCWS, the Foundation succeeded in striking a deal with the original developer and interested contiguous neighbors to purchase 800 acres of the industrially zoned land and an additional 700 acres of contiguous agricultural land. The sale was finalized in April 1997, preserving the most significant portion of the battlefield for generations to come.

The key to the Foundation's ultimate success has been its willingness and ability to participate aggressively in every public decision-making forum. While the Foundation obviously did not succeed in winning sympathetic decisions from the county, the court, or the Army Corps of Engineers, its efforts in each of those arenas allowed for ever-increasing public attention that built the case for preservation of a significant and threatened resource. When the chance to preserve the battlefield through acquisition finally arose, Brandy Station had become a cause that could and did attract the funds to make the purchase possible.

Notes

1 The Board allowed representatives from the Foundation only three minutes to present the historic significance of the Civil War battlefield. The Foundation had assembled a team of experts: financial people, representatives from the transportation industry, and historians. All were excluded from presenting a reasonable case for the preservation of an important historic site. This exclusion provided the Foundation with grounds to launch a lawsuit.

2 The three separate parcels cited in the unilateral Determination of Eligibility met National Register criteria A, B, and D.

3 The other 1,000 acres remained zoned for industrial use.

4 The Army Corps of Engineers had authority to issue the permit under §404 of the Clean Water Act, 33 U.S.C. §1344(e).

Tersh Boasberg is an attorney in private practice in Washington, DC. He specializes in historic preservation and land use law. He has represented the Save the [Manassas] Battlefield Coalition and other Civil War groups in addition to the Brandy Station Foundation. He is a former chairman of the DC Zoning Commission and now chairs the Committee of 100 on the Federal City.

Charles A. Birnbaum

Treatments for Historic Battlefield Landscapes

The physical manifestation of cultural history is a complex layering of things associated with people and events. Consider, for example, the Piper Farm at Antietam National Battlefield. The farm complex has a high level of integrity for its turn-of-the-century development. Therefore, if the decision is made to "restore" this landscape to the Civil War period, the result may be the removal of this farm complex and consequent loss of significant history. Interpreting the multiple layers of a landscape's continuum is a more honest cultural landscape preservation approach.

Careful planning prior to treatment can help prevent irrevocable damage to a historic battlefield landscape through a misguided treatment decision. Professional techniques for identifying, documenting, and treating cultural landscapes have advanced over the past 25 years and are continually being refined. As described in the National Park Service publication *Preservation Brief #36: Protecting Cultural Landscapes*, the preservation planning process for cultural landscapes, including historic battlefields, should involve historical research; inventory and documentation of existing conditions; site analysis and evaluation of integrity and significance; development of a cultural landscape preservation approach and treatment plan; development of a cultural landscape management plan and management philosophy;

development of a strategy for ongoing maintenance; preparation of a record of treatment (e.g., preservation, rehabilitation, restoration, and reconstruction); and future research recommendations.

When battlefield landscapes are restored, the goal is to make the landscape appear as it did at a particular significant time in its history, rather than to maintain and preserve the landscape as it has evolved over time. As opposed to preservation and rehabilitation treatments, restoration may include removal of features from other periods and replacing missing features from the target period. Documentation and physical evidence should substantiate this work, and conjecture should be avoided. For example, fences should not be introduced just because they are "of the period." Historic fence locations should be identified by archeology. Their design and construction should be confirmed by historical documentation (visual records such as photographs and stereoscopic views are ideal). Additionally, combining features that never existed together historically can create a false sense of history (i.e., by "restoring" the battlefield landscape complete with contemporary memorials and a modern visitors center).

To assist in this decision-making process, the National Park Service recently published *The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for the Treatment of Cultural Landscapes*. The 150-page, richly illustrated document emphasizes that not only should conjecture be avoided, but that the following general recommendations and comments apply to cultural landscapes, including historic battlefields.

Research the battlefield landscape before undertaking project work. Research findings help identify a battlefield landscape's historic period(s) of ownership, occupancy, and development, and bring greater understanding of the associations that make them significant. Research findings also provide a foundation to make educated decisions for project treatment, and can guide management, maintenance, and interpretation. In addition, research findings may be useful in satisfying compliance reviews, especially Section 106 of the National Historic Preservation Act of 1966, as amended.

Document the landscape as it exists at the present time to provide a baseline from which to operate. All component landscapes (e.g., a farmstead contained within a broader battlefield landscape) and individual features (e.g., fences, earthworks, memorials, roads, buildings, etc.) that contribute to the landscape's historic character should be recorded. The level of documentation needed depends on the nature and significance of the battlefield resource.

Consider a battlefield landscape as a continuum through history. This is critical in order to evaluate the landscape's cultural and historic value. Analysis helps clarify the landscape's change over time, breaking it down into chronological and physical "layers." Individual features can be identified with a discrete period of introduction, or their presence or absence confirmed to a certain date, thereby assisting in the evaluation of the landscape's significance and integrity. In addition, analysis allows a battlefield to be viewed within the context of other cultural landscapes and influences treatment decisions. For example, roads introduced into Civil War battlefield landscapes in the early 20th century were laid out in the picturesque style. Such roads, derived from the design of public parks of that era, may be character-defining features as significant as the battle event.

Character-defining features that convey a battlefield's significance in history must be present and must possess historic integrity. Location, setting, design, materials, workmanship, feeling, and association should be considered in determining whether a landscape and its character-defining features possess historic integrity.

Preservation planning for cultural landscapes involves a broad array of dynamic variables. Adopting comprehensive treatment and management plans, in concert with a preservation maintenance strategy, acknowledges a cultural landscape's ever-changing nature and the interrelationship of treatment, management, and maintenance.

Charles A. Birnbaum, FASLA, is the Coordinator of the Historic Landscape Initiative, Heritage Preservation Services, National Park Service, Washington, DC, and is the editor of the Guidelines for the Treatment of Cultural Landscapes.

The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for the Treatment of Cultural Landscapes is available from the Government Printing Office. The GPO stock number is 024-005-01171-4. The price is $16.00. This can be ordered by calling (703) 487-4650.

H. Grant Dehart

Preserving Civil War Sites
Maryland's Voluntary Easement Strategy

The single bloodiest day of the Civil War occurred September 17, 1862, near Antietam Creek at Sharpsburg, Maryland. This battle, and perhaps the remainder of the war, may not have unfolded the way it did if Gen. Robert E. Lee's and Gen. George B. McClellan's armies had not clashed at Fox's, Turner's, and Crampton's Gaps at South Mountain three days earlier. The battles for South Mountain delayed McClellan's advance long enough to allow Lee's divided Confederate army to regroup at Sharpsburg, fight the Battle of Antietam, and retreat intact to Virginia. Until the state took action in 1990, neither the South Mountain battle sites nor the land over which two Union corps approached the Antietam battlegrounds were protected by the National Park Service, the State of Maryland, or the Frederick or Washington County governments.

The area on which fighting took place at Antietam encompassed roughly 8,000 acres. The Congressionally authorized boundary of Antietam National Battlefield encompasses only 3,250 acres—1,046 acres owned in fee by the National Park Service, 1,434 acres in private ownership on which the National Park Service has acquired scenic easements, and 700 acres privately owned without restrictions. The State of Maryland has now acquired conservation easements or fee title on 4,035 acres of land outside of the federal boundary, more than doubling the size of the protected area around Sharpsburg. These acquisitions should protect the views from the battlefield and its major approaches and prevent development of historic farms on which major maneuvers, encampments, or field hospitals were located during and after this famous battle.

The Third National Conference on Battlefield Protection, held in Chattanooga, Tennessee, in September 1996, provided an opportunity to give a second progress report of Maryland's Civil War site preservation effort, which began in 1990. This effort has primarily involved the purchase of conservation easements. Funds needed to acquire these easements have come from two sources: Program Open Space (POS), Maryland's $60 million annual land acquisition and open space grants program funded by a real estate transfer tax; and federal Intermodal Surface Transportation and Efficiency Act (ISTEA) enhancement funds administered by the Maryland Department of Transportation. The state has also used these funds to purchase in fee six historic farms. The state bought these farms outright because the owners preferred not to sell just an easement; the parcels will be resold to farmers after easements are withheld to prevent development.

The first progress report on this program was delivered to the National Park Service's initial battlefield protection conference in Lexington, Kentucky, in June 1992. There I illustrated how Maryland planned to protect Civil War sites at Antietam and South Mountain. This was shortly after ISTEA was enacted and during the time when the Congressionally appointed Civil War Sites Advisory Commission was completing its study. Three sites in Maryland—Antietam, South Mountain, and Monocacy—were listed as Priority

Map indicating lands around Antietam National Battlefield originally targeted for Maryland's voluntary easement program.

I sites in need of protection. The most significant parts of these three battle sites are now protected, although the state continues to negotiate the purchase of more easements.

Property Rights and Wrongs

Three property owners who lived in or next to the Antietam National Battlefield attended the Lexington conference in 1992. These three were activists in the property rights movement in Maryland and were ardent foes of the National Park Service's limited plans to expand Antietam National Battlefield's boundary. Two of them wrote the *Land Rights Letter*, a property rights journal circulated nationally, to denounce state and local land use regulations and federal land acquisition plans. They came to the Lexington conference to find out what the National Park Service and the state were planning at Antietam that would affect the value of their land.

Maryland has come a long way in Civil War site preservation in the four years between the two National Park Service conferences, working in a political atmosphere highly sensitive to private property rights. At the Chattanooga conference I reported that these three activists organized key meetings of property owners at which the state explained its voluntary land protection program. Two of them served on Washington County's citizen advisory committee for the Antietam National Battlefield, which endorsed the state's voluntary easement acquisition approach. Each of them and their families have sold easements on their farms, permanently protecting their land from development and helping to preserve the context of the Antietam National Battlefield.

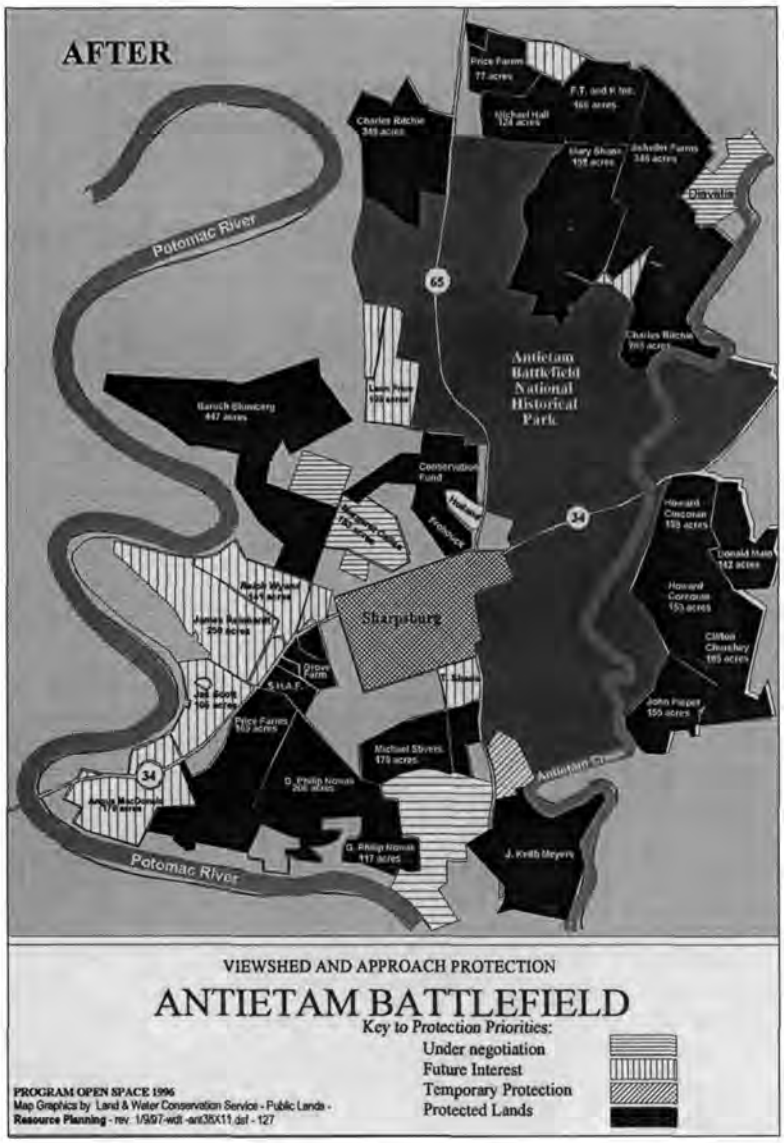
These property owners were given the opportunity to receive money for voluntarily surrendering the permanent development potential of their farms. The state decided from the outset to work with property owners in the local farm community on their own terms. POS has been able to use existing state land conservation programs and financial resources to match federal transportation enhancement funds to deliver specific benefits to the property owners. POS avoided the pitfalls of other government officials who tried previously to impose planning and regulatory solutions to manage growth in the county in a way that merely polarized the Sharpsburg community, without addressing the real threat of development.

Progress To Date

A committee of the Governor's Civil War Heritage Commission was established in early 1992 to pursue the protection of land around Antietam National Battlefield. This committee developed a plan for protecting these lands, with various color codes on the plan's map denoting the priorities for purchasing conservation easements or fee interests related to their historic or visual importance or threat of development at the time. This plan was adopted by the Civil War Heritage Commission, chaired by O. James Lighthizer, Secretary of the Maryland Department of Transportation. It was also adopted by the Department of Natural Resources and by two committees appointed by Secretary Lighthizer to advise on the selection of projects to be funded under the transportation enhancement program of ISTEA.

As easements on priority properties were purchased, POS created progress maps comparing protected lands with properties within the federal battlefield boundary. The maps presented in Chattanooga showed 26 protected properties at Antietam, totaling 4,035 acres. To date, Maryland officials have spent $6 million in POS and ISTEA enhancement funds at Antietam and are negotiating to buy six more easements for about $2 million.

Map indicating lands around Antietam National Battlefield that were protected as of January 1997.



When residential and commercial development threatened the Grove Farm, the state and its partners bought three parcels and purchased a conservation easement on a fourth. The entire farm will be sold back into agricultural use.

The state's first priority was to protect four subdivided parts of the Grove Farm, where President Lincoln met Gen. McClellan on October 3, 1862. In 1991, part of this farm was protected by the purchase of a 40-acre parcel that Washington County had approved as a 10-lot residential subdivision. The funds used for the purchase came from a $100,000 land trust grant from the Maryland Environmental Trust, which was matched by grants from The Civil War Trust, Civil War roundtables, and others. Later, in 1992, the state used ISTEA funds to buy two additional sections of this farm in fee—a five-acre parcel slated for construction of an American Legion Hall and 20 acres zoned for a motel and commercial shopping center. Next, an easement was purchased on the farmhouse "Mount Airy," the 30 acres surrounding the house, and the appurtenant farm buildings. This farmhouse complex had served as Union Maj. Gen. Fitz John Porter's headquarters during the Battle of Antietam and as a Federal field hospital after the battle.

East of Sharpsburg at South Mountain, the state focused its efforts on protecting the sites of fighting between the Union and Confederate armies on September 14, 1862, three days before the Battle of Antietam. The South Mountain Committee of the Civil War Heritage Commission, chaired by George Brigham, founder and director of the Central Maryland Heritage League, developed a plan similar to that at Antietam for protecting Fox's and Turner's Gaps, where the most intensive battles took place.

Following the South Mountain plan, the state has now protected seven properties totaling 457 acres in these gaps. When added to previous easements purchased by or donated to the state, 785 acres have been permanently protected. Maryland paid $2.7 million for these easements under the joint-funding program, and is negotiating for three more easements on about 400 acres for another million dollars.

Fighting also occurred at Crampton's Gap on South Mountain and around the historic village of Burkittsville. Here a third plan was developed to protect farms on which soldiers fought, maneuvered, or camped. The state has purchased four easements and one farm in fee near Burkittsville, thereby protecting 1,205 acres. The state is now negotiating for five more easements on about 500 acres here, after spending about $1.2 million, and expects to spend another $1.6 million for an additional 500 acres of easements.

In addition, the Department of Transportation purchased a key part of the Best Farm at Monocacy National Battlefield with $1.5 million in ISTEA funds. It has donated this 20 acre parcel to the National Park Service, with the assistance of the Trust for Public Land. The Department also awarded $518,000 in ISTEA enhancement funds to rehabilitate the President Street Station, another Civil War site in Baltimore City.

When compared with funding for Civil War site protection in other states, Maryland has invested more than all other states combined, including more than $13 million in state and federal funds. Kentucky is the next highest investor with $3.35 million.

Maryland's Strategy

In the late 1980s, the controversial rezoning of the Grove Farm for a shopping center, combined with former Governor William Donald Schaefer's deep concern about uncontrolled development around Antietam, prompted Washington County officials to establish a citizens advisory committee to study the issue of growth. This committee recommended two zoning changes in the Sharpsburg area: 1) rezone agricultural land to allow one house per three acres instead of one house per acre; and 2) create a historic zoning district to protect trees and control the appearance of new construction along approaches to the battlefield. Unfortunately, this type of zoning does not seriously attempt to perpetuate farming. It promotes typical suburban housing developments and safeguards high land values so owners can mortgage their land when they are ready to retire. This type of zoning is a time-bomb for any rural community within commuting distance of major job centers, as most of Maryland has become.

The controversy among farmers and other citizens in the Sharpsburg area over this advisory committee's recommendations was so negative that the county officials backed off the recommended rezoning. While the recommendations did lead to adoption of a historic zoning district, they also polarized the community and caused the formation of an active property rights movement that has thwarted further growth management in the county.

In 1993, the Maryland DOT acquired a conservation easement on the 249-acre Richie Farm. The easement protects historic and archeological resources and the scenic vista along Hagerstown Pike, a main approach to Antietam National Battlefield.

Our strategy—"when planning doesn't work, buy it"—tried to avoid all of this controversy. The state used a grant from the National Trust for Historic Preservation to establish a Rural Historic Village Protection Program to focus on the voluntary gift or purchase of easements on farms. We worked directly with property owners to encourage them either to donate easements to the Maryland Environmental Trust or the Maryland Historical Trust or to sell their easements to the Maryland Agricultural Land Preservation Foundation, three state-sponsored easement holding organizations. We even helped to establish a local land trust called the Washington County Land Quality Foundation, chaired by the husband of one of the property rights advocates. Unfortunately, shortly after this effort began in the early 1990s, the bottom fell out of the state's budget for easement purchases. About $120 million in POS and agricultural easement funds were diverted to close Maryland's General Fund deficit in 1991 and 1992.

Fortunately, ISTEA was enacted in 1991. It required that 10% of the state's surface transportation funds be dedicated to "transportation enhancements." Historic preservation and scenic easements were two of the ten eligible categories. In February 1992, when the funds began returning to POS, Governor Schaefer established the Civil War Heritage Commission. Secretary Lighthizer and Torrey Brown, Secretary of the Department of Natural Resources, signed a Memorandum of Understanding to jointly fund Civil War site and greenway acquisitions with equal amounts of ISTEA enhancement and POS funds—$5 million each. We were back in business after a jerky start.

After the Civil War Heritage Commission's Antietam Committee established the priority plan for Antietam, we recruited the property rights advocates to convene a meeting of local property owners. At this meeting, we explained our program to buy easements on a strictly voluntary basis, with independent fair-market value appraisals. We pledged to buy land in fee only when the owner would not sell an easement and to return these lands to farming after easements have been conveyed to the state. At the end of the meeting, a number of questions were answered, but no one opposed the strategy. Several farmers expressed interest in signing up to begin negotiating easements. Since then, 76% of all owners contacted around Antietam have sold easements or land to the state or are under contract to sell within the next few months.

A Concerted Effort

Maryland has benefited from a political commitment to heritage preservation and a willingness to devote large amounts of public money to purchasing development rights. While this favorable combination may be difficult to repeat in other states, it is well worth the attempt.

Maryland's highest public officials, including two Governors and their cabinet officers, members of the General Assembly, and elected local government leaders, have all supported protecting Maryland's Civil War heritage. They are responsible for the state's commitment of federal ISTEA enhancement funds to match state POS funds for battlefield preservation. The Memorandum of Understanding between the Secretaries for joint funding of Civil War site preservation was approved by the Maryland Board of Public Works and endorsed by Washington County, the Town of Sharpsburg, the legislative delegation from the area, and the Antietam Citizen's Advisory Committee. The expenditures have also been approved by the budget committees of the Maryland Senate and House of Delegates.

Governor Parris N. Glendening has recently proposed legislation that would establish a Rural Legacy Program patterned in large part on the successful Civil War site preservation program. Over the next five years, the Rural Legacy Program would seek to control sprawl development by using $138 million in transfer tax and bond funds to acquire conservation easements and open space in large contiguous concentrations of the state's most important farmland and natural resource areas.

Maryland has always been a leader in land conservation. It has the most successful state purchase of development rights program in the country—the Maryland Agricultural Land Preservation Foundation, which has saved more than 128,000 acres of farmland. The state has one of the most successful gift easement programs in the Maryland Environmental Trust, with more than 50,000 acres of land under easements donated by property owners in return for tax benefits. It also has POS,

one of the oldest and most successful real estate transfer tax funded land acquisition programs in the U.S. Founded 28 years ago, POS has protected more than 180,000 acres of land for the state's park and wildlife systems and provided over 3,000 grants to local governments for park acquisition and development.

Some lessons from the Maryland Civil War site preservation program may be applicable in other states.

- Maryland successfully adapted the appropriate preservation tools to fit the political and economic context of the area it wanted to preserve. Unless there is a favorable political climate, preservation techniques such as National Register listings and attempts at down zoning or local historic district designation may not be effective. Attempts to designate large areas around Brandy Station, Virginia, as a historic district resulted in owner consent requirements and other changes to the Virginia process for designating historic districts that may have harmed the cause of historic preservation statewide. (For more about Brandy Station, see Boasberg, page 19.)
- Farmers and local property owners are not the enemy of historic preservation; in many cases they are allies. Preservationists need to understand and to have empathy for the economic concerns of property owners, whether families or businesses, to obtain their cooperation in any preservation strategy.
- State and local governments should seek to establish public programs to finance land preservation. Dozens of states and many local governments have enacted successful programs to buy parkland, easements, and historic sites, funded by transfer taxes, revenue bonds, gaming proceeds, or other sources. These programs are very popular with voters, even those who normally vote against other forms of taxes. Unless governments have public or private money to work with, they cannot hope to compete effectively with developers who do.
- Governments and preservationists alike should seek the reauthorization of the transportation enhancement provisions of the ISTEA when it comes up for a vote in the next Congress. ISTEA has become the single greatest source of Civil War site preservation funds throughout the nation.

Successful Civil War site preservation strategies must be tailored to the unique political, economic, and historical factors in each community and should use a variety of land conservation tools and resources. Purchased conservation easements appear to be one of the most acceptable techniques for land conservation, especially in a political environment sensitive to private property rights. As Maryland and other states with purchase of development rights programs have learned, this technique is not cheap, but it can be permanent and less expensive in the long run than paying the public costs of sprawl development.

The Hallein property at Fox's Gap witnessed the heaviest fighting during the Battle of South Mountain. President Rutherford B. Hayes, then a lieutenant colonel, was wounded in the fight. A conservation easement protects 97.6 acres of the site.

H. Grant Dehart, AICP, is the Director of Program Open Space, Maryland Department of Natural Resources, the state's $60 million annual land acquisition and open space grants' program. He serves on the Governor's Civil War Heritage Commission as Chair of the Antietam and Monocacy Committee. He also serves as a Maryland Advisor to the National Trust for Historic Preservation and on the Real Estate and Properties Committees of the National Trust Board of Trustees.

David Ruth and Mike Andrus

Lee vs. Grant
Battlefields and Tourism in Virginia

After being repulsed we build [sic] *some breastworks by a creek of water, and stay behind them for a few days, probably to rest. Indeed it is a rest much needed, after more than a month's campaign, which was never equalled in modern times. Not a day in all this time but we have been under fire, most of the time fighting hard battles, and so far have seen nothing but fighting, marching, digging, and burying the dead. Oh, what a bloody trail we have left behind to point out to all future generations the celebrated LINE that we fought on all summer in the year 1864.*[1]

Written by Sgt. Daniel Crotty of the 3rd Michigan Infantry, these chilling words portray the campaign that began on the fourth day of May 1864, when the Federal army of Ulysses S. Grant crossed the Rapidan River and entered the Wilderness. For two bloody months the opposing armies fought, maneuvered, then fought again as Grant bludgeoned his way toward Richmond. The commander of the Confederate Army of Northern Virginia, Robert E. Lee, boldly countered each of his opponent's moves, inflicting casualties that totaled an unprecedented average of 2,000 per day; numbers that distressed northerners and southerners alike. Place names such as the Wilderness, Spotsylvania, North Anna, Totopotomoy, Cold Harbor, and Petersburg, familiar to few others who lived outside central Virginia, were inducted by blood into the American legacy. This was the first segment of the final Virginia campaign that pitted the two great generals against each other.

The second segment of the campaign began on April 2, 1865, when Lee was left with no other alternative than to abandon his positions around Petersburg and Richmond and attempt a juncture with other Confederate armies operating in North Carolina. This operation, known as "Lee's Retreat," ended six days later when Union cavalry blocked the Confederate escape route west of Farmville. On April 9, the generals met at Appomattox Court House to sign the surrender documents.

In the years following the war, the routes of these campaigns were generally ignored except by campaign historians or accomplished tour guides. Led by the National Park Service (NPS) historians Ed Bearss, Bob Krick, Chris Calkins, and others, many groups have had the great fortune of traversing Virginia's picturesque byways following the routes of the armies with expert guides. But until recently, the lone Civil War enthusiast was left to his or her own devices to plot the military movements that connected the NPS-owned battlefields and lesser known sites between the Wilderness and Appomattox.

All that has changed forever thanks to an extraordinary partnership between Virginia tourism officials, county administrators, local politicians, private citizens, the Virginia Department of Transportation, and the NPS. This partnership was built on the common purpose of marketing Virginia's unique Civil War resources for economic benefit and creating increased interpretation, preservation, and protection of the lesser known battlefields and significant portions of battlefields adjacent to but not included in the boundaries of the national parks.

This partnership began in 1993, when tourism officials, county administrators, and historians from the City of Petersburg, and the counties of Amelia, Appomattox, Buckingham, Cumberland, Dinwiddie, Nottoway, and Prince Edward explored methods to use the shared history of Lee's Retreat from Petersburg to Appomattox to promote their combined historic and natural resources. Planning sessions involving this diverse association resulted in a driving tour route with interpretive stops at battle sites and other historic resources related to the campaign. This "history lesson on wheels," as praised by one *Washington Post* reporter, had one stumbling block: finding the necessary funding to denote, interpret, and market the tour.

At that point, all eyes turned toward the Intermodal Surface Transportation Efficiency Act (ISTEA). This highly competitive funding source set aside 10% of each state's highway construction funds to be used for transportation enhancement projects. In Virginia, this amounted to about $7 million annually for five years.

In 1993, the multi-jurisdictional partnership prepared an ISTEA grant application that resulted

in $225,000 for the establishment of Lee's Retreat route. This became the first of five phases of the project that would continue through the next four years. Curiously the decision to participate was not unanimous. One of the seven counties vital to the success of the tour dropped out at the last moment, but later reversed that decision as a result of pressure from county residents.

Relying on the knowledge of NPS historians at Petersburg National Battlefield and Appomattox Court House National Historical Park and information in the book *Thirty-Six Hours Before Appomattox*, written by NPS historian Chris Calkins, the partnership selected 20 tour stops. The project called for highway trailblazing signs that identified the 60-mile route. Each stop along the tour was designed to include a large metal map for orientation and an AM radio transmitter that would provide a three-to-five minute interpretive message by tuning the car radio to 1610. NPS historians prepared the narrative to cover the entire Appomattox Campaign; the messages at each site built upon each other to tell the entire story. Some interpretive stops were placed in church and store parking lots; others were constructed on lands where easements were donated to the counties. An engineering firm was contracted to prepare the site designs at each interpretive stop to include parking and landscaping and to oversee the Section 106 compliance process. In 1994, a second ISTEA grant for $390,000 was awarded for the completion of the project dubbed "Lee's Retreat."

In spring 1995, Lee's Retreat was officially opened in a public ceremony featuring the Governor of Virginia. The press showed a keen interest in the project and immediately a flood of articles appeared in periodicals and newspapers such as *Life Magazine*, *Southern Living*, and *USA Today*. Thousands of inquiries were handled through a 1-800-6-RETREAT number established at the Petersburg City visitor center. This overwhelming success story prompted federal ISTEA administrators to select Lee's Retreat as one of the top 25 national ISTEA projects in 1996.

Other marketing officials within Virginia watched the power of heritage tourism unfold and decided that the concept of Lee's Retreat could be expanded to other areas of the state. In 1994, officials from 12 jurisdictions between Fredericksburg and Petersburg met to inaugurate a similar project. But the question of commonality proved elusive. In one session NPS historians suggested following the trail known as the "Overland Campaign" that pitted Lee against Grant from the Wilderness to Petersburg. All agreed that the perfect connection existed thematically and physically with Lee's Retreat, and the excitement was overwhelming. Jack Berry, president of the Metro Richmond Convention and Visitors Bureau (MRCVB), equated the rediscovery of this trail that had remained dormant for 130 years with the excitement of "finding the buried Confederate gold."

Using the prospect of ISTEA for the major funding source, tourism officials from central Virginia eagerly went to work scheduling public hearings, a requirement of the ISTEA grant process, and soliciting resolutions from the county boards of supervisors endorsing the project. The NPS historians from Fredericksburg and Spotsylvania NMP, Richmond NBP, and Petersburg NB began plotting the routes used by the armies and in the process identified more than 50 sites worthy of interpretation along the 100-mile trail.

In late 1994, a $510,000 ISTEA grant was approved for the development of the Lee vs. Grant trail. With funding secured, officials from each of the 12 central Virginia jurisdictions and NPS representatives met monthly and created a working relationship that went beyond jurisdictional boundaries for the good of the entire project. The first challenge was to establish specific goals. They were:

- Develop and package a program that would link the sites of the Overland Campaign in a logical and chronological order;
- Educate visitors through published materials and site interpretation about the historical significance of the events that occurred between May and July 1864 and their military, cultural, and sociological ramifications;
- Double the number of visitors to Civil War sites, using as the benchmark a 1992 statistic that indicated 25% of all visitors to Virginia visited a Civil War site;[2] and
- Make Civil War history a user-friendly commodity to tourists.

The Widow Tapp Farm, site of the "Lee to the rear" episode that occurred during the Battle of the Wilderness, is included in the Lee vs. Grant trail. Illustration courtesy Don Pierce.

The authors and John Hodges, Planning Director for Hanover County, Virginia, at the Hawe's Shop Battlefield, a stop along the trail. Photo courtesy of Don Pierce.

At this early stage, four working committees were established to set time tables and to distribute the tasks equally among the participants. The History Committee, consisting of NPS and local historians, was responsible for writing interpretive text and selecting illustrations for the wayside exhibits. The Marketing Committee was to develop advertisement schedules and place advertisements in leading national journals as determined by marketing research. The Media Committee was to develop press releases. The Operations Committee, headed by Chesterfield County's Deputy Administrator, was to prepare all contracts and serve as the financial agent for the ISTEA grant.

The Lee vs. Grant trail partnership approached interpretation differently than Lee's Retreat. Instead of AM radio transmitters, wayside exhibits were chosen to tell the story. The format was similar to waysides used at NPS sites along the trail. The partnership felt the continuity with interpretive media in NPS areas was extremely important. A full color brochure highlighting the trail and listing each site was prepared, and 100,000 copies were printed.

Chronologically, the Lee vs. Grant campaign began on May 4, 1864, at Germanna Ford, precisely where the Union Army of the Potomac crossed the Rapidan River. Several interpretive exhibits at the crossing site set the stage for the visitor to understand one of the bloodiest periods in American history. Leaving Germanna Ford the trail links several of the campaign's significant battlefields managed by the NPS including the Wilderness (May 5-6), Spotsylvania Court House (May 8-19), Cold Harbor (May 31-June 12) and Petersburg (June 15). Hanover County administers public parks at the North Anna (May 23-26) and Cold Harbor battlefield sites.

Churches served as popular resting points for the armies, and the trail includes several that still exist. Timothy O'Sullivan photographed Grant and his commanders at Massaponax Church. With a little imagination, the scene can easily be recreated. Active congregations still meet regularly at Bethel and Mount Carmel churches in Caroline County, and Salem and Enon churches in Hanover County.

Perhaps the trail's most compelling feature involves following wartime roads used by the armies. Three especially evocative sections include the Brock Road (State Route 613) connecting the Wilderness and Spotsylvania battlefields, State Route 607 that traces the Union army's march past several surviving antebellum homes, and State Route 615 between King William and Hanover counties where 30,000 Federal soldiers crossed the Pamunkey River. These roads allow the traveler to "step back in time" and experience the same views as the soldier of 1864 since the rural character of these narrow winding byways remains largely intact.

Waterways also exerted tremendous influence on the movements of armies. Three vital river crossings for the Union army are located along the route—Nelson's Crossing on the Pamunkey, Long Bridge on the Chickahominy, and both Wilcox's Landing and Flowerdew Hundred on the James.

No appreciation for the immense logistical problems faced by the armies can be complete without an understanding of railroads. Evidence of Virginia's railroad heritage can be seen repeatedly along the trail. Landmarks include remains of the Potomac Creek rail bridge; Hanover Junction, where the old Virginia Central and the Richmond, Fredericksburg & Potomac crossed lines; and Southside Station, the oldest remaining rail station in Virginia.

The partnership was careful to ensure that the Lee vs. Grant trail included more than battlefields. Museums and related sites can be reached in Fredericksburg, Ashland, Richmond, Hopewell, and Petersburg. Tour stops in Chesterfield and Henrico counties include forts and historic homes.

Following the establishment of the Lee vs. Grant trail, several counties requested that additional publicly and privately owned sites be included along the route. A second ISTEA request for $580,000 was successfully submitted in 1995 to complete the project. In the spring of 1996, the trailblazers were placed along the roadways and the trail was officially dedicated. Interpretive signs were written early this year, and production is now

underway. The trail will soon be ready for its first season of visitors.

The immediate success of the Lee's Retreat and Lee vs. Grant trails prompted other sections of the state to consider ways to participate in this heritage tourism initiative. In a statewide meeting organized by the MRCVB, the now greatly expanded partnership decided to unite all existing or planned Civil War related trails in the state under one heading, Virginia Civil War Trails, and to create a 1-888-Civil War number that would be used on all national and international marketing pieces. They also decided to attempt a fifth ISTEA grant in 1996—the last year of the guaranteed funding for the ISTEA program—to fund the establishment of trails throughout the state. This request was approved for $550,000 and will support the development of a trail along the route of the 1862 Peninsula Campaign in Tidewater Virginia, a trail in northern Virginia, and several trails in the Shenandoah Valley.

Key to the success of this trails program was publicity. The Civil War Trails marketing committee had established an impressive game plan. Paid advertisements in numerous publications such as *Reader's Digest*, *Southern Living*, and the *Wall Street Journal Travel Planner* generated 19,782 reader inquiries during the first six months of 1996. The Virginia Tourism Corporation, a significant partner in the process, also agreed to dedicate a portion of their World Wide Web page to information about the trails project at <http://www.VIRGINIA.org>.

Each of the partners, now more than 62 jurisdictions, is keenly interested in measuring the success of the Commonwealth's Civil War Trails. Success will take several forms. There is no question that media attention to the trail system has been extremely positive in creating a profound awareness across the nation. Awareness is more difficult to quantify or assess, but will hopefully lead to greater use and appreciation. Road counters have been established at various stops along Lee's Retreat and preliminary numbers suggest that more than 600 visitors stop at the remote waysides each month. An economic impact study for Lee's Retreat will be completed this spring.

In Amelia County, there is a growing appreciation for the unchanged rural character of the route and a growing effort to preserve that character. Among the rural counties there is an emerging excitement about sharing their heritage with outsiders. For many regions of Virginia, organized heritage activities did not exist before the establishment of the trails. Now visitors from throughout America and the world are reading about, touring, and appreciating what Virginia has to offer.

Evidence exists that the Virginia Civil War trails project is becoming a catalyst for historic preservation activities around the state. Two historic homes in Tidewater that served as hospital and headquarters sites during the campaign are being preserved and interpreted at great expense and will be included on the trail. On the James River, the City of Hopewell is in the process of developing a walking trail within its historic district that will augment the information provided to visitors along the Lee vs. Grant route. Even in northern Virginia, where little open space exists, emphasis has been placed on preserving resources that will become candidates for future trail stops.

This successful partnership was built on a foundation of trust, common purposes, and shared values. The success of this heritage tourism initiative has united the powerful forces of tourism with conservation and created two winners: the American legacy and the Virginia visitor.

Notes

1 Daniel G. Crotty, *Four Years Campaigning In The Army of the Potomac* (New Jersey: Belle Grove Publishing Co., 1995), 138.

2 Virginia Tourism Corporation, 1992.

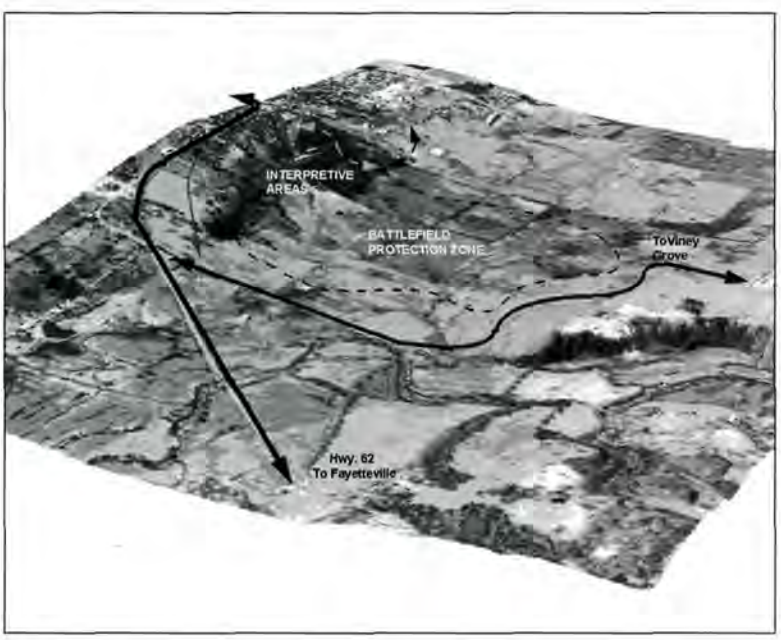
David Ruth is currently the Acting Superintendent of Richmond National Battlefield Park and the Maggie L. Walker National Historic Site. Mike Andrus is currently the Acting Chief of Interpretation and Cultural Resources Management at Richmond National Battlefield Park and the Maggie L. Walker National Historic Site. Both Dave and Mike have served on the executive committee of the central Virginia ISTEA partnership since its inception.

R. Brian Culpepper

Better Planning Through GIS
Battlefield Management Efforts at CAST

In April 1992, the Center for Advanced Spatial Technologies (CAST) developed a Geographic Information System (GIS) and maps that related current location and land use statistics for 98 Civil War battlefields. This initial project, completed September 1993, helped the Civil War Sites Advisory Commission assess the present day condition of America's Civil War battlefields.

Following this initial report, the National Park Service (NPS) contracted with CAST to enhance the GIS analysis completed previously at the Prairie Grove battlefield in Arkansas. The goal of the project was to assess the visual integrity of the battlefield, identify important viewsheds, and model (using computer imaging programs) potential impacts of demographic changes on the integrity of the battlefield, part of which lies in a state park. The GIS allowed the National Park Service to "objectively" analyze the historic landscape. The system could answer queries, for instance, as to what a visitor might see from any location on the battlefield, not just within the protected state park; the number of modern visual intrusions visible from current tour stops and viewing locations; how the view would change if a tour stop was moved to another location; and what kind of development potential a proposed interpretative location would have. The beauty of the GIS system was its ability to assimilate historical documents, photographs, physical features, land ownership records, soil types, vegetation types, locational data, and descriptions of cultural features in one computer program.



Computer modeling of the Prairie Grove battlefield helped planners predict how their decisions would affect the landscape. Illustration courtesy CAST.

In September 1994, the NPS awarded two additional projects to CAST: one to develop a master plan for Prairie Grove Battlefield State Park and a second to define a program of uses to guide the development and operations at the Honey Springs Historic Park in Oklahoma. The proposed program of uses would determine the best size and location for each capital improvement at the battlefield.

Technology and Planning at Prairie Grove

The Arkansas Department of Parks and Tourism (ADPT) presented its *Prairie Grove Battlefield Protection Plan* to the NPS's American Battlefield Protection Program (ABPP) in 1991. This plan identified parcels of land that would be protected by fee simple acquisition or by conservation easements. The ADPT was prepared to develop a master plan for the park. By 1994, a collaborative effort among CAST, the ADPT, and the ABPP began to take shape. CAST and the ADPT worked within the guidelines established by the ABPP to develop a master plan for the battlefield park. Karen Hanna, a registered landscape architect and Director of the Landscape Architecture Department at the University of Arkansas, Fayetteville, served as co-principal investigator. Hanna's many years of park planning and multidisciplinary project experience were essential to the success of the process.

After assessing the accuracy of the existing GIS database, some additional data was developed to support the master planning process. Assessment of the GIS data was imperative because much of the original data was collected to support a regional study for the battlefield, but master plans typically require more accurate and detailed information.

Additional data collection efforts were guided by the goals of the master plan as determined by the project coordinators. These goals were:

- to protect historic resources (such as artifacts and the battlefield's visual setting);

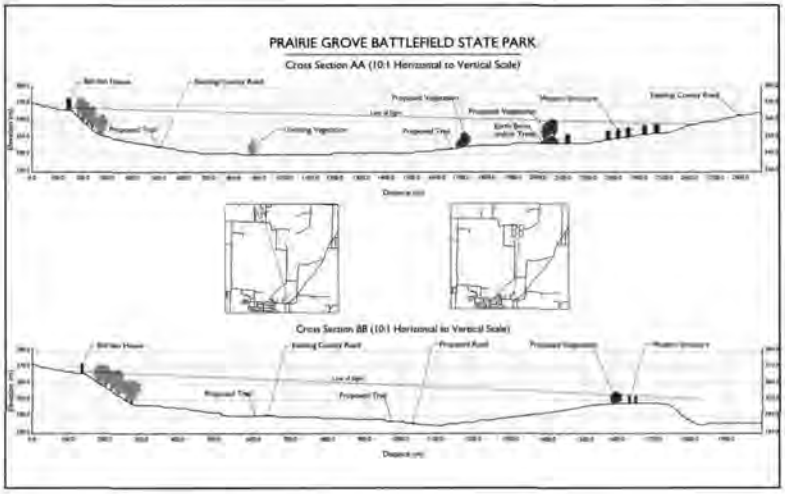
- to provide interpretive programs (about the battle and pre- and post- battle life using signage, museum programs and displays, tours, and re-enactments);
- to provide regional recreation (fairs, running events, group picnics, group meetings and presentations);
- to provide local recreation (such as picnic areas, a playground, trails for walking, jogging, and automobile tours); and
- to provide economic support to the town of Prairie Grove (by promoting the town's historical and architectural resources, local restaurants, hotels, bed & breakfasts, and other businesses)

These goals were followed when determining the program of uses for the future of the Prairie Grove Battlefield State Park. "Program of uses" is landscape architecture terminology for a facilities requirements check list. The ADPT's program analyzed proposed facilities for:

- preservation enhancement (undisturbed battlefield, historic zones, viewsheds);
- interpretation (historic significance, important sites and buildings); and
- regional and local recreation (open areas, picnic areas, playgrounds, trails, roads, pavilions, meeting rooms, stage)

The physical characteristics of the battlefield landscape had to be considered before facilities could be sited at the best location. Traditional site analysis would have been conducted by drafting by hand maps of the physical aspects of the landscape. This spatial information was already in the GIS and quickly could be queried by the design team. The site analysis considered these physical conditions of the battlefield:

- natural features (such as slope, floodplains, vegetation types, microclimate conditions, soil types, and drainage patterns); and
- cultural features (including historic rank, viewsheds, land ownership, buildings and structures, access, development pressure, and proposed sewer easements).



Cross-sections of the Prairie Grove battlefield generated in the GIS were used to depict how proposed vegetation and earthen berms would screen modern visual intrusions. Drawing courtesy Arkansas Department of Parks and Tourism.

The synergetic capabilities of the GIS allowed planners to combine the program of uses and the site analysis to create an Area Relationship Study (ARS). The ARS is essentially a "best fit" map that matches proposed uses to the most appropriate locations. The ARS results in a specific land use map that places future uses in those areas most beneficial to the physical, cultural, and historical contexts of the battlefield. Karen Hanna presented the battlefield land use plan (ARS) at community meetings to gather public input and acceptance for the new uses before details such as paint colors, path materials, and signage clouded the issue of the management plan's acceptance.

The GIS provided the tools for considering all options before presenting the findings to the public, and it allowed the project team to clearly display the proposals with maps and 3-dimensional views that the public could understand. Based upon the project team's experience, the public clearly understood how the planning process evolved and why the development of the park should be based on the proposed plan. Clear communication, facilitated by the use of a visual technology, helped the ADPT gain additional public support for the project.

The proposed master plan for the Prairie Grove State Park addressed and responded to three major components laid out by the project team: acquisition of new lands and easements; improvements to the park core; and improvements to the driving tour.

Acquisition of New Lands and Easements. Historical analysis determined four levels of historic significance relative to events before, during, and after the battle. In addition, a more intense visual analysis identified important viewsheds from the primary viewing points. These two studies identified parcels needing acquisition or easement. The master plan called for fee acquisition of approximately 70 acres of land immediately north and east of the park, and for conservation easements on 800 acres.

Improvements to the Park Core. The core of the park suffered from a poor vehicular circulation pattern, inadequate walking paths, insufficient parking, inadequate maintenance facilities, and a visitor information center that was inappropriate in scale and character to the rest of the park. The proposed master plan called for better buffers to separate the adjacent highway from the park, internalize the park traffic patterns, and better focus the visitor's experience on the Civil War events. Other proposed site improvements included additional interpretive trails, a system of

walks to connect all park features, an interpretive station in the "historic village," new restrooms at the Borden House and the amphitheater, and additional parking spaces.

Improvements to the Driving Tour. The proposed master plan rerouted the driving tour to improve views and interpretive opportunities. New driving tour stops along the periphery of the battlefield will have panoramic views of the field of action. The tour continues from the park into downtown Prairie Grove, drawing visitors to the commercial areas of town. A proposed walking/driving tour of the town will include many of the historic and architecturally significant buildings.

The master plan was completed using traditional planning methods combined and conducted within a Geographic Information System. The Arkansas Department of Parks and Tourism is currently implementing Phase I of the master plan, which includes the fee simple acquisition of approximately 203 acres of land primarily north and east of the park and the purchase of conservation/scenic easements on another 206 acres. Additionally, the ADPT is securing the "right of first refusal" on 356.5 acres. Lands chosen for protection are highly significant, comprise viewsheds visible from the park, and are prime for interpretation. Completion of Phase I will result in a total of 1,069.67 acres protected (including the park).

The Honey Springs Battlefield Master Plan is nearing completion and was also conducted by this author and Karen Hanna, in cooperation with the Oklahoma Historical Society and the National Park Service. The master plan methodology was altered slightly from the Prairie Grove model because the Honey Springs battlefield had little existing park infrastructure or facilities. Once a standard but flexible GIS model is established for battlefield preservation and management planning, it can be applied efficiently to other sites. CAST encourages battlefield preservationists to consider this technological tool in their inventory and planning efforts.

R. Brian Culpepper is a GIS Specialist with the Center for Advanced Spatial Technologies at the University of Arkansas, Fayetteville.

Mapping Battlefields

Anyone who has walked across a battlefield understands that the significance of the ground is not always apparent. A cornfield might look commonplace, for example, until someone points out that a regiment advanced across it, taking heavy casualties. Cannoneers served their guns from that unexceptional hillock. Soldiers crouched there in the sunken bed of an old mill road. Battles were ephemeral events, often occurring within the space of a few hours. Units maneuvered across the landscape, soldiers fired at one another, and soldiers died. The armies passed on, leaving a blood-stained field to be tilled or to grow into a thicket or to be built upon by the generations that followed.

Battlefield resources are often obscured by time and difficult to locate. That is why many historians dedicate years to researching a particular battle. The site of a battlefield is determined by a combination of identified historic features (e.g., structures, road traces, and stone fences), by terrain features, by archeological investigation, and by archival research in reports, memoirs, and historic maps.

Since 1990, the Cultural Resources GIS Facility (CRGIS) of the National Park Service has combined historic research and computer technology to put battlefield resources on the map. Often working directly from Civil War-era maps, CRGIS surveyors return to battlefields to find the roads, house sites, earthworks, and other features depicted by military cartographers. These features are mapped using Global Positioning Systems (GPS) technology, which is a tool to transfer field observations into a spatial database that can be manipulated by computers. The manipulation is done in a Geographic Information System (GIS), a software program that allows the user to integrate text, images, and spatial information and to analyze relationships among landscape features.

To date, CRGIS has applied this methodology on ten major battlefields, mapping in the process nearly 90 miles of surviving Civil War fortifications and countless other surviving resources. The goal of these efforts is to extract the information that historians have in their heads, place it on a map, and put it on the desktops of preservation planners and resource managers. CRGIS is building a national inventory of battlefield resources one site at a time. In the future, when a historian retires or transfers, his or her knowledge of the resources will stay behind in the computer's memory. Planners and resource managers that follow will build upon the historian's knowledge to preserve the essential battlefield landscape for future generations.

—David W. Lowe
Staff Historian, CRGIS

Joseph E. Brent

Preserving Kentucky's Civil War Legacy

The restored Bottom House on the Perryville battlefield.

Kentucky's Civil War experience was complicated, and preservation of its Civil War sites is a daunting task. From Kentucky's eastern mountains to the confluence of the Ohio and Mississippi Rivers, battlefields and fortifications attest to the military struggle for control of the crucial border state early in the war. The sites of supply, recruitment, and training facilities built by the Union army to support military operations south of Kentucky reflect Federal dominance in the state after 1862. Many of these battlefields and military sites are threatened by modern development or neglect.

Fortunately for the Commonwealth, private citizens have taken preservation of Kentucky's Civil War heritage to heart and have formed "friends groups." The Kentucky Heritage Council (KHC) has seen unknown or ignored sites become model preservation projects through the work of local friends. These grassroots, self-motivated groups have succeeded in their preservation efforts through mutual support, organization, leadership, long hours, and hard work.

Friends groups across Kentucky have assumed diverse roles. They have raised funds to match grants, served as liaisons between the sites and local governments, and been conduits for grant funding. Each organization is as unique as its historic site and its community. This is why friends groups are essential to the success of any battlefield or historic site preservation effort. They understand and can navigate through their own unique political landscape. They know when to approach local government for a matching grant and how to sell battlefield preservation to local business leaders, politicians, and neighbors.

There are several very successful battlefield friends groups in Kentucky. Perryville and Mill Springs—both ranked among the 50 most significant and endangered battlefields in the country by the Civil War Sites Advisory Commission in 1993—have outstanding friends groups. The Perryville Battlefield Preservation Association (PBPA) and the Mill Springs Battlefield Association (MSBA), though similar in nature, approach preservation from different perspectives. This is due in part to the fact that much of the Perryville battlefield is a state park and the Mill Springs battlefield is entirely in private ownership.

Perryville: Small Town Sophistication

The Battle of Perryville was the largest military action within the borders of Kentucky. The clash of two mighty armies left 8,000 men dead, captured, or wounded. Perryville, a village of 300 people in 1862, found itself inundated with thousands of wounded men. Local homes, churches, and stores became makeshift hospitals. The graffiti left on the walls of houses by the convalescing soldiers offers an eerie and grim reminder of the horrors of war. These fragile remains, along with the battlefield itself, are part of the legacy that the PBPA is working to save.

The PBPA was founded as a 501(c)(3), a non-profit tax-exempt corporation* in 1990 to promote the preservation, interpretation, and maintenance of the Perryville battlefield. Originally, the organization sought to provide funding or financial assistance to aid the state park in acquiring land for preservation and markers or other objects for interpretation of the battlefield. The PBPA also wished to prepare and disseminate educational materials related to the Battle of Perryville.

Early on PBPA purchased three replica cannons that were placed in the park to mark Parson's Ridge, the site of a Union artillery battery. A private donation from descendants of a Confederate infantryman allowed the PBPA to erect split rail fencing along the perimeter of the park. These two additions greatly improved the park's appearance and created a more authentic interpretative environment. These improvements were the sort of project-specific, incremental changes that the 25-member PBPA hoped it could accomplish. All of that changed in the summer of 1992.

In June 1992, the Kentucky Department of Parks received $2.5 million in Intermodal Surface Transportation Efficiency Act (ISTEA) enhancement funds to acquire historic battlefield land, purchase property in town, and create an interpretive plan at Perryville. Since such funds were contingent on an 80/20 match, the PBPA was charged with raising the needed $600,000. The PBPA developed partnerships with numerous groups to

raise the money. Contributions from the Honorable Order of Kentucky Colonels, The Conservation Fund, The Civil War Trust, the Association for the Preservation of Civil War Sites, and state funds raised through a bond issue surpassed the needed ISTEA match.

The constraints of the ISTEA process called for some creative thinking to enable the state parks system to acquire the battlefield lands. To expedite this process, the PBPA entered into an agreement with the agencies involved (Kentucky's Department of Parks, Department of Transportation, the Tourism Cabinet, and the KHC) to undertake negotiations with landowners and to purchase property to add to the state park. This role led to the creation of the Perryville Enhancement Project, a public-private partnership designed to preserve and protect the battlefield and tie the economic development of the town to the project's success. The Project serves the PBPA, the Perryville Battlefield Commission (an organization created by an executive order of the governor to oversee any action taken at the battlefield), and Chaplin Hills Historic Properties, Inc., a private realty company sympathetic to preservation in Perryville and Boyle County.

One of the PBPA's most important roles is as broker. Because the Perryville Battlefield State Historic Site is owned and operated by a state agency, it cannot accept donations for specific purposes. However, the PBPA can and does accept funding for land acquisition, capital improvements, educational programs, battlefield tours, and other projects. Its current focus, however, is purchasing land. With the influx of ISTEA funding, the PBPA assumed the role of local contact between the landowners and the funding agencies. For instance, the PBPA orchestrated an agreement with two local banks to provide 100% financing at property closings to facilitate smooth property transfers for landowners.

Governor's Scholars assault a Union position at Perryville. Photo courtesy KHC.

Education has always been a goal of the PBPA. To that end, the PBPA works with the Kentucky Governor's Scholars Program at nearby Centre College. The program brings Kentucky high school juniors to Perryville to participate in the work being done in town and at the battlefield. This association has brought increased publicity to preservation efforts in Perryville. The participants, Kentucky's brightest young people, study the battle and the role the town played in it, and contribute to the battlefield's interpretation and preservation. Other PBPA educational initiatives include internships for college students, archeological digs for local schoolchildren, and making primary research materials available for scholars of the town and the battle.

After six years, the PBPA continues to help people become involved in the preservation of Perryville and its rich military, civilian, and cultural history. "The role of the PBPA will continue long after ISTEA funds are gone. The battlefield will always need the public and private links that define partnerships for battlefield preservation," says Perryville Enhancement Project Director Mary C. Breeding.

Mill Springs: Starting from Scratch

The Battle of Mill Springs, fought on the cold, rainy morning of January 19, 1862, ended Confederate hopes of holding eastern Kentucky. The Confederate commander, Brig. Gen. Felix Zollicoffer, lay dead on the field—his army demoralized and in full retreat. The battle dealt a serious blow to the Confederacy's hopes for military dominance in the West.

The Mill Springs Battlefield Association (MSBA) was founded in 1992 to protect the site of the battle. The MSBA is also a 501(c)(3) organization. It has grown from a core group of a dozen people to an organization with more than 250 members. Bill Neikirk has served as president of the MSBA since the beginning. He has proved to be a capable leader with the drive and vision to guide the organization and keep it focused. In 1992, only the one acre of the battlefield had any sort of protection. Today more than 60 acres are protected, and the face of the landscape just outside Nancy, Kentucky, has changed considerably.

The change has not been the kind that comes from development or other urban, suburban, and industrial encroachments, although these threats exist. Rather, the agricultural fields that dominate the area have slowly begun to resemble a Civil War battlefield park. The MSBA has been slowly and quietly preserving, interpreting, and landscaping the battlefield. In 1994, with financial assistance from The Civil War Trust, MSBA pur-

A lone chimney marks the site of Brig. Gen. Felix Zollicoffer's headquarters at Beech Grove, a tour stop on the Mill Springs battlefield driving tour.

chased 19 acres of battlefield land. The MSBA owns the land and the KHC holds a conservation easement on the property ensuring its perpetual protection.

The MSBA has been very successful and creative with grant funds. It used a small grant from the KHC to create a rudimentary driving tour of the battlefield. The group also used funds from the American Battlefield Protection Program (ABPP) to develop preservation, management, and interpretive plans for the battlefield and conduct an archeological survey of the site. The Appalachian Regional Commission (ARC) awarded the MSBA $20,000 to develop an architectural design for a museum/visitors center.

The ARC funding resulted in perhaps the most creative and innovative project to date, an international architectural competition. Advertised in *Competitions* magazine, more than 75 architects from the United States, Canada, France, and New Zealand participated. A jury consisting of an architect, an artist, a writer, a historical archeologist, and two members of the MSBA evaluated proposals from 20 finalists. The grant funding was used as prize money. Victoria Beach and Robert Linn of Cambridge, Massachusetts, submitted the winning design. The visitor center will be constructed on a site near the battlefield as funding becomes available.

The MSBA's fund raising efforts are comprehensive and ongoing, thanks to the group's full-time administrator. "My job is to continue the process of researching the battle, add more land to the park, and provide the visitor with an enjoyable and informative experience," remarks MSBA staff person Ron Nicholas. Nicholas takes his job seriously, and the changes made during his tenure are clearly visible. A split rail fence surrounds Zollicoffer Park, a one-acre county park dedicated to the site of Brig. Gen. Zollicoffer's death and a Confederate mass grave. Interpretive and directional signs mark and enhance the driving tour. The MSBA funded Nicholas' position for the first three years with funds from the ABPP, the KHC, and county government sources. Next year the funding will be entirely local. The success of this self-sustaining staff position parallels the success of the MSBA. Since 1992, the MSBA has raised $1 million to protect battlefield land.

Mill Springs and Perryville are the state's two most celebrated Civil War sites. Their Priority I status made them eligible for funds available from the ABPP and vastly improved their status as places for Civil War enthusiasts to visit. However, that is not the end of the story in Kentucky. The KHC is currently working with 18 other Civil War sites, and has provided grants to 14 of these sites since 1992. Of these 14 sites, nine have friends groups or organizations that successfully implement research, planning, acquisition, and interpretive projects.

A Growing Number of Friends

Kentucky boasts of several friends groups with records every bit as impressive as those in Perryville and Mill Springs. The Camp Nelson Preservation and Restoration Foundation (CNR&PF) works closely with the Jessamine County Fiscal Court (the county's governing body) to acquire grant funding and local matching funds for the camp's preservation. Camp Nelson was a heavily fortified Union quartermasters depot and a recruiting and training base for 10,000 African-American troops. The foundation has used grants from the county to develop a preservation and management plan, a driving tour of the site, and interpretive signage. The CNR&PF also created marketable items such as a brochure, a print, a video, and a calendar. With local and ISTEA

Boy Scouts plant a seedling from the storm-felled Zollie Tree to replace the famous Mill Springs landmark. Photo courtesy KHC.

The Mill Springs Battlefield Association hosts the 135th Anniversary Commemoration Ceremony of the battle. Local officials, reenactors, and the general public attended the event.

grants and local fund raising, the foundation has netted more than $1 million. They have a professional staff person, funded in part by a grant from the KHC, and are in the process of acquiring critical land necessary to preserve and interpret the site.

The Friends of Fort Hill in Frankfort is one of the newest Civil War non-profits in the state. Fort Hill overlooks the Kentucky River and the state capitol. These strategic heights contain two earthen fortifications, Fort Boone and the New Redoubt. Here, in 1864, Union troops and militia led by Governor Thomas Bramlette fought off a contingent of Confederate cavalry and kept the city from falling into Confederate hands a second time.

The Friends of Fort Hill work closely with the City of Frankfort. Fort Hill is a city park, but the surrounding land has been under development pressure for years. With a grant from the KHC, the Friends developed a community consensus-based plan for the forts. The Kentucky Historical Society will provide interpretation and support for the site thanks to a cooperative agreement between the non-profit Friends, the city, and the Historical Society. The city has obtained funding to create a pedestrian walk that will retrace the old military road up to the fort. The Friends' support helped this project overcome very vocal citizen opposition.

Near London, Kentucky, is the site of the Battle of Wildcat Mountain (October 1861), part of Brig. Gen. Felix Zollicoffer's Mill Springs campaign. The Camp Wildcat Preservation Foundation (CWPF) formed in 1994 to try to save the site of the first significant Civil War battle in Kentucky. The CWPF works closely with the USDA Forest Service, which owns part of the battlefield. The CWPF recently applied for and received ISTEA enhancement funds totaling $145,000 to purchase critical battlefield lands. This money, coupled with funds from the Association for the Preservation of Civil War Sites and the timely intervention of a private benefactor saved this endangered site. The CWPF is currently working on a preservation and management plan for the battlefield.

The efforts of these groups demonstrate that the friends of Kentucky's Civil War sites are driven to protect their resources. They fuel the state's Civil War sites preservation effort. David L. Morgan, Executive Director of the KHC, states flatly, "Without the strong leadership and support of the friends groups in the state, our efforts to preserve Civil War battlefields and sites would not be nearly so successful. Strong grassroots support is essential to any preservation effort and these people have helped us push the envelope." No one knows a community better than the people who live there; consequently, no one is better equipped to make a preservation project succeed than local supporters.

To help the sites and friends groups, the KHC created the Kentucky Civil War Sites Association. This umbrella organization meets twice a year to share information and give site managers and friends an opportunity to share ideas. So far the effort has worked well, but much remains to be done.

Note

* While it is not essential for a friends group to have 501(c)(3) status to receive grants and other funding, it is very useful in the long run. This status allows donor gifts—such as money, services, equipment, museum objects, and books—to an organization to be tax deductible. Many people are more willing to give money if they can get a tax deduction. To get 501(c)(3) status, apply through the Internal Revenue Service. Request forms SS-4, 1023, 8718, and 872-C. Form SS-4 requests an organization's **Employer Identification Number**. This number is important for receiving public funding. Filling out these forms is daunting and complicated, and there is a fee that ranges from $150-$500 depending on an organization's status. Consult an attorney familiar with the income tax code to reduce strain and anxiety.

Joseph E. Brent has worked as an archeologist, an archivist, and an auto parts salesman. He has been with the KHC since 1990 and working with Civil War sites preservation since 1992.

Phyllis Baxter

A Small Battlefield with Many Friends

The Battle of Rich Mountain, one of the earliest battles of the Civil War, made headlines across the nation in the summer of 1861, but was soon forgotten. A small battle in a remote area of western Virginia (now West Virginia), it established an early limit to secession's reach, and dramatized a popular leader, Maj. Gen. George B. McClellan. The battlefield remains a small site in a remote place, but it is having a beneficial effect on a local community and its economy. Rich Mountain battlefield is today a model of what a small group of volunteers can do, with a lot of help from their friends.

The Battle of Rich Mountain

On a rainy summer day in July 1861, gunfire shattered the quiet of the Virginia mountains. Some weeks before, Brig. Gen. Robert S. Garnett had established a Confederate fortification at the base of Rich Mountain on the Staunton-Parkersburg Turnpike, a major thoroughfare of the day connecting Staunton in the upper Shenandoah Valley with Parkersburg on the Ohio River. A Union army commanded by Maj. Gen. George B. McClellan sought to gain control of western Virginia and so protect the crucial Baltimore & Ohio Railroad that passed through the region. A flank attack by almost 2,000 Union troops surprised a small Confederate guard post at the pass where the turnpike crossed the top of the mountain behind Camp Garnett. With one cannon and only 310 men at the pass, the southerners held off the massive attack, then fled. Union forces had nearly surrounded Camp Garnett before the Confederates there retreated in confusion.

The Union took control of the nearby town of Beverly, and McClellan telegraphed his superiors in Washington proclaiming his great victory. "Our success is complete and secession is killed in this country!" While perhaps overstated, the claim was basically true. The Union kept control of northwestern Virginia and enabled the pro-Union westerners to establish the reorganized government of Virginia, which became the State of West Virginia two years later. On the basis of this successful campaign, President Lincoln called McClellan to Washington and appointed him commander of the Army of the Potomac.

After the war, only veterans and a few local folk remembered the site of the small, but strategically important, Battle of Rich Mountain. Tangible features that witnessed the battle also disappeared. The Hart homestead, a rugged mountaintop log house that survived the battle, burned to the ground in the 1930s. The mountain's rich coal seams, from which household coal had been dug even before the war, were surface mined all around the battlefield. Fortunately, the area of heaviest fighting at the pass and many of the earthworks of Camp Garnett survived. The original turnpike remains little changed and to this day is a secondary gravel road.

Protecting the Site

In July 1991, the West Virginia Reenactors Association staged an anniversary reenactment of the battle at a nearby 4-H camp. In the process of organizing and holding this event, a number of people and organizations came together, each with their own interest in the battlefield. The Randolph County Historical Society co-sponsored the event, the Randolph County Convention and Visitors Bureau provided some funding, and cultural resources specialists with the nearby Monongahela National Forest volunteered their help in preparing a National Register nomination for the site. When a 14-acre tract of Camp Garnett land was up for sale that fall, the call for a group to buy and protect this land was quickly

A state historical marker commemorates the Battle of Rich Mountain, fought at the pass where the Staunton-Parkersburg Turnpike crossed the top of the mountain.

answered. Within two months, the non-profit Rich Mountain Battlefield Foundation (RMBF) formed, raised the initial $5,000 down payment, and secured a mortgage to purchase this significant tract at the base of the mountain.

The site of the battle at the top of the mountain, as well as large amount of land on either side, belonged to an absentee descendent of the original Hart family who had lived at the pass during the Civil War. The owner recognized the significance of the site and agreed to sell the core of the battlefield to a preservation group. The RMBF approached the Association for the Preservation of Civil War Sites (APCWS) for assistance with purchasing the battlefield. Then APCWS Executive Director H. Wilson Greene toured the site in a February snowstorm and recognized its importance and potential. The APCWS voted to purchase outright the 40-acre core battlefield (the area of the most intense fighting) and signed an agreement with the RMBF to manage the site. While committing to buying the core battlefield, the APCWS urged the RMBF to continue working not only to protect the Camp Garnett site, but also the 1.5-mile corridor containing the turnpike route connecting the two sites.

Because of extensive strip mining all around the battlefield, the National Park Service (NPS), which was conducting a national Civil War sites inventory, believed the site lost. At the invitation of the State Historic Preservation Officer, then NPS Chief Historian Edwin C. Bearss visited Rich Mountain in 1992. Bearss was delighted to find the core battlefield intact; it had been missed by the mining activity and, in fact, retained excellent integrity. Thanks to his support, and a subsequent site visit by the Civil War Sites Advisory Commission (CWSAC), Rich Mountain was named among the 50 Priority I sites in the CWSAC's 1993 report to Congress. The NPS also acknowledged the significance of the Rich Mountain battlefield when the agency listed the site in the National Register of Historic Places in 1992.

Control of the Staunton-Parkersburg Turnpike, a vital roadway through the mountains of western Virginia, was bitterly contested in 1861. This section of the historic pike is now a secondary, gravel road.

In June 1992, about the time the APCWS purchase was becoming final, another landowner offered to sell his tract of approximately 70 acres. This parcel contained the Camp Garnett site. The Randolph County Historical Society offered the down payment, and the fledgling RMBF committed to raise more than $60,000 for the purchase, plus the $20,000 owed on the original 14-acre tract mortgage.

The RMBF had also been working to spread word of its efforts and build its membership base. Local news stories made the organization more visible in the community and bolstered public support. National exposure, including stories in the APCWS newsletter and the *Civil War News*, brought new members from all over the country. A second reenactment that summer helped cement the support of the reenacting community. A committed and active RMBF board, all volunteers, helped pull all of this together with no paid staff.

In searching for funds to acquire and protect the Camp Garnett tract and the land along the turnpike which connected it with the mountaintop battlefield, the RMBF applied for, and received, Intermodal Surface Transportation Efficiency Act (ISTEA) enhancement funds. The project total of $259,000 required a $52,000 cash match from the RMBF. Throughout the more-than-year-long process to raise this money, we spread our message far and wide and received help from many partners. The Randolph County Development Authority (RCDA) volunteered to be our governmental sponsor. The Conservation Fund helped arrange a grant from the Claude Worthington Benedum Foundation for $26,000 of the matching funds. But much of the required match was raised the hard way, through local efforts and fund raising activities. The Civil War Trust provided a grant that finalized the acquisition. When acquisition was completed, the total Rich Mountain Battlefield Civil War Site (RMBCWS) contained more than 400 acres. Three organizations—the RMBF, the APCWS, and the RCDA—owned pieces of the site, and the non-profit RMBF assumed overall management of the battlefield.

Developing the Site

In 1992, the RMBF began work on a Concept Plan to guide the long-term development of the site. Funded by a rural development grant from the USDA Forest Service, the Concept Plan provided guidance for a broad range of preservation and development priorities, including archeology, interpretation, visitor services, promotion, and management. This plan has proved invaluable for guiding site development projects, park opera-

A number of community partnerships have helped develop interpretive trails on the battlefield. In June 1996, local Eagle Scouts built a footbridge on the trail to Camp Garnett. Photo courtesy RMBF.

tions, and educational and community outreach programming.

While ongoing membership and fund raising efforts cover the basic expenses for the organization, moving ahead with site development is dependent on grants from a variety of different sources. The American Battlefield Protection Program (ABPP) of the National Park Service provided important funding for a part-time executive director to work on planning, management, and interpretation. Two grants from the Forest Service funded parking lots, signs, and trail development. The West Virginia Division of Culture and History approved a grant for an archeological survey, which was matched primarily with volunteer participation. A Benedum Minigrant project built the first interpretive signs. A Preservation Services Fund grant from the National Trust for Historic Preservation enabled production of a slide show about Rich Mountain and the Staunton-Parkersburg Turnpike. The Randolph County Convention and Visitors Bureau funded the first year's salary for a part-time maintenance director for the park.

Five short years after the RMBF was formed, the Rich Mountain Battlefield Civil War Site (RMBCWS) is open for visitors. West Virginia Department of Highways signs direct visitors to the site. Attractive stone and wood gateway signs welcome visitors once they arrive. A brochure about the battle is available at area information centers and at the site. Two interpretive kiosks, one each at the battlefield and Camp Garnett, give an overview of the battle. New parking lots and trails lead to historic features and help protect the site from indiscriminate traffic. Two wooden footbridges built by a local Boy Scout troop take trails across the creek to the earthworks. Littering, trash dumping, and vandalism have radically decreased. Mowing and selective brush clearing are keeping the site attractive and the landscape more historically accurate.

This year, the RMBF plans to install additional interpretive signs along the trails, produce a new walking tour brochure, build a handicapped-accessible viewing platform overlooking the fortifications, and improve the trails. The organization also hopes to include small informational markers to supplement the interpretive signs, develop a picnic area and rest room facilities, extend hiking trails on back portions of the site, and construct a ridge top overlook of the countryside.

Biennial battle reenactments boost public awareness of the site. The next event is planned for July 1997. The reenactors' encampments are on RMBCWS property in front of Camp Garnett. Parking and the reenactments are on adjoining private property. The battlefield and fortifications are reserved for small living history scenarios and for guided tours offered during the reenactment weekend. These events are opportunities to educate the public about the history of the battle and to make people aware of, and build support for, the site.

The next big challenge is to purchase a historic building and develop a Visitor Interpretive Center for the battlefield and its related sites. This is a major step since it involves a commitment not only to rehabilitate and maintain a building and develop the exhibits, but also to provide the staff to keep it open regular business hours. Wayside facilities and visitor centers at most parks are managed by an agency with some dependable budget and resources. For the RMBF, budget and staff are still dependent on a patchwork quilt of donations and grants held together by volunteers.

What It Means To Us

Preservation of the Rich Mountain battlefield and its related sites is important for two major reasons. One is the inherent value in preserving our heritage and honoring our past. The battlefield is hallowed ground. Rich Mountain is a significant chapter in the story of the civil upheaval that helped shape our country into what it is today. It is also significant locally as a physical representation of our community's heritage and as a reminder that this place—that each place—is unique and special. By preserving our historic sites, teaching local history in schools, and raising awareness of our heritage, we help foster pride in the local community and improve the quality of life for all local residents.

Second is that by protecting the Rich Mountain battlefield and the scenic Staunton-Parkersburg Turnpike Byway, they will draw heritage tourists and stimulate the region's economy. The RMBF hopes to attract a targeted group of vis-

itors who are interested in these authentic sites, many of whom will enjoy the area's traditional culture, crafts, and outdoor recreation activities as well.

Lessons Learned

A word to local groups contemplating an effort to preserve their own historic site: it takes a lot of hard work, a lot of help, and a leap of faith. There are many sources of ideas, training, and technical assistance to help with interpretation and resource preservation. Money is available if you hunt for it, believe in your site, and communicate your enthusiasm. Involve as much of your community as possible, build partnerships, and keep cultivating new volunteers. And take it one step at a time.

To National Park Service or other government professionals who may be working with community groups: your help does make a difference. The RMBF has had an enormous amount of help from the ABPP and the Forest Service. In both cases, the support and help from the people in those agencies have been at least as valuable to us as the monetary grants. As trained professionals, you can offer the expertise and experience that can help a community group focus its efforts and reach a concrete result. Be willing to share your knowledge when asked, and help guide them to other financial or technical support resources. In turn, they can provide the local connections that may help make your work more effective. When the enthusiasm, commitment, and local knowledge of a community non-profit group can be partnered with the expertise and resources of a professional agency, both will come out as winners—and many more sites can be preserved.

Phyllis Baxter is a founding member, past president, and currently executive director of the Rich Mountain Battlefield Foundation. She is also active with other local historical and preservation groups, is a civilian reenactor with the West Virginia Reenactors Association, and serves on the board of the statewide Preservation Alliance of West Virginia.

Nancy V. Webster

Revolutionary Preservation

Unlike Civil War sites, Revolutionary War sites have yet to resonate with the general public. Americans do not identify easily with the uniforms, language, and tactics of the late-18th century. Another public relations problem is that American forces lost many major battles in the Revolutionary War. The Battle of Brandywine, fought September 11, 1777, was such a defeat—although contemporary Continentals felt they had won. They believed, as Brig. Gen. George Weedon did, that "such another Victory would establish the Rights of America, & I wish them [the British] the Honor of the Field again tomorrow on the same terms."[1]

Today, the Brandywine Battlefield National Historic Landmark, 10 square miles of scenic, rolling countryside, nearly all in private ownership, is vanishing under 20 years of heavy development pressure from Philadelphia, Pennsylvania, and Wilmington, Delaware. The regional pattern of large, 300-year-old Quaker farmsteads is giving way to $700,000 tract mansions on postage stamp acreage. The area is considered such a desirable location that developers make weekly bids to longtime landowners, many of whom are senior citizens considering relocation. As the parcels are subdivided, ownership is transferred to new residents unfamiliar with the history of the area and likely to move on within five years.

Further challenging the survival of this important resource is the fragmentation of jurisdiction among two counties, six municipalities, and one small state park,[2] with most of the actual decisions being made piecemeal at the township level. The battlefield's proximity to the popular tourist destinations of Philadelphia, Valley Forge, Longwood Gardens, and Winterthur serves to diminish rather than draw visitation and corporate interest and funding. And, strangely enough, the region's plethora of American Revolutionary War riches has been taken for granted for so long that many people find it impossible to contemplate that the landscape and its cultural resources could disappear, assuming that an unknown, unnamed someone **else** is looking after the battlefield.

Ownership in fee simple, the traditional method of saving significant terrain and structures,

British map of the Brandywine battlefield, drafted by a Hessian artillery officer shortly after the battle. Photo courtesy Delaware County Planning Department.

is not a viable option for such a sprawling resource. Instead, a carefully plotted network of conservation easements, zoning overlays, private preservation, local tax incentives, buffering requirements, and similar planning tools may be the answer. A task force of volunteers is using each of these approaches to save the Revolutionary War battlefield that straddles the Brandywine River in Pennsylvania.

By the mid-1980s, it became apparent to local planners that the general public was unfamiliar with the battlefield's National Historic Landmark (NHL) designation and that the purpose and public responsibilities associated with the designation were likewise obscure. Although designated as one of the earliest National Historic Landmarks in 1961, the battlefield was not officially demarcated until May 1977, 200 years after the action. Not surprisingly, local residents did not understand the objectives associated with this designation. Nor did the federal designation impact land use decisions at the local level.

Most people confuse the Brandywine Battlefield NHL, the 10 square miles over which the battle was fought, with the 50-acre Brandywine State Park created in 1949. This park lies on U.S. Route 1, making it easy for the visitor to locate, and includes two 18th-century farmsteads used as Washington's headquarters and Lafayette's quarters. No significant part of the battle took place on these grounds, and Washington's command post was elsewhere during the action. The existence of this public park confuses people and obscures the location, size, and threat to the entire battlefield.

September 11, 1977, saw a magnificent reenactment of the battle on original land that attracted one of the U.S. Bicentennial's largest audiences. Unfortunately, this enthusiasm failed to spill over into long-range protection for the NHL. To begin to offset this inertia, a small leaflet outlining a driving tour of the battlefield with sketches of the action at important locations was prepared by a local historian in 1986. This outreach tool and steady comments from several local planners began to raise public awareness.

In 1988, Birmingham Township was concerned enough to apply for a Certified Local Government (CLG) grant in order to compile a cultural resources management study. Several local townships and the Delaware County, Pennsylvania, Planning Department more than matched the CLG funding with in-kind services.[3] The study took a parcel-by-parcel look at the terrain, troop movements, architecture, archeological sites, and scenic vistas. The two-volume, 500-page final report was intended as a reference document for use by local government agencies, not as popular history. It provided recommendations in professional language so that those recommendations could easily be incorporated into Environmental Impact Statements and necessary local permitting processes. After the report won the 1990 Pennsylvania Historic Preservation Award and generated much favorable comment, 1,000 copies of a condensed, user-friendly version were printed and distributed in 1992 using National Park Service (NPS) funding. Both the 1989 and the 1992 studies included recommendations for both public and private actions to retain the integrity of the NHL. While several townships were notably conscientious in their application of the information and suggestions, several were not. Anti-regulatory feelings, which were intensified by neighborhood associations' restrictive rules, fueled resistance to preservation.

The increasing local awareness of threats to the battlefield and the individual efforts of area public and non-profit agencies gradually led to a loose confederation of interested parties. Once organized, it became the Brandywine Battlefield Task Force. Its goals reflected county and regional agencies' concern for the preservation of the historic site. The Task Force also understood the importance of respecting and being sensitive to municipal and landowner interests. Chaired by the head of the Pennsylvania Bureau for Historic Preservation, the Task Force has a core of regular

members plus members from agencies who attend on an as-needed basis.[4] The public is always welcome at meetings and the local press has faithfully followed each new action and development.

The member organizations of the Task Force have common interests but different individual goals and constraints. For example, the Brandywine Conservancy, an environmental management non-profit organization, has taken on the large task of acquiring easements, which public agencies cannot execute. However, the Task Force collectively determined which parcels were the critical ones on which to seek easements and Delaware County planners compiled the research and the determinations of significance. Chester County has an open space fund; Delaware County does not, but provides more staff assistance. Municipal representatives provide local involvement, taxpayer contacts, and grassroots support. Each member agency contributes time and support in its area of expertise, with the overall plan of action approved step-by-step by the whole group. Policy is decided by the Task Force, while action is taken by committees on Funding, Easements, Interpretation, Ordinance Language, and Outreach, or by designated agencies. The Brandywine Battlefield Task Force is sensitive to competing interests, such as owner privacy and heritage tourism; and each action is preceded by public participation.

This structure was not planned; rather, it evolved and there have been many stumbles along the way. Perhaps the most frustrating and recurrent issue is how to balance preservation with inevitable new growth. The premium price commanded by housing in the Brandywine Valley means that lot averaging, cluster development, or similar incentives do not appeal financially to developers. Single family mansions on tiny lots continue to bring high prices, despite a softening real estate market. Attempts at preservation by site design—clustering the building sites to allow open corridors around historic resources—have had varied success because of piecemeal application. Constrained by the terrain and conservative local codes, design guidelines have not yet been applied beyond individual subdivisions to the entire NHL.[5]

Taken from the historic Birmingham Meeting House cemetery, this idyllic view of the Brandywine battlefield belies the threat to the landscape. New luxury residences are just beyond sight lines.

Protecting Critical Parcels

To counteract most effectively the rapid build-out of the Brandywine battlefield, the Task Force decided to work on preserving 18 critical parcels first. These parcels were evaluated as highly significant, large parcels facing immediate threat.[6] The methods for protecting these parcels—their landscapes, viewsheds, and cultural resources—have been varied and unique to each area.

The Brandywine Conservancy recently obtained a facade easement for the 1704 Brinton House, which was used as a British headquarters. The Task Force is compiling a list of other structures that could benefit from similar facade protection.

Thornbury Township found that a zoning overlay was the best way to protect the most significant section of a large family trust property where there was potential that the heirs would opt for full development. The overlay designates a third of the parcel, which includes major battle positions and farm buildings used for a British field hospital, as historic open space. The remainder of the overlay district has density, usage, and lot averaging regulations keyed to the protected area.

An interesting outgrowth of site design has been the protection of the Continental army's third battle line, Sandy Hollow. This 60-acre, self-contained viewshed is the site of Brandywine's culminating action. The Task Force negotiated with the developer for more than two years before the Sandy Hollow site was designated as required Preferred Residential Development open space.[7] Birmingham Township accepted the land as a municipal park. However, the township wanted to guarantee protection even further. In 1996, it voluntarily commissioned a conservation easement on its own park, thereby ensuring that inappropriate construction such as ball fields or tot lots will never adversely affect the resource.

Creative dissemination of accurate and authoritative information can lead to consensus. The Craig Farm, a critical parcel still in contention, contains the site of post-battle encampments, a field hospital, one of the battlefield's few known burial sites, and all of its original hedgerow configurations. The developer was resistant to any archeological investigations or protective buffers

The Craig Farm barn, site of British mass burials. Original hedgerow in background screens new single-family mansions.

around the hospital site until a letter of concern was read at a public meeting. The letter was written by Ian G. Robertson, Director of the National Army Museum, London, England.

> . ..The British Army always buried all its dead where they fell; this means there are cemeteries all over the World and reliance is placed on the generosity of spirit of the host community to see that those buried there are allowed to rest in peace. It is a matter of supreme irony that some of the British Army graves disturbed already at the Brandywine battlefield were those of the 64th Foot, whose successors in the Staffordshire Regiment fought alongside American troops in the Gulf War of 1991! I note that the logo at the top right-hand corner of your notepaper includes the words *Take Pride in America* and perhaps one way would be for all of those concerned to respect the graves of those who played a formative part in making American history.. .[8]

The letter's recitation resulted in stunned silence and the developer's immediate cooperation.

Where several critical parcels are adjacent, the Task Force found that preservation easements are more attractive to individual owners when they perceive themselves as part of a total landscape. Not only is there a "domino effect," but such group marketing may be crucial to successful design and protection. In the Birmingham Meetinghouse area, a significant viewshed includes five properties. In order for the owners to retain their land's investment value, most wished to develop parts of their holdings. Yet the buildable areas of the viewshed were not apportioned equally among the five parcels. To protect the historic viewshed, the Task Force is facilitating a remarkable legal agreement among the property owners. The owners pooled their properties into one design whole, designated one area for new, clustered construction, and guaranteed an equal return for each owner. Development will be placed in the least significant areas and beyond sight lines. Without this agreement, only one or two owners would have benefited financially, and the viewshed would likely have been impaired.

Other Possibilities

The Task Force is addressing Brandywine's continuing problem of public awareness in several ways. One method is a "familiarization tour," which delves equally into historical information and examples of preservation opportunities. The federal, state, and local elected officials who attended the first tour in May 1996 expressed much enthusiasm and support. The Pennsylvania Historical and Museum Commission subsequently endorsed the activity. A Commission member was so impressed he drafted "Commonwealth Treasures" legislation.[9] Similar tours are organized for 1997 to acquaint state and local agencies' staff, appointed officials, landowners, and heritage tourism personnel with Brandywine's significance and opportunities.

There has never been an interpretation plan for the battlefield, so a Task Force committee is writing one now. The plan will incorporate concerns of local citizens, goals of the local historical society, plans of the two visitor and convention bureaus, and concepts of a regional group, the Council of Revolutionary War Sites. The final document will guide the interpretive efforts of Task Force member organizations and the Brandywine Battlefield State Park.

With Brandywine's 225th anniversary just five years away (2002), the battlefield's integrity faces zero hour. It is already too late for some possible solutions, such as direct ownership, so a combination of approaches is mandatory. Flexible, parcel-by-parcel solutions are being created for the NHL. The Task Force's ambitious program of preservation, easements, interpretation, archeology, and education attracted the first American Battlefield Protection Program funding award for a Revolutionary War site as well as special recognition and funding from the state. The Task Force is now in its third year, and believes that its experience should encourage all who face the challenge of preserving historic places and open space threatened by urban and suburban expansion.

Notes

1 George Weedon to John Page, 11 September 1777, in The Weedon Papers, Chicago Historical Society, Chicago, Illinois.

2 Birmingham, Kennett, Pennsbury, Thornbury, and Westtown Townships in Chester County, Pennsylvania; Chadds Ford Township in Delaware County, Pennsylvania; and the Brandywine State Park. The Brandywine Battlefield NHL does not

include the entire approach route or the flanking movements of the British army. If it did, eight more townships, including one in the state of Delaware, would be affected.

3 Webster, Nancy V., Martha L. Wolf, Betty Cosans-Zebooker, and Ken Joire, *Brandywine Battlefield National Historic Landmark Cultural Resource Management Study* (Delaware County Planning Department, Media, Pennsylvania, 1989).

4 Task Force members are particularly appreciative of the active support of NPS historian William Bolger, a member from the beginning, and of Karen Rehm, Chief of Interpretation at Valley Forge National Historic Site.

5 There are two Historic Architectural Review Boards that apply design guidelines in two townships within the NHL.

6 Criteria for evaluation of these critical parcels was based on the terrain's significance to the battle, the significance of the military action that occurred on that ground (such as a pitched battle, skirmish, or maneuvers), presence of cultural resources (such as historic buildings, roads, or archeological sites), and whether the site was immediately threatened. The size of the parcel was also an important determinate.

7 In Pennsylvania, new, large-lot housing communities designated as Preferred Residential Developments are required to set aside 4% of the total development as open space.

8 Ian G. Robertson, Director of the National Army Museum, London, England, to Katherine H. Stevenson, Associate Regional Director, Cultural Resources Management, National Park Service, Philadelphia, 26 February 1993, in response to notification of impending development at the Craig property, site of the American's final defensive position at Brandywine and of known 64th Foot burials. Delaware County Planning Department, Media, Pennsylvania.

9 Pennsylvania's new Commonwealth Treasures legislation is designed to give special designation to historic sites, artifacts, structures, and records that played a special role in the state's history. The designation is expected to raise awareness of the value of the Treasures with the Governor, the legislature, state agencies, and the public. Commonwealth Treasures will receive special consideration in grant funding, technical assistance, and public programs. The Pennsylvania Historical and Museum Commission will officially designate the Brandywine Battlefield National Historic Landmark as the first Commonwealth Treasure in June 1997.

Nancy V. Webster, AICP, is Principal Planner with Delaware County, Pennsylvania, and the project manager/author of the 1989 cultural resource management study for the Brandywine Battlefield NHL. She is also a professional historian and continues to publish and lecture on Delaware Valley topics.

Susan Escherich

National Historic Landmark Battlefields

National Historic Landmarks symbolize and commemorate the most important aspects of United States history. Landmarks are chosen for their national significance and integrity, i.e., the extent to which they retain their historic qualities. Visiting these places allows modern people to step back in time and experience the lives their predecessors led in ways not otherwise possible. Numerous battlefields allow us to contemplate events that shaped our nation.

Approximately 3% of all National Historic Landmarks are battlefields or forts associated with particular military campaigns. Some, like Fort de la Boulaye, built in Louisiana in 1700, even predates the United States. Fort de la Boulaye was built by the French when they occupied the Mississippi River Valley. Indian attacks forced its abandonment in 1707. Fort San Carlos de Barrancas in Pensacola, Florida, and Fort San Marcos de Apalache, near Tallahassee, were built by the Spanish to defend their empire against the United States. They fell to Andrew Jackson in 1814 and 1818, respectively, opening the way for acquisition of Florida.

Currently, about 26% of all landmark battlefields are associated with the Revolutionary War. They include such well-known sites as Valley Forge and Brandywine in Pennsylvania, Monmouth and Morristown in New Jersey, and Fort Stanwix and Saratoga in New York. In the South, Revolutionary War landmark battlefields include Cowpens and Kings Mountain in South Carolina, Moores Creek and Guilford Courthouse in North Carolina, and Yorktown in Virginia. Nonbattlefield landmarks associated with that war include Scotchtown, Virginia, the home of Patrick

Henry, and the USS Constellation, the first U.S. ship to engage and defeat an enemy vessel.

The War of 1812 is represented by a handful of landmarks, including the naval battles on Plattsburgh Bay on Lake Champlain, New York, and Perry's Victory on Lake Erie in Ohio. Other landmark battlefields associated with the War of 1812 include Fort McHenry in Baltimore Harbor, Maryland, and the site of the 1815 Battle of New Orleans in Louisiana.

Hopefully, the new Congressionally mandated Revolutionary War and War of 1812 Historic Preservation Study will result in increased protection for endangered battlefields associated with those conflicts. The landmarks at Brandywine and Monmouth are both currently threatened by private development.

The Mexican War and the struggle for Texan independence from Mexico are commemorated by the Alamo, San Jacinto Battlefield, Palo Alto, Resaca de la Palma, and Fort Brown, all in Texas. Palo Alto is a new National Park which just last year received funding to purchase a third of the battlefield to provide access to visitors. The core of the battlefield remains to be acquired. The park will also interpret the battles at Resaca de la Palma and Fort Brown which followed the battle of Palo Alto in Gen. Zachary Taylor's campaign to push Mexican Gen. Mariano Arista back across the Rio Grande.

Approximately 11% of landmark battlefields are associated with 19th-century Indian Wars campaigns, including Wounded Knee in South Dakota and the Chief Joseph Battleground of Bear's Paw in Montana. The Washita battlefield in Oklahoma, a Landmark since 1965, was added to the National Park System in November 1996.

About 26% of all landmark battlefields are associated with the Civil War. Of the 384 sites identified by the Civil War Sites Advisory Commission as the war's principal battlefields, only sixteen have been designated as National Historic Landmarks.

A number of battlefields associated with World War II are National Historic Landmarks. They include Pearl Harbor in Hawaii, sites on the Pacific Islands of Midway, Wake, Kwajalein, Palau, Saipan, and Tinian, and others on the Roi-Namur Islands and in Micronesia. The site of the only World War II battle fought on the North American continent, the Attu battlefield on Attu Island, Alaska, is also included. The island was captured by the Japanese and reoccupied by the Americans in 1943.

Protecting Battlefield Landmarks

Battlefields that are National Historic Landmarks encounter the same threats and problems as those that are not landmarks. The open space is often seen as prime for development, or a good location for highways and utilities. Isolated landmarks that are difficult to reach and patrol and, alternatively, urban landmarks that are located close to centers of population may suffer from vandalism. Many suffer from natural forces, such as flooding and erosion. While Congress has approved funds for landmark protection, to date it has not appropriated monies for this purpose.

The National Park Service's National Historic Landmarks Assistance Initiative (NHLAI) monitors landmarks and reports on their condition to Congress. Over the past ten years, NHLAI has found that approximately 6% of all landmarks are seriously threatened or damaged every year, with a further 9% potentially damaged or threatened.

According to the Civil War Sites Advisory Commission report, 50% of the principal Civil War battlefields not already lost face high or moderate threats. Eight battlefields identified by the Commission as the most significant and most threatened are National Historic Landmarks. They are: Bentonville, North Carolina; Cedar Creek, Virginia; Glorieta Pass, New Mexico; Perryville and Mill Springs, Kentucky; and Port Hudson, Louisiana; Corinth, Mississippi; and Monocacy, Maryland.

Four of these sites have been listed in the NHLAI's annual report on endangered and damaged National Historic Landmarks. The Perryville battlefield, site of the October 8, 1862, battle that stopped the Confederate offensive for control of Kentucky, was first listed in 1989 as threatened by new construction. Seven years later, after local, state, and federal organizations helped protect the battlefield (see "Preserving Kentucky's Civil War Legacy," page 35), Perryville was removed from the NHLAI's list of threatened landmarks.

The battlefield at Port Hudson, Louisiana, the last Confederate stronghold on the Mississippi River to fall to Union forces, has been listed by the NHLAI since 1982 as severely endangered. The Louisiana Department of Commerce and Industry declared the highway through the landmark an enterprise zone, thereby encouraging new development. Construction of housing and new

Visit the NPS cultural resources web site at <http:/www.cr.nps.gov> (search for Landmarks). Or, join the new internet discussion group by sending an email message to: majordomo@web.cr.nps.gov. Leave the subject line blank, and in the first line of the message write: subscribe h-landmarks. Send your message, and you will be "on-line" with others who are concerned about NHLs. This is a place to share successes, ask questions, and learn from each other and from preservation professionals.

utility lines disturbed trenches and earthworks as well as archeological remains. This year the threat has lessened as a result of concerted action by the Louisiana Office of Parks, the National Park Service (NPS), and The Conservation Fund. The state and NPS completed an American Battlefield Protection Program (ABPP) study that recommended identifying archeological resources within the landmark boundary, acquiring land or easement donations for significant tracts, and passing an effective state or local ordinance controlling future construction where archeological resources are present. The Conservation Fund purchased key portions of the battlefield.

Glorieta Pass, New Mexico, was the site of a decisive battle of the Civil War. Here, Union forces destroyed a Confederate supply train, compelling a Confederate brigade to withdraw from New Mexico and abandon plans to seize the rich Colorado mines and a large part of the Southwest. Glorieta Pass has been on the NHLAI's list of endangered landmarks since 1982, first because the only remaining building of significance from the period was abandoned and deteriorating, and later because of development on private lands within the boundary. At one time, the state proposed widening the highway that runs through the landmark. While the state has withdrawn its proposal, private landowners continue to build on the battlefield. So far, the NPS has been able to purchase 180 acres of the 345 acres that comprise the landmark and add it to Pecos National Historical Park. The NHLAI recommends the completion and enforcement of a land protection plan and the acquisition of easements on remaining portions of the landmark.

Corinth, Mississippi, is the remaining landmark Civil War battlefield identified as having "major" importance by the Civil War Sites Advisory Commission and listed in the NHLAI's report to Congress. Listed as an endangered landmark since 1992, Corinth is threatened by development and inappropriate uses. Logging operations destroyed a section of earthworks with picket rifle pits, and a newly discovered section of earthworks was recently sold for development. To help protect the landmark's resources, the ABPP has funded research, archeological surveys, and plans for interpretation and protection, and the NPS's Cultural Resources Geographic Information Systems Branch has conducted extensive surveys of the earthworks.

NHL Assistance Initiative

This program monitors the condition of National Historic Landmarks and provides technical assistance to owners. These activities are carried out through site visits and condition assessment reports, technical publications, workshops and conferences, and posting information to the Internet. A coordinator in the Preservation Initiatives Branch of Heritage Preservation Services, NPS, works with a team of specialists located in NPS field offices to carry out the NHLAI.

For further information on the NHLAI, call Susan Escherich at (202) 343-9591. To inquire about nominating a site as a National Historic Landmark, call Carol Shull at (202) 343-9504.

Susan Escherich is Coordinator of the National Historic Landmarks Assistance Initiative, Heritage Preservation Services, NPS.

Printed on recycled paper

CRM

VOLUME 20 • NO. 5
Cultural Resources
Washington, DC

U.S. Department of
the Interior
National Park Service
Cultural Resources
P.O. Box 37127
Washington, DC 20013-7127

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE $300

FIRST CLASS MAIL
Postage & Fees Paid
U. S. Department of the Interior
G-83