



1 February, 2017

To: Representatives from the Towns of Ithaca, Dryden, Danby, Caroline  
From: Coddington Land Stewards  
Re: Proposed South Hill Recreation Way Extension

The Coddington Land Stewards is a group of over 30 landowners who oppose the idea of extending the South Hill Recreation Way past its current terminus at Burns Road. Our members reside in the towns of Ithaca, Dryden, Danby, and Caroline.

Landowners in our group have retained Nels Ackerson, of Ackerson, Kauffman Fex, in Washington DC in this matter.

Mr. Ackerson's firm has worked in the area of rail-trail law since 1991. Mr. Ackerson is acknowledged as one of the nation's preeminent experts in the field. We thought Mr. Ackerson's testimony before Congress on October, 30, 1997, regarding landowners' perspectives would be valuable reading for you.

We're hoping that Mr. Ackerson's testimony may help you better understand where members of the Coddington Land Stewards are coming from in our opposition to the trail.

Please review the following testimony of Nels Ackerson.

If you have any questions, comments, or concerns, please email:

Coddington Land Stewards  
[coddingtonlandstewards@gmail.com](mailto:coddingtonlandstewards@gmail.com)

Thank you,  
Coddington Land Stewards

TESTIMONY OF NELS ACKERSON BEFORE THE SUBCOMMITTEE ON NATIONAL PARKS,  
FORESTS, AND LANDS

COMMITTEE ON RESOURCES  
U.S. HOUSE OF REPRESENTATIVES  
OCTOBER 30, 1997

STATEMENT OF NELS ACKERSON, ATTORNEY, THE ACKERSON GROUP Mr. ACKERSON. Mr. Chairman and members of the Committee, I have the privilege of representing, individually and in class actions, now tens of thousands of landowners, homeowners, families, retirees, small businesses, farm organizations, and others, in about 15 states across the nation. Like the author of H.R. 2438, Mr. Ryun, many of my clients enjoy the outdoors and know the benefits of recreational trails. They also in many cases are conservationists. What distinguishes my clients from others is that they own the land on which railroads once operated their trains, and upon which trails are now operating or proposed. They are not adjacent landowners; they are the landowners. They own the strips of land running through their farms or their yards, where trains once ran, every bit as much as any homeowner owns a backyard, a driveway, or a deck. And so, members of the Committee, I want to ask this Committee to look at two different perspectives on the railroad corridors where trails have been proposed or are operating; not just the perspective down the corridor, but the perspective across the corridor. The owner's perspective is different, because it is their land. They not only look down the abandoned railroad, but also across it. Looking cross the right-of-way they see the rest of their farm, reunited for a more efficient farming operation, now that the railroad has brought to an end the agreement that allowed railroad use on their land. They see a backyard in which their children can play in safety and privacy. Sometimes they see a strip of land that has become a sanctuary for wildflowers, berry bushes, and wildlife which they would like preserved, free from asphalt surfaces and free from traffic. In short, what my clients, the landowners, see, is their home, their farm, their land. Unfortunately, the perspective that has dominated much of the debate, and not a bad perspective, but a different perspective—and it's only bad if it's the only perspective—and that is the perspective down the corridor. Railroad companies and trails advocates often fail to look at the other perspective, across the corridor. Railroads want to be paid for land they once used, regardless of whether they own it. Trails proponents see opportunities for recreational uses, and often view my clients as greedy or disgruntled neighbors, who are troublesome in their bothering to stop part of a trail; rather than as the owners of the trail that is to be taken without their consent and without their consultation for the purpose that they did not have in mind. Now those who look down the corridor, and only down the corridor, not only miss a beautiful view of life; they also miss the fundamental point that we learned in kindergarten: you shouldn't take something that is not yours without first asking. That's the first principle. The other is, you should pay for what you take. The perspective down the corridor—when it is the exclusive perspective—turns a blind eye to those who own the land. A trail proponent in zeal to establish a recreational trail may presume that the railroad, rather than the real landowner, should be approached and paid for the land. The railroad of course likely will be happy to oblige. It's a rule of human nature I think—even in this city—that if you rob Peter to pay Paul, you can often count on Paul for support. Thus the real landowners are taken out of any involvement whatsoever in what happens to their land. That is the perspective that has been fostered and maintained by the present law. Owners of the land to be taken for a trail don't even know

about these abandonments in many many cases. Some of my clients who own farms or little homes along abandoned railroad corridors don't read the Federal Register every day. They don't get a second notice. Some of them have no idea what's happened until it's done. That is why the issues that are addressed in this bill must be addressed seriously. H.R. 2438 provides a way to restore balance among the various public and private interests that are affected by the National Trail System Act. Public policy should recognize and protect the legitimate interests of persons whose land is taken for a new public purpose, and whose lives and the lives of their families will be changed forever as a result. Those persons who are the most affected should at the very least, have a significant role in the process, be given protection against the loss of security and privacy, and have access to traditional land law to enforce their property rights. The conservation, recreation, and even national security objectives of the National Trail System Act—and incidentally, I would like to address those national security issues if the time will permit—those objectives can be accomplished without sacrificing what has been the very fabric of society embedded in the Constitution. We don't need to sacrifice constitutional safeguards. We don't need to eliminate the roles of state and local government. And we don't need to violate the simple principle, that we should never take what is ours without first asking, and we should pay for what we take. I believe my time is up, unfortunately. I have addressed in my written statement a number of misconceptions about the law and about the facts, which I would be happy to address if anyone has questions. [The prepared statement of Mr. Ackerson may be found at end of hearing